44.B.17A

START

FIRST

SIDE

THE NUMBERED PAGES WHICH ARE OTHERWISE BLANK IN

THE FILES ON THIS FILM HAVE NOT BEEN PHOTOGRAPHED.

CENTRAL REGISTRY MICROFILMING UNIT.

H.Q.C. 55-B-1924 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT FIELD GENERAL COURT-MARTIAL

BRASSEUR, DONALD JOSEPH B.157711 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1924

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")			
				D. Adm	NEW FILE	C.R.	AUG 27 19
					To note	wof	7-9-45
				Admin 3(b)	per request please return		13-9-45
SEP 18 1945	18-9-45	PA		JAG	Returned	wof	17.9.45
				CMBR	Requisition C.R. OCT 2 - 1945		
	15.11.45		GBS	Adm 3	—	WAS	24/10/45
OCT 25 1945							
NOV 2 - 1945	6-11-45	PA		CMBR	With Papers C.R. NOV 3 1945		
NOV 8 - 1945	~~[illegible]~~			Admin	Per Requisition C.R. NOV 7 1945		
				JAG	Per request	GBS	5/11/45
DEC 6 - 1945				CMBR	To note pls		6-12-45
DEC 11 1945							
DEC 10 1945	4 Dec	PA		Admin	To note —	AG	10/12/45
APR 25 1946	APR 20 1946	PA	Was	DRB	Requisition C.R. APR 11 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

T-36-10-282 Vol.2 (AJAG)
T-20-B-20813
T-20-M-22111
T-20-S-4233

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
26th November, 1945.

11739
NOV 28 1945
File
Serial 13-1924
Referred QAG
Edmr 7-11

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

S.U.S. ex ITALY and U.K. - Remission of Sentences

B-157711 Pte. BRASSEUR, D.J.
B-127904 Pte. MATEKA, J.J.
B-55952 Pte. ST. LOUIS, L.X.

Reference K.S. 674(A) dated 26th October, 1945, 21st October 1945 and 10th October, 1945.

2. The marginally-named SUS were discharged on 14th November 1945 under C.A.R.O. 1029(8) and granted remissions of sentences effective the date of discharge.

3. Herewith completed Appendix "C" to C.A.R.O. 5913 and Army Form A 3104 for each SUS.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

COPY TO : The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

noted for info
noted

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY GCM.

NDHQ File No.
District File No. T-20-B-20813

PART I

No. B-157711 Rank Pte. Name BRASSEUR, D.J.
Unit No. 2 District Depot, C.A. (formerly Cameron Highlanders)

PART II

Date of Trial 29th Sept. 44 (FGCM)
Charge(s) Desertion (AA. Sec. 12(1)(a)
Sentence 3 years' penal servitude
Date of Sentence 29th Sept. 44
Confirmation - (a) Authority : W.H. Colling Lt.Col. CRCASC 2 Cdn. Inf. Div.
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act ~~xxxx

T-36-10-282 Vol.2(AJAG)
T-20-[illegible]-20813
T-20-[illegible]-22111
T-20-S-4233

8418

NOV 10 1945

File 552-B-1924
Chgd. to
Ref. ~~Military District~~ No.2

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters ~~Military District~~ No.2,
159 Bay Street, Toronto, Ontario,
8th November, 1945.

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

S.U.S. ex ITALY and U.K. - Remission of Sentences

B-157711	Pte. BRASSEUR, D.J.	- 1029(8)
B-127904	Pte. MATEKA, J.J.	- 1029(8)
B-55952	Pte.ST. LOUIS, L.X.	- 1029(8)

Reference K.S. 674(A) dated 26th October, 1945, 21st October, 1945 and 10th October, 1945.

2. The District Officer Commanding, M.D. No. 3, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A. on the 8th November, 1945, for Discharge under the provisions of C.A.R.O. 1029(8) and remission of balance of sentence.

3. The District Officer Commanding, M.D. No. 2 has remitted the balance of the sentences now being served by the marginally-named SUS effective the Date of Discharge.

4. Enclosed herewith Appendix "C" to C.A.R.O. 5913 effecting remission.

5. May Promulgation of the Remission be made to the said respective SUS effective the Date of Discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

P.J. Flynn
(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

IN REPLY PLEASE QUOTE
No. K.55-B-9409-C (DA...

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario. 8 NOVEMBER, 1945.

CENTRAL REGISTRY 8232
NOV 9 1945
CJS-B-1924
Admin

Secretary,
Dept of National Defence,
O T T A W A, Canada.

B.157711 - Pte. BRASSEUR, D.J.

Reference radiogram RANKS 1195 (RESTRICTED) dated 26 Oct 45.

2. Please be advised that the marginally named soldier was released from 89 Military Detention Barracks on this date and was despatched under escort to 2 District Depot for a remission of his sentence and his ultimate discharge from the Canadian Army.

E H Watts Major,
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

EW/V.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B-157711 Pte D.J. Brasseur Unit Camerons of C

Sentenced to 3 years penal servitude on 29 Sep 44

Age on, and date of enlistment 19 years, 10 Jan 44 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(15712) Wt.24568/175 7,000 8/40 A.& E.W.Ltd. Gp.498
(16818) Wt.34615/20 7,000 12/40 " " Forms/A3104/1

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	Remission B Z 29 Jun 45	C.S. Booth (C. S. BOOTH) Brigadier, D.A.G., Canadian Military Headquarters 13 MAR 1945	
	PETITION CONSIDERED NO REMISSION- RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 29 JUN 1945	
6 Nov. 45	Remit Effective Date of Discharge	(A.E. Potts) Major-General D.O.C. M.D.No.2.	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. FIRST CHARGE — When on Active Service, Deserting His AA Sec 12(1)(a) Majesty's Service, in that he, In the Field, on 13 Sep 44 at approx 0400 hrs, after having been warned that his pl was going to make an attack absented himself without leave with intent to avoid taking part in said attack, until he surrendered himself at 1830 hrs 13 Sep 44 Absent 14 hrs 30 mins — Capt — Signature of Officer making entry.	13 Sep 44	29 Sep 44
VIII.—Second Trial. — Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
30 Oct 44	Recommend that full sentence be served.	(E.P. Thompson) Lt-Col - Comd Camerons of C

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
Oct 44	I concur with the recommendation of the C.O.	(W.H. Colling) Lt-Col CRCASC 2 Cdn Inf Div

T-36-10-282 Vol.2(AJAG)
T-20-B-20813
T-20-M-22111
T-20-S-4233

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
8th November, 1945.

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

S.U.S. ex ITALY and U.K. - Remission of Sentences

B-157711	Pte. BRASSEUR, D.J.	- 1029(8)
B-127904	Pte. MATEKA, J.J.	- 1029(8)
B-55952	Pte. ST. LOUIS, L.X.	- 1029(8)

1. Reference K.S. 674(A) dated 26th October, 1945, 21st October, 1945 and 10th October, 1945.

2. The District Officer Commanding, M.D. No. 3, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A. on the 8th November, 1945, for Discharge under the provisions of C.A.R.O. 1029(8) and remission of balance of sentence.

3. The District Officer Commanding, M.D. No. 2 has remitted the balance of the sentences now being served by the marginally-named SUS effective the Date of Discharge.

4. Enclosed herewith Appendix "C" to C.A.R.O. 5915 effecting remission.

5. May Promulgation of the Remission be made to the said respective SUS effective the Date of Discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

P.J. Flynn
(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

RECEIVED
NOV 5 1945
3

C-SIG
NATIONAL DEFENCE BLDG.
NOV 5 1945
(OTTAWA)
ARMY SIGNAL OFFICE

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.S.O. WOODS

BRANCH	TIME	SIGNATURE

~~CIB V CIA NR 5&7~~

VER V CIA NR 2

FROM CMDG 3 KINGSTON ONT 051015R

~~TO DOC MD NO 2 TORONTO ONT~~

~~RPTD OFFICER CMDG NO 2 D D TORONTO ONT~~

THE SECTY DND OTTAWA ONT

GR 153 BT

Copy file, pl.
HQC 55-B-1924
GAB 92759

C-55-B-1924

KD 428 RESTRICTED

RETEL KD 419 RESTRICTED DATED 31 OCT 45 STOP UNDER HQC 9039-1-1 (ADM 3) DATED 31 OCT 45 DEFENCE HQS SETS FORTH IN PARA 4(B) THAT IN CASES WHERE CMBR RECOMMENDS IMMEDIATE RELEASE OF ~~NAY~~ ANY SOLDIER MENTIONED ON THEIR RADIOGRAM THAT THE SOLDIER IN QE"/// QUESTION MUST BE RETURNED TO HIS DISTRICT NOT LATER THAN IN ONE WEEKS TIME STOP RANK 1195 RESTRICTED DATED 26 OCT RECOMMENDS IMMEDIATE RELEASE B 157711 BRASSEUR D J STOP THIS SUS WILL BE DESPATCHED UNEER ESCORT FROM 90/// 89 MDP ARRIVING TORONTO 1730 HOURS 8 NOV 45 STOP REQUEST TRAIN BE MET ON ARRIVAL BY EYCOR/// ESCORT STOP DOCUMENTS WILL BE IN POSESSION OF ESCORT STOP ADDSD CMDG TWO RPTD OC W 2 DD AND DEFENSOR

BT 051119R IB B

C::::4TH LINE RELEASE OF ANY SOLDIE R IMI ANY

File: K.55-B-9409-C(DAPM)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario. 1 November, 1945.

S P E C I A L D E L I V E R Y

CONFIDENTIAL

District Officer Commanding,

Military District No. 2,

TORONTO, Ontario.

CENTRAL REGISTRY, Army
6674
NOV 2 1945
File C55-B-1924
Chgs. G
Referred to

B.157711, Pte. BRASSEUR, D.J.

Ref HQC 55-B-1924 Adm 3(b)2, D/17/9/45. Confidential

2. Enclosed herewith:-

(a) AFA 3104

(b) ~~xxxxxxxxxxxx~~

3. Pursuant to AA 57A, GO 245/45 and the provisions of CARO 5913, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

4. May a receipt for these documents be forwarded to this Headquarters, please.

C Watts
Major,
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Copy to: Secretary,
Dept.of National Defence,
OTTAWA, Ontario.
(for information)

COPY

VER V CIA NR 7

FROM C[redacted]ANDING THREE KINGSTON ONTARIO 311558 R

TO SECRETARY DEPT OF NAT DEFENCE OTTAWA ONTARIO

GRS 273 BT

RD 419 RESTRICTED RELEASE KS 674 (A) DATED 10 21 24 AND 26

OCT 45 STOP FOLLOWING SOLDIERS UNDER SENTENCE PRESENTLY HELD 89

MDB BARIEFIELD ARE DUE FOR RELEASE AND DESPATCH TO TWO DD FOR

REMISSION OF SENTENCE AND ULTIMATE DISCHARGE FROM CANADIAN ARMY

B 74151 PTE CLAIRMONT B E

B 79304 PTE GASTON J

B 76042 PTE RIOPEL M J

B 58354 PTE FAILOA J V

B 130041 PTE GUMMERSON F A

B 39579 PTE WARD H

STOP ABOVE SIX SUS WILL CEASE ATTACHMENT 89 MDB AND BE SOS DD 3

WEF 6 NOV 45 AND WILL ARRIVE TORONTO 1730 HRS SAME DATE STOP

FOLLOWING FIVE SUS WILL CEASE ATTACHMENT 89 MDB

AND BE SOS DD THREE WEF 13 NOV 45 AND WILL ARRIVE TORONTO 1730 HRS 13

NOV

B 157711 PTE BRASSEUR D J

B 21490 PTE BOYTOS M

B 55932 PTE ST LOUIS L X

B 127904 PTE MATEKA JJ

B 11218 GNR MCGAW T J

STOP REQUEST COMMANDING TWO HAVE ESCORTS DETAILED TO MEET BOTH TRAINS

ON ARRIVAL AND TAKE OVER THESE SOLDIERS ON DATED ABOVE MENTIONED STOP

REGIMENTAL DOCUMENTS OF EACH SOLDIER WILL ACCOMPANY ESCORT STOP

ADDRESSED COMMANDING TWO REPEATED OC TWO DD AND DEFENSOR

BT 010229 R GY AR (K)

Dalton

VER V CIA NR 50

FROM CMDG THREE KINGSTON 271440R

TO SECY NDHQ OTTAWA

GR 31 BT

RECEIVED OCT 28 1945

R.C.S.I.G.S. NATIONAL OFFICE BLDG. OCT 27 1945 OTTAWA ARMY SIGNAL OFFICE

KD 388 RESTRICTED RETEL RANKS 1195 RESTRICTED DATED 26TH OCT 45 REFERS

B 157711 BRASSEUR D J ACKNOWLEDGED

BT 271809R RW B

271823

THIS IS AN EXTRA COPY
IF INCORRECTLY DELIVERED OR INCOMPLETE
BELOW AND RETURN TO CHIEF CENSOR, OTTAWA
BRANCH TIME

84831

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

M.F.M. 1148
2024M-5-45 (2076)
K.F. 1749 H.Q. 1772-35-2006

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE HQC 55-B-1924 AGM 3(a)

PLACE	DATE
OTTAWA ONTARIO	26 OCT 45

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 3
KINGSTON ONTARIO

RANKS 1195 (RESTRICTED) REVIEW REF AG 0267 D/18 OCT 45 REFERS

B157711 BRASSEUR D J (.) CMHR RECOMMENDS IMMEDIATE RELEASE (.)

AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

GDB/MR

Info copy to: CMHR
JAG

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
		IMMEDIATE	1-30

SIGNED G. D. Bell
for H. L. Walford
Major-General
Adjutant-General

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

Case No. 0461

REVIEW OF SENTENCE
BY
COURTS MARTIAL BOARD OF REVIEW

1. No, Rank and Name: B-157711 BRASSEUR, D.J.

2. Unit at date of offence: Queens Own Cameron Highrs. of Can.
C.A.O., B.L.A.

3. Charge:
AA 12 (1)(a) WOAS - after having been warned of his platoon going into an attack was AWL for 14 hrs. 30 min. with intent to avoid takin g part in the attack. (Surrendered)

PLEA: Guilty

4. Place and Date of Trial: in the field - Belguim 29 Sep 44
(FGCM) (~~SCC~~) (~~SCC~~)

5. Finding: Guilty

6. (a) Sentence: 3 years P.S.
(b) Date of Sentence: 29 Sep 44

7. Date of confirmation:

8. Date of Promulgation:

9. Being served at: To be ascertained in DD

(N.B. - Discharged under RO 1029 ( ) for
wef)

Case No----------

CONDUCT

11. (a) Prior to conviction: Good

Date of enlistment: 10 Jan 44

~~Date of enrolment:~~ Age: 19

(b) After conviction:
Good
Earlist date of release 29 Sept 46.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Accused testifies under oath that he had been in the army less than 8 months when this crime occurred, has been in action already 2 months, had been under heavy mortor for 4 days in static position, all his friends had been killed and only 11 left in the Company. Finally he lost his nerve and started screaming, then went on the loose. Has been in action at St. Andrea, Frontenae, Falaise, Rouen, did not leave Bn. Area but merely went back to A Echelon.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc.)

Reviewing Officer:- To release immediately. In view of circumstances worded in paragraph 12.

Reviewed by---------- WZO
A.B. O'Keefe, Captain.

---

14. Recommendation of the Board:

Immediate Release

Date 24 Oct 1945

W A Stikell Maj
Secretary
Courts Martial Board of Review.

THIS COPY FOR: H.Q.C. 55-B-1924
M.D.10/~~Brasseur, D.J./~~

MEMORANDUM ~~DISTRICT~~ FIELD GENERAL COURT-MARTIAL

No. GS B-157711 Name BRASSEUR, Donald Joseph

Rank Pte Unit The Queen's Own Cameron Hglrs of Can

Charge AA 12 (1)(a) WOAS Deserting.....

Date of Crime 13-9-44

Date of Arrest 13-9-44 Charge Signed 27-9-44

Orders for ~~D.G.C.M.~~ FGCM Lt. Col. Comd RCASC 2 Bch Inf

Place and Date of Trial In the field 29-9-44

Sentence Suffer penal servitude 3 years

Date of Confirmation 13-10-44

Date of Promulgation 20-10-44

Entered in Records of J.A.G. as ~~4092~~ 4092

Date 10-9-45

MEMO Balance of sentence remitted by Conf. Auth.

Reviewed at CMHQ

16

10M-8-45(M-189)

for Judge Advocate General

COPY

BOMBER
CONFIDENTIAL

AIR MAIL
CANADIAN MILITARY HEADQUARTERS

10/Brasseur D.J/1

London 14 Jul 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

B.157711 Pte Brasseur D.J.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 29 Sep 44 for deserting His Majesty's Service after having been warned that his platoon was going to make an attack (AA Sec 12(1)(a)). He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 29 Sep 46.

2. This soldier enlisted 10 Jan 44 at Toronto, Ont and he is now 19 years of age. In addition to the offence mentioned in para 1 above he has since enlistment been found guilty of 1 offence under AA Sec 15(1). He has had no previous FGCM.

3. This soldier has been medically examined and certified as fit to undergo his sentence.

4. The Neuropsychiatrist who has examined this soldier states that his adjustment to battle stress appeared to be satisfactory at first; that he over compensated for his fear for a time and was pointed out as an example to others as one who was without fear, but that as time went on he became progressively anxious and eventually he was unable to participate in an impending attack; that he now appears remorseful for his behaviour and seems to have profited by his experience; and that he is considered worth a risk for full CIC duties. This soldier has stated in a petition that he is prepared to serve in the Pacific theatre.

5. In view of the serious nature of the offence of which this soldier has been convicted and the necessity for exemplary punishment in such cases and since it is now not practicable to return this soldier to service in this theatre under the same conditions as existed at the time of the commission of his offence, it is considered that despite the favourable nature of the report outlined in para 4 above, he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier has deliberately misconducted himself in order to avoid further service in action and possibly with a view to obtaining his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 29 Sep 44, together with original A.F.A.3104 in respect thereof on which this direction has been endorsed.

(Beverley Matthews) Brig.
for Maj Gen i/c Adm.
Canadian Military Headquarters

Enc.2.

15

COPY

BONNER
CONFIDENTIAL

AIR MAIL
CANADIAN MILITARY HEADQUARTERS

10/Brasseur D.J/1

London 14 Jul 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

B.157711 Pte Brasseur D.J.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 29 Sep 44 for deserting His Majesty's Service after having been warned that his platoon was going to make an attack (AA Sec 12(1)(a)). He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 29 Sep 46.

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3. This soldier has been medically examined and certified as fit to undergo his sentence.

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5. In view of the serious nature of the offence of which this soldier has been convicted and the necessity for exemplary punishment in such cases and since it is now not practicable to return this soldier to service in this theatre under the same conditions as existed at the time of the commission of his offence, it is considered that despite the favourable nature of the report outlined in para 4 above, he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1028. It is therefore so recommended. It is considered that this soldier has deliberately misconducted himself in order to avoid further service in action and possibly with a view to obtaining his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 29 Sep 44, together with original A.F.B.3104 in respect thereof on which this direction has been endorsed.

(Beverley Matthews) Brig.
for Maj Gen i/c Adm.
Canadian Military Headquarters.

Enc.2.

14

HQC 55-B-1924
Adm 3(b)2

CONFIDENTIAL

OTTAWA, Ontario, 17 Sep 5

District Officer Commanding,
Military District No 3,
Kingston, Ontario.

B-157711 - Pte BRASSEUR D.J.
X/UK W950

1. Further to Ranks 6918 dated 10 Sep 45 and letter of this HQ numbered 8536-6, Vol 4, 13 Sep 45:

2. Enclosed herewith CMHQ letter and AF A3104 with ref to the above SUS.

3. It will be noted that it is recommended that this SUS be discharged under CARO 1029(8).

4. The procedure outlined in R922(b) 28 May 45 will apply in the disposal of this SUS.

(A. E. Walford)
Major-General
Adjutant-General

Encl 2
WOP:HB

Quote No. HQC. 55-B-1924
(JAG-D)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada

13 September, 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial

B-157711, Pte BRASSEUR, DJ

1. Receipt is acknowledged of your dated 14 Jul 45 under cover, of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

ERM

for (R.J. Orde), Brigadier
Judge Advocate-General.

/jm

BOMBER

CONFIDENTIAL

AIR MAIL

Quote No. 10/Brasseur,D.J./

CANADIAN MILITARY HEADQUARTERS

CENTRAL REGISTRY LONDON
CONF. SEC.
AUG 27 1945
File 113-B-1924
Rec'd. by
Referred to

14 Jul 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

B-157211 Pte Brasseur, D.J.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 29 Sep 44 for deserting His Majesty's Service after having been warned that his platoon was going to make an attack (AA Sec 12(1)(a)). He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 29 Sep 46.

2. This soldier enlisted 10 Jan 44 at Toronto, Ont and he is now 19 years of age. In addition to the offence mentioned in para 1 above he has since enlistment been found guilty of 1 offence under AA Sec 15(1). He has had no previous FGCM.

3. This soldier has been medically examined and certified as fit to undergo his sentence.

4. The Neuropsychiatrist who has examined this soldier states that his adjustment to battle stress appeared to be satisfactory at first; that he over compensated for his fear for a time and was pointed out as an example to others as one who was without fear, but that as time went on he became progressively anxious and eventually he was unable to participate in an impending attack; that he now appears remorseful for his behaviour and seems to have profited by his experience; and that he is considered worth a risk for full CIC duties. This soldier has stated in a petition that he is prepared to serve in the Pacific theatre.

5. In view of the serious nature of the offence of which this soldier has been convicted and the necessity for exemplary punishment in such cases and since it is now not practicable to return this soldier to service in this theatre under the same conditions as existed at the time of the commission of his offence, it is considered that despite the favourable nature of the report outlined in para 4 above, he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is condidered that this soldier has deliberately misconducted himself in order to avoid further service in action and possibly with a view to obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 29 Sep 44, together with original A.F. A3104 in respect thereof on which this direction has been endorsed.

(Beverley Matthews) Brig.
for Maj Gen i/c Adm.
Canadian Military Headquarters.

Enc. 2.

RECORDED AT CMHQ IN AB 160 4B-122

CPA86 (In lieu of AFA31) 49/P & S/1608 (46201) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col W H Colling Comd ACASC 2 Ch Spl dated 22 Sep 44

RECEIVED 10 NOV 1944 Number 4 Q

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B157711	Pte		Donald Joseph	Brosseau	Can Sec G.H.Q. 2 Army Gp

PROCEEDINGS REVIEWED

J.A.C. Fitzgibbon, Capt.
11 Nov 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED
Date 5 Nov 44
D. J. A.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Belgium on (*date(s)*) 29 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 12/39

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) SMM

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ SMM

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter?~~ Ans ~~The Interpreter is sworn.(1)~~ SMM

Do you object to S/Sgt Elliott as shorthand writer? Ans No Sir

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R T Hamilton	24 Th Regt RCA
Member	Capt	S F Hay	Tor Scots (MG)
Member	Lt	H F McCullough	2 A Th Regt RCA
Judge-Advocate	Capt	E K McDougall	HQ 2 Can Div
Prosecutor	Capt	F W A Bishop	Corps of C
Defending Offr	Lt	N E Tupper	Corps of C

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused Pte D J Brosseau before arraignment make(s) (no) ~~or~~ plea (1) SMM

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. SMM

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

15

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB160 Rec. Vol. Folio 6

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes Sir (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on the charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ MM

(*1. Court may be closed consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CP A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.....Y..... and Ex.....Z..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 1091 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 18 day of Nov 19 44

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B157711 Pte. Brassem. D.J. Corps of C

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer Penal Servitude for the term of three (3) years.

(Sgd) Maj Hillis Dwyer Judge-Advocate, if any. Date awarded. 29 Sep 44 (Sgd) R Hamilton President. (RP 45, 50 etc.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for Confirmation

Date 3 Oct 44 (Sgd) W H Walling Lt Col Commanding HQ RCASC 2 Can Inf Div

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) DH

(1. AA 57A. Delete if not used.)

Date 13 Oct 44 (Sgd) P J Montague

Commanding First Canadian Army / Commanding The General Officer Commanding Canadian Corps Confirming Officer. DH

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B157711 Pte Brassem DJ	20 Oct 44	R Taylor Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

10/ Brasseur DJ/1

CANADIAN MILITARY HEADQUARTERS

JUDGE ADVOCATE GENERAL BRANCH

REVIEW SHEET

PRE-POST CONFIRMATION

FGCM 29 Sep 44 (21AGp ~~Med~~ UK)
(Date of Sentence)

No B157711 Rank Pte

Name BRASSEUR DJ

Unit Cams of Can

Charge(s)	12(1)(a)			
Plea	G			
Finding	G			

Sentence 3 yrs penal serv

Received from CR	10 Nov 44
Passed to Rev Offr	11 Nov 44
Passed to Rev 1	11 Nov 44
Passed to	
Passed to	
Returned to Rev	
Record & Pass AG5	~~File~~ 11 Nov 44
	JCAC

OBSERVATIONS:

1. Summary of evidence does not bear any date
2. Plea of guilty (see below)
3. Passed.

(Continue over if necessary)

~~In the case of pleas of guilty~~; - There is nothing in the record of the proceedings which should have required the Court to advise the accused to change his plea.
~~In the case of pleas of not guilty; - There is legal evidence to justify the finding.~~ JRM
No substantial injustice to the accused.

RECOMMENDATIONS

Pass

~~Quash~~ ~~Charge~~

RECORDED AT CMHQ IN AB 160
4B-132

Date 17 Nov 44

"JR Miguelon" Capt
(Reviewing Officer)

CHARGE SHEET

B-157711 Private DONALD JOSEPH BRASSEUR, THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
AA Sec 12(1)(a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, on 13 September 1944 at approximately 0400 hours, after having been warned that his Platoon was going to make an attack, absented himself without leave with intent to avoid taking part in said attack, until he surrendered himself at 1830 hours on 13 September 1944.

Absent 14 hours 30 minutes

In the Field
26 Sep 1944

Lt Col.
E Thompson
(E.F. Thompson) - Lt-Col,
Comd Camerons of C

To be tried by Field General Court Martial

W H Colling
(W.H. Colling) Lt Col
CRCASC 2 Cdn Inf Div

In the field
27 Sep 44

R J Hamilton
Maj

8

Rt Hamilton
Maj

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 157711	Pte		Donald Joseph	BRASSEUR	Queens Own Cam Highrs of Canada

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 27 Sep 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) WHC

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated hereto~~ WHC

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R.J. Hamilton	2 A Tk Regt RCA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G.F. Hoy	TornScot (MG)
Lieut	H.F. McCullough	2 A Tk Regt RCA

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	J.M.A. Graham	2 Div Tps Coy RCASC

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E.K. McDougall	HQ 2 Cdn Inf Div

On Active Service in the Fd

in Belgium (Country.)

W H Colling. (Signed personally. RP 105 fn 2.) Lt Col (Rank.)

(W.H. Colling)

Date 27 Sep 44

Commanding RCASC 2 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAS5 (In lieu of AFA3) 40/P & S/1097 (4931)

(See overleaf for oaths and notes for use on trial.)

7

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this day examined No. R 157216

Rank. Pte. Name V. Brasseur D.J.

Unit. R.O.C.M. of Canada

and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

Field

29 Sep 44

Capt
M.O. 21 Cdn F.D.S., RCAMC

Questions by the J.A.

You understand that this is a very serous charge and you may be sentenced to penal servitude?
Yes sir.
Have you Mr. Defending Officer discussed this with this man and pointed out to himthe serious ness of the case
Yes I have done that.

Statement by the accused

Well sir, I joined the Regt on the 25th of July at St Andre came in as a first reinforcement. I spent four days in the orchard under heavy mortar fire and after that I went through the attack at Fontenaie where I lost my chum and there were only 11 of us got through the town. In town I was transferred to C Coy and since then I have been the odd man in the section and I have been alone in the trench ever since I joined C Coy. I have been in many attacks and under fire and went through a terrific beating by mortars. I was alone in my trench and my chum in the next trench was killed. They did not bring up any reinforcements for some time. I asked the officer if I could get someone in the trench with me because I was afraid of breaking down and he got a lad in with me who woke me up and said I was screaming that was what started my nerves and the last time under fire I figured I just could not go through with it just lost my nerve all at once.

Mitigation by Defending Officer

Here gentlemen, you have a lad, a lad of 19 yrs, who has been in the army only ten months, two months of which has been spent in action. He has not been sitting around in army camps in Canada or England, learning to take all the knocks of the army game, but has had swift training and come to the front lines less than a year after he left civie street. This man was in the first group of reinforcements to reach his unit and joined them at one of the most difficult times at the orchard at St Andre where they were under entremely heavy fire and had to stay in slit trenches for four days. This is not a very fitting battle innoculation but he took it like a soldier and stayed. From there he next went into the big battle at Frontenay. Here he lost his trench mate on being transferred to another coy. He underwent bombing by our own planes but still he carried on through Falaise and up to Rouen. At Rouen he was stillalone in his slit trench and the slit trench beside his was hit and its occupants killed. The order came through to prepare to withdraw, but with bombs and shells falling all around, your comrades dead in the next trench, and you alone in yours, it is no wonder a person becomes scared and hafl hysterical. A person can stand only so much. It was while here the accused felt his nerves going to pieces. When things quietened down here on of his chums woke him up once and told him he was screaming. If you have been under fire you can surely realize how this boy felt. Some people are claimed to have no fear, but we know that is not so, even the bravest of men are afraid at times. The point is whether you are afraid or not you must try. This soldier tried and tried hard. He strained his nerves to the point of breaking. Then warned for the next battle after the hectic one at Rouen he felt he couldn't stand it so ratherthan wait until he was under fire, where he felt he might crack fromthe strain and intimidate some of his companions, he left before the battle and made his way back to A Ech intending to come up later with the rations. You can see he was not running away, he merely had had all he could stand physically and mentally so he took what he thought was the only course open to him.

With these facts before you I ask you to be as lenient as possible with the accused.

SUMMARY OF EVIDENCE

A

A H Hamilton, Maj

In the case of B-157711 Private DONALD JOSEPH BRASSEUR, THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The Commanding Officer directs and the accused demands that the evidence be taken on oath.

FIRST WITNESS for the prosecution H-19891 Sjt W.R. Richardson, D Coy, Camerons of C, having been duly sworn states:

"I am H-19891 Sjt W.R. Richardson, D Coy, Camerons of C. On 12 September 1944 I was Platoon Commander 16 Platoon. At approximately 2330 hours 12 September 1944 I had a Platoon O Group and warned them that we would move off at 0400 hours 13 September 1944 for an attack. At approximately 0355 hours I ordered the sections to fall in ready to move off at 0400 hours. Private Brasseur, D.J. was still lying down. I called him personally and told him we were ready to move off. He got up and started to put on his equipment. The platoon moved off carrying blankets to the carrier on the road approximately 400 yards away. The company was then formed up and I checked the company personally and could not find Private Brasseur. At approximately 0430 hours 13 September 1944 we moved off to the attack. Pte Brasseur was still absent."

The accused declines to cross-examine.

W R Richardson
(H-19891 Sjt W.R. Richardson)

SECOND WITNESS for the prosecution H-10070 L/Cpl K.R. Bridgeman, D Coy Camerons of C, having been duly sworn states:

"I am H-10070 L/Cpl Bridgeman, K.R., D Coy, Camerons of C. On 12 September 1944 I was section commander 1 section, 16 Platoon. At approximately 2330 hours 12 September 1944 I was warned by the Platoon Commander at an O Group that we were going to make an attack the following morning and be ready to leave at 0350 hours 13 September 1944. I then warned my section including Private Brasseur. At approximately 0345 hours 13 September 1944 I woke up my section and told them to get ready to move off. At approximately 0400 hours I moved off with my section. At this time Pte Brasseur was standing with his equipment on. When we had gone approximately 150 yards I checked my section and found that Private Brasseur was missing. I called back and told him to hurry up. When we arrived at the carrier on the road he was still missing and I did not see him again until approximately 1000 hours 15 September 1944.

The accused declines to cross-examine.

K R Bridgeman
(H-10070 L/Cpl K.R. Bridgeman)

THIRD WITNESS FOR THE PROSECUTION: H-19884 CSM Langston, R.G., HQ Coy, Camerons of C, having been duly sworn states:

"I am H-19884 CSM Langston, RG. HQ Coy, Camerons of C. On 13 September 1944 I was CSM of HQ Coy. At approximately 1630 hours I noticed Private Brasseur standing at gate between Brigade A Echelon and Cameron A Echelon. I asked him if he was going out and if so he was to be properly dressed. He assured me he was not and I let the matter rest. At approximately 1830 hours 13 September 1944 Private Brasseur report to me where I was sorting casualty kits. I asked him his name, the company he was from, and what he was doing at A Echelon. He told me that he had come back from the front line and the reason being that his nerves were gone and was unable to stand the strain of front line duties. I told him to report to his CQMS and at the same time warned him that he was leaving himself open to disciplinary action. I contacted the CQMS DCoy and told him the story. The following morning

I had Private Brasseur report to Brigade A Echelon as a runner for the Cameron A Echelon. I contacted the CQMS D Coy, also D Coy clerk and asked them to contact the CSM and find out what was to be done with this man. That night the coy clerk informed me that this man was to go up with the rations to D Coy the following morning. On the morning 15 September 1944 he left to rejoin his company.

The accused declines to cross-examine.

R.G. Langston
(H-19884 CSM Langston, R.G.)

The accused having been duly cautioned in accordance with RP 4(e) says:

"I have nothing to say".

D.J. Brasseur
(B-157711 Pte Brasseur, D.J.)

Certified that RP 4 have been complied with.

R.A. Samson
(R.A. Samson) - Lt
Officer detailed to take
the Summary

4

M.F.M. 6
(A.F.B. 122)
500M—8.39 (17033)
H.Q. 1772-45-15

No. B-157711 Name BRASSEUR, D.J. | Sqn., Battery, or Company D | Corps CIC | Date of enlistment 10 Jan 44 | G.C. Badges | Service or Proficiency Pay | Sheet No. One | Signature O.C. Company, etc. R.K. Beard, Capt

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
10 CITC	13 Jun 44	Pte		AWL from 0600 hrs 13 Jun 44 until he w/s at 0110 hrs 19 Jun 44. Absent 5 days 19 hrs 10 mins Sec 15(1) AA	Cpl Edge, D L/Cpl Wahsnas, L	14 days CB	19 Jun 44	Lt-Col K.R. Mitchell	forf 6 days pay FRAI
				Close arrest CERTIFIED TRUE COPY FROM DOCUMENTS IN MY CUSTODY (K.R. Taylor) - Capt Adjt Camerons of C					

(P.T.O.)

Substitute for AFB 296
or MFB 355

STATEMENT OF CHARACTER AND PARTICULARS OF THE ACCUSED

No B-157711 Rank Pte Name Brasseur, D.J. Unit Camerons of C

Age 19 years Married or Single Single No of dependents Nil

Date of attestation 10 Jan 44

Number of days in close arrest awaiting trial 13

Civil ..... Military ..... Hospital ..... Total .....

Dates of appointments, promotions, etc (if any) .....

In the Field

20 Sep 44

(Offr i/c Records)

Camerons of C
(Unit)

LIST OF WITNESS

In the case of B-157711 Private Donald Joseph BRASSEUR, THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, a soldier of the Canadian Army Overseas.

PROSECUTION

H-19891	Sjt	Richardson, W.R.	Camerons of C
H-10070	L/Cpl	Bridgeman, K.R.	Camerons of C
H-19884	CSM	Langston, R.G.	Camerons of C

DEFENCE

Nil

LIST OF EXHIBITS

Nil

2

H.Q.C. 55-B-1925 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

ST ANDING COURT-MARTIAL

BAILLARGEON, MAURICE D-605875 PTE-

CONFIDENTIAL
H.Q.C. 55-B-1925

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
AUG 30 1945				JAG	NEW FILE	CR	28-8-45
SEP 14 1945	14/9/45	P.A.	E.C.M.	JAG			
				CMBR	For Requisition C.R. NOV 1 1945		
JAN 7 1946				Adm 3	Recommendation & Minute Feb 27		DEC 1 1945
JAN 8 1946	9/1/46	PA		JAG	Via B.F. 28/9/45	CR	1/1/46
MAR 13 1946	13.3.46	PA		Adm	PER B.F. MAR 13 1946		
				J. A. G.	For Requisition C.R. MAR 22 1946		
MAR 26 1946							
MAR 23 1946	25.3.46	PA		Adm	[illegible]	[illegible]	23/3/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

M. 1-B-7695 ADIS

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

MONTREAL, 18 Mar 46

CENTRAL REGISTRY Army
CONF. SEC.
13105
MAR 19 1946
File 55-B-1925
Chgd. to
Referred to

Secretary,
Department of National Defence,
OTTAWA, Ontario

D.605875 Pte BAILLARGEON J M

~~XXXXXXXXX~~

2 Att hereto, completed Form of Remission with respect to the marginally named soldier.

(E.J.Renaud) Maj-Gen
DOC, MD 4

encl

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5-5-
District File No. M.1- B-7695

PART I

No. D 605875 Rank Pte. Name Baillargeon J.M.
Unit No. 4 DD

PART II

Date of Trial 13th August 45.
Charge (s) WHILE ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE.
Sentence Twenty-two (22) Months Det. and stoppage of pay amount of $2.64.
Date of sentence 13th August 1945.
Confirmation -- (a) Authority: DOC. MD. 4
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention as of 13 Mar 46

Signed at Montreal this 8th day of ~~xxxx~~ Mar 46
(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.
To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~xxxxxxxxxxx~~)(~~xxxxxxxxxx~~)x promulgated and extracts taken at Montreal South, Que. this 13th day of March 1946.
(1)
(J.A. BROOKS) Lieut.,
Ass. Officer i/c Documents R.C. ARMD. C., CA., att'd to No 4 District depot, CA.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-605875 Rank Pte. Name BAILLARGEON, ~~xxxxxx~~ Maurice Standing
The sentence of Twenty-two months detention awarded by ~~xxxxxx~~ Court Martial on the 13th August 1945 has been Remitted on the 13 March 1946 by D.O.C.
UNIT Military District No 4 Montreal Que.
Certified true Extract of Daily Orders Part II of No 4 District Depot, CA.
No. 62 Place Jacques Cartier Pk. Date 23th March 1946
Montreal South, Que.
Adjutant (A de B STEWART) Capt-Adjt.,
General List, CA, att'd to
No 4 District Depot, CA.

x Strike out and initial words not applicable.

M 1-B-7695 ADIS 1-L-15242 1-S-9070
1-B-5969 1-L-13062 1-S-8524
1-D-13518 1-P-8762 1-S-4171
1-D-16989 1-P-9954 1-S-9615
1-G-5920 1-P-5175 1-T-6203
1-L-3152 1-P-8860 1-V-1862

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

MONTREAL, 14 Mar 46

CENTRAL REGISTRY
CONF. SEC.
12396
MAR 15 1946
File 6-B-1-1975
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario

COMPLETED MF&M 288

Ref HQC 9039-1, Adm 3(b)3 dated 8 Sep 45.

Att hereto are MF&M 288, duly completed with respect to the undermentioned, submitted to NDHQ in accordance with instrs contained in para 4 of the abovementioned letter.

D605875	BAILLARGEON	JM
D496153	BERNARD	J
D144702	DAUPHINAIS	E
D653626	DEGUIRE	Y
D605292	GELINAS	C
D118474	LEFEBVRE	D
D649832	LIVERNOIS	G
D647780	LONGPRE	L
D653514	PAQUETTE	M
D650407	PLAISANCE	G
D641130	PROJEAN	A
D652839	PRONOVOST	M
D650678	SIMARD	GE
E101807	ST. AMANT	R
D710248	ST. JEAN	O
D653904	SUDIA	M
D656504	TEASDALE	PE
D645495	VINVELLETTE	L

Incl
[illegible] 14/3/46

(E.J.Renaud) Maj-Gen
DGC MD 4

smcl

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-605875 (Number) Private (Rank) BAILLARGEON, Maurice, (Name in full)

C.I.C., C.A., (Unit) attached to No. 4 District Depot, C.A., (Attachment (if any))

Sentenced to 22 months detention with stoppages of pay of $2.64

on 13 Aug 45, at Montreal South, Quebec,

being served at No.65 Military Detention Barracks, Longueuil, Quebec, (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years 2 months - 28 Aug 41.

Medical grade or category "A"

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should ~~not~~ be (~~not~~) (put into execution) (~~reviewed on~~ date) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 7 Sep 45.

(E.J. RENAUD) Major General, (Confirming Authority)
D.O.C., M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-30-2015

Part V

I direct that the sentence (which I hereby commute to .....

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
27 Sept 45	No suspension No remission DF 18 July 46	D. Peters Capt for DOC MD 4	
8 Mar 46	Sentence remitted wef 13 Mar 46	(E.J.Renaud) Major General DOC MD 4	
12 Mar 46	"RELEASED" wef 13 Mar 46	(C.Potter) Major, Commandant, #65 Mil. Det. Bks.	Marks earned 2504

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE: WHILE ON ACTIVE SERVICE DESERTING HIS MAJES- Sec. 12(1) a TY'S SERVICE, in that he, at Valcartier, Quebec, at A.A. the 14 May 42, absented himself without leave from his C.I.T.C., until he was apprehended by the Military Police at St. Adelphe, Quebec, at 0545 hours on the 16 Jul 45, dressed in civilian clothes, the cost of apprehendion incurred in returning him to this Unit being in the amount of $2.64.	14-5-42	13-8-45 2200 hours on Unit, A-13
Signature of Officer making entry		

(L. I. Auerback) Captain,
General List, C.A., att'd to
No. 4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Sep 45	I do not recommend any remission of sentence in this soldier's case.	(E. Echenberg) Colonel, Commanding No. 4 DD CA.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
7 Sep 45	Sentence fair and reasonable 1st review 27 Sep 45.	(E.J. RENAUD) Major General, D.O.C. M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

VER V CIM NR 79

FROM COMMANDING FOUR MONTREAL PQ 081740R

TD SEC D N D OTTAWA ONT

GR 38 BT

ADIS 96 UNCLASS RELET HQC 55-B-1925 ADM 3(A)3 DATED 4 JAN 45

REFERRING D SIX NOUGHT FIVE EIGHT SEVEN FIVE PTE BAILLARGEON M

STOP ACKNOWLEDGED

Put to file

081845R

BT 081820R SA B

ROYAL CANADIAN SIGNALS
Army Signal Office
JAN 9

RECEIVED
JAN 9 1946
N.D.H.Q.
3A3

FROM ARMY MESSAGE
ADDRESS QUEBEC LOCAL ARMY SIGNAL OFFICE

HQC 55-B-1925
Adm 3(a)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario, 4 Jan 46.

District Officer Commanding,
Military District No. 4,
MONTREAL, P.Q.

D.605875 Pte BAILLARGEON M
CM Board of Review
65 MDB

Ref telegram AG 0267 d/18 Oct 45 Review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation:

"Release on 13 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. Enclosed herewith XXXXXXXX/ATM 288 for this soldier.

7. Acknowledgment by telegram requested.

(A. E. Walford)
Major-General
Adjutant-General

Encl: 1

GDB/MA

ar

IN REPLY PLEASE QUOTE No. M-1-B-7695 ADIS

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

MONTREAL QUE. 16 November 1945.

GENERAL CORRESPONDENCE 9930 NOV 19 1945 File 55-B-1925 Cmdr 1-11 Referred to CMBR

The Secretary,
Department National Defence,
Ottawa, Ontario.

D-605875 PTE BAILLARGEON J.M.

Reference HQC 55-B-1925 (CMBR) dated 9 Nov 45.

2. Herewith enclosed MFM 288 and Report on Conduct, with respect to the m/n soldier.

3. This Headquarters does not recommend any remission prior to half sentence being served.

D. Adm:
1. Note recommendation at Fol. 27.
2. Note charge and finding. Is this a case for a submission under Art 85 R.P.-1.

Capt

(E.J. RENAUD) Major General
DOC MD NO 4.

ENCL

H.A. Stilwell
Maj
CMBR

13/12/45

NAT. DEF. B. 440
25800M-4-44 (A329)
H.Q. 1772-35-767

M.

REPORT ON CONDUCT

District Headquarters,
Montreal, Que.
25th SEP., 1945

TO: COMMANDANT,
NO. 65 Military Detention Barracks.

1.	Soldier under sentence	D-605875 BAILLARGEON, J.M.
2.	PLEASE STATE:	
	(i) Date of sentence	13 AUG 45
	(ii) Sentence	22 months.
	(iii) Date you received soldier	17 AUG 45
	(iv) (a) Can soldier read and write	Yes.
	(b) Religion	R.C.
	(c) Married, Widower, Single	Single.
	(d) What army trade has soldier?	None.
	(v) (a) Conduct of soldier	Good.
	(b) Industry of soldier	Good.
	(c) Remission earned:-	Yes.
	(i) Number of days actually earned	15 dys.
	(ii) Number of days obtainable to date	15 dys.
	(vi) Medical Officer of Surgeon's Report on physical and mental condition; if soldier is ill, should state:-	Fit.
	(a) Whether detention will seriously aggravate soldier's condition	No.
	(b) Whether further confinement is likely to prove fatal.	No.
	(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence	too soon to judge refer back when 1/2 sentence completed 13 JUL 46
	(b) Moral effect confinement has had	Good.
	(c) If returned to Army, is soldier likely to become a good soldier?	Yes.
	(viii) Date term will expire if all remission earned from now on.	5 NOV 46

S. Biber Capt
for (E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

C. Patte Major
Commandant

HQC 55- B-1925(CMBR- 4)/ EL
9 Nov 45
1283
Case No---------

REVIEW OF SENTENCE
BY
COURTS MARTIAL BOARD OF REVIEW

1. No, Rank and Name: D-605875 Pte BAILLARGEON, M.

2. Unit at date of offence: A 13-CITC, CA, Valcartier, Que.

3. Charge: AA 12(1)(a) DESERTION (absent from 14 May 42 until apprehended in civilian clothes on 16 Jul 45 --3 yrs 2 mos)

Plea: not guilty

4. Place and Date of Trial: #4 D.D. Montreal South, Que.
(XXXXX) (XXXX (SCM) 13 Aug 45

5. Finding: not guilty Desertion; guilty AWL(from 14 Aug 42 until 16 Jul 45 -- 2 yrs 11 mos)

6. (a) Sentence: 22 mos detention

(b) Date of Sentence: 13 Aug 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: #65 M.D.B. in M.D...4.....

(N.B. - Discharged under RO 1029( ) for
wef)

Request for AFA 3104 or MFM 288 sent out 9 Nov 45

28

11. (a) Prior to conviction: | Offence | Date | Sentence

(1) Civil Convictions NIL

(2) Court Martial NIL

(3) Summary Convictions 1 AWL (17 hrs) 3 days CB

(b) After conviction: Good (Expected d/ of release: 13 Jul 46)

(c) Date of enrolment/~~enlistment~~/ 28 Aug 41 Present Age: 26

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12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Accused under oath:

Overstayed furlough because mother was sick and he was needed at home. Family is poor and he worked to earn money to pay hospital bills. Worked as a lumber jack. In cross examination admitted he wore civilian clothes to avoid apprehension and that though he thought of returning often he did not do so for fear of punishment.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc)

Reviewing Offr: Recommend release at half sentence - viz 13 Jul 46.

Reviewed by A. B. Gold
(A.B. Gold) Lt.

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14. Recommendation of the Board: Release on 13 May 46.

Date DEC 1 2 1945

P. A. Stikoff Maj
Secretary
Courts Martial Board of Review

21

H.Q.C. 55-B-1925 (JAG/D)

14th September, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

Standing
D-605875 Pte. Coubat Martrain

Receipt is acknowledged of your 1-B-7695 (J) dated 10th Sept 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

BWH:jd

for (R.J. Orde), Brigadier
Judge Advocate-General.

ER M

25

ar

IN REPLY PLEASE QUOTE No. 1-B-7695(J).

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

341229

Montreal, P.Q.,
10th September, 1945.

B6

SEP 12 1945
File 055-B-1925
Origin. to
Referred to JAG.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT MARTIAL
D-605875, Pte. M. Baillargeon
C.I.C., C.A., att'd No. 4 District.Depot, C.A.

Reference your H.Q.C. 55-B-1925 (JAG/D-4) dated 30th August, 1945.

2. Herewith, proceedings of the marginally noted Standing Court Martial which are returned to you for custody, please.

Jules Monsau Capt
for (E.J. Renaud) Major-General,
D.O.C., Military District No.4.

ENC.

2A

MEDICAL OFFICER'S REPORT

I certify that No. Pte. D-605875 BAILLARGEON.M.
of C.I.C., C.A. Att'd DD-4 is in a good state of health,
and fit to undergo Trial by Court martial.

H. HAZELL, Lt. Medical Officer
No. 4 1st. Coy RCAMC
Att'd No. 4 District Depot C A

Station Montreal South, Que. J.C.Barracks,

Date 13 Aug. 45.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-39-480

23

.A.

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A., Montréal-sud, Que.

le 131ème jour de août 1945 à 1000 heures,

pour le procès de D-605875, Pte. Maurice BAILLARGEON, C.I.C., C.A.,
Matricule Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. Belleau, Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. L.R. Hamelin, C.I.C., C.A.,
Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-605875, Pte. Maurice BAILLARGEON, C.I.C., C.A., attached to No. 4 District Depot, C.A. non coupable de désertion, mais coupable d'absence sans permission, à l'exception que son absence a commencé le 14 août 1942.

SENTENCE: La cour condamne l'accusé, D-605875, Pte. Maurice BAILLARGEON, C.I.C., C.A., attached to No. 4 District Depot, C.A. à la détention pendant vingt-deux (22) mois, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $2.64, coût d'arrestation et de retour à son unité.

Signé à Montréal-sud, Que. ce 131ème jour de août 1945

L.J.E. Belleau

(L.J.E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2280
K.P. 26100

Extracts entered as No. 39389 in the record of Courts-Martial kept in the office of the Judge Advocate-General this 29 day of Aug 1945

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question~~ ~~Vous opposez-vous à~~ ~~comme interprète~~ ~~Réponse~~

Question à l'accusé. Vous opposez-vous à D-137479, CSM (WO 11) J.E.R. Samson, No. 4 Det., CMSC, C.A., quartiers-généraux, D.M. No. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. E. Billeau Major
Pres. Cmt.

'B2'

CHARGE SHEET

The Accused, D-605875, Private Maurice BAILLARGEON, C.I.C., C.A , attached to No. 4 District Depot, C.A. , an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 12(1)a, Army Act.

WHILE ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE,

in that he,

at Valcartier, Quebec, at 2200 hours on the 14th of May, 1942, absented himself without leave from his unit, A-13 C.I.T.C. until he was apprehended by the Military Police at St. Adelphe, Quebec, at 0545 hours on the 16th of July, 1945, dressed in civilian clothes, the cost of apprehension incurred in returning him to this unit being in the amount of $2.64.

Signed at
Montreal South, Quebec,
4th August, 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C.A.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

Le procureur procède à l'appel des témoins.

Premier témoin à charge.

étant dûment assermenté, est interrogé par le procureur.

Question.

LE PROCUREUR S'ADRESSE A LA COUR:

En vertu de l'Ordre-en-Conseil 8563, je produis les documents suivants:-

a) Extrait dûment certifié des ordres Partie II, Ordre No. 133 en date du 5 juin 1942 du Centre d'Instruction Supérieure d'Infanterie A-13, Valcartier, Que. démontrant une entrée dans le cas de D-605875, Sdt. Baillargeon, J.M.

b) M.F.M. 216, Certificat d'arrestation par l'autorité militaire en date du 17 juillet 1945, dans le cas de D-605875, Pte. Baillargeon, Jos. Maurice.

c) M.F.B. 1481 en date du 19 juillet 1945, dans le cas de D-605875, Pte. Baillargeon, Jos. Maurice.

LES DOCUMENTS ci-haut mentionnés sont lus, marqués pièces "F", "G" et "H" respectivement, signés par le président et versés au dossier.

LE PROCUREUR N'A PLUS DE TEMOINS A APPELER.

LA POURSUITE EST CLOSE.

D

[redacted]

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Je désire comparaître, moi-même, comme témoin. (Voir D-3 et seq.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

Question à l'accusé. Est-ce uniquement un témoin à l'appui de votre réputation?

Réponse: Non, monsieur.

L'ACCUSE, D-605875, Pte. Maurice BAILLARGEON, C.I.C., C.A., attached to No. 4 District Depot, C.A. étant dûment assermenté, est interrogé par l'officier défenseur.

Q. Baillargeon, lorsque vous êtes parti de votre unité, en quelle circonstance êtes-vous parti?

R. Je suis parti premièrement en "furlough".

Q. Quand votre "furlough" finissait-il?

R. Le 14 mai à 2200 heures.

Q. Maintenant, pourquoi n'êtes-vous pas revenu?

R. Parce que ma mère était malade et j'ai resté pour aider à la maison.

Q. Est-ce que vous êtes seul chez vous?

R. Non, monsieur, nous sommes trois garçons...un autre de mes frères est dans l'armée et l'autre travaille sur la terre. On ne pouvait pas avoir assez d'argent pour payer les soins médicaux et tout ça; mon père avait soixante ans et j'ai été obligé de rester pour leur aider.

Q. Est-ce que ça fait longtemps que votre mère est malade?

R. Depuis 1940.

Q. Est-elle encore malade?

R. Oui, monsieur.

Q. Quelle sorte de terre avez-vous?

R. Une petite terre de sable...elle n'est pas bonne.

Q. Est-ce que cette terre rapporte beaucoup?

R. Non, monsieur, pas beaucoup.

Q. Qu'est-ce que vous avez fait durant votre absence?

R. J'ai été dans les chantiers pour aider à payer l'hôpital et les médecins et pour faire vivre la famille.

Q. Est-ce que vous étiez dans les chantiers l'été?

R. Non, monsieur, dans l'été je travaillais chez nous avec mon frère, on travaillait sur la terre.

Q. Combien gagniez-vous dans les chantiers?

R. A peu près $125.00 par mois.

Q. Pendant combien de temps?

R. Tout l'hiver...à peu près cinq mois.

Q. L'été, qu'est-ce que vous faisiez?

R. Un était à la "drave" et l'autre était...travaillait chez nous et d'autres habitants.

Q. Vous n'avez jamais eu l'idée de revenir?

R. Oui, monsieur, l'été dernier encore et ma mère est tombée malade à l'hôpital et j'ai resté.

Q. Est-ce la seule fois que vous avez eu l'idée de revenir?

R. Non, plusieurs autres fois.

Q. Qu'est-ce qui vous a empêché les autres fois?

R. J'avais peur de la punition.

Q. Lorsque vous avez été appréhendé, qu'est-ce que vous faisiez?

R. J'étais couché.

Q. Où ça?

R. Chez nous, chez mon père.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR.

Q. Si je comprends bien, Baillargeon, vous êtes parti de votre unité de Valcartier?

R. Oui, monsieur.

Q. Quelle était votre unité à ce moment-là?

R. 6ième Infanterie attachée au Fusiliers Mont-Royal.

Q. Au centre d'entraînement A-13?

R. A-13...oui, monsieur.

Q. Vous rappelez-vous à quelle date vous êtes parti en "furlough"?

R. Oui, monsieur...le 1er mai 1942.

Q. Et vous étiez supposé vous rapporter à 2200 heures le 14 mai 1942?

R. Oui, monsieur.

Q. Vous ne vous êtes pas rapporté?

R. Non, monsieur.

Q. Jusqu'à ce que vous soyez appréhendé le 16 juillet 1945, n'est-ce pas?

R. Oui, monsieur.

Q. Vous avez été appréhendé par les autorités militaires?

R. Oui, monsieur.

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Q. Durant votre absence, êtes-vous demeuré chez vous tout le temps?

R. Non, monsieur.

Q. Où demeuriez-vous?

R. Comme j'ai dit tout-à-l'heure, j'ai été dans les chantiers et j'ai été sur la "drave".

Q. Où était votre domicile actuel...où demeuriez-vous avant d'entrer dans l'armée?

R. Chez nous.

Q. Où ça?

R. A St-Adelphe.

Q. Pendant votre absence sans permission, vous êtes allé à différents endroits...travailler dans le bois, n'est-ce pas?

R. Oui, monsieur.

Q. Pouvez-vous nous dire à peu près quels endroits c'était...quels chantiers c'était?

R. J'ai travaillé à Van Brussels sur la ligne du Lac St-Jean l'hiver dernier pour une compagnie de bois de papier.

Q. Avez-vous travaillé à d'autres endroits?

R. J'ai travaillé sur la petite Shawinigan.

Q. Avez-vous travaillé tout le temps de votre absence?

R. Non, monsieur. J'ai pris des bons congés...je travaillais en partie l'hiver.

Q. L'été,qu'est-ce que vous faisiez?

R. Un été j'ai été sur la "drave".

Q. A quel endroit?

R. A Clova.

Q. A tous les étés ça?

R. Non, monsieur, un été seulement.

Q. Les autres étés, qu'est-ce que vous avez fait?

R. Je travaillais chez nous, j'aidais à mon frère.

Q. Durant tout ce temps-là, de quelle manière étiez-vous habillé...en uniforme ou en civil?

R. J'étais habillé en civil.

Q. Durant toute votre absence?

R. Oui, monsieur.

15

Q. Quand vous travailliez l'hiver, combien gagniez-vous environ par mois?

R. A peu près $125.00 par mois.

Q. Vous étiez obligé de payer votre pension?

R. Non, monsieur, c'était clair.

Q. $125.00 par mois clair?

R. Oui, monsieur.

Q. Pour quelle raison vous mettiez-vous en civil pour travailler?

R. Parce qu'un soldat, ce n'est pas supposé aller travailler.

Q. Pour quelle raison vous mettiez-vous en civil?

R. C'était pour aller travailler.

Q. Vous nous avez dit tout-à-l'heure que vous vous mettiez en civil même quand vous ne travailliez pas...quand vous étiez à la maison?

R. Si je voulais aller me promener, je me mettais en civil.

Q. Pourquoi vous mettiez-vous en civil...pour aller vous promener?

R. Parce que comme déserteur, je n'avais pas le droit de mettre l'habit militaire.

Q. Pourquoi n'aviez-vous pas le droit de mettre votre uniforme?

R. (pas de réponse).

Q. Répondez?

R. Je n'en ai pas de réponse.

Q. Qu'est-ce que vous voulez dire par là?

R. Je ne le sais pas.

Q. Vous jurez que vous ne savez pas pourquoi vous vous mettiez en civil quand vous sortiez?

R. Pour ne pas me faire attrapper...me faire prendre.

Q. Pour quelle raison vous ne vouliez pas vous faire prendre?

R. Parce que j'avais dans l'idée de venir me rapporter je ne voulais pas que ce soit eux autres qui me prennent.

Q. Pour quelle raison n'êtes-vous pas venu vous rapporter durant au délà de trois années que vous avez été absent?

R. Je l'ai dit tout-à-l'heure, c'était pour aider ma mère, mon père et la famille...je faisais mon effort de guerre la même chose en travaillant dans le bois, la main d'oeuvre était rare.

Q. Si vous n'aviez pas été appréhendé, vous seriez encore absent?

R. Non, monsieur...il suffit que la guerre d'Europe est finie je serais venu me rapporter.

Q. La guerre d'Europe est finie depuis le mois de mai 1945 et vous avez appréhendé en juillet 1945, pouvez-vous nous expliquer le délai avant de penser à vous rendre?

R. Ma mère était malade depuis deux mois, très malade et elle aimait mieux que je reste près d'elle.

Q. Qu'est-ce que vous avez fait du mois de mai au mois de juillet 1945?

R. Pas grand'chose, je travaillais dans le jardin... j'ai semé des patates.

Q. Combien avez-vous gagné durant ce temps-là?

R. Je n'ai rien gagné.

Q. De quelle manière aidiez-vous à votre mère au point de vue financier?

R. C'est parce que j'étais là...j'avais de l'argent à la banque, je lui passais de l'argent et quand elle avait besoin de quelque chose, comme le docteur, je payais.

Q. Vous ne gagniez rien à ce moment-là?

R. Non, monsieur.

Q. Est-ce que vous couchiez chez vous tous les soirs quand vous étiez chez vous?

R. Oui, monsieur.

Q. Vous jurez ça?

R. Oui, monsieur.

Q. Quand aviez-vous l'intention de vous rendre?

R. Quand je suis parti j'avais l'intention de me rendre tout de suite après mon "furlough".

Q. Et après la fin de votre "furlough" avez-vous pensé encore de vous rendre?

R. J'ai pas mal tout dit ce que j'ai fait depuis trois ans.

Q. A partir de la fin de votre "furlough" jusqu'au moment de votre appréhension, avez-vous pensé à vous rendre?

R. J'y ai pensé souvent.

Q. Pourquoi ne l'avez-vous pas fait?

R. Parce que je craignais la punition.

Q. Le 16 juillet 1945, vous craigniez encore la punition?

R. Oui, monsieur, parce que j'ai été pris.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER LE TEMOIN DE NOUVEAU.

INTERROGE PAR LA COUR.

Q. Combien de temps avez-vous été dans l'armée avant le 14 mai 1942?

R. A peu près 8½ à 9 mois.

Q. Vous avez été appelé en 1941?

R. Le 28 août 1941.

Q. Aviez-vous fait votre entraînement "basic training"?

R. Oui, monsieur "basic training" et "advanced training".

Q. Où avez-vous fait votre "basic training"?

R. A Joliette, monsieur.

Q. Et votre "advanced training"?

R. A Farnham, monsieur.

Q. Après ça on vous a envoyé à Valcartier?

R. Oui, monsieur, j'ai été transféré à la Citadelle pour la garde et la fatigue; je chauffais les fournaises dans le "drill hall", et ensuite j'ai été transféré à Valcartier.

LE TEMOIN REPREND SON SIEGE.

o-o-o-o-o-o-o-o

LE PROCUREUR PRONONCE UN REQUISITOIRE:

Monsieur le président,

Je soumets respectueusement à la cour que dans une accusation de désertion comme celle qui est portée devant la cour dans le moment, il est du devoir de la poursuite d'établir:

a) l'absence
b) l'intention de la part de l'accusé de ne pas retourner à son service

La poursuite a établi que l'accusé s'est absenté de son unité A-13, C.I.T.C. à 2200 heures le 14 mai 1942

jusqu'à 0545 heures le 16 juillet 1945, alors qu'il a été appréhendé.

Je soumets aussi que s'il est impossible de faire une preuve définitive de l'intention, la cour doit se baser sur les différentes circonstances qui entourent l'acte reproché à l'accusé, et qui peuvent montrer son intention.

Nous avons d'abord la longueur de l'absence... au délà de trois ans - nous avons ensuite le fait que l'accusé a demeuré chez lui une partie du temps, mais aussi hors de chez lui et dans des endroits où il était fort peu probable d'être appréhendé.

Nous avons aussi l'admission de l'accusé que durant toute la longueur de cette absence, il a souvent sinon toujours été en civil, et je soumets de plus à la cour que l'accusé, par ses propres paroles, a montré qu'il n'avait pas l'intention de retourner à son service et que l'ensemble des circonstances que je viens de souligner démontrent clairement que la seconde partie de la preuve que la poursuite devait faire, tel que je l'ai mentionné au début, a été faite.

o-o-o-o-o-o

L'OFFICIER DEFENSEUR ne désire pas soumettre une plaidoirie de clôture.

.E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

PAR L'OFFICIER DEFENSEUR.

"Je demanderais à la cour de prendre en considération

"les 29 jours que l'accusé a déjà passé en détention

"préventive.

10

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

W.E. Billeau Major, Ord. Corps. "F" 27

DAILY ORDERS PART II

by

Commanding

No. 133/1942

Place Valcartier, Que.

Date 5 juin 42

CENTRE D' INSTRUCTION SUPERIEURE D' INFANTERIE

#A-13

(Last Order issued No. 132, 2/4 juin 42)

SECTION "C"

28. ABSENCE SANS PERMISSION (21 jours et plus)

Le sous-mentionne est absent sans permission a 2200hrs, le 14 mai 42, et est encore absent apres 21 jours.

D-605875 Sdt. Baillargeon, J.M. (DTAC)

RECEIVED
JUL 31 1945
CENTRAL REGISTRY
NO. 1 MILITARY DISTRICT

(Signed) J.A. Tessier,
(J.A. TESSIER) Capitaine & Adjudant,
CENTRE D'INSTRUCTION SUPERIEURE D'INFANTERIE #A-13,
CAMP VALCARTIER, P.Q.

CERTIFIED TRUE EXTRACT
SIGNED J.R. Flook, Lt.
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c.
Records, N.D.H.Q.
DATE JUL 26 1945

9

Prepared by:
and
Checked by:

H.E. Bellamy, Major, "G" Res. Cmd

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. Pouliotte (Rank) O.C. Composite Provost Companies., M.D. 4 (Name) (Unit)

hereby certify that D-605875 (Number) Pte. (Rank) BAILLARGEON, Jos. Maurice. (Name in full)

of the NRMA, C.I.C., C.A., att'd to A-13 C.I.T.C., C.A. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~[illegible]~~ D-125364 (Number) Sgt (Rank)

CAMPBELL, D.W. (Name) Composite Provost Companies., M.D. No.4 (Unit or appointment)

at St Adelphe, Que. (Place) at 0545 (Hour)

on the 16th day of July 1945

Strike out words not applicable } as a ~~deserter~~ absentee without leave), and that at the time of his arrest he was ~~[illegible]~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 17th day of July 19 45

(R.W.Pouliotte) Major R. Pouliotte Maj
(Signature, Number, Rank, Unit or appointment)
O.C. Composite Provost Companies., M.D. 4

EJ

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

AN "R" RECRUIT CALLED UNDER NRMA.

8

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major R.W.Pouliotte. O.C. Composite Provost Coys. M.D.4. (Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (~~was~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Montreal.Que (Place) to Three-Rivers,Que (Place) for the purpose of escorting and return to Montreal.Que (Place)

Full description of soldier being escorted — Baillargeon. Jos. Maurice. (Name in full) Pte. (Rank) D-605875 (Number) Valcartier,Que (Attachment, if any) NRMA (Unit)

Strike out phrase not applicable — alleged to be ~~a deserter or~~ an absentee without leave, the facts, date and particulars of ~~his~~ ~~escort~~ (the transportation required) and the cost thereof for said soldier and escort be as follows:

PARTICULARS	COST
July 18th,1945.	
Montreal,Que to Three-Rivers,Que and return.	
Total milage covered by DND Vehicle No.76-861 was 176 miles.	
176 miles @ 0.06 per mile.	2.64
44 miles @ 0.06 per mile.	
Total milage incurred by a Provost Detail to escort four (4) absentees and the expense evenly divided amongst them.	
TOTAL	$ 2.64

Dated at Montreal.Que this 19th day of July A.D. 19 45

(R.W.Pouliotte Major) R.W. Pouliotte Maj.

Signature, rank, unit, attachment ~~or~~ and appointment of officer authorizing transportation)

~~Strike out description not applicable.~~

O.C. Composite Provost Coys.M.D.4.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1483.

M.F.B. 1481
(35a—39-C (9-44))
(L.Q. 1777-39-440)

H. R. Bellman, Major.
C. Pres. CM.

"Y"

M.F.B. 255
50M—5-42 (3661)
H.Q. 1772-29-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-605875	Pte.	Maurice BAILLARGEON, C.I.C., C.A.	att'd to No. 4 D.D. C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service Conduct Sheets or Conduct Roll~~ ~~Regimental and Equivalent Battery~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment
For	---------- times	A.W.L.	----------1 times
For	---------- times		---------- times
For	---------- times		---------- times
For	---------- times		---------- times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ ~~A.F.A. 73~~ Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under A.A. 73 are set out in the Schedule ~~annexed to this statement~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 29 days in ~~Air Force~~ military custody, making a total of 29 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service in attestation paper is~~ enrolment 26 years, 2 months, (3 June, 1919).

6. The date of his ~~enlistment in attestation~~ enrolment specified in his ~~record of service in attestation paper~~ enrolment 28th August, 1941.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. The ~~accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

6

34

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused Number.....Rank..... Unit Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge of which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13 Aug 45.

W. Baird, Captain,
C.G.C., C.A., att'd to
No. 4 District Depot, C.A.,
Officer i/c Records
No. 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

D 605 875 Name BAILLARGEON M. Sqn., Battery, or Company } Corps C.A.(B)T.C. #42 Date of enlistment } 28/8/41 G.C. Badges } Tradesmen's Rates of Pay }

in Coby Sheet No. and date last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 2 Signature O.C. Company, etc. } (Sgd) P.R. Paquin Capt. Character

M.F.M. 6 (A.F.B.122) 780M—12-41 (7357) H.Q. 1772-34-1003

Date of last entry 28-12-41

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				S.O.S. 29-10-41 T.C. 42					
Farnham	28-12-41	Pte		A.W.L. from 2359 hrs 28-12-41 till 1715 hrs 29-12-41 (Absent 17 hrs 16 mins.)	Documentary	3 days C.B.	30-12-41	CaptJ.W.R. Paquin	1 day's pay
				This soldier's previous conduct sheet was destroyed after six months service and above entry transfered.					
				(Over)					

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY W. Baird, Captain, C.G.G., C.A., att'd to No. 4 District Depot, C.A., Officer i/c Records, No. 4 District Depot, C.A.					

H.Q.C. 55-B-1925 (JAG/D-4)
Your File - M. 1-B-7695

30 Aug 45.

District Officer Commanding,
Military District No. 4,
Montreal, Que.

STANDING COURT-MARTIAL

D-605675, Pte. Maurice BAILLARGEON,
C.I.C., C.A., attached to
No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

JOGR/ET

3

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-1925
M.D. M. 1-B-7695

NRMA MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-605875 Name BAILLARGEON, Maurice

Rank Pte Unit CIC, CA, att No 4 DD CA

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 14-5-42

Date of Arrest 15-7-45. Charge Signed 4-8-45.

Orders for D.C.M.

Place and Date of Trial No 4 DD CA; 13-8-45.

Sentence Det 22 mos; stoppages $2X64

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39389

Date 29-8-45

MEMO Balance of sentence remitted by Conf. Auth. 13-3-46 Guilty AWL

MD 4 - No 4 DD CA

Absent	Sentence
3 yrs 2 mos;	det 22 mos.

for Judge Advocate-General

10M-9-45(M-189)

LJEB/S

CANADA

In reply quote No. M. 1-B-7695 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
23rd August, 1945

C O N F I D E N T I A L

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

C-55-B-1925

STANDING COURT-MARTIAL
D-605875, Pte. Maurice BAILLARGEON,
C.I.C., C.A., attached to
No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 13th August, 1945

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. BELLEAU) Major,
Headquarters, Military District No. 4,
President - S.C.M.

ENC.

M.F.A. 1326
1,000,000—5-43 (3095)
H.Q. 1772-39-2009

39389

H.Q.C. 55-B-1926 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BEAULIEU, HENRI-PAUL D-143664 PTE-

CONFIDENTIAL
H.Q.C. 55-B-1926

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and mar here "With Minute")		
SEP 8 1945	8 10 45			JAG	NEW FILE	CR	28-8-45
				OAG	With Papers C.R. SEP 21 1945		
SEP 25 1945	26 9 45				To note explanation		24-9-45
OCT 20 1945	19 10 45			JAG	For Requisition C.R. OCT 19 1945		
NOV 14 1945					For Requisition C.R. NOV 1 1945		
NOV 23 1945	23 NOV 45			CMBR	For Requisition C.R. NOV 23 1945		
				CMBR	For Requisition C.R. NOV 26 1945		
NOV 27 1945	27 11 45				To note file		26 NOV 45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

M-1-B-19143 ADIS

MONTREAL, Que. 21 Nov 45.

NOV 22 1945
155-13 - 1926
Chgd. to
Referred to Admin
CMBR 2341

Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM. CARO 5913
D-143664 BEAULIEU P.

Reference HQC 9039-1, Adm 3(b) 3, dated 8 Sep 45, pertaining to the marginally named soldier.

2. Attached hereto MFM 288 duly completed in respect to the marginally named soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(E.J. RENAUD) Major General,
D.O.C., M.D. No. 4.

Encl.

PA 25/1

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-143664 (Number) Private (Rank) BEAULIEU, Henri-Paul, (Name in full)
C.I.C., C.A., attached to No. 4 District Depot, C.A., (Unit) (Attachment (if any))

Sentenced to 6 months detention with stoppages of pay $9.60,

on 13 Aug 45, at Montreal South, Quebec,

being served at No. 65 Military Detention Barracks, Longueuil, Quebec, (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years 8 months - 23 Nov 43.

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant-General, National Defence Headquarters, Ottawa, Ont. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be XXX committed to undergo his sentence, which I recommend should XXX be (XXXXXXX (put into execution) (reviewed on ..... (date)) for reasons given in paragraph X.

Place Montreal, Que.,

Date 19th., September, 1945.

(E.J.RENAUD) Major-General,
D.O.C., M.D., No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-39-2075

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
22 Sept 45	No suspension No remission B.E. 13 Nov 45	D. Rostot capt for [illegible]	
7 Nov 45.	Sentence remitted wef 13 Nov 45.	(E.J. Renaud), Maj Gen, D.O.C., M.D. No. 4.	
13 Nov 45	"RELEASED" 13Nov45	(C.Potter)Major Commandant No. 65 MDB,MD#4 Montreal South,Que.	Marks earned 744

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE: Sec. 15(1) A.A. ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Valcartier, Quebec, at 0800 hours on the 22 Aug 44, absented himself without leave from his Unit, A.I.T.C., A-13, C.A., until he was apprehended by the Military Police at Three Rivers, Quebec, at 0625 hours on the 19 Jul 45, dressed in civilian clothes, the costs of apprehension and return to this Unit being in the amount of $9.60.	22-8-44	13-8-45

Signature of Officer making entry

(M. I. Auerback) Captain, General List, C.A., att'd to No. 4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
12 Sep 45.	I do not recommend any remission of sentence in this soldier's case.	(S. Echenberg) Colonel, Commanding No. 4 DD CA.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
19-9-45	Sentence Fair and Reasonable, 1st.,Review, 28th.,Sept.45.	(E.J.RENAUD)Major--General, D.O.C.,M.D.,No.4.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FILE NO:
M-1-B-19143 ADIS

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

MONTREAL, QUE.

19 Nov 45.

CENTRAL REGISTRY
CONFIDENTIAL
NOV 20 1945
File
Chgd. CMPM 1-11
Referred to

The Secretary,
Department National Defence,
Ottawa Ontario.

~~D-143664 PTE BEAULIEU P.~~

Ref HQC 55-B-1926

2. Attached hereto form for remission in respect to the m/n soldier.

(H.J.RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

ENCL.

23 NOV 45

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE
BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-B-1[illegible]

District File No. M: 1-B-19143

PART I

No. D.143664 Rank Pte. Name BEAULIEU, P.

Unit No. 4 D.D.

PART II

Date of Trial 13 August, 1945.
Charge(s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence 6months detention with Stoppages of pay $9.60
Date of sentence 13th August, 1945.
Confirmation - (a) Authority: [illegible]
(b) Date 13 Aug 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Sec. 57 (2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~

Signed at Montreal this 7th day of Nov 45.

sentence wef 13 Nov 45.

(Appointment) (E.J. Renaud) Maj Gen, DOC MD No. 4.
to be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission (C~~xxxxxxxxxxx~~ (~~xxxxxxxxxx~~) promulgated and extracts taken at Montreal South, Que. (1) this 13th day of November, 1945

Ass- Officer i/c Documents. (L.R. MAMELIN) Lieut., C.I.C., C.A., att'd to No.4 D.D., C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-143664 Rank Private Name BEAULIEU, Henri-Paul

The sentence of 6months detention awarded by ~~xxxxxxx~~ Standing Court-Martial on the 13th August 1945 has been remitted on the 13th November, 1945 by D.O.C. UNIT Military District No.4, Sun Life Building, Montreal, Que.

Certified true extract of Daily Orders Part II of No.4 D.D., C.A. 13 November, 1945
No. 274 Place Jacques Cartier Barraks, Montreal South, Que.

Adjutant

(J. Mc N. CHARLEBOIS) Capt.-Adjt., General List, C.A., att'd to No.4 District Depot, C.A.

A Strike out and initial words not applicable.

H.Q.C. 55-B-1926 (JAG/D-5)

24 Sep 45

District Officer Commanding,
Military District No. 4,
Montreal, P.Q.

Standing Court Martial
D-143664 Pte. Henri Paul BEAULIEU,
CIC, C.A., attached to No. 4 D.D., CA.

M.1-B-19143(J)

Receipt is hereby acknowledged of your 20th September 194 , under cover of which you returned to this office the Standing Court Martial proceedings of the above-mentioned accused.

Your explanation of the delay in this case has been noted.

EAM

for (R.J. Orde) Brigadier,

Judge Advocate-General.

18

ar

IN REPLY PLEASE QUOTE No. N.1-B-19143(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

343061

Montreal, P.Q.,
20th September, 1945.

REGISTERED

CENTRAL REGISTRY ARMY
COURT SEC.
SEP 21 1945
File 55-B-1926
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
D-143664 Pte. Henri-Paul BEAULIEU,
CIC, C.A., attached to No. 4 D.D.,CA.

Reference your H.Q.C. 55-B-1926(JAG/D-4) dated 7 Sep 45.

2. The remarks contained in your above quoted letter have been noted and the attention of those concerned in this office has been called to the said remarks especially paras. 2 and 3 of your letter. As regards para. 5, hereunder, for your information, an explanation as to why the accused spent 25 days in custody awaiting trial:

19 Jul 45	Apprehension of the accused.
20 Jul 45	Accused taken to 4 D.D.
21 Jul 45	Wire for documents.
27 Jul 45	Documents received.
31 Jul 45	Remanded for Standing Court-Martial.
6 Aug 45	Application for Standing Court-Martial received at this Headquarters.
11 Aug 45	Part II Orders Extracts still missing but M.F.B. 375 submitted instead.
13 Aug 45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

Enc.

Lestimonsau Capt
(E.J.Menaud), Major-General,
D.O.C., M.D. No. 4.

NAT. DEF. S. 440
250M-4-44 (2021)
H.Q. 172-29-767

MEDICAL OFFICER'S REPORT

I certify that No. D-143664 Pte. BEAULIEU.H.P.

of C.I.C. C.A. att'd No. 4 D.D. is in a good state of health,

and fit to undergo Trial by Court martial.

H. Hazell

H. HAZELL, Lt. Medical Officer
No. 4 Dist. Coy RCAMC
Att'd No. 4 District Depot C.A.

Station Montreal South, Que. J.C. Barracks.

Date 13 Aug. 45.

M. F. B. 246
50M—12-43 (3922)
H.Q. 1773-39-480

16

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A., Montréal-sud, Que.

le 13ième jour de août 1945 à 1410 heures,

pour le procès de D-143664, Pte. Henri-Paul BEAULIEU, C.I.C., C.A.,
Matricule Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. Belleau, Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Capitaine L. Breton, General List, C.A.,
Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-143664, Pte. Henri-Paul BEAULIEU, C.I.C., C.A., attached to No. 4 District Depot, C.A. coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-143664, Pte. Henri-Paul BEAULIEU, C.I.C., C.A., attached to No. 4 District Depot, C.A. à la détention pendant six (6) mois et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $9.60, coût d'arrestation et de retour à son unité.

15

Signé à Montréal-sud, Que. ce 13ième jour de août 1945

(L.J.E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39388 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 29 day of Aug 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.*~~ ~~Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det.,CMSC,

Question à l'accusé. Vous opposez-vous à C.A.A. Quartiers-généraux, District Militaire No. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté~~s~~.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

14

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

H. Bellau Insp. of Pres. Cen.

"B2" 5

CHARGE SHEET

The Accused, D-143664, Private Henri-Paul BEAULIEU, C.I.C., C.A., att'd to No. 4 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Valcartier, Quebec, at 0800 hours on the 22nd of August, 1944, absented himself without leave from his unit, A.I.T.C. A-13, C.A., until he was apprehended by the Military Police at Three Rivers, Quebec, at 0625 hours on the 19th of July, 1945, dressed in civilian clothes, the costs of apprehension and return to this unit being in the amount of $9.60.

Signed at
Montreal South, Quebec,
6th August, 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C.A.

13

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur. (Voir CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d). Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Je me suis absenté de l'armée par rapport que j'ai eu un découragement de famille et quand je me suis aperçu que ma femme faisait la vie, j'ai préféré rester avec elle.

Elle m'a donné pour raison qu'elle manquait d'argent, et en manquant d'argent je lui ai demandé quelles obligations elle avait, et elle m'a dit qu'elle était obligée d'en donner à sa mère par rapport qu'ils sont une famille de huit enfants et le père n'est pas en très bonne santé.

Quand j'ai vu ça, j'ai resté et j'ai travaillé pour donner plus d'argent à la maison, et ça allait mieux. A part de ça elle était malade et j'ai eu une maladie vénérienne pendant que j'étais en passe. J'ai eu ça vers le 20 août 1944. Je me suis fait soigner, mais seulement ça a repris encore et actuellement je ne suis pas encore guéri.

Je suis marié depuis trois ans. J'ai un enfant de dix-sept mois, ma femme a 19 ans et moi j'en ai 23. Je demanderais s.v.p. qu'on me fasse passer un "reboard".

11

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur (par l'entremise de mon officier défenseur - Voir E-3)

10

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE

Vu les circonstances de famille tout-à-fait particulières de l'accusé, son record dans l'armée à date qui est tout-à-fait sans détention, son M.F.M. 6 qui est tout-à-fait blanc et de plus les besoins d'aide financier à la famille de sa femme, aussi sa maladie dont il semble souffrir lui et sa femme.

Pour ces raisons, je demanderais à la cour d'être aussi clémente que possible.

'F' 15

RECORD of the Declaration of a Court of Inquiry assembled at Valcartier Camp, Que. on the 14 th. day of September 19 44., for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-143664 Pte Beaulieu, H.P. Gen. List. Attached to A.I.T.C. A-13.

DECLARATION

The Court declare that No. D-143664 (Regt'l No.) Pte. (Rank) Beaulieu, H.P. (Full Name) Attached to A.-13. (Unit) Gen. List. (CA) illegally absented himself without leave from A.I.T.C. A-13. at Valcartier Que (Place) at 0800 hours on the 22 th. day of August. 44., that he is still so absent, and that on the 22 th August. 44. he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
CLOTHING DIVISION "A"			1 Necktie Black.		19
1 Anklet Web Prs.		74	1 Pin Collar Safety.		06
CLOTHING DIVISION "B"			CLOTHING DIVISION "D"		
1 Battle Dress Blouse.	6	50	1 Badge Cap CIC.		09
1 Battle Dress Trouser.	6	55			
1 Boot Ankle Prs.	5	82	C.A.R.O. 1868.....	21	00
1 Cap Field Service.		70			
CLOTHING DIVISION "C"			C.A.R.O. 3464 less 25%.. Being on each article separately.	15	73
1 Comb Hair.		04			
1 Towel Hand.		31			

J.A.A.G. Vallee, Major. R22eR. President
(Name) (Rank) (Unit)

H. Savoie, Capt. Regt de Chaud Member
(Name) (Rank) (Unit)

G. Duhamel, Lieut. Gen. List. Member
(Name) (Rank) (Unit)

Signed at Valcartier Camp. Que.

this 14 th. day of September 1944

Signature of Commanding Officer P.E.Poirier, Colonel, O.C. A-13, Camp Comm.
(Name) (Rank) (Unit)

Certified true copy R. Lapointe, Lt. Regt de Chaud. i/c of Records, A-13
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
180M—10-43 (9530)
H.Q. 1772-39-257

8

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. Pouliotte (Number) O.C. (Rank) Composite Provost Companies M.D. No.4 (Name) (Unit)

hereby certify that D-143664 (Number) Pte. (Rank) BEAULIEU, H.P. (Name in full)

of the C.I.C., att'd to A-13 C.I.T.C. Valcartier, Que. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~[illegible]~~ D-125364 (Number) Sgt (Rank)

CAMPBELL, D.W. (Name) Composite Provost Companies M.D. No.4 (Unit or appointment)

at Three Rivers, Que. (Place) at 0625 (Hour)

on the 19th day of July 1945

Strike out words not applicable } as a ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was ~~[illegible]~~ ~~[illegible]~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 20th day of July 1945

(R.W. Pouliotte) Major (Signature Number, Rank, Unit or appointment)

O.C. Composite Provost Companies M.D. No.4

EJ

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

A SOLDIER OF THE ACTIVE ARMY

7

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major R.W. Pouliotte O.C. Composite Provost Companies M.D. 4
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (~~XXXX~~) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Montreal, Que (Place) to Three Rivers, Que (Place)

and return to Montreal, Que. (Place) for the purpose of escorting

Full description of soldier being escorted — D-143664 (Number) Pte (Rank) BEAULIEU (Name in full) H.P., C.I.C., att'd to
A-13 C.I.T.C. (Unit) Valcartier, Que (Attachment, if any)

Strike out phrase not applicable — alleged to be ~~XXXXXXXXXX~~ an absentee without leave, the facts, date and particulars of ~~XXXX~~ ~~XXXXXXXXXXXXXXXXXX~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
July 20th, 1945.	
Montreal, Que to Three Rivers, Que and return.	
Total mileage covered by DND Vehicle No. 76-861 was 160 miles.	
160 miles @ 0.06 per mile.	9.60
Total mileage incurred by a Provost Patrol to apprehend the a/m absentee	
	6
TOTAL	$ 9.60

Dated at Montreal, Que this 20th day of July A.D. 1945

(RW. Pouliotte) Major
Signature, rank, unit, attachment (~~XXXX~~ and appointment of officer ~~XXXXXXXXXXXXXXXXXX~~ (authorizing transportation)
Strike out description not applicable
O.C. Composite Provost Companies M.D. 4

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(Rev.—10-41 (1668)
H.Q. 1772-89-1481

W.E. Bellman, Major.
Pres. C.O.R.

M.F.B. 355
50M—5-42 (1002)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-143664,	Pte.	Henri Paul BEAULIEU, C.I.C., C.A.,	att'd to No. 4 D.D. C.A

1. The following is a fair and true summary of the entries in the Field ~~Service Defaulters, Regimental and Squadron or Battery Conduct Sheets or Conduct~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
~~For~~	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Section 47 of the ~~Army~~ Air Force Act ~~and dispensations with~~ trial under ~~A.A. 73~~ A.F.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

or

~~The accused at the present time is under sentence for ..... beginning on the day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 25 days in ~~military~~ Air Force custody, making a total of 25 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 years, 4 months (21 March, 1922.)

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 23rd November, 1943.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of~~ ~~Air Force~~

22

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13 Aug 45. day of .....

W. Baird, Captain,
C.G.C., C.A., att'd to
No. 4 District Depot, C.A.,
Officer i/c Records,
No. 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

No. D-M 3864

Name BEAULIEU Henri Paul

Sqn., Battery, or Company } ~~TRR(MG)CS N.C.~~ C.I.C. Corps

No. and date of last drunk }

Period not reckoning towards freedom from extra fine }

Date of enlistment } 23Nov43

G.C. Badges }

Sheet No.

Tradesmen's Rates of Pay }

Signature O.C. Company, etc. } (Sgd) J. Carmel Capt.

Character

N.F.M. 6 (A.F.R.129) 750M—12-42 (7532) H.Q. 1772-39-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sorel Que.,	11 Feb. 44							(Sgd) F.M. Capt.	

CERTIFIED TRUE COPY

W. Baird Capt

.....

W. Baird, Captain,
C.G.C., C.A., att'd to
No. 4 District Depot, C.A.,
Officer i/c Records,
No. 4 DistrictDepot, C.A.

(P.T.O.)

H.Q.C.55-B-1926 (JAG/D-4)
Your M. 1-B-19143 (J)

7 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

Standing Court-Martial
D.143664 Pte. Henri-Paul Beaulieu,
CIC, C.A. att No. 4 District Depot, C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. It is noted that the accused was apprehended on the 19 Jul 45. The proceedings were signed on the 13 Aug 45 while it is recorded on top of page "A" that the Court was assembled on the 13 May 45. It is obvious that this is a typographical error which should be corrected and signed by the President.

3. It is again emphasized that errors of this nature should NOT be made by the officers dealing with Courts-Martial and, whenever made, should be corrected before the proceedings are sent to N.D.H.Q. for review. The reviewing officers have been advised to return the proceedings before completing their review when they discover such trivial errors.

4. May this be brought to the attention of the officers concerned.

5. It is also noted that the accused spent 25 days in custody awaiting trial. May an explanation of this delay be furnished, please.

6. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

JOGR/MM

AR

3

THIS COPY FOR: H.Q. C.55-B-1026
M.D. M.1BR-19143

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-143664 Name BEAULIEU, Henri-Paul

Rank Pte Unit CIC, CA, att No 4 DD CA

Charge AA 15(1) AWL

Date of Crime 22-8-44

Date of Arrest 19-7-45. Charge Signed 8-8-45.

Orders for D.C.M.

Place and Date of Trial No 4 DD CA; 13-8-45.

Sentence Det 6 mos; stoppages $9.60

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39388

Date 29-8-45.

MEMO

MD 4 - att No 4 DD CA

Absent	Sentence
10¾ mos;	det 6 mos.

✓

for Judge Advocate-General

10M-8-45(M-189)

See letter.
Passed on to the other people.
7.9.45 JOld

IJKB/S

CANADA

In reply quote No. M. 1-B-19143 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
24th August, 1945

C O N F I D E N T I A L

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

C-5513-1926

STANDING COURT-MARTIAL
D-143664, Pte. H.P. Beaulieu,
C.I.C., C.A., attached to
No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 13th August, 1945

2. Submitted for your information, consideration and approval, please.

(L.J.E. BELLEAU) Major,
Headquarters, Military District No. 4,
President - S.C.M.

ENC.

M.F.A. 1328
1,000M—3-43 (9995)
H.Q. 1772-19-2039

39388

H.Q.C. 55-B-1927 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BEAUMONT, CHRIS. A-20308 PTE-

CONFIDENTIAL
H.Q.C.
55-B-1927

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "See Minute")		
				ADMIN	NEW FILE	CR	29-8-45
SEP 17 1945	17 Sep	PA	[illegible]	[illegible]	To note	[illegible]	17-9-45
				CMBR	Per Requisition C.R. OCT 25 1945		
NOV 8 - 1945	8.11.45	[illegible]	[illegible]	Adm 3	Recommendation	was	NOV 2 1945
JAN 11 1946	11-1-46	[illegible]	[illegible]	Admin	Per Requisition C.R. DEC 29 1945		
FEB 26 1946	25-2-46	[illegible]	[illegible]	Admin	With Papers C.R. FEB 25 1946		
MAR 1 - 1946	1-3-46	[illegible]	[illegible]	Admin	Per Requisition C.R. MAR 1 1946		
				WCR	Per Requisition C.R. MAY 16 1946		
NOV - 3 1947	30-10-47	PA	[illegible]	[illegible]	405-B-984 + Recd	[illegible]	5-11-46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A20308 Pte Chris Beaumont

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 117 days, of which 99 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B356 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for eighteen months (18) and to be dealt with under stoppages of pay at the amount of six shillings and sixpence, the costs of apprehension

(Sgd) ..... Judge-Advocate, if any. 21 Mar 44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) JCT

(1. AA 57A. Delete if not used.)

(Sgd) J.C. Tilton HCA

Date 24 Mar 44. Commanding 1 Can CAE Wks Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
~~A20 Pte Do~~ A20308 Pte Beaumont C.	27 Mar 44	R.D. Ryder Camp Comdt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation.

DATE 22 Jun 44 for AJAG, FIELD GDS ADMIN

ENTERED IN RECORDS OF C.M. GGG-14

CPA96 (In lieu of AF A3) 40/P & S/1608 (2964)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col J.G. Tatham Comd 1 Can CAE Wks dated 18 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A20308	Pte	Pte	Chris	Beaumont	HQ First Can Army

PROCEEDINGS REVIEWED

R. Deaulwills Capt. 14 Apr 44.

~~PROCEEDINGS REVIEWED~~

Date 4 Apr 44 Maurice Hay for AJAG

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (country) ..... on (date(s)) 21 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major V.L. Jones	RCASC	HQ First Can Army
Member	Capt C.F. Black	RCA	do
Member	Capt E.H. A. Carson	RCA	do
Judge-Advocate	—		
Prosecutor	Capt R.E. Morden		HQ First Can Army
Defending Offr	Lieut. F.E. Rice		HQ First Can Army

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~as~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. The accused points out that his correct name is CHRIS, not CHRISTOPHER

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (~~their~~) plea(s) of Guilty to Not Guilty ~~on~~.....charge(~~s~~). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. NO

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. E and Ex. F respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. You through my defending officer (Statements marked G + H.)(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 209, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A. E. 18/3

CHARGE SHEET

THE ACCUSED NO. A20308 PTE CHRISTOPHER BEAUMONT, HEADQUARTERS FIRST CANADIAN ARMY, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, PLACED ON ACTIVE SERVICE, IS CHARGED WITH:

FIRST CHARGE SEC 15 (1) ARMY ACT — WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field while undergoing Field Punishment, absented himself without leave from 2235 hours 30th March, 1943 until apprehended by the civil police in London at 1600 hours 1st November, 1943. Total time absent 215 days, 17 hours 25 minutes. Cost of apprehension and return to unit, two shillings, nine pence.

SECOND CHARGE SEC 15 (1) ARMY ACT — WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, while under close arrest, did absent himself without leave from 1915 hrs 17th January, 1944 until he surrendered himself to the Metropolitan Police in London, England, at 1145 hours 10th February, 1944, thereby incurring three shillings and nine pence costs of apprehension and return to his unit. (Total time absent 24 days 7 hours)

R.D. King

(R.D. King) Lt-Col
Camp Commandant
HQ First Cdn Army

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
18 March 44

J.C. Tolhurst Lt.Col
Cdn CME Wks

B 4 Vlf.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P.S./1697 (Ins63)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.20308	Pte	Pte	Christopher	BEAUMONT	HQ First Cdn Army

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 18 Mar 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ". JGT JGT

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) JGT.

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ JGT

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ JGT.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	V R Jones	RCASC HQ First Cdn Army

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	C S Black	RCA HQ First Cdn Army
Capt	E H A Carson	RCA HQ First Cdn Army

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	JC Oliver	RCE HQ First Cdn Army

~~JUDGE ADVOCATE.~~ JGT.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.) — J.G. Tatham (Signed personally. RP 105 fn 2.) — Lt Col (Rank.)

Date 18 Mar 44 — Commanding 1 Cdn CRE Wks. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

C
VZ

MEDICAL CERTIFICATE

I hereby certify that I have this day examined

A20308 (No.), Pte (Rank), Beaumont C (Name)

and in my opinion he is fit to undergo trial by Court-Martial.

Date 21 Mar 44

E. L. Gladden Capt RCAMC

20305
Pte Louis Beaumont

Statement of Defending Officer

G.

This soldier of the Canadian Army is 30 years old. He is A WIDOWER WITH TWO CHILDREN ~~not married~~. He ~~xxxx~~ led an ordinary life of a Canadian and druing his schooling specialized in mechanics etc. After leaving school he worked at the Ford Motor Car Co. Windsor , Ontario.
On the 15th Sept 39 he answered the call of the free people of the world and enlisted with the Engineers.and put to work in a branch of the service where he would be most useful.
On Medical grounds (Flat feet and varicose veins) he was discharged on the 8th Feb 40.
He re-enlisted on 21st Nov 41 with the R.C.A.S.C. and between that time and Feb 1st he contracted V.D.S. He was paraded to the M.O. twice but due to incompetent analysis received no treatment whatsoever. This disease continued to bother him and yet he was sent overseas despite three medical boards who again due to incompetency allowed him to slip through. He arrived in England on the 26th March 42 and was admitted to Bramshott Hospital on the following day. Treatment for V.D.S. commenced immediately. He was released from Hospital 29th April 42 ~~xxx~~ but continued treatment and was returned to hospital 3 times during the following months. When he returned to the Holding Unit he was placed with an entirely different unit which spoke only French.
During a subsequent term of F.P. being unable to stand the pace set for this kind of training, he went A.W.L.
He was apprehended on 1st Nov 43 and sent to the Hospital for V.D.S. treatment immediately. He remained there until 8th Jan 43.
Due to private troubles and because the girl that he had been living with was about to give birth to a stillborn baby, he broke arrest but upon righting the situation as much as possible surrendered to to Police on 10th Feb 44.
On the 12th he was again sent to hospital for V.D.S. treatment and remainded there until 16th March 44.
This man is guilty ~~of~~ charged of A.W.L. but is he to blame? If incompetent medical officers (and they have been proved incompetent as this book will prove) ~~xxxx~~ send people suffering from the most soul distroying disease of all overseas, then I suggest that the blame lies within the army and not within the mind and soul of this soldier. Evidence [illegible]
butwhat has the [illegible]

Charges to pay

£ d.

RECEIVED

H.

YRG

POST OFFICE

TELEGRAM

No. H ulg

OFFICE STAMP

ACTON

Prefix. Time handed in. Office of Origin and Service Instructions. Words.

12

From 213 4E LAMBETH P 25

To

PRIORITY PRIVATE BEAUMONT C.A. 20208 NO-2 CANADIAN

GEN HOSPTIAL CBN-ARMY-ENGLAND CANRECORDS W 2

YOUR WIFE VERY ILL BABY BORN DEAD TRY AND GET

HOME

20208 2 3

For free repetition of doubtful words telephone "TELEGRAMS ENQUIRY" or call, with this form at office of delivery. Other enquiries should be accompanied by this form, and, if possible, the envelope.

W1. 43320/P4120 100,000 Pads. 2/43 G.N.P. Co. Ltd. 51-4148

Received from Mr
May 1 Silver.

Exhibit "K"

D 8 vol

RECORD of the Declaration of a Court of Inquiry assembled at Headquarters First Cdn Army on the 10th day of February 19 44 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No.

DECLARATION

The Court declare, that A.20308 Pte BEAUMONT, C., Headquarters First Cdn Army did absent himself from this Headquarters by escaping from close arrest on or about 1915 hrs, 17 Jan, 1944, and that he is still absent, and to be deficient in kit in the amount of $43.02.

Names of President and Members:

President: Capt R.E. Morden

Members: Capt H. Campbell
Capt J.W. Brett

Signature of Commanding Officer R D Kimbrook

Certified true copy R E Morden Capt
Signature of Officer having custody of original record.

M.F.R. 373
30-P-A.G.M.S.

Exhibit "B"

Officer Commanding,
H.Q. 1st Cdn. Army.
Re:- A.20308 Pte. Beaumont, C.
Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 333 dated 29 Oct. 40.

29 vcy

File No....25/35.....

London
10 Feb. 44.

to complaints

L. S. Grayson
Capt.,
(L.S. Grayson), D.A.P.M.,
London Area.

I CERTIFY that the man whose personal description is given below surrendered himself to* PC 645 "F" Div. at Faunce Street Sec at (hour) 11.45am on the 10th day of February as being No. A20308 (Rank and Name) Pte Chas BEAUMONT a deserter (or absentee without leave) from 17/1/44 and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 30 Height 5 Feet 2 Inches

Complexion Fair Hair dark brown

Eyes hazel

Marks ✓

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	15/9/39 Windsor Ontario
Probable Date of Desertion or beginning of absence, and from what place	17/1/44. Leatherhead Surrey

---

N. Saddestice PS 7L

Signature of Officer of Police in charge of Station.

ARMED FORCES POLICE DIVISION CARTER ST

10/2/44 Date of Signature.

Exhibit "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 2/10 44

Reg. No. A20308 Rank Pte Name Beaumont, C. Unit Hqrs 1 Army

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
12 Feb 44	Escorts return fare from LONDON To Leatherhead		2	6
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Leatherhead		1	3
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		3	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L Mayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Exhibit "A" Statement

METROPOLITAN POLICE. **STATEMENT OF WITNESS** No. 995A. (Unruled)

D3 ✓

Clapham *Station.* "L". *Division.* 1st. November, 1943.

Name: William Farrise, P. C. 545 "L". Age: 42.

Address: Clapham Police Station.

Occupation: Police Constable.

At about 4 p.m. on 1st. November, 1943, in company with P. C. 463 "L" Fitch I went to No. 93, Bedford Road, Clapham, S. W. 4., a dwelling house let off as furnished rooms. I made enquiries respecting an alleged Canadian Army Deserter and was shown the room occupied by Private A. 20306 Beaumont C.. I knocked on the door and, receiving no answer, tried the handle and found the door to be locked on the inside. After shouting for the person inside to open the door, Beaumont came from between the folding doors which divide the room and ran towards the window of the back room. I caught him and said, " I am a Police Officer and I have reason to believe that you are a deserter. " He replied, " Have you got a Warrant?. I am not leaving this house unless you have. " With the assistance of P. C. Fitch, I arrested Beaumont and conveyed him to Clapham Police Station where he admitted that he was a deserter. He was detained.

METROPOLITAN POLICE CLAPHAM DIVISION

Signature William Farrise PC 545

Signature witnessed by H. Perry PC 28

M.P.-25092/15,000 Oct./1942 c157 (2) (Continue overleaf if necessary.)

Exhibit "B" [illegible]

D4 ug.

RECORD of the Declaration of a Court of Inquiry assembled at No. 1 Field Punishment Camp, Cdn Pro. C. on the 21st day of April 1943 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No.

DECLARATION

The Court declare, that A.20308 Pte. BEAUMONT, C., of Headquarters First Cdn Army, escaped from No. 1 Fd. Punishment Camp, Cdn. Pro. C. at approximately 2225 hrs 30 Mar 43, has been continuously absent, and he is still so absent, and is therefore declared a deserter under Section 12 A.A.

Names of President and Members:

President: Lieut C.J. Dersch

Member: H.32014 S/Sgt (A/CSM) Gillis, J.H.

Signature of Commanding Officer [illegible]

Certified true copy [illegible] Capt

Signature of Officer having custody of original record.

M.F.D. 375
6-P-S-8-392

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I certify that No. A-20308 Rank. Pte. Name. BEAUMONT C. 15 V.G.

Unit. H.Q. 1st. Army was arrested at. LONDON (Place)

at. 1600 (hour) on. 1-Nov.43. (date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothes~~)

Signature of Provost Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
1-Nov.43.

Exhibit "C"

L.S. Grayson

(L.S. Grayson), Capt.,
D.A.P.M.,
London Area.

I CERTIFY that the man whose personal description is given below surrendered himself to* PC 545 Harrise at Bedford Road SW at (hour) 5.15 on the 1st day of November as being No. A 20308 (Rank and Name) Pte Beaumont C a ~~deserter~~ (or absentee without leave) from Leatherhead and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 30 Height 5 Feet 2 Inches

Complexion sallow Hair Dk brown

Eyes hazel

Marks nil

In uniform or plain clothes uniform

Probable Date and Place of Attestation	November 1941 Toronto. Canada
Probable Date of Desertion or beginning of absence, and from what place	30.3.43 Leatherhead. Surrey

Signature of Officer of Police in charge of Station: Sgt Clapham

1-11-43 Date of Signature.

ROYAL MILITARY POLICE CLAP DIVISION

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539 D 6 v 2

Reg. No. A20308 Rank Pte. Name Beaumont, C. Unit H.Q. 1 Army.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
3 Nov. 43	Escorts return fare from LONDON To Heatherhead.		2	6.
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Heatherhead		1	3
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		2	9.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. S. Grayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
(S.F.& R/453(7257))

Exhibit "D" Pers

Exp/Vouch

SUMMARY OF EVIDENCE

In the case of A. 20308 Pte Beaumont, C., of Headquarters, First Canadian Army, charged under AA 15(1) with AWL from 2225 hrs 30 Mar 43 to 1600 hrs 1 Nov. 43.

By order of the Commanding Officer the evidence will be taken on oath.

FIRST WITNESS: G.42538 S/Sgt La Rocque, A.J., of First Canadian Army Field Punishment Camp, having been duly sworn, states:-

"On the morning of 31 March 1943 I took over the duties of Orderly Sergeant at 0630 hrs, when it was reported to me that A.20308 Pte Beaumont, C., of HQ First Cdn Army, had escaped at 2225 hrs on 30 March 43. I then verified the fact that he was not present. I have not seen him nor has it been reported to me that he has returned since. Had he returned to the Field Punishment Camp I would have known it."

Question by accused: "Is it a known fact that there is a roll call at 2130 hrs each night?"

Answer: "No, not necessarily."

A J La Rocque
G.42538 S/Sgt La Rocque, A.J.

SECOND WITNESS: D.81827 Pte McKee, W., of Headquarters, First Canadian Army, having been duly sworn, states:-

"On 29 March 1943 I was a member of the Regimental Police at HQ, First Cdn Army. On that date A.20308 Pte Beaumont, C., of HQ, First Cdn Army, was taken under escort to the Field Punishment Camp and turned over to them. I did not see him again until 3 Nov 43 when I was A/Sgt of the Regimental Police at this HQ. On this date Pte Beaumont was handed over to me by an escort from No. 6 Cdn Provost Coy at 1440 hrs. Had Pte Beaumont been at this HQ between 29 Mar 43 and 3 Nov 43 I would have known it. At this time I took Pte Beaumont to the Medical Officer and on instructions from the Medical Officer I took Pte Beaumont to Bramshott Hospital the same day and handed him over to the Sgt in charge at the hospital.

"I did not see Pte Beaumont again until he arrived back under escort at the Regimental Police Guardroom on the 8 Jan 44. He has been in our custody ever since."

Tommy McKee
D.81827 Pte McKee, W.

The accused declines to cross-examine.

THIRD WITNESS: William Farrise, P.C. 545 "L" of Clapham Police Station.

A written statement of this witness; evidence purported to be signed by him is produced, has been read to the accused, marked exhibit "A" and attached to the summary of evidence.

In my opinion, owing to the exigencies of the service including expense and loss of time involved, the attendance of this witness cannot readily be produced.

R.E. Warden Capt.
(R.E. Warden) Capt.

The accused does not demand the attendance of this witness.

C. Beaumont
A20308 Pte. Beaumont, C.

Documentary evidence under Overseas RC 2111 attached:

(b) Certified true copy of Record of Declaration of Court of Inquiry assembled at No. 1 Fd. Punishment Camp Cdn. Pro. Corps on the 21st day of April, 1943. (Exhibit "B")

(c) Certificate of Capt. L.S. Grayson dated 1 Nov 43 (Apprehension). (Exhibit "C")

(d) Certificate of Capt. L.S. Grayson dated 3 Nov 43 (Expenses). (Exhibit "D")

The accused having been warned as follows:

"Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence", declines to make any statement.

Certified that R.P. 4 (c), (d), (e), (f) have been complied with.

Certified that the foregoing Summary has been taken down by me in the presence and hearing of the accused this 13th day of January, 1944.

R.E. Warden Capt.
(R.E. Warden) Capt.

D 7
vcf

ADDITIONAL SUMMARY OF EVIDENCE

In the case of A.20308 Pte. Beaumont, C., of Headquarters FirstCanadian Army, charged under AA 15 (1) with AWL from 1915 hours 17 Jan 44 to 1145 hours 10 Feb 44.

FIRST WITNESS: Capt F.W. Ayres of Headquarters First Cdn Army.

I produce herewith, as exhibits, the following documents, all relating to the accused.

(a) Record of Declaration of Court of Inquiry. Exhibit "A"
(b) Army Form 01617 relating to surrender of accused to Metropolitan Police, London at 1145 hours 10 Feb 44. Exhibit "B"
(c) Certificate of cost of apprehension in amount of 3 shillings nine pence. Exhibit "C"

Accused declines to cross examine the witness.

F.W. Ayres
(F.W. Ayres) Capt

The accused having been warned as follows:

"Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence", declines to make any statement.

C. Beaumont.
A.20308 Pte. Beaumont, C

I certify that the foregoing summary of evidence consisting of 1 page was taken, by me, in the field on 16 Mar 44, and that the Rules of Procedure 4 (c) (d) (e) and (f) were complied with.

R.E. Morden Capt.
(R.E. Morden) Capt

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. A20305 Name Beaumont, C. | Sqn., Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 24-11-41 | G.C. Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		OLD SHEET NOT AVAILABLE. SUPPLEMENTARY COMPILED FROM M.F.M. 2 1 Feb. 43							
Field	14-7-42	Pte		A.W.L. 8 Hrs. AA 15 (1)	Doc.8				1 Days Pay F.R. & I. 149(1)(a)
Field	28-1-43	Pte		AWL.Sec.15(1).TTA.3 days 2 hours and 10 minutes.	Documentary	Forf. 8 days pay.	2-2-43	Lt.Col.W.C. Fletcher	Forf.4 days pay FRAI 149(1 (a)Forf.3 days pay FRAI 149(2
Field	23-3-43	Pte		1. AWL 7 days 5½ hrs. AA Sec 15(1) 2. Stating a falsehood to an NCO of the Mil Police AA Sec 40 3. Having a document purporting to be an official AFB 295 with intent to deceive. AA Sec 40	Documentary	28 days FP To pay cost of apprehension 19s 3d	26 Mar 43	(Sgd.) (W.R. Martin) Major A/A.G. Details HQ First Cdn Army	7 days auto. Forf 149(1)(a) 28 days forf 149)2)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified True Copy from the Regt'l Books held in my custody					
				15 Jan 44					

[redacted] Officer i/c Original Records
HQ FIRST CDN ARMY

E

M.F.B. 358
225M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A20308	Pte	Beaumont, C.	HQ, First Cdn. Army

1. The following is a fair and true summary of the entries in the ~~Company Conduct sheets~~ Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA Sec 15(1)	Two times		AA Sec 15(1)	One times
For AA Sec 40	Two times			times
For	times			times
For	times			times

Number of instances of gallantry or distinguished conduct Nil

or,

~~The accused is not under sentence at the present time.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has been convicted by court-martial or civil court of the following offences:~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~

or,

~~The accused at the present time is under sentence for~~ ..... ~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and ~~Air Force~~ 117 days in military custody, making a total of ~~Air Force~~ 117 days in custody, of which 99 days were spent in hospital. Close arrest 1 Nov-17 Jan 44(Hospital 66 days)
Close arrest 10 Feb-20Mar 44(Hospital 33 days)

(Arrested by Engineer 6-28 Jan)

5. The present age of the accused according to his ~~RECORD OF SERVICE~~ attestation paper is - 31

6. The date of his ~~commission~~ attestation specified in his ~~RECORD OF SERVICE~~ attestation paper 24 Nov 41

7. The service which the accused is allowed to reckon towards discharge is 2 years 12 days RBn

(to 24 Nov 43)

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force decoration~~ military, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Name.....of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~17th~~ 21st day of March, 1944 [illegible] Captain Commanding [illegible]

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E signed by the president, and annexed to the proceedings.

[illegible] President

[redacted]

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 18 mos detn beginning on (date) 21 Mar 44 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of nil days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo imprisonment for a period of two years and to be discharged with ignominy from His Majesty's Service.

(Sgd) ..... Judge-Advocate, if any. 1 Mar 45 Date awarded. (Sgd) "DL REDMAN" Lt.col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I vary the sentence so that it shall be as follows: "To undergo imprisonment for a period of twenty three months, sixteen days, and to be discharged with ignominy from His Majesty's Services" and confirm the finding and sentence as so varied.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ - HPT

(1. AA 57A. Delete if not used.)

(Sgd) "HR Tyner" Col

Date 3 Mar 45 Commanding "B" GP CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
		"RJ Dufresne"
A20308 Pte Beaumont C	5 Mar 45	(RJ Dufresne) Lt.col
BO 56 d/7 Mar 45	??	A/Comd No 1 Holding Wing
	Asst Offr i/c Records 1 CASCRU	1 CASCRU

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

REcd 27 Mar 45 JAG Br CMHQ

858 RECORDED AT CMHQ IN AB 160 4W-133

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 4/P & S/1098 (2664)

Convened by Order of AB Connelly Brig Comd "B" Gp CRU dated 28 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A20308	Pte		Chris	BEAUMONT	1 CASCRU

Proceedings Revd "M FRASER" Maj Rev Offr JAG Br CMHQ

Certified true copy of original proceedings herein. 22 Aug 45 [signature]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 1 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

R A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

R A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

R A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1)~~ Do you object to P28126 Sgt AH Sinclair as shorthand writer ? Ans Np

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

R A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt. col	DL Redman VD	HQ CRU
Member	Capt	HM Turner	1 CITR
Member	Lt	BN Hovey	3 CITR
R ~~Judge-Advocate~~			
Prosecutor	Lt	JR Taylor	1 CASCRU
Defending Offr	Lt	JK Somerville	1 CASCRU

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

R A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

R A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

R B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning R of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the R sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the R charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....NO SIR.....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

R ~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ R ~~(their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they)~~ R ~~change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

R B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....A.... initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in paras D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans.....No sir.....

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

R E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true R copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex....B.... and Ex....C.... respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

R E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....By Def Offr (Note att).....(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(2)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which R is dated and signed by him ~~and the JA, if any.~~(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The accused A20308 Private Chris BEAUMONT, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas is charged with:

Sec 15(1) Army Act — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0001 hours 1 April, 1944, until 2325 hours 15 February, 1945, when he surrendered himself to the Civil Police at London.

TOTAL TIME ABSENT: 320 dys 23 hrs 24 mins.

"HL PEASE"
(H.L. Pease) Col RCASC
Commanding
1 Cdn ASC Rft Unit

IN THE FIELD
24 February 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
28 February 1945.

"A.B. Connelly" Brig
(A.B. Connelly)
Comd "B" Gp
Cdn Rft Units

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/F&S/1697 (25A8)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A20308	Pte		Chris	BEAUMONT	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date)..... endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint ~~as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.col	DL Redman VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO	1 CITR
Lt	To be detailed by CO	3 CI TR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) "AB Connelly" (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 28 Feb 45. Commanding "B" Gp Cdn Rft Units Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R.(CAN.) PARA.557

I certify that I have this morning examined

No. . . A20308 Pte Beaumont C . . . . . .

of . . . . . and in my opinion he

is fit / ~~unfit~~ toundergo Trial by Court martial.

. . . . . A. Jean, Capt . . . . .
Medical Officer

Station . Blenheim, Bks. . . . . .

Date . . . . . 1 March 1945. . .

M.F.B.246

PLEA IN MITIGATION

A20308 Pte Beaumont C 1 Cdn ASC Rft Unit

FAMILY - Born 20 Sep 1911 in England, family emigrated to Canada, Cape Breton, N.S. 1920, lived here for four(4) years, family then moved to Windsor Ont.

Parents both living, oldest of nine (9) children

Beaumont states that he was born two months after his parents marriage, discovered this when he was twelve (12) years old, and has since never got along with his parents.

Left home at 17 years of age and worked in the USA as a stable boy and rider, and various other jobs.

Returned to Canada in 1935 and worked at Ford Motor Works.

Enlisted 7 Sep 39 with RCE, discharged in Feb 1940 for flat feet and varicose veins.

Re-enlisted in Nov 41 with RCASC and posted to Radio Location Unit with training to be done in England.

Arrived overseas 26 Mar 42 and was immediately hospitalized for VD - 42 days. He was then taken off the Radio Location Unit and posted to 1 Cdn ASC Rft Unit, posted then to 85 Bridge Coy, and states it was a predominately French speaking Unit, and that he was conthually on fatigues. He was not happy in this Unit, and lost all interest in the Army, and clims that the routine and discipline was too much for him.

During his first service he was married. In the interval between 1st service and re-enlistment he divorced his wife, and was given custody of his daughter now five (5) years of age. His mother is looking after the child. He states that he was left a legacy recently and has no money worries.

SUMMARY - There is no doubt in my mind that he is a Psychopathic personality. His chequered career is evidence of this, never settled on one job, always moving, and believes that all society is against him, his mother, his divorced wife, officers and NCOs and the medical profession, etc.

He has been six (6) times in hospital since arrival in the UK and I firmly believe that the mental strain of this recurrence of VD has upset the mental stability of this man.

I would render a strong plea of mitigation and recommend a medical reboard, and a physchiatrists report on this man

E-3
"DLR"

(a) Report		(b)	(c)	(d)	(e)	(f)	(g)
Date	From whom received	Unit	Record of all casualties regarding promotions (acting, temporary, local or substantive), appointments, transfers, postings, attachments, &c., forfeiture of pay, wounds, accidents, admission to and discharge from Hospital, Casualty Clearing Stations, &c. Date of disembarkation and embarkation from a theatre of war (including furlough, &c.) in accordance with para 2 of Note to Table I of Appendix III of Field Service Regulations, Volume 1.	Place of Casualty	Date of Casualty	Army rank as at (e)	Army Form or other authority for entry to be shown
		1 CARU	Adm to 15 Gen Hosp	UK	27Mar42	Gnr	76 - 2 Apr 42
		1 CARU	Rem to 7 Gen Hosp	UK	12Apr42	Gnr	87 -15 Apr 42
		1 CARU	Hosp stop FR&I 222/1/B/11	UK	27Mar42	Gnr	88 -17 Apr 42
		1 RLU	Disch from 7 Gen Hosp	UK	24Apr42	Gnr	29 -30 Apr 42
		1 RLU	Released from Hosp Stop	UK	24Apr42	Gnr	29 -30 Apr 42
		1 RLU	Adm to 15 Gen Hosp (from Det)	UK	23May42	Gnr	42 - 3 Jun 42
		1 RLU	Disch from 15 Gen Hosp	UK	7Jun42	Gnr	44 -10 Jun 42
		1 ASCRU	Adm to 5 Gen Hosp	UK	30Oct42	Pte	267 - 9 Nov42
		1 ASCRU	Disch from 5 Gen Hosp	UK	10Nov42	Pte	269 -11 Nov 42
		HQ 1 CA	Adm to 3 Gen Hosp	UK	3Nov43	Pte	72 -12 Nov 43
		HQ 1 CA	Remd from 3 to 2 Gen Hosp	UK	3Nov43	Pte	73 -16 Nov 43
		1 ASCRU	Disch from 2 Gen Hosp	UK	7Jan44	Pte	6 - 8 Jan 44
		HQ 1 CA	SOS to X-List (RCASC) on adm to 2 Cdn Gen Hosp	UK	12Feb44	Pte	19 -12 Feb 44
		X-3 List	TOS from HQ First Cdn Army on adm to 2 Cdn Gen Hosp	UK	13Feb44	Pte	6 -23 Feb 44

CERTIFIED TRUE EXTRACTS FROM ORIGINAL MFM 4 IN MY POSSESSION
OF HOSPITAL ADMISSIONS AND DISCHARGES

"FA CRESWICKE"
(FA Creswicke) Capt
Records Officer
1 CdnASC Rft Unit
Cdn Army Overseas

MFM 4 (Part I)
AFB 103 (Part I)
40/P&S/318 (4254)

SERVICE AND CASUALTY FORM

PART I (For all ranks)

Unit HQ First Cdn Army

Regimental Number A20308

1. Surname BEAUMONT
2. Christian Names Chris
3. •Substantive Rank and Appointment
   •Acting Temporary or Local Rank Pte
   giving date

•To be entered in pencil to facilitate alteration

4. Place of birth Brailey, Yorkshire England
5. Date of birth as declared on attestation 20 Sep 1912
   (A)
6. Date of enlistment 24 Nov 41
7. Place of enlistment Toronto Ontario Canada
8. Residence at time of enlistment Windsor Ont Canada
9. (B) Special conditions (if any) of enlistment or rate of pay
10. (C) Any subsequent variations of conditions of service
11. Religion Church of England
12. If married, state date
13. Trade on enlistment Auto mechanic
14. Corps, trade and grade
15. (D) Qualifications
16. (E) Miscellaneous entries

(17) Regiment or Corps	Unit (Battn, etc)
RCASC	HQ 1 Cdn Army

(18) Medical

Category	Date	Authority
"A"	24.11.41	MFM 2

(19) Next of kin (entries to be made in pencil) (mother)

Mrs Christobel BEAUMONT
1440 Howard Ave.,
Windsor, Ont. Canada

(20) E
(21) E
(22) E

NOTES—

(A) Here enter particulars of any subsequent claim as to actual age after verification of birth certificate.
(B) Whether for home service only, enlisted at special rates of pay, etc.
(C) If to be retained on home service, period if specified to be stated; also authority and on what grounds: see (A) above.
(D) Signaller, Farrier, etc.
(E) Instructions regarding allotment of these sub-heads will be made as may be necessary after mobilization.

exhibit "B"

I CERTIFY that the man whose personal description is given below surrendered himself to* PC 615 "L" Daltrey at Royal Rd Southwark at (hour) 1125 pm on the 15th day of Feb 1945 being No A20308

(Rank and Name) Pte Chris BEAUMONT

a deserter (or absentee without leave) from HQ 1st Cdn Army and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 32 Height 5 Feet 2 Inches

Complexion Dark Hair Dark brown

Eyes Hazel

Marks ~~Uniform~~

In uniform or plain clothes

Probable Date and Place of Attestation	Nov 1942 Toronto
Probable Date of Desertion or beginning of absence, and from what place	30/3/44 Leatherhead, Surrey

"R Sadden" PSgt

Signature of Officer of Police in charge of Carter St, Stn Station

15 Feb 1945 Date of Signature.

Ex A

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 22nd day of May 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A20308 Pte BEAUMONT C

DECLARATION

The Court declare that No. A20308 Pte Beaumont C

illegally absented himself without leave from HQ First Cdn Army

at field on the 31st day of March 1944

that he is still so absent, and that on the 22nd day of May 44 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	Qty	VALUE	ARTICLES	VALUE
			75% value	
Blouses Battle Dress	1	1. 3. 6.	0. 17 7½	
Trousers Battle Dress	2	2. 8. 3.	1. 16. 2.	
Caps Field Service	1	2. 6.	1.10½	
Shirts Angola drab	1	9. 1.	6.10	
Shoes canvas prs	1	2.11.	2. 2.	
Badges cap	1	4½	3.	
Braces prs	1	1. 4	1. 0.	
			3. 5.11½	
Total		4. 7.11½		

"WD Hungerford" Capt President
(WD Hungerford) Capt

"ED Price" Lt Member
(ED Price) Lt

"FG Callaghan" Lt Member
(FG Callaghan) Lt

Signed at field

this 29th day May 1944

Signature of Commanding Officer "RD King" Lt.col
(RD King) Lt.col OIC HQ Details
HQ First Cdn Army

Certified true copy "TL GROUT" Major
Signature of Officer having custody of Record
HQ First Cdn Army

3/60B MFB 375–AFB 115
40/P&S/392 (6610)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A20308	Pte	Beaumont C	1 Cdn ASC Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of lines in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15(1) 7 times.

For AA Sec 40 2 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 18-5-42

Date of last entry in Field Conduct Sheet 21 Mar 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for 18 mos detn beginning on the 21st day of March 44

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 13 days in military custody, *i.e.*, nil days in open arrest, 13 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 32

6. The date of his attestation ~~calling up for military service~~ is 24 Nov 41

7. The service which the accused is allowed to reckon is Nil

8. The accused is in possession of‡ CVSM & Clasp wef 15 Jan 44

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	N/A
In the war substantive rank of	N/A
In the acting rank of	N A

Ex B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(26594) WL42129/4399 42,000 11/44 A.& E.W.Ltd. Gp.698 Forms P.2 6(War)/4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
fgcm Field	21 Mar 44	1. AA 15(1) AWL from 2235 hrs 30 Mar 43 to 1600 hrs 1 Nov 43. TTA 215 days 17 hrs 25 mins 2. AA 15(1) AWL from 1916 hrs 19 Jan 44 to 1145 hrs 10 Feb 44 TTA 23 days 11 hrs 30 mins	18 mos detn	Nil

CERTIFIED TRUE COPY FROM DOCUMENTS IN MY POSSESSION

"RE Lord" Lt
Officer I/C Regimental Books
1 Cdn ASC Rft Unit
28 Feb 1945

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this..... day of.....

SUMMARY OF EVIDENCE

IN THE CASE OF A20308 Private Chris BEAUMONT, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st Witness (for the prosecution)

Lieut L.R. Day RCASC, on strength of 1 Cdn ASC Rft Unit, having been duly sworn, states:

I am Lt L.R. Day, RCASC, on strength of 1 Cdn ASC Rft Unit, and I produce the following documents relating to the accused, whom I now recognize.

(a) Certified True Copy of NFB 375 Record of Declaration of a Court of Inquiry, declaring that A20308 Pte Beaumont C illegally absented himself without leave from HQ First Cdn Army on the 31st day of March 1944. Marked Exhibit "A"

(b) Certificate of surrender AF 01617 purporting to be signed by N Sadden, P57, Officer in charge of Carter St Stn, certifying that A20308 Pte Beaumont C surrendered himself to PC 615 "L" Daltrey at Royal Road Southwark SE London 17, at 1125 pm on the 15 Feb 45 Marked Exhibit "B"

THE ACCUSED DECLINES TO CROSS EXAMINE THIS WITNESS

"LR Day"
(LR Day) Lt

The accused was cautioned as follows: "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence"

THE ACCUSED DECLINED TO MAKE A STATEMENT AS THIS TIME

I hereby certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in writing on the 27th day of February 1945 in the Field in the presence and hearing of the accused and that RP 4(c) (d) (e) and (f) have been complied with

"EJF GAMACHE"
(EJF Gamache) Lt RCASC
Officer detailed to take Summary of Evidence

In the Field
27 Feb 1945

IN THE CASE OF

A20308 Private Chris BEAUMONT

LIST OF WITNESSES FOR THE PROSECUTION

Lieut L.R. Day 1 Cdn ASC Rft Unit

LIST OF WITNESSES FOR THE DEFENCE

NIL

List of Exhibits

(a) Certified True Copy of MFB 375, Record od Declaration of a Court of Inquiry, declaring that A20308 Pte Beaumont C, illegally absenting himself without leave from HQ First Cdn Army on the 31st day of March 1944

(b) Certificate of Surrender AF 01617 purporting to be signed by N Sassen PS7 Officer in charge of Carter St Station, certifying that A20308 Pte Beaumont C, surrendered himself to PC 615 "L" Daltrey at Royal Rd, Southwark, London SE 17, at 1125 pm. on the 15 Feb 45

TO WHOM IT MAY CONCERN

This is to certify that I, the accused A20308 Pte Beaumont C RCASC of 1 Cdn ASC Rft Unit, have received (1) one copy of Charge Sheet and Summary of Evidence in connection with my forthcoming trial by Field General Court Martial.

"C Beaumont"
(A20308 Pte Beaumont C)

I , the accused, A20308 Pte Beaumont C, RCASC on strength of 1 Cdn ASC Rft Unit, desire the services of acompetent officer to defend me at my forthcoming trial by Field General Court Martial.

"C" Beaumont"
(A20308 Pte Beaumont C

NA20308 Name BEAUMONT C | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 24.11.41 | GC Badges | Service or Proficiency Pay | MFM 6 (APB 12) 40/Pam/158 (3488)

Date of last entry in Company Conduct Sheet 1 May 41 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed on completion of six months service in accordance with CAORO 319. Last entry 1.5.42.									
Field	18.5.42.	Pte		AWL AA Sec 15(1)		28 dys det		Forf 45 dys pay FR&I 149(1)(a)(b)	
Field	14.7.42.	Pte		AWL (8 hrs) Sed 15(1)	Sgt Graham	14 dys CB	15.7.42.	OC Forf 1 dys pay	
Field	22.10.42	Pte		AWL (7 hrs 45 mins) cost of apprehension (3/9)	Documentary	7 dys pay FR&I 149(2) 1 dys pay " 149(1)(a) Cost of apprehension 23-10-42 (3/9)		OC	
Bordon	10 Dec 42		WOA$ TTA	AWL Sec 15(1) AA AWL from 2359 hrs 10 Dec 42 until 2245 hrs 14 Dec 42 3 dys 22hrs 46 mins	Cpl Bowerman Cpl McIntire	Forf 7 days FR&I 149(2)	Forf 4 dsy pay FR&I 149(1)(a) 15 Dec 42 JW Watmore Maj Forf 1 privilege leave		

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Eng	20 Dec 42	Pte		Sec 15(1) AWL from 2200 hrs 20 Dec to 0745 hrs 21 Dec 42 Total AWL 9 hrs 45 mins	Cpl Goldstein	Admonished	22 Dec 42	Maj Watmore	Forf 1 dys pay FR&I 149(1)(a)
Field	28.1.43.	Pte		AWL Sec 15(1) TTA 3 days 2 hrs and10 mins	Documentary	Forf 8 dys pay	2.2.43	Lt.col WC Fletcher	Forf 1 dys pay FR&I 149(1)(a) Forf 8 dys pay FR&I 149(2)
Field	23.3.43.	Pte	1 2 3	AWL 7 dys 5½ hrs AA Sec 15(1) Stating a falsehood to an NCO of the Mil Police AA Sec 40 Having a document purporting to be an official AFB 295 with intent to deceive AA Sec 40	Documentary Documentary	28 dys FP to pay cost of apprehension 19/3/0 ~~28 dys~~	26 Mar 43		7 dys auto forf 149(1)(a) 28 dys forf 149(2)

CERTIFIED TRUE COPY FROM DOCUMENTS IN MY POSSESSION
"RE Lord" Lt
Officer i/c Regtl Books
1 CASCRU
Feb 45.

MFM 6
(AFB 122)
40/P&S/130 (3458)

A80308 Name Beaumont C | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Mar 43	Pte		1 AA 15(1) AWL from 2235 hrs 30 Mar 43 to 1600 hrs 1 Nov 43. TTA 215 dys 17 hrs 25 mins 2 AA 15(1) AWL from 1915 hrs 19 Jan 44 to 1145 hrs 10 Feb 44. TTA 23 dys 11 hrs 30 mins		18 mos detn and stpppages of pay £0.6.6. (cost of app)	21 Mar 44	FGCM	Forfeits: 549 dys pay FR&I 149(1)(b) 239 dys pay FR&I 149(1)(a) 117 dys pay FR&I 149(1)(c)(1) TOTAL FORFS 905 dys pay

CERTIFIED TRUE COPY FROM DOCUMENTS IN MY POSSESSION
"RE LORD" LT
OFFICER I/C REGTL BOOKS
1 CDN ASC RFT UNIT
28 Feb 45

(PTO)

P R O M U L G A T I O N

A20308 Pte BEAUMONT C

Having been tried by FGCM In the Field on 1 Mar 45

CHARGE AA Sec 15(1) - WOAS ABSENTING HIMSELF WITHOUT LEAVE in that he in THE FIELD absented himself ~~sent~~ without leave from 0001 hrs 1 Apr 44 til 2325 hrs 15 Feb 45 when he surrendered to the Civil Police at London
TOTAL TIME ABSENT - 320 dys 23 hrs 24 mins

FINDINGS 1st Charge - GUILTY

Sentence To undergo imprisonment for a period of two (2) years and to be discharged with ignominy from His Majesty's Service.

CONFIRMATION FINDINGS CONFIRMED but sentence varied to read "To undergo imprisonment for a period of twenty-three (23) months, sixteen days and to be discharged with ignominy from His Majesty's Service" Finding and sentence as so varied confirmed by HR Tyner A/Cpmd "B" Gp CRU

IN CUSTODY Under close arrest from 2325 hrs 15 Feb 45 till 1000 hrs 1 Mar 45 (date of trial)

FORFEITURES Forfeits 321 dys pay FRI 149(1)(a)
719 " " " "(1)(b)
13 " " " "(1)(c) (i)
TOTAL FORFEITURE 1053 dys pay

539 dys pay concurrent with award of 18 mos detn awarded on 21 Mar 44

NET FORFEITURES 514 dys pay

PROMULGATED IN THE FIELD on 5 Mar 45.

DR 11- 6-2-46 105-B-984

File: L28- B-2332(DAPM)

HQ MD 1 London, Ont., Date: 21 Feb. 46.

The Secretary,
N.D.H.Q.,
OTTAWA, Canada

Appendix "G" to CARO 5913 (Remission, Etc., of Sentence by C.M.)

Re: A-20308 Pte. BEAUMONT, C.

Herewith forwarded for N.D.H.Q., files the m/n pro forma, concerning the m/n soldier, duly completed.

Records
A. G.
FEB 25 1946
Nat. Defence
Ottawa, - Canada

(P. Earnshaw) Brigadier
D.O.C., M.D. No. 1

(Appendix "G" to CARO 5913)
FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY COURTS MARTIAL

ADHQ File No..... District File No. L28-B-2332

PART I

No. A-20308 Rank Pte. Name BEAUMONT, C.

Unit No. 1 District Depot, London, Ontario.

PART II

Date of Trial 1 Mar. 1945

Charge (xx) A.W.L.

Sentence 23 months, 16 days and dis. with ignominy. Date of sentence 1 Mar. 45

Confirmation--(a) authority H.R. Tyner, Col. A/Comd. "B" Gp. Cdn. Rft. Units

(b) Date 7 Mar. 45

PART III
(REMISSION)

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (xxxx

File: L28- B-2332 (DAPM)

HQ MD 1 London, Ont. Date: 21 Feb. 46

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

Canadian Army
COURT SEC.
9164
FEB 23 1946
File 6.25-B-1927
Chief to
Date of Admin

NFM 288 for Disposal.

Re: A-20308 Pte. BEAUMONT, C.

Herewith returned in accordance with HQC 9039-1 Adm. 3(b)3 d/8 Sep 45 (Rd52a) para 4. XXXXXXXXXX AF A3104 concerning the m/n soldier, duly completed.

2. For disposal on remission XXXXXXXXXXX of sentence.

for (P. Earnshaw) Brigadier,
D.O.C., M.D. 1.

Encl.-- 1

noted
DCR

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. A-20308 Pte BEAUMONT, C. Unit 1 Cdn ASC Rft Unit

Sentenced to Imprisonment for 23 mos, 16 days on 1 Mar 45 and to be discharged with ignominy

Age on, and date of enlistment 28, 24 Nov 41 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention on a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20514) Wt.100/2270 100,000 2/42 A.& E.W.Ltd. Gp.498 Forms/A.3104/12

19

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION RETURN TO CANADA IN CUSTODY UNDER SENTENCE	(Beverley Matthews) Brig. A/D.A.G. C. M. H. Q. 10 APR 45	
8 Feb 46	Balance of Sentence remitted effective 11 Feb 45	[illegible] for DOC-[illegible] SIH	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. A.A. Sec 15 (1) - WAS ABSENTING HIMSELF WITHOUT LEAVE in that he IN THE FIELD absented himself without leave from 0001 hrs 1 Apr 44 till 2325 hrs 15 Feb 45 when he surrendered to the Civil Police at London. TOTAL TIME ABSENT :- 320 days 23 hrs 24 mins Signature of Officer making entry.	1 Apr 44	1 Mar 45
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
7 Mar 45	I recommend that the m/n soldier serve this sentence in full, except for the usual remission for good behavior.	(H.L. Pease) Col., Comd., 1 Cdn ASC Rft Unit.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
7 Mar 45	I recommend normal remission for good conduct and discharge on completion of sentence.	(H.R. Tyner) Col A/Comd "B" Gp Cdn Rft Units

COPY

VER V CIA NR 6 & 7

VER V CIA NR ## 37

FROM CMDG 3 KINGSTON ONT 291630R

TO DOC MD NO 1 LONDON ONT

RPTD COMMANDANT NO 60 MDB LONDON ONT

RPTD THE SECTY DND OTTAWA ONT

GR 181 BT

KD 61 RESTD

RELET KS 674(A) DATED 25 JAN 46 STOP THE FOLLOWING SOLDIERS PRESENTLY HELD AT NO 89 MDB FORT HENRY BARRIEFIELD ONT WILL CEASE ATTACHMENT THAT UNIT AND SOS NO 3 DISTRICT DEPOT TO no 1 DISTRICT DEPOT LONDON WEF 2 FEB 46

A.37593 PTE ANDERSON W F CMBR RELEASE 10 FEB 46

A.20308 PTE BEAUMONT C CMBR RELEASE 23 FEB 46

STOP THESE SUS WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE LONDON ONT 2114 HOURS 2 FEB 46 STOP REQUEST CMDG ONE HAVE ESCORT DETAILED TO MEET THIS TRAIN ON ITS ARRIVAL AT TRAINSIDE STOP REGIMENTAL DOCUMENTS IN EACH SOLDIERS CASE WILL BE HANDED OVER TO THE NCO I/C OF ESCORT PARTY MEETING THIS DRAFT ON ITS ARRIVAL STOP AFA 3104's WILL BE FORWARDED UNDER SEPARATE COVER DIRECT TO CMDG ONE STOP ADDSD CMDG ONE RPTD COMMANDANT NO 60 MDB AND DEFENSOR

BT 291910R IB AR

CR(C) PA on file

C 55-B-1927

Adm 3(b)2

405-B-984

/AF

File: A.20308-C(A)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 24 Jan 46.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Dominion Archives
A.G. Branch
JAN 25 1946
Ottawa, Ont.
Canada

SUS - XUK "HMS KHEDIVE"

A.20308, Pte.BEAUMONT, C.

Reference Radiogram Ranks 6805 Restricted dated 21st January, 1946 from National Defence Headquarters, Ottawa, Ontario.

2. Receipt is hereby acknowledged of the following documents in the case of the n/n soldier.

CMHQ Letter 10/Beaumont C/1, dated 20 Jul 45.

NDHQ Letter HQC 55-B-1927, Adm 3(b)2, dated 10 Jan 46

CMBR Recommendations 23 Feb 46

La on file
7-2-46

Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

HQS 8536-6 Vol 5
~~xxxx

HQC 55- B-1927 C'BR- 6/
29 Oct 45

Case No ---------- 0599 ----------

REVIEW OF SENTENCE
BY
COURTS MARTIAL BOARD OF REVIEW

1. No. Rank and Name: A-20308 Pte BEAUMONT C.

2. Unit at date of offence: 1 Cdn A.S.C. Rft Unit, England.

3. Charge: AA Sec 15(1) A.W.L.:- Absent from 1 Apr 44 until he surrendered 15 Feb 45.
Absent:- 320 days 23 hours 24 minutes.

PLEA: Guilty.

4. Place and Date of Trial: England 1 Mar 45
(FGCM) (XXXX XXXXX)

5. Finding: Guilty

6. (a) Sentence: 2 yrs imprisonment and discharge with ignominy
(b) Date of Sentence: 1 Mar 45

7. Date of Confirmation: 3 Mar 45

8. Date of Promulgation: 5 Mar 45

9. Being served at: To be ascertained in MD ----------

Note: Confirming authority varied sentence to read "Twenty three months, sixteen days and to be discharged with ignominy from His Majesty's Service."

(N.B. - Discharged under RO 1029 ( ) for
wef)

Case No ----------

CONDUCT

11. (a) Prior to conviction: AA Sec 15(1) 7 offences) in 2 years
AA Sec 40 2 offences) 5 mos
)previous service

Date of enlistment: 24 Nov 41

Present Age: 33

Present sentence awarded was for an offence committed while prisoner under sentence of 18 months detention awarded by F.G.C.M. on 21 Mar 44. Remainder of previous sentence of 21 Mar 44 has been remitted by CMHQ (Folio 20)

(b) After conviction: Good

Earliest date of release with normal remission for good conduct 22 Jun 46.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.
(b) Pulhems S5 "Psychopathic personality, Anti-Social"
(c) C.M.H.Q. review 10 Apr 45:- No remission recommended.
(d) Previously enlisted 7 Sep 39 and discharged as medically unfit Feb 1940.
(e) Plea in mitigation states this Prisoner was married in 1939, later divorced and was given custody of his daughter who is now 5 yrs of age and in the care of Prisoner's mother. Was left a legacy and has no money worries on discharge. Was posted to a French Cdn Unit in England and not being French speaking was very unhappy. Prisoner of a very unsettled nature who believes all society is against him.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc.)

Reviewing Officer: Recommend release 23 Feb 46 at which time half of sentence awarded will have been served.

Reviewed by W.A. Moss
W.A. MOSS, Major

---

14. Recommendation of the Board:

For remission on 23 Feb 46
or as soon as may be after the return of the SUS to Canada whichever is the later.

Date NOV 21 1945 19----

W.A. Stalwell Maj
Secretary
Courts-Martial Board of Review

THIS COPY FOR H.Q.C. 55-B-1927
M.D. ~~10/Beaumont C.J.1~~

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

GS

No. A.20308 Name BEAUMONT, Chris

Rank Pte Unit RCASC on Strength of 1 Cdn SC Rft Unit

Charge AA 15 (1) WOAS AWL

Date of Crime 1-4-44

Date of Arrest 15-2-45 Charge Signed 28-2-45

Orders for ~~DGCM~~ FGCM Brig. Comd "B" Gp. CRU

Place and Date of Trial In the field ~~1-3-45~~

Sentence Imp. 2 years Discharge with ignominy

Date of Confirmation 3-3-45

Date of Promulgation 5-3-45

Entered in Records of J.A.G. as No. 4093

Date 10-9-45

MEMO Conf. Auth. varies sentence to read "To undergo imprisonment for a period of twenty three months, sixteen days and to be discharged with ignominy from His Majesty's Service"

Reviewed at CMHQ

for Judge Advocate-General

10M-8-45(M-189)

55-B-1927
(JAG/D)

Quote No. HQC.

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
13 September, 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

~~Field General Court Martial~~
~~A-20808, Pte BEAUMONT, C~~

10/Beaumont, C/1

Receipt is acknowledged of your letter dated 31 July 1945 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

E.L.M.

/jm

for (R.J. Orde), Brigadier
Judge Advocate-General.

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AIR MAIL

Quote No. 10/Beaumont,C./1

[redacted]BER
CONFIDENTIAL

CANADIAN MILITARY HEADQUARTERS

LONDON 20 Jul 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C-55-B-1927

A-20308 Pte Beaumont, C.

1. The m/n soldier is now serving a sentence of 23 months and 16 days imprisonment and discharge with ignominy awarded by FGCM 1 Mar 45 for an absence without leave from which he surrendered to the civil police after 321 days (AA Sec 15(1)). On 21 Mar 44 he was awarded a sentence of 18 months detention for an absence without leave while undergoing F.P. from which he was apprehended by the civil police after 215 days (AA Sec 15(1)) and an absence without leave while in close arrest from which he surrendered to the civil police after 24 days (AA Sec 15(1)). In order to simplify the return of this soldier to Canada and since no useful purpose would be served by keeping the sentence of 21 Mar 44 in execution concurrently with the sentence of 1 Mar 45 it has been directed that the remainder of the sentence of 21 Mar 44 be remitted. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which his sentence of imprisonment should terminate if he continues to do so, is 22 Jun 46.

2. This soldier enlisted 10 Sep 39 at Windsor, Ont., and he was discharged on medical grounds 10 Feb 40. He re-enlisted 21 Nov 41 at Toronto, Ont., and he is now 33 years of age. In addition to the offences mentioned in para 1 above he has since enlistment been found guilty of 7 offences under AA Sec 15(1) and of 2 offences under AA Sec 40. He has had no previous FGCM.

3. This soldier was medically reboarded on 10 Apr 45 and placed in Pulhems Grade S5 on a diagnosis of "psychopathic personality, anti-social". He has been certified as fit to undergo detention.

4. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an individual of probably better than average intelligence who is aggressive, opinionated, expansive, circumstantial in his statements and quite unreliable; that he blames all the trouble he has got into in the army and in civilian life either on others or on circumstances; and that he is not likely to give effective service in any capacity.

5. In view of the total length of this soldier's illegal absences (562 days) as well as his previous poor record and the report outlined in para 4 above, it is considered that he is useless and incorrigible and that he should be required to serve his sentence of imprisonment in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered probable that this soldier has misconducted himself deliberately with a view to obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 1 Mar 45, together with original A.F. A3104 in respect thereof on which this direction has been endorsed.

(Beverley Matthews) Brig.
for Maj Gen i/c Adm
Canadian Military Headquarters

Enc. 2.

4093

1/39B CMHQ 1000:77
40/P & S/803 (67401)

855 RECORDED AT CMHQ IN AB 169 4W-133

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81 40/P & S/1608 (E142) 4/388

RECEIVED 1945 JAG BRANCH C.M.H.Q.

Convened by Order of A.B. Connelly, Brig., Comd "B" Gp, CRU. dated 28 Feb 45.

ACCUSED.

(For the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
		Chris	BEAUMONT	1 CASCRU

A-20308 PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 1 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to~~ ..... ~~as interpreter ? Ans~~ .....

~~The Interpreter is sworn.~~(1) Do you object to P28126 SGT AH SINCLAIR as shorthand writer ? Ans N.O.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans N.O. S.M.

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. Redman VD	HQ CRU
Member	Capt	H.N. TURNER	1 C I T R
Member	Lieut	B.N. HOVEY	3 C I T R
~~Judge-Advocate~~			
Prosecutor	LT	J.R. TAYLOR	1 CASCRU
Defending Offr	LT	J.K. SOMERVILLE	1 CASCRU

Questions by President: Is the Prosecutor a lawyer ? Ans N.O. Is the Defending Offr a lawyer ? Ans N.O.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....NO SIR.....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans.....NO - SIR.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.....B..... and Ex.....C..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....By Adv'r.....(NOTE ATT)(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

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PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4043 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 12 day of Jun 19.44

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 18 mos H/L beginning on (date) 21 Mar 44

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of NIL days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: IMPRISONMENT to undergo ~~detention~~ for a period of two years and to be discharged with ignominy from His Majesty's Service

(Sgd) ..... Judge-Advocate, if any. 1 Mar 45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I vary the sentence so that it shall be as follows:- "To undergo imprisonment for period of three months, sixteen days and to be discharged with ignominy from His Majesty's Service" and confirm the finding and sentence as so varied.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) HGJ

(1. AA 57A. Delete if not used.)

(Sgd) HG Turner Lt Col

Date 3 Mar 45 A/ Commanding B 9 Cdn Cdn Fd Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A-20308 Pte Beaumont, C.	5 Mar 45	R.J. Dufresne (R.J. Dufresne) Lt-col A/Comd No 1 Holding Wing 1 Cdn ASC Rft Unit

D.O. 56 d/7 Mar 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

10/ Beaumont C.

CANADIAN MILITARY HEADQUARTERS

JUDGE ADVOCATE GENERAL BRANCH

REVIEW SHEET

~~PRE~~-POST CONFIRMATION

FGCM 1 Mar 45 ..... (~~Gen~~ (Med (NK

(Date of Sentence)

No ...A293.08.... Rank ..Rtg.....

Name ..Beaumont C.....

Unit .....1 CASCRU.....

Charge(s)	15(1)			
Plea	G			
Finding	G			

Sentence ...2 yrs imp & ig discharge varied to 23 mos & 16 dys imp .....& ignom disch.....

Received from CR ...27 Mar 45...

Passed to Rev Offr .....

Passed to Rev 1 .....

Passed to .....

Passed to .....

Returned to Rev .....

~~Pile~~

Record & Pass AG5 ....27 Mar 45.

....."M FRASER" Maj.....

OBSERVATIONS:

1. Rev sheet (fo 11) noted

2. Accunder prev sentence of 15 mos comm 21 May 44. Variation in sentence to prevent it exceeding 2 yrs.

(Continue over if necessary)

.....

In the case of pleas of guilty;- There is nothing in the record of the proceedings which should have required the Court to advise the accused to change his plea.
~~In the case of pleas of not guilty;- There is legal evidence to justify the finding.~~
No substantial injustice to the accused.

.....

RECOMMENDATIONS

RECORDED AT CMHQ IN AB 160
4W-133

Pass

~~Quash~~ -Charge -

Date .....27 Mar45.

....."M FRASER" Maj.....
(Reviewing Officer)

C H A R G E S H E E T

The accused A.20308 Private Chris BEAUMONT, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas is charged with:

Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

IN THE FIELD, absented himself without leave from 0001 hours 1 April, 1944, until 2325 hours 15 February, 1945, when he surrendered himself to the Civil Police at London.

TOTAL TIME ABSENT: 320 days 23 hours 24 minutes.

H.L. Pease

(H.L. Pease) Colonel, RCASC,
Commanding,
1 Cdn ASC Rft Unit.

IN THE FIELD
24 FEBRUARY, 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

A.B. Connelly

(A.B. Connelly) Brig,
Comd "B" Group,
Cdn Rft Units.

IN THE FIELD
28 FEBRUARY 1945.

15

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-20308	Pte		Chris	BEAUMONT	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 28 Feb 45. endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO	1 CITR
Lieut	To be detailed by CO	3 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND. (Country.) — (A.B. Connelly) (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

Dat 28 Feb 45. — Commanding "B" Group, Cdn Rft Units. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certif.
K.R. (Can) para 557

I certify that I have this morning examined No: A.20308
Pte. (rank) Beaumont (name) and in my opinion he is fit to
undergo trial by Court Martial.
~~unfit~~ A.O.

Station: Blackburn Bde
Date: 1st March 1945

(Medical Officer) Capt.

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PLEA IN MITIGATION

A-20308 Pte Beaumont, C. 1 Cdn A.S.C. Rft Unit

FAMILY- Born 20 Sep 1911 in England, family emigrated to Canada, Cape Breton, N.S. 1920, lived here for four(4) years, family then moved to Windsor Ont.

Parents both living, oldest of nine (9) children.

Beaumont states that he was born two months after his parents marreige, discovered this when he was twelve (12) years old, and has since never gort along with his parents.

Left home at 17 years of age and worked in the USA as a stable boy and rider, and various other jobs.

Returned to Canada in 1935 and worked at Ford Motor Works.

Enlisted 7 Sep 39 with RCE, Discharged in Feb 1940 for flat feet and varicose veins.

Re-inlisted in Nov 41 with RCASC and posted to Radio Location Unit with training to be done in England.

Arrived Overseas 26 Mar 42 and was immediately hospitalized for V.D. - 42 days. He was then taken off the Radio Location Unit and posted to 1 Cdn A.S.C. Rft Unit, posted then to 85 Bridge Coy, states that it was a predominately French speaking Unit, and that he was continually on fatigues. He was not happy in this Unit, and lost all interest in the Army, and claims that the routine and discipline was too much for him.

During his first service he was married. In the interval between 1st service and re-enlistment he divorced his wife, and was given custody of his daughter, now five (5) years of age. His Mother is looking after the child. He states that he was left a legacy recently and has no money worries.

SUMMARY- There is no doubt in my mind that he is a Psychopathic personality. His chequered carber is evidence of this, never settled in one job, always moving, and believes that all society is against him, his Mother, his divorced wife, Officers and NCOs and the Medical profession, etc.

He has been six (6) times in hospital since arrival in the U.K., and I firmly beleive that the mental strain of this recurrence of V.D. has upset the mental stability of this man.

I would render a strong plea of mitigation and recommend a medical reboard, and a physiatrist report on this man.

E-3

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M.F.M. 4 (Part I)
A.F.B. 198 (Part I)
40/P & S/318

SERVICE AND CASUALTY FORM

PART I (For all ranks)

Unit H.Q. FIRST CDN ARMY Regimental Number A-20302

1. Surname BEAUMONT
2. Christian Names Chris
3. *Substantive Rank and Appointment
   *Acting Temporary or Local Rank Pte.
   giving date
   *To be entered in pencil to facilitate alteration.
4. Place of birth Brailey Yorkshire, England
5. Date of birth as declared on attestation 20 Sep 1912
   (A)
6. Date of enlistment 24 Nov 41
7. Place of enlistment Toronto Ontario Canada
8. Residence at time of enlistment Windsor, Ontario Canada
9. (B) Special conditions (if any) of enlistment or rate of pay
10. (C) Any subsequent variations of conditions of service
11. Religion Church of England
12. If married, state date
13. Trade on enlistment Auto Mechanic
14. Corps, trade and grade
15. (D) Qualifications
16. (E) Miscellaneous entries

(17) Regiment or Corps RCASC — Unit (Battn., etc) H.Q. 1 Cdn Army

(18) Medical

Category	Date	Authority
"A"	24.11.41	M.F.M. 2

(19) Next of kin (entries to be made in pencil) (Mother)
Mrs. Christobel BEAUMONT
1440 Howard Avenue,
Windsor, Ontario, CANADA.

(20) E.
(21) E.
(22) E.

NOTES—
(A) Here enter particulars of any subsequent claim as to actual age after verification of birth certificate.
(B) Whether for home service only, enlisted at special rates of pay, etc.
(C) If to be retained on home service, period if specified to be stated; also authority and on what grounds: see (A) above.
(D) Signaller, Farrier, etc.
(E) Instructions regarding allotment of these sub-heads will be made as may be necessary after mobilization.

(a) Report: Date	(a) Report: From whom received	(b) Unit	(c) Record of all casualties regarding promotions (acting, temporary, local or substantive), appointments, transfers, postings, attachments, &c., forfeiture of pay, wounds, accidents, admission to and discharge from Hospital, Casualty Clearing Stations, &c. Date of disembarkation and embarkation from a theatre of war (including furlough, &c.) in accordance with para. 2 of Note to Table I of Appendix III of Field Service Regulations, Volume I	(d) Place of Casualty	(e) Date of Casualty	(f) Army rank as at (e)	(g) Army Form or other authority for entry to be shown
		1 CARU	Adm. to 15 Gen Hosp	UK	27Mar42	Gnr	76 - 2 Apr 42
		1 CARU	Rem to 7 Gen Hosp	UK	12Apr42	Gnr	86 - 15 Apr 42
		1 CARU	Hosp stop. FR&I 222/1/B/ii	UK	27Mar42	Gnr	88 - 17 Apr 42
		1 RLU	Disch from 7 Gen Hosp	UK	24Apr42	Gnr	29 - 30 Apr 42
		1 RLU	Released from Hosp. Stop.	UK	24Apr42	Gnr	29 - 30 Apr 42
		1 RLU	Adm to 15 Gen Hosp (from Det)	UK	23May42	Gnr	42 - 3 Jun 42
		1 RLU	Disch from 15 Gen Hosp	UK	7Jun42	Gnr	44 - 10 Jun 42
		1ASCRU	Adm. to 5 gen Hosp	UK	30Oct42	pte	267 - 9 Nov 42
		1ASCRU	Disch from 5 gen Hosp	UK	10Nov42	Pte	269 - 11 Nov 42
		HQ1C.A.	Adm to 3 Cdn Gen Hosp	UK	3Nov43	pte	72 - 12 Nov 43
		HQ1C.A.	Remd from 3 to 2 Cdn Gen Hosp	UK	3Nov43	Pte	73 - 16 Nov 43
		1ASCRU	Disch from 2 cdn gen Hosp	UK	7Jan44	pte	6 - 8 Jan 44
		HQ1C.A.	SOS to X-list (RCASC) on adm to 2 Cdn Gen Hosp	UK	12Feb44	pte	19 - 12 Feb 44
		X-3List	TOS from HQ First Cdn Army on adm to 2 Cdn Gen Hosp	UK	13Feb44	pte	6 - 23 Feb 44.

CERTIFIED TRUE EXTRACTS FROM ORIGINAL MFM 4 IN MY POSSESSION OF HOSPITAL ADMISSIONS AND DISCHARGES.

F.A. Creswicke

(F.A.CRESWICKE) Capt.,
Records Officer,
1 Cdn ASC Rft Unit
Cdn Army Overseas.

Exhibit A

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 22nd day of May 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A 20308, Pte BEAUMONT, C

DECLARATION

The Court declare that No. A 20308, Pte BEAUMONT, C

illegally absented himself without leave from HQ First Cdn Army at field on the 31st day of March, 1944, that he is still so absent, and that on the 22nd day of May 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	Qty	VALUE	ARTICLES	VALUE
			75% Value	
Blouses Battle Dress	1	£1-3-6	£0-17-7½	
Trousers Battle Dress	2	2-8-3	1-16-2	
Caps Field Service	1	2-6	1-10½	
Shirts angola drab	1	9-1	6-10	
Shoes canvas prs	1	2-11	2-2	
Badges Cap	1	4½	3	
Braces prs	1	1-4	1-0	
Total		£4-7-11½	£3-5-11½	

(W G D Hungerford) Capt — President

Signed at field — (E D Price) Lt — Member

this 29th day of May 1944 — (F G Callaghan) Lt — Member

Signature of Commanding Officer (R D King) Lt-Col OIC HQ Details HQ First Cdn Army

Certified true copy

Signature of Officer having custody or receipt prove

CAMP COMMANDANT, H.Q. FIRST CDN ARMY.

M.F.B. 378
A.F.B. 115
25M—6-43 (750)
H.Q. 1772-39-357

10

Exhibit "B"

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C.615"L" Daltrey.

at Royal Road, Southwark, S.E.17 London (hour) 11-25p.m. on the 15th day of February, 1945 as being No. A.20308

(Rank and Name) Pte. Chris Beaumont.

a deserter (or absentee without leave) from H.Q.1st.Canadian Army.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 32 Height 5 Feet 2 Inches

Complexion Dark. Hair Dark brown Eyes Hazel

Marks

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	November 1942. Toronto.
Probable Date of Desertion or beginning of absence, and from what place	30/3/44. Leatherhead, Surrey.

Signature of Officer of Police in charge of R. Sadden PS/t Carter Street Station.

15th February 1945 Date of Signature.

9

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
A.20308	Pte.	Beaumont, C.	1 Cdn ASC Rft Unit.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15 (1) 7 8 times.

For AA Sec 40 2 times.

For ____ ____ times.

For ____ ____ times.

Date of first entry in Field Conduct Sheet 18 ~~Jan~~ 5-42 42

Date of last entry in Field Conduct Sheet 21 Mar 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for 18 mos detn beginning on the 21st day of March, 1944.

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 13 days in military custody, *i.e.*, nil days in open arrest, 13 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 32

6. The date of his attestation is 24 Nov 41

7. The service which the accused is allowed to reckon is nil

8. The accused is in possession of‡ CVSM. & Clasp wef 15 Jan 44

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	n/a	
In the war substantive rank of	n/a	
In the acting rank of	n/a	

Ex B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

8

(*28072) WL30721/3701 32,000 9/44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM Field --	21 Mar 44	1. AA 15 (1) AWL from 2235 hrs 30 Mar 43 to 1600 hrs 1 Nov 43. TTA 215 days 17 hrs 25 mins. 2. AA 15 (1) AWL from 1915 hrs 19 Jan 44 to 1145 hrs 10 Feb 44. TTA 23 days 11 hrs 30 mins.	18 mos detn	Nil

CERTIFIED TRUE COPY FROM DOCUMENTS IN MY POSSESSION

OFFICER I/C REGIMENTAL BOOKS
1 Cdn ASC Rft Unit
28 February, 1945.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this _____ day of _____ _____

SUMMARY OF EVIDENCE

IN THE CASE OF A.20308 Private Chris BEAUMONT, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st WITNESS (For the prosecution)

Lieut. L.R. Day, RCASC, on strength of 1 Cdn ASC Rft Unit, having been duly sworn, states:

I am Lieut. L.R. Day, RCASC, on strength of 1 Cdn ASC Rft Unit, and I produce the following documents relating to the accused, whom I now recognize.

(a) Certified True Copy of MFB 375 Record of Declaration of a Court of Inquiry, declaring that A.20308 Pte. Beaumont, C. illegally absented himself without leave from HQ First Cdn Army on the 31st day of March, 1944.
Marked Exhibit "A"

(b) Certificate of surrender AF O.1617, purporting to be signed by N. Sadden, P57, Officer in charge of Carter Street Station, certifying that A.20308 Pte. Beaumont, C. surrendered himself to P.C. 615 "L" Daltrey, at Royal Road Southwark, S.E. London 17, at 11:25 p.m. on the 15th February, 1945.
Marked Exhibit "B"

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

L. R. Day
(L.R. Day) Lieut.

The accused was cautioned as follows, "Do you wish to make any statement or give evidence on oath? You are no obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME.

I hereby certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in writing on the 27th day of February, 1945, in the Field, in the presence and hearing of the accused and that R.P. 4 (c) (d) (e) and (f) have been complied with.

E J F Gamache
(E.J.F. Gamache) Lt., RCASC,
Officer detailed to take Summary of Evidence.

IN THE FIELD
27 FEBRUARY, 1945.

EX A

7

IN THE CASE OF

A.20308 Private Chris BEAUMONT

LIST OF WITNESSES FOR THE PROSECUTION

Lieut. L.R. Day 1 Cdn A SC Rft Unit.

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

(a) Certified True Copy of MFB 375, Record of Declaration of a Court of Inquiry, declaring that A.20308 Pte. Beaumont, C. illegally absented himself without leave from HQ First Canadian Army on the 31st day of March, 1944.

(b) Certificate of Surrender AF C.1617, purporting to be signed by M. S adden, P57, Officer in charge of Carter Street Station, certifying that A.20308 Pte. Beaumont, C. surrendered himself to P.C. 615 " L" Daltrey, at Royal Road, Southwark, S.E. London, 17, at 11:25 p.m. on the 15th February, 1945.

TO WHOM IT MAY CONCERN

This is to certify that I, the accused A.20308 Pte. Beaumont, C., RCASC, of 1 Cdn ASC Rft Unit, have received one (1) copy of Charge Sheet and Summary of Evidence in connection with my forthcoming Trial by Field General Court Martial.

C. Beaumont
(A.20308 Pte. Beaumont, C.)

I, the accused, A.20308 Pte. Beaumont, C., RCASC, on strength of 1 Cdn ASC Rft Unit, desire the services of a competent officer to defend me at my forthcoming Trial by Field General Court Martial.

C. Beaumont
(A.20308 Pte. Beaumont, C.)

6

No. A20308 Name BEAUMONT, C. Sqn, Battery, or Company | Corps RCASC | Date of enlistment 24-11-41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/T&S/136 (5412)

Date of last entry in Company Conduct Sheet: 1 May 42 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed on completion of six months service in accordance with CAORO 319. Last entry 1-5-42.									
Field	18-5-42	Pte.		AWL [redacted]. AA Sec 15 (1)		28 days detn.		Forf 45 days pay FR&I 149(1)(a)(b)	
Field	14-7-42	Pte.		AWL (8 hrs) Sec 15 (1)	Sgt Graham	14 days C.B.	15-7-42	OC.	Forf 1 days pay
Field	22-10-42	Pte.		AWL (7 hrs 45 mins) Cost of apprehension (3/9)	Documentary	7 days pay FR&I 149 (2) OC 1 days pay FR&I 149(1) (a) Cost of apprehension (3/9) 23-10-42			
Bordon	10 Dec 42		WOAS	AWL Sec 15(1) AA AWL from 2359 hrs 10 Dec 42 until 2245 hrs 14 Dec 42. TTA 3 days 22 hrs 46 mins	Cpl Bowerman Cpl. McIntyre	Forf 7 days FR&I 149(2)	15 Dec 42	Forf 4 days pay FRI 149(1)a) J.W.Watmore, Major	Forf 1 privilege leave.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Eng	20 Dec 42	Pte.		Sec 15(1) AA AWL from 2200 hrs 20 Dec to 0745 hrs 21 Dec 42 Totsl AWL 9 hrs 45 mins.	Cpl Goldstein	Admonished	22 Dec 42	Maj. Watmore	Forf 1 days pay FR&I 149(1)a)
Field	28-1-43	Pte.		AWL Sec 15(1) TTA 3 days 2 hrs and 10 minutes	Documentary	Forf 8 days pay	2-2-43	Lt.Co.W.C. Fletcher	Forf 1 days pay FR&I 149(1)a) Forf 8 days pay FR&I 149(2). 7 days auto. forf 149(1)a) 28 days forf 149(2)
Field	23-3-43	Pte.	1. 2. 3.	AWL 7 days 5½ hrs AA sec 15(1) Stating a falsehood to an NCO of the Mil Police. AA Sec 40. Having a document purporting to be an official AFB 295 with intent to deceive. AA Sec 40.	Documentary	28 days FP To pay cost of ap= prehension 19/3/0	26 Mar 43		

CERTIFIED TRUE COPY FROM DOCUMENTS IN MY POSSESSION

OFFICER I/C REGIMENTAL BOOKS
1 Cdn ASC Rft Unit.
February, 1945.

3/17 MFM 6 (AFB 122) 40/DAS/130 (5413)

No. A20308 Name Beaumont, C. | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Mar 43	Pte.	1.	AA 15 (1) AWL from 2235 hrs 30 Mar 43 to 1600 hrs 1 Nov 43. TTA 215 days 17 hrs, 25 mins.		18 mos detn and stoppage of pay £0-6-6 (Cost of app)	21 Mar 44	FGCM	Forfeits: 549 days pay FR&I 149(1)b) 239 days pay FR&I 149(1)(a) 117 days pay FR&I 149(1)c)i) TOTAL FORFEITURE 905 days pay.
			2.	AA 15 (1) AWL from 1915 hrs 19 Jan 44 to 1145 hrs 10 Feb 44. TTA 23 days 11 hrs 30 mins.					

CERTIFIED TRUE COPY FROM DOCUMENTS IN MY POSSESSION

R Bond Capt

OFFICER I/C REGIMENTAL BOOKS
1 Cdn ASC Rft Unit.
28 February, 1945.

(PTO)

PROMULGATION

A-20308 Pte BEAMONT, C.

Having been tried by F.G.C.M. In The Field on 1 Mar 45.

CHARGE — A.A. Sec 15 (1) - WOAS ABSENTING HIMSELF WITHOUT LEAVE in that he IN THE FIELD absented himself without leave from 0001 hrs 1 Apr 44 till 2325 hrs 15 Feb 45 when he surrendered to the Civil Police at London.
TOTAL TIME ABSENT :- 320 days 23 hrs 24 mins

FINDINGS — 1st Charge - GUILTY

SENTENCE — To undergo Imprisonment for a period of Two (2) Years and to be discharged with ignominy from His Majesty's Service.

CONFIRMATION — FINDINGS CONFIRMED but sentence varied to read "To undergo Imprisonment for a period of Twenty-Three (23) months, sixteen days and to be dicharged with ignominy from His Majesty's Service" Findings and Sentence as so varied confirmed by H.R. Tyner, A/Comd B Grp C.R.U.

IN CUSTODY — Under Close Arrest from 2325 hrs 15 Feb 45 till 1000 hrs 1 Mar 45 (Date of Trial).

FORFEITURES — Forfeits 321 days pay FR&I 149 (1) (a)
719 days pay FR&I 149 (1) (b)
13 days pay FR&I 149 (1) (c) (i)
TOTAL FORFEITURE 1053 days pay

539 days pay concurrent with award of 18 mos Detn awarded on 21 Mar 44.

NET FORFEITURE 514 days pay

PROMULGATED — IN THE FIELD on 5 Mar 45.

3

H.Q.C. 55-B-1928 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BOURBONNAIS, LOUIS C-118604 PTE-

CONFIDENTIAL
H.Q.C. 55-B-1928

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and mention it here. Use Minutes)		
					ADMIN NEW FILE	CR	29-8-45
SEP 17 1945	12-9-45	PA	EL	JAG	To note	WOS	7-9-45
				CMBR	Re Recommendation C.R. OCT 25 1945		
NOV 3 - 1945	3-1-46		WOS	Admin	Recommendation		NOV 1 1946
JAN 10 1946	10-1-46			Admin	Re Recommendation C.R. DEC 29 1946		
					With Papers C.R. JAN 26 1946		
JAN 23 1946				CMBR	To note pls		25-1-46
JAN 29 1946 FEB 8 - 1946	30-1-46			Admin	" "		29 Jan 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

25/1/46

CENTRAL REGISTRY ARMY
4117
JAN 26 1946
File
Referred to

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-B-1928

District File No. C. 118604-C

PART I

No. C.118604 Rank Pte. Name BOURBONNAIS, L.

Unit R DE CHAUD.

PART II

Date of Trial: 24th. Feb. 1945 (FGCM)

Charge(s) : Desertion (AA Sec. (1)(a)

Sentence : 3 years penal servitude

Date of Sentence: 24th. Feb. 1945

Confirmation - (a) Authority: Comd. 8 Cdn. Inf. Bde.
(b) Date : 9 April, 1945

PART III

R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally-named soldier after the 15th. day of December, 1945 and direct that the accused be relieved of all consequences thereof after the said 15th. day of December, 1945 and that all records be amended accordingly.

Signed at Kingston, Ontario, this 17th. day of January 1946

G. A. McCurter, Brigadier,
District Officer Commanding
Military District No. 3.

PART IV

PROMULGATION

Remission promulgated and extracts taken at KINGSTON, Ontario,

this 21 st day of January , 1946.

(Officer i/c Documents)

(1)

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. C.118604 Rank Pte. Name BOURBONNAIS, L.

Remitted the unexpired portion of his sentence after the 15th day of December, 1945, and relieved of all consequences thereof after the said 15th day of December, 1945. All records to be amended accordingly.

Certified true extract of Daily Orders Part II of No. 3 District Depot, CA.

No. 19 Place Kingston, Ontario. Date 23 January, 1946.

(R.O. DULMAGE) Captain,
Adjutant
No. 3 District Depot, CA.

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

I.—Case of No. C118604 Pte BOURBONNAIS, L. Unit R DE CHAUD

Sentenced to suffer penal Servitude for 3 years on 24 Feb 45

Age on, and date, of enlistment 19 yrs, 11/1/43 Term of service 2 years, 1 month

FIRST TRIAL

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To.....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place.....

Confirming Authority.

Date.....

III.—I direct that the sentence (which I hereby commute to.....) (of which I remit.....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on.....(3).

Place.....

Date.....

Superior Military Authority (4).

(For action on review, see paragraph VI).

SECOND TRIAL

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To.....

Superior Military Authority.

This man was again convicted on.....and sentenced to.....and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place.....

Confirming Authority.

Date.....

V.—(5) I direct that the sentence (which I hereby commute to.....) (of which I remit.....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of.....and be reviewed on.....(3).

Place.....

Superior Military Authority (4).

Date.....

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

12,500. 1/200. 9/44. 24 H.D.P.S.S.

15

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution).

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	NO REMISSION-RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters	
17/1/46	Remit wef. 15th. Dec. 45.	14 JUN 1945 D.O.C., M.D. #3	

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

	Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.	A.A.SEC 12 (1) (a) In the Field when under orders for service in an attack on the enemy, absented himself without leave from concentration area from 0530 hrs 9 Feb 45, till 0930 hrs 9 Feb 45. Absence, 4 hrs.	9 Feb 45	24 Feb 45.
	H J Ruttedge Capt adjt Signature of Officer making entry.		
VIII.—Second Trial.			
	Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
6 Apr 45.	I recommend that sentence be served in its entirety at 1st Cdn Detn Barracks. W Tasselman Lt Col	

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
9 April 45	I recommend that sentence be served in its entirety.	J. A. Roberts Brig Cmd 8 Cdn Inf Bde

14

SECRET

DEPARTMENT OF NATIONAL DEFENCE K.S.674 (A)

Kingston, Ontario, 24th Jan, 1946.

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario.

S.U.S. - X.U.K. HMS "KHEDIVE"

Reference radiogram Ranks 6805 restd dated 21st January, 1946.

Please be advised that the undermentioned SUS who were held at No.89 MDB, Fort Henry, Barriefield were released therefrom on the 21st day of January, 1946, and despatched underescort to No.3 District Depot on Remission of Sentence and were discharged from the Canadian Army on the dates set opposite each name.

(a)	23/1/46	C.41528	Clermont A.
	" " "	C.53321	Davis L.
	" " "	C.54248	Lapensee J.A.
	" " "	C.58336	Pilon T.J.
	" " "	C.21568	Vilon E.W.
(b)	24/1/46	C.845	Arthurs B.S.
C-55-B-1928	" " "	C.118604	Bourbonnais L.
	" " "	C.101043	Fox E.M.F.
	" " "	C.123010	Latchford H.W.
	" " "	C.81045	Littlejohn R.B.
	" " "	C.33667	McPhail W.A.
	" " "	C.65536	Percy R.F.

3. For your information, please.

??????? Major
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3

Principle 2-28-46

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario
10 Jan 46
HQS~~XXXXXXXXXXXX~~ C 55-B-1928
Adm 2(b)2

District Officer Commanding,
Military District No. 3,
KINGSTON, Ont.

C.118604 Bourbonnais L.
SUS - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is AFA3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(S).

3. ~~XXXXXXXXXXX

HQC 55-B-1928 (CMBR-1) /N
29 Oct 45.
Case No. 0563

REVIEW OF SENTENCE

BY

COURTS MARTIAL BOARD OF REVIEW

1. No, Rank and Name: C-118604 Pte. BOURBONNAIS, L.

2. Unit at date of offence: Regt. de Chaud. BWEF

3. Charge : AA Sec 12 (1) (a) WOAS when under orders for an attack on the enemy was AWL for 4 hrs. with intent to avoid so serving.

Plea: Not guilty.

4. Place and Date of Trial: in the field - Germany 24 Feb 45.
(FGCM) (~~SCXXXXXXXX~~)

5. Finding: Guilty

6. (a) Sentence: 3 Years P.S.

(b) date of sentence: 24 Feb 45.

7. Date of confirmation:

8. Date of Promulgation

9. Being served at: to be ascertained. in M.D._____

(N.B. - discharged under RO 1029 ( ) for
wef

20

Case No_____

CONDUCT

11. (a) Prior to c nviction: Excellent

Date of enlistment: 11 Jan 43

~~Xxxxxxxfxxxxxx

THIS COPY FOR: H.Q.C. 55-B-1928
M.D.10/Bourbonnais,L/1

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. GS C-118604 Name BOURBONNAIS, Louis

Rank Pte Unit Le Regt de la Chaudiere

Charge AA 12 (1)(a) WOAS Deserting.....

Date of Crime 9-2-45

Date of Arrest 9-2-45 Charge Signed 16-2-45

Orders for ~~D.C.M.~~ FGCM Brig. Comd 8 Cdn Inf Bde

Place and Date of Trial In the field ~~24-2-45~~

Sentence Penal Servitude 3 years

Date of Confirmation 23-3-45

Date of Promulgation 1-4-45

Entered in Records of J.A.G. as No. 4094

Date 10-9-45

MEMO Balance of sentence remitted by Conf. Auth. (S.C.R.)

Reviewed at CMHQ

18

for Judge Advocate-General

10M-8-45(M-189)

Quote No. HQC.
55-B-1928
(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada

13 September, 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial

C-118604, Pte BOURBONNAIS, L

1. Receipt is acknowledged of your 10/Bourbonnais, L/1 dated 12 Jul 45 which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

E L M

/jm

for (R.J. Orde), Brigadier
Judge Advocate-General.

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[redacted]ER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Bourbonnais, L/1

CANADIAN MILITARY HEADQUARTERS

LONDON 12 Jul 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C-55-B-1928

C-118604 Pte Bourbonnais, L.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 24 Feb 45 for deserting his Majesty's Service after having been briefed for an attack (AA Sec 12(1)(a). The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 23 Feb 47.

2. This soldier was T.O.S. at Courtenay, B.C. on 11 Jan 43 and was attested on 21 Apr 44. His MFM 6 shows 1 offence under AA Sec 15(1) in addition to the offence mentioned in para 1 above. He has had no previous FGCM.

3. This soldier has been medically examined and certified as fit to undergo his sentence.

4. In view of the serious nature of the offence of which this soldier has been convicted and the necessity for exemplary punishment in such cases, it is considered that he should be required to serve his present sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier has deliberately misconducted himself in order to avoid battle and probably with a view to obtaining his discharge.

5. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 24 Feb 45 together with original A.F. A3104 in respect thereof on which this direction has been endorsed.

(Beverley Matthews) Brig.
for Maj Gen i/c Adm.
Canadian Military Headquarters.

Enc. 2.

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1094

Extracts entered as No. 7094 in the Record of Courts-M kept in the office of the Judge Advocate-General this day of 19

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C118604 Pte BOURBONNAIS R de Chaud

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(1)(b)	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) W.P. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for a period of three (3) years.

(Sgd) ..... Judge-Advocate, if any. 24 Feb 45 Date awarded. (Sgd) W. B. Parker Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation.

Date 27 Feb 45 (Sgd) Jas C. Roberts Commanding 8 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MM p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) H.D.G. Crerar (H.D.G. Crerar) General

Date 23 Mar 45 Commanding GOC in C First Cdn Army Confirming Officer.

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings.

18 Mar 45 [illegible]

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C118604 Pte Bourbonnais R	1st Apr 45	W Tankersley Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5F-123.

CFA96 (In lieu of AFA91) 40/R & S/1098 40/61 4/39B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J.A. Roberts Comd 8 Cdn Inf Bde dated 17 Feb 45

REVIEWED 7 MAY 1945 R.M.N.D.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C118604	Pte		Louis	BOURBONNAIS	R de Chaud

PROCEEDINGS REVIEWED 7 May 45 E. M. Bryman Lt.

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS REVIEWED 25 Apr 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ~~Holland~~ Germany on (date(s)) 24 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 29|38.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans ..... WBP

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... WBP

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W. B. Parker	N. Shore R.
Member	Capt	E. B. Somers	R.C.A. P.L. att 2 D.R. G/C
Member	Lieut	M. D. Morton	N. Shore R.
Judge-Advocate			
Prosecutor	Major	N. C. M. Lawrence DSO	R. de Chaud
Defending Offr	Lieut	Robert Lord	R. de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dt p 3.)

A8. The accused C118604 Pte Bourbonnais L. before arraignment make(s) (no) (a) plea WBP

..... (1) WBP

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....NO.....(1) WBP
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~no~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does~~ not establish a prima facie case against the accused on the WBP.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s)† and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans.....NO..... Do you intend to call witnesses on your behalf ? Ans.....NO..... Are they witnesses as to character only ? Ans.....N/A.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened. WBP
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

~~D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s)~~ of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1) *Or*, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 112. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....No.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex....A..... and Ex....A..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....No.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

10/ Bourbonnais L/1

OFFICE OF THE JUDGE ADVOCATE GENERAL

CANADIAN ARMY OVERSEAS

REVIEW SHEET

PA - NOST COMBAT ZONE

FGCM ...24 Feb 45..... (21 Gp
(Date of sentence) (~~Cd~~
(Gd

No...C118604.....Rank..Pte.....

Name .....BOURBONNAIS L.....

Unit.....R de Chaud.....

Charge(s)	12\1)(a)			
Plea	NG			
Finding	G			

Sentence .....3 yrs penal servitude.....

.....

Received from CR...7 May 45.....

Passed to Rev Offr...7 May45.....

Passed to Rev 1 .....7 May 45.....

Passed to .....

Passed to.....

Returned to Rev Clerk.....

Record - File Pass AGS ....7 May 45..

....."MW FRASER" Major.....

ACCUSED RECEIVED ON
INITIAL REVIEWING OFFR

Pass ~~Confirm~~

~~Quash Non-confirm - Charge~~

Date ..7 May 45 "MW Drynan" Lt
(Reviewing Officer)

FINAL JAG OPINION

Pass ~~Confirm~~

~~Quash Non-confirm - Charge~~

Date 7 May 45 "MW Fraser"
Major

OBSERVATIONS:

~~In the case of pleas of guilty:- There is nothing in the record of the proceedings which required the Court to advise the accused to change his plea.~~

1 In the case of pleas of not guilty:- There is legal evidence to justify the finding.

2 No substantial injustice to the accused.

.....

3 Rev sheet Can Sec 1 Bch HQ 21 A Gp (no comment) noted.

4. Medical certificate: Serial letter of accd no NOT stated
Dated 27? Feb. Trial 24 Feb
Unit of med offr NOT stated

5. Convening Order - 1. Name of member erased and another name substituted memo that this done by auth of convening offr initialled by convening offr
2. Fr Can waiting member did NOT sit. NO Fr Can member
3. Pt 1 states charge sheet endorsed 17 Feb was endorsed 16 Feb

6. Charge sheet: Charge laid under 12\11)(a) - should be 12\1)(a)

7. APB 296 NOT brought up to date. Evidence that acc in custody 6 days. Court completes CFA 96 Sched Pt II showing 14 dys in custody.

8. CFA 96. Pt IV officer completing does not show unit and appotmnt.

RECORDED AT CMHQ IN AB 160

SF-123.

(Continue over if necessary)

CHARGE SHEET

In the case of C-118604 Pte Bourbonnais, Louis, Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas on Active Service charged with:-

WHILE ON ACTIVE SERVICE DESERTING HIS MAJESTY SERVICE

IN THAT HE

1st Charge A.A.Sec 12(1) In the Field when under orders for service in an attack on the enemy, absented himself without leave from concentration area from 0530 hrs 9 Feb 45 until surrendering himself to "A" Echelon of his Unit at 0930 hrs 9 Feb 45 with intent to avoid such service.

Signed in the Field
this 16th day of Feb 45

(G.O.Taschereau) Lieut-Col.,
Commanding,
Le Regiment de la Chaudiere

TO BE TRIED BY F.G.C.M.

Signed in the Field
this 16th day of Feb 45

(J.A.Roberts) Brigadier
Comd 8 Cdn Inf Bde

W.D. Parker, Major

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-118604	Pte	Louis	BOURBONNAIS	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(now)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Feb 45 endorsed by me, ~~for my action or my staff for me~~, "To be tried by Field General Court-Martial". JGR

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~ JGR
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. JGR

~~4. I accordingly appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated hereinbefore~~ JGR
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I accordingly appoint a Judge-Advocate (except the Offr mentioned hereunder.~~ JGR
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	W.B. Parker (Must be named. RP 106.)	N Shore R (Unit.)

MEMBERS.

Capt	G.B. SOMERS RCAPC attd 20R of C	JGR
Lt (Rank.)	M.D. Morton (Named or detailed. RP 106.)	N Shore R (Unit.)

WAITING MEMBER.

Capt (Rank.)	R.M. Lavigne (Named or detailed, if any. RP 106.)	R de Chaud (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)	J.A. Roberts (Signed personally. RP 105 fn 2.)	Brigadier (Rank.)

Date 17 Feb 45 Commanding 8 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)) *(See overleaf for oaths and notes for use on trial.)*

W.B. Parker, Major

10

Due to the exigencies of the service Capt D. Hogaith (20th of 25) was unable to attend, and the name of Capt J. B. Lanier 20th of 25 REAPC. has been substituted upon the authority of the Convening offr.

24 Feb 45.

W. B. Parker, Major.

I, certify that I have this morning examined Regt No 118609....
Rank Pte.....Name Bourbonnais L.....
of the 1st Bn Le Regiment de la Chaudière and in my opinion
he is fit to undergo trial by Court Martial.

In the Field,
this 24 of Feb 45.

R H Lamman Capt RAMC
.....
Medical Officer.

W D Parker Major

D3

First Witness

G 61408 Cpl Caron, J. P., 6 Pln 11 Pl. B Coy R de Chaud sworn,

states:

When the platoon was formed on 9 Feb by Lieut Tremper, P.C., around 5.30 A.M. I noticed the absence of Pte Bourbonnais L. We were awaiting the hour to attack the enemy. I called the roll of my section and found that Bourbonnais was not there. The Sergeant and myself searched for Bourbonnais but could not find him.

Cross Exam.

By Court — Was Pte Bourbonnais belong to your section

Answer — yes

By Court — Was Pte Bourbonnais at the concentration area

Answer — yes

~~Cross~~

Second Witness

G 64 861 Pte Bulger, C. 6 Pln 11 Pl "B" Co R de Chaud sworn

states:

When the Lieut. formed up the platoon on the dike at 5.30 AM on the 9th of Feb he noticed the absence of Pte Bourbonnais. When the platoon was called Pte Bourbonnais did not answer. The Pl. Sgt. and the corporal went to look for him but did not find him. We were waiting until "A" Co took its objective and we were to go through.

Cross examination by defence.

Is Pte Bourbonnais in your section

yes

Did you see the accused in the concentration area

yes

When were you first told about the attack

In Nijmegen and I think on the 8th

~~I think it was in Nijmegen the 8th~~

We as then assumed present on the 8th Feb in Nijmegen

D3 Yes.

WBP.

~~Do you know the~~

The Witness

E 23557 Pte Bilodeau, J.V. of H.Q. "B" Co, R de Chant sworn, states:

The morning of the 9th Feb 45 at approximately 830 I went to Rear Bn H.Q. to pick up equipment which had been left behind. On my way back I saw Pte Bourbonnais and I asked him why he waited behind. He answered that he was going to "A" Echs and I asked him to get in my jeep and I brought him back to "A" Echs and I reported him to C.S.M. Page

What time was that

Around 1000

Can you identify the accused in the Court

Yes

Cross examination by defence.

Did you know that the accused was coming from the concentration area when you met him

No

Did you ask the accused why he was going to "A" Echs

No

Did you have particular reason for taking him back

No reason

On your way to "A" Echs did the accused converse with you

I asked him why he was going back, and he did not answer

Questioned by Court

Did the accused have his equipment with him when you took him back

No

Did them appear to be anything wrong with the accused when you picked him up

8

Third Witness Continued. WBP

They appeared to be all right

Was the accused walking away from your conversation and towards "A" Cels

Yes

Was the accused alone

No, there were four altogether. They were all privates.

Fourth Witness for Prosecution

W B Parker Maj

Lieut Hempe P.O. 11 Pl. "B" Co R de Chaud, sworn, states:

My Pl was gathered together and briefed on the 7th Feb in the afternoon in preparation for the attack which was supposed to take place the next day. On the 8th Feb while we were in the concentration area a few minutes before we started for the attack the platoon was again told about it. When my Co reached the dike near Keutte we were told that we had to wait a long time before going to our start line. Orders were then given for the pl to stay on or near the dike. I certify that the accused, Pte Bombonnais L who I recognize as being present, was present at the briefing.

Ques. The first time you briefed your pl was Pte Bombonnais there

Ans. Yes, sir, he was.

Ques. The second time, at the concentration area, when you spoke to your pl. was Pte Bombonnais there

Ans. Yes sir he was

Ques. How did you notice the absence of Pte Bombonnais

Ans. After we had waited approx 4 hours at the dike we received orders from the Company CO to form up our platoon. Then the absence of the accused was reported to me by the section commander. I then ordered searches to made around our area. He was not found and when we went for our objective he was still absent.

Quest. Do you recall approx the time when the absence of the accused was reported to you by the sec. leader

Ans. It was approx ~~3 hrs and a half or 4 AM~~ 0330 or 0400 hrs.

Quest. At what time did you cross the start line

Ans. Approx. 0800 hrs.

6

WJP.

Quest Pros. Did you see Pte Bourbonnais from the time he was reported absent until the end of the attack.

Ans. No

Ques. Cont. Is Pte Bourbonnais in your pl.

Yes

Can you state definitely that Pte Bourbonnais was at the concentration area on the dike.

Yes

Did you give the accused permission to leave prior to the attack

No

Do you know of any ~~[illegible]~~ reason to prevent the accused going forward on the attack

No

Did he ask permission to drop out

No ~~[illegible]~~

5

E B

Statement By the Accused W J Parker Major

Pte Bourbonnais

I came to the Regt. on the 24th July 1944 as a L/Cpl
Ever since then I have been in the same Co, pl, and sec. When
my Sec. Commander was wounded at Calais in France, I took charge
of the Sec. and was in charge until we came through Nijmegen.
I had made all the attacks and had done all that had been
asked of me. Finaly my nerves gave and I could not be in
charge of sec. any more. I went to see my Co. Commander
Capt R.N. PUCET and told him I wanted to give up the stripe
because I could not lead a section into action any more.
I was then reduced to the rank of Pte.

Pros Quest Was it because of your nerves that you did not go on the attack

Ans. Yes Sir

Quest. Did you complain to anybody before

Ans. I didnt exactly complain but I told my pl. commander

Quest What did he say

Ans. He did not think I was nervous

Court Quest. What time was it you told your pl. commander about your nerves

Ans. Some time in Dec.

Quest When were you with the Regt before July

Ans. No sir I landed in England 2 June 44, with the Regt. in Hull

Quest. Had you been in any action before you came to the unit

Ans. No, sir.

4

"Exhibit "B"

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
C-118604	Pte	BOURBONNAIS L.,	Le Regiment de la Chaudière

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL	times	one times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted by~~

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. ~~The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for~~ _____ ~~beginning on the~~ _____ ~~day of~~ _____

4. The accused has been in confinement, awaiting trial on the present charges, for 6 days in civil custody and _____ days in military custody, making a total of 6 days, of which ~~x~~ _____ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 21 years

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 11 Jan 43

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~ _____

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 1 month service.

9. ~~The accused is entitled to reckon~~ _____ ~~service for the purpose of determining his pension as~~ _____

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM with clasp

11. ~~(*If the accused is a warrant officer*)~~ ~~The accused before he was made a warrant officer last held the regimental~~ ~~rank of~~ _____

12. ~~(*In the case of an officer*) The accused before he was made an officer last held the rank of~~ _____ ~~in the regiment (or corps or department) the rank of~~ _____

(*25800) WL34898/1730 20,000 10/43 A.& E.W.Ltd. Gp.698
(26906) WL55934/1499 12,000 8/44 " "

W B Parker. Maj

3

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C-116604 Rank Pte Name Bourbonnais of R.C.E. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		RAB		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of February 1945

R. L. Boulanger Capt
Offr i/c Unit Records

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Exhibit A

No. 117602 Name Bourbonnais, L. Sqn., Battery, or Company Inf. Corps R.R.C. C.A. Date of enlistment 11 Jan. 43

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | G.C. Badges | Tradesmen's Rate of Pay

Signature O.C. Company for C. Allen Lieut. | Character

M.F.M. 5 (A.F.B.122) 7834—12-42 (7537) H.Q. 1772-39-1462

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				" ORIGINAL SHEET DESTROYED "	11 July 43 for	D.C. Nelson Lieut O.C. C. Company Report Index of Charges C.A. (A)			
IN THE FIELD FIELD	1 FEB 45	PTE		A.A. (5) H.O.R.S. A.W.L. at 1600 hrs 1 FEB 45 failed to report for guard detail when ordered to do so by the Coy Commander	B5755 2 A/C Pl. LACENNE	9 Jul 44 7 days C.B. WITH PAY	1 FEB 45	Lt. Col. R. Otter Lieut. R.M. Pocock CAPT.	

W B Parker, Major

(P.T.O.)

REQUEST BY THE ACCUSED

I wish to have an Officer to defend me at my forthcoming FGCM

C.118604 Bourbonnais L.

C.118604 Pte Bourbonnais L.

W B P.

H.Q.C. 55-B-1929 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BOUTILIER, GORDON ARTHUR F-52306 PTE-

CONFIDENTIAL
H.Q.C. 55-B-1929

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "See Minute")		
				ADMIN	NEW FILE	CR	29-8-45
SEP 14 1945	13-9-45	PA			for note		14-9-45
					For Requisition C.R. OCT 22 1945		
NOV 8 - 1945	6-11-45	BF		Admin 3	Recommendation		NOV 6 1945
					DEC 29 1945		
JAN 10 1946	9-1-46	PA		Admin			
				Admin	With Papers C.R. JAN 21 1946		
JAN 25 1946	25 JAN 46	PA		Admin	to note file		
					For Requisition C.R. MAR 29 1946		
NOV 7 - 1946	6 11 46	PA		Admin	55-B-34588		NOV 15 1946
				Admin B	FOR REQUISITION C.R. APR 7 1948		
APR 17 1948	6 apr 48	PA		Admin B			9 4 48

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

In Reply Please Quote Her File Nos. as in m/n.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Headquarters, M. D. No. 6, Army
Halifax, N. S., 18 Jan 46.

3196
JAN 21 1946
File
Chgd. to
Referred to

CONFIDENTIAL

Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUB - H.M.S. KHEDIVE	Our File	Reference -- Your File
F-86200 Pte. BEATTIE, C.	H.F-86200 (JAG)	HQC 55-B-1939 Adm 3(b)2 d/9 Jan 46.
F-95130 Pte. BOUDREAU, E.J.	H.F-95130 (JAG)	HQC 55-B-1889 Adm 3(b)2 d/9 Jan 46.
F-97469 Pte. BOUDREAU, T.F.	H.F-97469 (JAG)	HQC 55-B-2180 Adm 3(b)2 d/9 Jan 46.
F-52306 Pte. BOUTILLIER, G.A.	H.F-52306 (JAG)	HQC 55-B-1929 Adm 3(b)2 d/9 Jan 46.
F-5049 Pte. DAVISON, J.M.	H.F-5049 (JAG)	HQC 55-D-1209 Adm 3(b)2 d/9 Jan 46.
F-82507 Pte. DOUCETTE, J.W.	H.F-82507 (JAG)	HQC 55-D-1206 Adm 3(b)2 d/9 Jan 46.
F-50185 Gnr. FAULKNER, T.E.	H.F-50185 (JAG)	HQC 55-F-564 Adm 3(b)2 d/9 Jan 46.
F-88225 Pte. GALLANT, J.W.	H.F-88225 (JAG)	HQC 55-G-1182 Adm 3(b)2 d/9 Jan 46.
F-60290 Pte. GAUDET, G.F.	H.F-60290 (JAG)	HQC 55-G-1080 Adm 3(b)2 d/9 Jan 46.
F-82721 Pte. GAUTHIER, R.G.	H.G-3332 (JAG)	HQC 55-G-1064 Adm 3(b)2 d/9 Jan 46.
F-31729 Pte. HANNON, D.J.	H.F-31729 (JAG)	HQC 55-H-926 Adm 3(b)2 d/9 Jan 46.
F-95783 Pte. HIGGINS, S.E.	H.F-95783 (JAG)	HQC 55-H-916 Adm 3(b)2 d/9 Jan 46.
F-49990 Pte. JACKSON, A.	H.F-49990 (JAG)	HQC 55-J-430 Adm 3(b)2 d/9 Jan 46.
F-2964 Pte. LANGILLE, B.C.	H.L-3484 (JAG)	HQC 55-L-1648 Adm 3(b)2 d/9 Jan 46.
F-89094 Pte. MacDOUGALL, A.	H.F-89094 (JAG)	HQC 55-M-3009 Adm 3(b)2 d/9 Jan 46.
F-55635 Pte. STRONG, G.O.	H.F-55635 (JAG)	HQC 55-S-1699 Adm 3(b)2 d/9 Jan 46.
F-65305 Pte. TOWNSEND, R.J.	H.F-65305 (JAG)	HQC 55-T-574 Adm 3(b)2 d/9 Jan 46.

No. 6 District Depot, C.A.

Reference your letters as in the m/n.

2. Forwarded herewith, duly completed, one copy of Form of Remission of Sentence in each case in the m/n, remitting sentence w.e.f. 17th JANUARY, 1946.

3. Also forwarded herewith Army Form A3104, in respect of each case in the m/n, duly completed in Part VI.

MAR 10 46

GD/jmcg

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

RECEIVED
A.G.D.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF
SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No: HQC 55-8-1929 H.F-52306
District File No:

PART I

No. F-52306 Private NAME BOUTILLIER, Gordon Arthur
Unit No. 6 District Depot, C.A.

PART II

Date of Trial 19th December, 1944.
Charge(s) Sec.9(2)AA,WOAS, Disobeying a lawful command given by His Superior Officer, Sec.15(1)AA, WOAS, AWL, Sec.15(1)A.A., WOAS, A.W.L.
Sentence Two (2) years detention
Confirmation -(a) Authority:
(b) Date :

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57 (4) of the Army Act, do hereby remit (commute, mitigate) eleven (11) months and two (2) days of his sentence, effective 17th January, 1946.

Signed at Halifax, N. S., this 12th day of January, 194 6.

(J. C. STEWART) Brigadier,
D. O. C., M. D. No. 6.

PART IV
PROMULGATION

Remission (commutation, mitigation) promulgated and extracts taken at Halifax,N.S. this 17th day of January ,1946.

Sgd. Philip Morash Lt.
Officer i/c Documents.
(Unit, attachment and appointment to be stated) (G.A. BRAINE) Captain,
No. 6 District Depot, C.A.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. F-52306 Rank Priate Name BOUTILLIER, G.A.
The sentence F.T. Two years detn
awarded by Court-Martial on the 19th Dec 44. 194 ,
has been remitted eleven mons and two days
on the 17 Jan 46. 194 , by D.O.C.,
Unit M.D.No.6.
Certified True Extract of Daily Orders Part II of No. 6 District Depot, C.A.
No. 14 Place Halifax,N.S. Date 17th January, 1946.

Sgd. L.H. LeBlanc Capt.
Adjutant (L.H. LEBLANC) Captain,
No. 6 District Depot, C.A.

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. F52306 Pte Gordon Arthur Boutillier Unit North Nova Scotia Highlanders

Sentenced to 2 yrs Detention on 19 Dec 44

Age on, and date of, enlistment 20 yrs - 8 Apr 43 Term of service 20 Mos

FIRST TRIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*26503) Wt.49340-415 38,000 1/44 A.& E.W.Ltd. Gp.498 Forms/A.3104/12

19

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	NO REMISSION RETURN TO CANADA IN CUSTODY UNDER SENTENCE	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters	
		14 MAY 1945	
11 Jan46	Remit 11 mos & 2 days of his sentence, effective 17th JANUARY, 1946.	(J.C.Stewart) Brigadier, D.J.O.C., M.D. No. 6.	

(Continued on page 4.)

	Charge or charges, giving particulars	Date of Offence	Date Trial
V11.-	First Trial - When On Active Service, disobeying a lawful command ~~from~~ given by his superior officer, in that he, in the Field, at approximately 1000 hrs 18 Sept 44 did not join his platoon when ordered to do so by Maj M.G. Clennett, Nth Nova Scotia Highlanders AA Sec 9 (2)	18 Sept 44	18 & 19 Dec 44
	Second Charge - When On Active Service absenting himself without leave in that he, in the Field, in France, absented himself without leave from 1130 hrs 18 Sept 44 until 1600 hrs 20 Oct 44. (Absent 32 days 4 hrs 30 min) AA Sec 15(1)	18 Sept 44	"
	Third Charge - When On Active Service, absenting himself without leave in that he, in the Field, in Holland, absented himself without leave from 1800 hrs 20 Oct 44 until apprehended by the Military Police at Arras at 1130 hrs 31 Oct 44 (absent 10 days 17 hrs 30 min) AA Sec 15(1)	20 Oct 44	"

M. J. Heffernan Capt

If further space required,

	Signature of Officer making entry.	

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
24 DEC 44	I concur with the sentence of the court. Arrangements are being made to return the accused to UK via 3 Cdn NETD as per APPX to Cdn Corps RO No 445.	J.E. Parks Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
26 Dec 44	Recommend that the sentence be reviewed at the end of one year.	R. Chadwick Wg Cdr

18

In Reply Please Quote No: File Nos as in the m/n.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Headquarters, M. D. No. 5,
Halifax, N. S., 11 JAN 46.

CONFIDENTIAL

Secretary,
Department of National Defence,
OTTAWA, Ontario.

S.U.S. - H.M.S. NEEDIVE		Our File	Reference - Your File
F-86200 Pte.	BEATTIE, C.	H.F-86200 (JAG)	HQC 55-B-1939 Adm 3(b)2 d/9 Jan 46.
F-95130 Pte.	BOUDREAU, E.J.	H.F-95130 (JAG)	HQC 55-B-1689 Adm 3(b)2 d/9 Jan 46.
F-97469 Pte.	BOUDREAU, W.F.	H.F-97469 (JAG)	HQC 55-B-2180 Adm 3(b)2 d/9 Jan 46.
F-52306 Pte.	BOUTILLIER, G.A.	H.F-52306 (JAG)	HQC 55-B-1929 Adm 3(b)2 d/9 Jan 46.
F-8049 Pte.	DAVISON, J.M.	H.F-8049 (JAG)	HQC 55-D-1209 Adm 3(b)2 d/9 Jan 46.
F-82507 Pte.	DOUCETTE, J.W.	H.F-82507 (JAG)	HQC 55-G-1206 Adm 3(b)2 d/9 Jan 46.
F-88225 Pte.	GALLANT, J.W.	H.F-88225 (JAG)	HQC 55-G-1182 Adm 3(b)2 d/9 Jan 46.
F-80290 Pte.	GAUDET, G.F.	H.F-80290 (JAG)	HQC 55-G-1080 Adm 3(b)2 d/9 Jan 46.
F-82721 Pte.	GAUTHIER, H.C.	H.G-3332 (JAG)	HQC 55-G-1084 Adm 3(b)2 d/9 Jan 46.
F-31729 Pte.	HANNON, D.J.	H.F-31729 (JAG)	HQC 55-H-926 Adm 3(b)2 d/9 Jan 46.
F-95783 Pte.	HIGGINS, S.E.	H.F-95783 (JAG)	HQC 55-H-916 Adm 3(b)2 d/9 Jan 46.
F-49990 Pte.	JACKSON, A.	H.F-49990 (JAG)	HQC 55-J-430 Adm 3(b)2 d/9 Jan 46.
F-2964 Pte.	LANGILLE, B.C.	H.L-3484 (JAG)	HQC 55-L-1648 Adm 3(b)2 d/9 Jan 46.
F-89094 Pte.	MacDOUGALL, A.	H.F-89094 (JAG)	HQC 55-M-3009 Adm 3(b)2 d/9 Jan 46.
F-55635 Pte.	STRONG, G.O.	H.F-55635 (JAG)	HQC 55-S-1699 Adm 3(b)2 d/9 Jan 45.
F-65305 Pte.	TOWNSEND, R.J.	H.F-65305 (JAG)	HQC 55-T-674 Adm 3(b)2 d/9 Jan 45
F-50185 Gnr.	FAULKNER, T.R.	H.F-50185 (JAG)	HQC 55-F-564 Adm 3(b)2 d/9 Jan 46.

Reference your letters as in the m/n.

2. Receipt is hereby acknowledged of your above referenced letters together with Army Form A3104 and CMHQ letter in each case in the m/n.

Pa on file
15-1-46

GD/jmcg

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

~~xxxxxxxxxxxxxxxx~~ HQC 55-B-1929
Adm 3(b)2

9 Jan 46

District Officer Commanding,
Military District No 6,
HALIFAX, N.S.

F 52306 Pte BOUTILIER, G.A.
SUS - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is AWA3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(3).

~~3. xxxxxxxxxxxxxxx

HQC 55- B-1919 (MBR-2)
25 Oct 45
Case No- U6051

REVIEW OF SENTECE
BY
COURTS MARTIAL BOARD OF REVIEW

1. No, Rank and Name: F-52306 Pte. BOUTILIER, G?A.

2. Unit at date of offence: North N.S. Highrs.

3. Charge: (1) AA Sec 9 (2) Disobeying a lawful command to rejoin his platoon in the field 18 Sep 44.

(2) AA Sec 15 (1) AWL from 18 Sep 44 to 24 Sep 44 in France for 6 days.

(3) AA Sec 15 (1) AWL in Holland from 20 Oct 44 to 23 Oct 44 when apprehended. (3 days)

Plea: Not guilty of all three charges.

4. Place and Date of Trial: (FGCM) (DCCC) (SCCC) in the field - Holland 18 - 19 Dec 44

5. FInding: Guilty of all 3 charges.

6. (a) Sentence: 2 yrs detention.

(b) Date of Sentence: 19 Dec 44

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: to be ascertained in MD.....

(N.B. - Discharged under RO (1029) ( ) for wef)

24

Case No _____

CONDUCT

11. (a) Prior to conviction: only fair (1 FGCM for Sec 9 (2) with forfeiture of 90 days pay and 1 AWL)

Date of enlistment: 8 Apr 43 Age: 22

~~Date of enlistment~~

(b) After conviction: Good

Earliest date for release 18 Apr 46.

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Soldier is immature and timid and cannot stand strain of infantry service. He landed on D plus 5 and got lost the first time in line. Was in hot water all the time. Enlisted when 19 and saw some heavy fighting. He waited 49 days for his Court-Martial.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc.)

Reviewing Officer: In view of fact SUS has served nearly half his sentence, recommend release by Christmas 1945.

Reviewed by AOC

A.R.M. O'Connor, Major.

14. Recommendation of the Board:

For remission on 19 Dec 45. or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date NOV 6 1945

Secretary
Courts-Martial Board of Rev

23

Quote No. HQC. 55-B-1929

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
13 September 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
F-52306, Pte. G. A. Boutillier.

1. Receipt is acknowledged of your 10/Boutillier G.A./1 dated 24 July 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

EAM

for (R.J. Orde), Brigadier
Judge Advocate-General.

BMH:EJ

22

THIS COPY FOR: H.Q.C. 55-B-1929
M.D.10/Boutilier GA/

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

GS

No. F-52306 Name BOUTILIER, Gordon Arthur

Rank Pte Unit North Nova Scotia Hglrs. CAO

Charge (1) AA 9 (2) Disobeying a lawful command

(2) AA 15 (1) WOAS AWL

(3) AA 15 (1) WOAS AWL

Date of Crime (1) 18-9-44 (2) 18-9-44 (3) 20-10-44

(2) 20-10-44 (3) 31-10-44

Date of Arrest Charge Signed 17-12-44

Orders for ~~D.C.M.~~ FGCM Brig. Comd 9 Can Inf Bde

Place and Date of Trial In the field 18-12-44

Sentence Detention 2 years

Date of Confirmation 23-12-44

Date of Promulgation 24-12-44

Entered in Records of J.A.G. as No. 4095

Date 10-9-45

MEMO

Reviewed at CMHQ

21

10M-8-45(M-189)

for Judge Advocate-General

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/BOUTILIER GA/1

CANADIAN MILITARY HEADQUARTERS

LONDON

24 Jul 45

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

C-55-B-1929

F.52306 Pte Boutilier, G.A.

1. The m/n soldier is now serving a sentence of 2 years detention awarded by FGCM 19 Dec 44 for the following offences; disobeying a lawful command given by his superior officer, namely, to join his platoon which was in action (AA Sec 9(2)), an absence without leave from which he surrendered after 5 days (AA Sec 15(1)), and an absence without leave from which he surrendered after 2 days (AA Sec 15(1)). He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so is 18 Apr 46.

2. This soldier enlisted 8 Apr 43 at Halifax, Nova Scotia, and he is now 22 years of age. In addition to the offences mentioned in para.1 above he has, since enlistment, been found guilty of 1 offence under each of AA Secs 15(1) and 9(2). He has had 1 previous FGCM, on 8 Sep 44, when he was awarded a sentence of 90 days forfeiture of pay for disobeying a lawful command given by his superior officer. (AA Sec 9(2)).

3. This soldier has been medically examined and certified as fit to undergo his sentence.

4. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is a rather immature and timid individual of average intelligence who appears to have suffered from feelings of insecurity since early childhood; that he states that although he does not object to any form of service other than CIC he cannot stand the continual strain of operational duty in CIC; and that he would quickly break down again if returned to operational duty with CIC. They recommend that he be medically reboarded and placed in Pulhems Grade S3 on a diagnosis of "psychopathic personality, inadequate".

5. In view of the main offence of which this soldier has been convicted, namely, disobeying a lawful command given by his superior officer, the fact that by his offence he evaded service in action as well as his previous record which includes one FGCM for a similar offence, it is considered that he should be required to serve his present sentence in full and be discharged for misconduct under the provisions of para.8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier must have realized that his offences would render him liable to very severe punishment and that such punishment might include his discharge.

6. It has accordingly been directed, pursuant to P.C.1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 19 Dec 44 together with original AF A3104 in respect thereof on which this direction has been endorsed.

(Beverley Matthews) Brigadier
for Maj-Gen i/c Adm,
Canadian Military Headquarters.

Enc.2.

20

4 copies

RECORDED AT CMHQ IN AD 100 4N-91

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF A43 40/F & B/1698 (6144) 4/3628

RECEIVED 1945 CMHQ

Convened by Order of BRIG J M ROCKINGHAM Comd 9 Can Inf Bde dated 16 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F52306	Pte		Gordon Arthur	BOUTILLIER	N Ns Highrs

PROCEEDINGS REVIEWED

REVIEWING OFFICER

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND (H.C.M.H.) on (date(s)) 18 & 19 Dec 44 & 3 & 4 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 14.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJ	D V PUGH	1 C Scot R
Member	CAPT	S W KEELER	S D G Highrs
Member	Lt	M R OLIVER	H L I of C
Judge-Advocate			
Prosecutor	Lt	J L FAIRWEATHER	N Ns Highrs
Defending Offr	Lt	G.P.P. CHANT	N Ns Highrs

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused F52306 Pte Boutillier G.A. before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D. E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

RECORDED AT CMHQ IN AD 1945 4N-91

CPA96 (In lieu of AFA3) 40/P & B/1698 (6144) 4/388

FIELD GENERAL COURT-MARTIAL

RECEIVED JAN 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brig J M Rockingham Comd 9 Can Inf Bde dated 16 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F52306	Pte		Gordon Arthur	BOUTILLIER	N^a NS Highrs

PROCEEDINGS REVIEWED

REVIEWING OFFICER

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND R.C.M.H.Q. on (date(s)) 18 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95. for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 14 00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJ	D V PUGH	1 C Scot R
Member	CAPT	S W KEELER	S D G Highrs
Member	"	M R OLIVER	NL I of C
Judge-Advocate			
Prosecutor	"	J L FAIRWEATHER	N^a NS Highrs
Defending Offr	"	G.P.P. CHANT	N^a NS Highrs

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused F52306 Pte Boutillier G.A. before arraignment make(s) (no) (~~a~~) plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D. E. Enter the page 57

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1) no

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D); (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ Deleted

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Yes, on oath. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened. Plural

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the 1st 2nd & 3rd charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. (Part~~ I of the Schedule is dated and signed.(2) Deleted

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(~~s~~), and in mitigation of punishment?(1) Ans. Yes by my defending Offr. (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A); KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4045 in the Record [illegible] kept in the office of the Judge Advocate-General this [illegible] day of [illegible] 19[illegible]

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F/52306 Pte BOUTILLIER, G.A.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 9 (2)	Not Guilty	Guilty	
2nd AA 15 (1)	Not Guilty	Guilty	with the exception that he absented himself from 1530 hrs 18 Sep 44 until 0001 hrs 20 Sep 44
3rd AA 15 (1)	Not Guilty	Guilty	with the exception that the absence terminated at 0001 hrs 22 Oct 44
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... Ayr

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 49 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for Two YEARS

(Sgd) ..... Judge-Advocate, if any.

19 Dec 1944 Date awarded.

(Sgd) Dersingh President. RP 45, 50

(See back of Convening Order as to assembly and disposal of record after trial.) 1 C Scott R.

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : XA

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 23 Dec 44

(Sgd) A Bradley Maj

A/Commanding 9 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F52306 Pte Gordon Arthur Boutillier	24 Dec 44	M J Jefferson Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

10/Boutillier, G.A.

CANADIAN MILITARY HEADQUARTERS

JUDGE ADVOCATE GENERAL BRANCH

REVIEW SHEET

PRE-POST CONFIRMATION

FGCM 19 Dec 44 (21AGp ~~(Med~~ ~~(UK~~
(Date of Sentence)

No F.52306 Rank Pte

Name Boutillier, G.A.

Unit Nth NS Hlgrs.

Charge(s)	19(2)	15(1)	15(1)	
Plea	NG	NG	NG	
Finding	G	G	G	

Sentence 2 yrs detention.

Received from CR 31 Jan 45
Passed to Rev Offr 3 Feb 45
Passed to Rev 1 3 Feb 45
Passed to
Passed to
Returned to Rev
~~File~~
Record & Pass AG5 3 Feb 45
"Neil M. Fraser" Major

OBSERVATIONS:

(1) Review sheet 2 Jan noted.

(2) Nil.

(Continue over if necessary)

In the case of pleas of guilty;- There is nothing in the record of the proceedings which should have required the Court to advise the accused to change his plea.
In the case of pleas of not guilty;- There is legal evidence to justify the finding.
No substantial injustice to the accused.

RECOMMENDATIONS

RECORDED AT QMHQ IN AS 10C

Pass

4N-91 Quash Charge

Date 3 Feb 45

"R.V.Laitchley" Capt.
(Reviewing Officer)

99/37/BOUTILLIER G[illegible] (DJA)
99/37/REVIEW/1

Cdn Sec 2 Ech HQ 21 Army Gp
18 Jan 45

REVIEW SHEET

Proceedings
Received: 10 Jan 45
Reviewed: 18 Jan 45
Forwarded:

FGCM - 18.19 Dec 44(16/105)
F.52306 Pte Boutillier, G.A.
Nth NS Highrs

1. The accused pleaded not guilty to the three charges preferred against him under AA 9(2), 15(1) and 15(1) respectively. He was found guilty on all charges but in both the second and third charges special findings were made substantially decreasing the times absent.

2. Another court had assembled previously on 27 Nov 44 to try the accused and after some evidence has been taken thereon an adjournment was made. The Judge Advocate therein having left this theatre such court could not re-assemble and the court was dissolved pursuant to RP 102. The present court was of different constitution than the previous court.

3. The evidence as to the second and third charges was so confused that if the accused had stayed out of the witness box convictions thereon could not be supported. However the accused in his testimony supplied the times of his two absences and the court made special findings to confirm with his evidence.

4. Passed.

"W.H.Waugh"
(W.H.WAUGH) Major
DJA
Cdn Sec 2 Ech
HQ 21 Army Gp

DISTRIBUTION

Proceedings
DJAG Cdn Sec 1 Ech HQ 21 Army Gp
ADJA 3 Cdn Inf Div
Confirming Officer: Lt-col R Rowley, A/Comd 9 Cdn Inf Bde
President: Major D.V.Pugh, 1 C Scot R
OC Unit: Officer Commanding Nth NS Highrs.

CHARGE SHEET

The accused, F 52306 Pte Gordon Arthur BOUTILIER, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas is charged with,

First Charge
Army Act
Sec 9(2)

When on Active Service, disobeying a lawful command given by his superior officer,

in that he,

in the field at approx 1000 hrs 18 Sep 44 did not join his platoon when ordered to do so by Maj M G Clennett, Nth Nova Scotia Highlanders

Second Charge
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, in France, absented himself without leave from 1130 hrs 18 Sept 44 until 1600 hrs 20 Oct 44 (Absent 32 days 4 hrs 30 mins)

Third Charge
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, in Holland, absented himself without leave from 1800 hrs 20 Oct 44 until apprehended by military police at Arras at 1130 hrs 31 Oct 44 (Absent 10 days 17 hrs 30 mins)

In the Field

(F A Sparks) Lt-Col
Commanding
North Nova Scotia Highrs

To be tried by Field General Court Martial.

In the Field
17 Dec 44

(J M Rockingham) Brig
Comd 9 Cdn Inf Bde

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FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediatu comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 52306	Pte	---	Gordon Arthur	BOUTILLIER	Nth NS Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 28 Dec 44 endorsed by me, (~~extraordinary~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable that they be tried by reason of superior jurisdiction.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I hereby appoint (a) the officer from the CLM, (b) a Fd Offr as President, for the reason I have~~ attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I hereby appoint as Judge-Advocate the officer detailed hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Name.	Unit.
Maj	D V Pugh (Must be named. RP 106.)	1 C Scot R

MEMBERS.

Rank.	Name.	Unit.
Capt	S W Keeler	SD & G Highrs
~~Capt~~ Lieut	M R Oliver (Named or detailed. RP 106.)	HLI of C

WAITING MEMBER.

Rank.	Name.	Unit.
Capt	J E Gillespie (Named or detailed, if any. RP 106.)	HQ 9 Cdn Inf Bde

JUDGE-ADVOCATE.

Rank.	Name.	Unit.
	(Must be named, if any. RP 106.)	

On Active Service in the Fd

in Field (Country.) Holland Dept.

Date 16 Dec 44

J M Rockingham

(J M Rockingham) Brig (Signed personally. RP 105 fn 2.) (Rank.)

Commanding 9 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

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MEDICAL CERTIFICATE.

Dwd

I certify that I have this afternoon examined F.52306 PTE. BOUTILIER, G.A. (N.N.S.Highlrs), and in my opinion he is fit ~~or unfit~~ to undergo Trial by Court-Martial.

fit

STATION:- In the Field

Date:- 19 December 44

K A Campbell

(K. A. Campbell Capt),
Medical Officer,
North Nova Scotia Highlanders.

12

MEDICAL CERTIFICATE

Dwd.

I certify that I have this morning examined

F.52306 PTE. BOUTILIER, G.A. (N.N.S.High'rs)

and in my opinion he is fit ~~or unfit~~ to undergo Trial by Court-Martial

Station:- In the Field

Date:- 18 December 44

K A Campbell

(K.A.Campbell Capt)
Medical Officer,
North Nova Scotia Highlanders.

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Record Page 1 Ovr.

D2. Opening address by Prosecutor

With ref to 1st charge, witnesses have been killed who were there at the time Sd wound and Sd sjt. However witnesses now here are sufficient to prove my case. The others would have provided corroboration. I will show he did not carry out this order given at 1000 hrs by 1130 hrs on the 18th Sept 1944.

D3. First Witness for Prosecution.

F59800 CSM Bishop N.F. on being sworn states I am CSM Bishop N.F. CSM 'B' Coy No 1 S Regiment.

At approx 1130 hrs on 18 Sept 44 I detailed Sd Bourtillier to act as an escort for prisoners. I did not see him from that time on. He was standing beside the Coy carrier when I needed an escort and I detailed him.

Questioned by defense

I told him to report to our cook truck, which was left in an area to be called for by the Coy.

Questioned by the Court

I was not surprised to see him there. Boys had been coming in for arrest. Escorts could take as long as two days. If they got stuck with PW to be taken ~~to Bde~~ back from I think it a fair statement that he should have been back at the cook

truck within four hours in this case. I took Sgt Dent back myself in a jeep but did not see him – but I did not go to the cook house. The Sgts were forward of the cooks – the cooks where I was and were committed at the time.

Rule 83 (b) complied with:

2nd Witness for Prosec.

Capt H A Taylor on being sworn states I am Capt H A Taylor Q.M. 1st N Stafs

At approx 1600 hrs 20 oct 44 St Boutillier arrived at "B" ech from 46 Fwd Coy under open arrest. He was mustered at that time but it was reported to me after 1800 hrs 20 oct that he was not present at roll call

Questioned by Defence

I did not see St Boutillier that day I was not present at roll call. On that day 18 or 19 offs came up in two bunches. He was on 3 or 4 nominal rolls – he never showed up. The men were not employed at the time.

Questioned by the Court

My only knowledge of his absence came through Sgt Green. I told Green to make a search of our "B" ech and I also looked myself. Sgt Green was OC Draft when we picked them up at 46 Coy. He reported that he had 3 men under open arrest with him & St Boutillier was one of them.

Rule 83 (B) complied with

3rd Witness for Prosec

B 47145 Sgt Green S.A. (was sworn)

(Not on summary of Evid) The defending Offr made no objection to his being called.

I received the draft at "B" Echn. I gave Pte Bouthillier permission to go to a show and told him he would be going to "A" Echn by Auxiliary Services truck (~~[illegible]~~) Ont at approx 2030 hrs I went to get the draft but Bouthillier was absent - I reported it to Capt Taylor. I received the draft at approx 1800 hrs and mustered them by the nominal roll from 46 Coy. On this particular draft there were only 3 men, all under open arrest. I cant remember for sure whether there was another draft that same day. When ~~they~~ I noticed him missing I checked all of "B" Echn but he was not there. I

No questions by defence

Cross-examined by Lieut Bouthillier was a member of the 3 man draft I recognize him now. The draft for A Echn was only 3 men and ~~they~~ two out of the 3 were not where I told them to be after the show

Rule 83 (13) complied with

4th Witness for Prosec

Major M.G. Clennett (was sworn)

I am O.C. D Coy. On 18 Sept 44 while near Mt Lambert we had orders to ~~get~~ clear with "C" Coy the area of Mt Lambert which we had attached the day previous. Pte Bouthillier was in 18 Pl. I went to a cellar where a number

of 18 Pl and a Coy HQ were fighting. There had been mortar fire previously. I ordered the men back to their Pl as we were about to move off. Sgt MURROW who has since been wounded, was acting Pl Comd, 18 Pl, and I asked him to get his men out. About this time the accused came to me and said that he could not go with his Pl. I told him the rest of the men had to go and there was no reason for him not to. I then ordered him to go. I knew him well since I had come to the Coy and I could see no reason why he should stay behind. It was about 10 00 hrs. I gave orders to the 21C Coy to bring the Coy to Coy area. The Coy arrived there at about 45 minutes. I don't know whether Sh Bouthillier was there or not. Sgt Kinney was there. The CSM and the carrier were 200 yds back of the Cellar.

Cross-examined by Defence.

Sh Bouthillier could have been with his Pl between 1000 hrs and 1130 hrs but I don't know.

Questioned by the Court

The others of 18 Pl left the ~~[illegible]~~ Cellar when ordered by myself but Bouthillier did not. I remained about a minute or two but he didn't go. He made no effort to get ready. I looked for him at approx 1300 hrs. He was not with his Pl.

The Prosecutor produced certificate under Sec 163 (1) (ii) A.A. Ex A.

Prosecution closed

"

Opening address by Defending Offr.

I want to bring out he was in Accd's unit S/L area during morning sometime after 1000 hrs. and claims he was not with unit. Also he made effort to find lost Truck.

D.5. The accused is Sworn and States:

On 18 Sep 1944 at about 1000 hrs I told Maj Clennetts I couldn't go on because we were under heavy mortar fire and my nerves were gone. I arrived in France D+5. I was in S/L area after 1000 hrs At 1300 hrs I was back at SW cage with SW. I looked for cook truck approx 1430 hrs but it had gone. I then looked for Battly which I found at about 1500 hrs. They told me to catch an Amen truck back up to Coy and while waiting Battly moved. I waited but none came by so I stayed in the Town where Battly was for the night. I left 19th Sept 0800 hrs for "A" Echn. I couldn't face it. I didn't thinking of going AWL. On Sept 24th I was surrendered to the Provost. He was a Bn Cpl RC searchlights and he said he would hold me in his custody until proceed

authorities picked me up. I was taken to AMIENS guard house ~~for~~ and was kept there 17 or 18 days. From there I was taken to GHENT (CBRG) after a few days I was taken to 46 Coy and then to "B" Echn

I went AWL at 1800 hrs 20 Oct 1918 and surrendered myself 2 or 3 days later at AMIENS at the same place I had been before. From there to LILLE then to CBRG all under close arrest. We were taken to 46 Coy ~~and then to Butly~~ where I went AWL again and ~~was~~ surrendered at ARRAS at 1130 hrs 31 Oct 18. I don't know what date I went AWL from 46 Coy.

Cross-examined by Prosecutor

I had been to B Echn 3 days previous and thought I could find it. I was examined by the MO on the 7 Sept 18 to find out whether I was fit to undergo a Court Martial. I was. We were holding posns. I had been in the attack 1½ days before the 18th. The 2IC came in within a minute of the major going out and saw what I was like and said he'd send me back to Butly. I waited to be evacuated out. No one came so I went back to the CSM.

Questioned by the Court

I ~~continued~~ any search for five days from the 19th Sep. I didn't see any Canadians.

The court on hearing the accused's statement asked that the 2IC of D Coy Nth NS Highrs be called (Capt M.T. Heffernan)

Capt N.T. Heffernan on being sworn states

18 Dec 44 I was 2IC D Coy Nth NS Highrs. I went to the cellar to see which personnel were in the cellar, as I had received orders to move the Coy. There was a soldier there, crying, who stated that he could not go with the Coy. I asked him what the trouble was.

Questioned by defence

He was not in his pl area — he was about 150 yds away.

Questioned by the Court

I don't remember the result of the conversation. The usual course is to talk to the man and always, no matter how bad he is, have him report to his Pl. I would have remembered if I had told him to report anywhere other than to his Pl. There was a great lapse of time between my receiving orders from Maj Clennett and my going to the ~~[illegible]~~ cellar — 15 to 20 minutes. The buildings where the cellar was, was the R.V for the Pls. They were coming back to the RV when I was speaking to the accused. I don't know whether he joined his Pl. The major may have gone by the cellar after he spoke to me.

R 83B complied with.

Sep 8 Dr.

Closing address by Def Off

Loose and vague.
Some men crack up more easily
So since D + 5 (longer than any command)
Unfair for hard and fast rules as one man.
Pl men – natural for man to spread
out or seek shelter (Cellar)
Quite possible for Pl wounded (Sit Nurses)
to have told him to wait until Pl
came to R.S.

No closing address by Prosecution.

Statement in mitigation by Defendant
Off. See Ex. D.

Always a man
Yours
I C Scott R.

Exhibit A.

CERTIFICATE UNDER SECTION 163 (1) (jj) OF THE ARMY ACT

I certify that No. F/52306 Rank PTE Name BUTTINER G.

of D Coy North Nova Scotia Highlanders 9 Bde, 3 Cdn Div Regiment was arrested at Arras at

11.30 hrs on 31 OCT. 44. (date), and that at the time of his arrest he was wearing

Military uniform (~~plain clothes~~).

Capt.,

(H. JEFFREY.)

O.C. 242 H.Q. PROVOST COMPANY, C.M.P.

Date 31 OCT. 44.

Dwd

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1773-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
[illegible]	Pte.	[illegible], K.A.	R.W.K.S. Highlanders

1. The following is a fair and true summary of the entries in the Regimental ~~and Squadron/Battery~~ Service and Conduct ~~Company~~ Air Force ~~Conduct~~ sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	~~Nil~~ 1 times	~~Nil~~ 1 times
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~

Number of instances of gallantry or distinguished conduct NIL

or,

~~There are no entries in the conduct sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. ~~The accused has not been previously convicted.~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

Dwd

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and Dec 19 '49 days in military Air Force custody, making a total of 46 days in custody, of which NIL days was spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation papers~~ 22

6. ~~The date of his commission specified in his record of service is attestation paper~~

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to no air force decoration, or air force reward (or is in~~ military military possession of or entitled to). State any air force decoration or reward. military NIL

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force

6

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit ..... dated ....., ~~and in his regiment (or corps),~~ the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number [illegible] Rank [illegible]

Name Doughlin, C.A. of 5th NS Highlanders Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGMC (A) FGCM	8 Sept 44 A old	Sec 9 (a) Army Act	90 days pay	90 days pay

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18 day of December, 1944 [illegible] Capt Adj

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. F52306 Name Boutilier, G.A. Sqn, Battery, or Company | Corps CIC | Date of enlistment 8-4-43 | GC Badges | Service or Proficiency Pay | MFM (AFB 122) 40/1045/136 (342)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character Ex MC

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldersho ,NS	26 Feb 44	Pte		Absent without leave from 2359 hrs 26 Feb 44 until 1130 hrs 28 Feb 44. Absent 1 day 11 hrs 31 Min. Open Arrest AA Sec 15	Sgt. Place Pte MacLoney	7 days CB 2 days P&A	28 Feb 44	Major J.J. Frape	Total For 2 days P&A
Field	10 Aug 44	Pte		AA Sec 9(2) Disobeyed a lawful command given by a superior Officer. AA Sec 4 (7) Misbehaving before the enemy in such a manner as to show cowardice	Cpl. Ellsworth G.A. Cpl. Andrecyk CSM Bishop	90 days Forfieture ~~xxx~~ Pay	8 Sept 44	Major R.D.Hodgins FGCM	

Certified Correct as of 27 NOV 44

(PTO)

19 Dec 44

E.D.

Plea of mitigation
in the case of F52306 Pte Boutilier J.A.

1. The accused enlisted at the age of 19.
2. His enlistment was voluntary.
3. He arrived in France D+5 and was in the heavy fighting after that.
4. The accused willingly took the stand and gave evidence on oath.
5. He has been awaiting the end of his court martial for 49 days.

J.R. Chant Lt.
Defending Officer

4

Summary of Evidence in the case of 752306 Pte F Cook Arthur. Boutilier. D Coy Nth. N.S. Hghrs. charged with while on active service. Deserting his Majesty's Service [A.A. Sec. 12 (1) a]

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness for the prosecution 769800 C.S.M. Bishop H.q. C.S.M. of D Coy Nth. N.S. Hghrs

On the morning of 18 Sep 44 at approx 1130 hrs. I detailed Pte Boutilier J.A., whom I now recognize as the accused to take prisoners back to the P.W. Cage he did not return to the company and has not been in any actions which the coy has fought since that date which include Chemin Vert Boulogne, Cap Gris Nez and the landings on the South Shelt. By absenting himself the accused avoided these actions.

Harry J. Bishop

The accused did not wish to cross examine this witness.

Second Witness ~~Capt. N.S. Hgh~~ Capt. H.A. Taylor Quar-Mast Nth. N.S. Hghrs and O.C. B. echl Nth. N.S. Hghrs.

At approx 1600 hrs. 20 Oct 44 Pte. Boutilier arrived at B. echl from 46 Rfts. Coy - I started for a roll call at 1800 hrs 20 Oct 44 and Pte Boutilier was absent. At that time B echl was located just north of Sledringe

H A Taylor Capt.

The accused did not wish to cross examine this witness

3

Third Witness Captain M.J. Heffernan Asst. Nth. N.S. Hgrs. having been duly sworne states.

I hereby present as evidence the original certificate under A.A. Sec 163 (1) (JT) signed by ~~Capt C.M.P.~~ Capt. H. Jeffery O.C. 242 H.Q. Provost Coy. C.M.P. marked exhibit relating to the accused F52306 Pte. Boutilier G.

M J Heffernan Capt

Fourth Witness Major M.G. Clennett, O.C. "D" Coy Nth. N.S. Hghrs - having been duly sworn states:-

"On 18 Sept 44 I was O.C. "D" Coy Nth. N.S. Highrs. Pte Boutilier G.A. whom I now recognize as the accused was in 18 platoon at the same time. Shortly after breakfast time I received orders to move the coy to "C" coy area and assist them in clearing the Mt. Tambert feature. Our coy had just been under mortar fire just before I left. I found Pte Boutilier with some other soldiers in a cellar. I ordered these soldiers to report to their platoons and Pte Boutilier told me that he could not go ahead. I gave him a definite order to proceed with his platoon and left the coy in charge of Capt. M.J. Heffernan while I proceeded to "C" Coy for a recce. This was at approx 1000 hrs. The coy followed and proceeded to search the Mt. Tambert feature for prisoners. I do not know if Pte. Boutilier was with his platoon at this ~~time~~ period or not. At ~~at~~ approx 1300 hrs. I received orders to ~~at~~tack Chemin Vert about 800 yds. away at that ~~the~~ time the coy. was down to about 50 men as 16 platoon was taking back prisoners. The attack was made with 17 ~~pl~~ + 18 pl in one line and coy H/Q in the centre. At that time I could see 18 pl quite clearly and Pte Boutilier was not there and was away from the coy for a long ~~and~~ wounded about one hour later, ~~and was not~~ with the coy and the next time I saw him was approx 8 Nov 44

M G Clennett Maj.

The accused declines to cross examine this witness

The accused was cautioned as follows — DAP

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you says any evidence you give will be taken down in writing and may be given in evidence

A. I do not want to make a statement sir.

G. A. Boutilier

I certify that the foregoing summary of evidence consisting of ~~one~~ two pages was taken down by me in the presence of the accused and that R.P. (c)(d)(e)(f) and (g) & (13) have been complied with

In the Field
19 Nov. 44

P. L. Farnworth Capt
Officer i/c summary

2

H.Q.C. 55-B-1930 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BEZUBIAK, GEORGE JOHN M-610614 RFMN.-

CONFIDENTIAL H.Q.C. 55-B-1930

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 7 1945				JAG	NEW FILE	CR	29-8-45
SEP 25 1945	25 9 45	P.A.	E.L.M	JAG	With Papers C.R. SEP 23 1945		
				EMBR	For Registration C.R. NOV 10 1945		
JAN 17 1946	17-1-46	P.A.		Admin 3	Recommendation		DEC 19 1945
				J. A. G.	For Registration C.R. JAN 22 1946		
JAN 23 1946				EMBR		E.J.	23.1.46.
JAN 25 1946							
JAN 24 1946	24-1-46	P.A.		Admin			24 Jan 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE

No. 22-B-7269 (JAG)
22-J-1818 (JAG)
22-W-4469 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

HQ Pacific Command
Vancouver BC 7 Jan 1946

1783
JAN 12 1946
File
Chgd. to
Referred to

The Secretary
NDHQ
Ottawa Ontario

REMISSIONS:
M.610164 BEZUBIAK GJ
JAREMA A. M.608974
M.610664 WUDEL EJ

1. Herewith Forms of Remission for the m/n soldiers together with MFsM 288 for custody.

T.E.E. Pearkman
Major General
GOC-in-C Pacific Command

Encl. 6

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

JAG 22-B-7269

RECEIVED 1945

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of M610614 (Number) Rifleman (Rank) George John Bazubiak (Name in full)

No.13 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 10 months detention. Placed under stop. of pay $20.00 cost of apprehension and return to his corps.

on 25th August 1945 at Calgary, Alberta

being served at No. 81 Military Detention Barracks, C.A. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 24 years 4 months -- 7th December 1942.

Medical grade or category 21 - 1111121

FIRST TRIAL—PART II

To The ADJUTANT-GENERAL (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (not) be (suspended) (~~xxxx

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
8 Oct 45	No action	(F M W Harvey) Brig.DOC MD #13	
21 Dec 45	Bal of sentence remitted wef 21 Dec 45	Maj Gen GOC-in-C Pac Comd	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge Sec.12(1)(a) A.A. Desertion. At London, Ont. at 0600 hrs on 28 Dec. 1944, absented himself from 1st Battalion Oxford Rifles, C.A., until apprehended by civil police at Mundare, Alberta, at 1900 hrs. on the 18th August 1945, dressed in plain clothes, cost of apprehension and return to his corps being $30.20. Lieut.-Col., (J.W.Littleton), Officer Commanding, No.13 District Depot,C.A. Signature of Officer making entry	28 December 1944	25 August 1945

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
18 September 1945		.....Lieut.-Col., (J.W.Littleton), Officer Commanding, No.13 District Depot,C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
19 September 1945	Suspension not recommended	(F.M.W.Harvey)Bri D.O.C., M.D. #13.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE:
OUR FILE: 22-B-7269

PART I

No. M.610614 ...Rank Rifleman Name BEZUBIAK George John

Unit. No 11 District Depot CA

Part II

Date of Trial... 25 Aug 45

Charge(s)..... Sec 12 (1)(a) A.A. Desertion

Sentence..... 10 mos detention; stoppage of pay in amount of $20.00, cost pf apprehension and return to corps.

Date of Sentence. 25 Aug 45

Confirmation (a) Authority.....

(b) Date.....

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~XXXXXXXXXXXXXXXXXX~~ balance of sentence of detention effective 21 Dec 45, by direction of AG.

Signed at Vancouver, B.C., this 21st day of Dec 45

~~Major General~~
GOC-in-C Pacific Command

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission ~~(Commutation) (Mitigation)~~ promulgated and extracts taken at No.13 District Depot, C.A.

Calgary, Alberta the ~~XXXXX~~ 2nd day of ~~December~~ January 1946

Officer i/c Documents (V.I.Sims) Capt.
(1) .....No.13.District.Depot,.C.A...

(1) Unit, attachment and appointment to be stated.

Part V
Certified True Extract of Daily Orders Part II

No. M610614 ....Rank. Rifleman ...Name. BEZUBIAK...George John.....

balance

~~The remainder of the~~ 10 months detention ~~imposed on the sentence of imprisonment with hard labour~~

awarded by ~~a General (Standing)~~ Court-Martial on the ..25th day of August.....1945 has been remitted.

on the 21st..day of December.....1945 by..G.O.C.i/c..Pacific.Command.....

Certified true Extract of Daily Orders Part II of No.13.District.Depot,.C.A..
No. ~~M.610614~~ ...Place. Calgary, Alberta..Date ~~XXXXXXXXXXXXXXXXXX~~ 2 Jan 46

Ass't. Adj.
(Charles G.Short) Capt.,
No.13 District Depot, C.A.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE:
OUR FILE: 22-B-7269

PART I

No. M.610614 Rank Rifleman Name BEZUBIAK George John

Unit No 11 District Depot CA

Part II

Date of Trial 25 Aug 45

Charge(s) Sec 12 (1)(a) A.A. Desertion

Sentence 10 mos detention; stoppage of pay in amount of $20.00, cost of apprehension and return to corps.

Date of Sentence 25 Aug 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~XXXXXXXXXXXXXXXX~~ balance of sentence of detention effective 21 Dec 45, by direction of AG.

Signed at Vancouver, B.C., this 21st day of Dec 45

F.F. Worthington
Major General
GOC-in-C Pacific Command

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission ~~(XXXXXXXXXXXXXXXXXXXX)~~ promulgated and extracts taken at No.13 District Depot, C.A.

Calgary, Alberta this ~~XXXX~~ 2nd day of ~~December~~ January 1946~~XX~~

Officer i/c Documents (V.L.Sims) Capt.

(1) Unit, attachment and appointment to be stated.

(1) .....No.13 District Depot, C.A.

Part V
Certified True Extract of Daily Orders Part II

No. M610614 Rank Rifleman Name BEZUBIAK, George John

The balance ~~XXXXXXXXXXXXXXXXXXX

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

H.C 55-W-760
H.C 55-R-738
H.C 55-Z-87
H.C 55-S-1580
FILE H.C 55-B-2021
H.C 55-B-1952
H.C 55-B-1930
H.C 55-D-1186
H.C 55-S-1601

CIPHER

ARMY MESSAGE

(OUTGOING)

PLACE

DATE

GOC IN C
PACIFIC COMMAND
VANCOUVER BC

OTTAWA ONT

20 Dec 45

RANKS: 1568 RESTD

REVIEW REF AG 0267 D/18 OCT 45 MKKER (.) CMBR RECOMMENDS IMMEDIATE RELEASE OF M-610664 GNR WUDEL E J K-74812 PTE ROSS B W M-610077 TPR ZAZULAK A M-610861 PTE SCHMIDT E M-608560 FUS BOBRYK N M-612097 PTE BAILER E R M-610614 FEMN BEZUBIAK G J L-602278 PTE DAHLBY R E K-602653 PTE SPETCH R H (.) AG CONCURS (.)

ACK

ADJUTANT GENERAL

Infm Copies to: CMBR
JAG

GDB/JH

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED: Major-General Adjutant-General		IMMEDIATE	1650

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

1592

14 Nov 45 B-1930 MGC

REVIEW OF SENTENCE BY COURT MARTIAL REVIEW BOARD

1406

1. Rank, No and Name: M-610614 Frn BEZUBIAK, G.J.
2. Unit at date of offence: 1st Bn Oxford Rifles
3. Charge: Sec 12 (1) (a) DESERTION .

AWL from 0600 hrs 28 Dec 44 until apprehended at 1900 hrs 18 Aug 45 - Dressed in plain clothes - Length of absence - 7½ mos.

Plea: NOT GUILTY

4. Place and Date of Trial: CALGARY, Alta. 24 Aug 45
5. Finding: NOT GUILTY of Desertion but GUILTY of AWL
6. (a) Sentence: 10 mos det
   (b) Date of Sentence: 25 Aug 45
7. Date of Confirmation:
8. Date of Promulgation:
9. Being served at: 92 MDB in M.D. Pacific Command

(N.B.- Discharged under RO 1029( ) for wef)

30

Case No--------

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(1) Civil Convictions:	Nil		
(2) Court Martials:	Nil		
(3) Summary Convictions:	AWL	Feb 44	28 dys det.

(b) After conviction: FAIR - Expected date of release 14 Mar 46

(c) Date of enrolment/~~XXXXXXXXX~~ 7 Dec 42 Present Age: 24

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show any mitigating circumstances)

(1) Item 10 has been omitted.

(2) In an unsworn statement the accused says he was a Western boy in an Eastern Unit, the Eastern men held all higher ranks, the Westerners were called names and didn't get anything. He couldn't get harvest, spring or any kind of leave, his father is in poor health and he wanted to help him through the busy season. He intended to report back to the Army but the police got him first.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc)

Rev. Officer: This man has had considerable service and a good record of conduct. I recommend release after serving approx 4 mos - 20 Dec 45.

Reviewed by A. M. Stephenson
A.M. STEPHENSON, Maj.

---

14. Recommendation of the Board:

Immediate Release

Date: DEC 19 1945

M. A. Stilwell Major
Secretary
Courts-Martial Board of Review

PA on file also GCR

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

22-B-7269

Headquarters, Pacific Command,
VANCOUVER, B.C., 26 Oct 1945.

5795
OCT 29 1945

File
Check to 55-B-1930
Referred to GMBR

Secretary,
Dept. of National Defence,
OTTAWA, Ontario.

SOLDIER UNDER SENTENCE - Transfer
Military Detention Barracks

M.610614 Rfm. BEZUBIAK, G.J.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer os the m/n S.U.S. is forwarded herewith.

Major General,
G.O.C. in C.,
Pacific Command.

ADMIN. TO NOTE & P. A.

OCT 30 1945

Secretary
Courts - Martial Board of Review

28

22-B-7269

Headquarters,
Pacific Command.
(Attention C.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.BKS.

The transfer of the u/m S.U.S. has been completed with effect date stated hereunder;

No.	Rank	Name		Unit
M-510614	Rfm	BEZUBIAK	G.J.	#13 B.D.

Transferred from No. 81 M.D.Bks. at Calgary, Alta

to No. 92 M.D.Bks. at Chilliwack, B.C.

with effect 11 Oct 45

submitted in duplicate.

for Commandant
No. M.D.Bks.

27

H.Q.C. 55-B-1930 (JAG/D-5)

25 Sep 45

District Officer Commanding,
Military District No. 13,
Calgary, Alberta.

Standing
M.510614 Court-Martial, G.J.

C36-B-5049 (JAR)

Receipt is acknowledged of your 17th September 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E L M
for (R.J. Orde) Brigadier,
Judge Advocate-General.

26

File: C36-B-5049 (JAR)

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

343281

AIR MAIL
REGISTERED
CONFIDENTIAL

19 Sept. 1945

CENTRAL REGISTRY A.G.
CONF. SEC.
SEP 23 1945
FILE 55-B-1930

The Secretary
Department of National Defence
OTTAWA, Canada

STANDING COURT-MARTIAL
M.610614 Rfm. BEZUBIAK, G.J.

Reference H.Q.C. 55-B-1930 (JAG/D-6) dated 6 Sept 1945.

1. Returned herewith are the Proceedings of the marginally noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his unit (20 August 1945) and trial (24 August 1945)

is 3 days

The time between apprehension and trial is 5 days

3. XXXX

REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of M.610614 Rifleman George John Bezubiak No. 13 District Depot, C.A.

Reviewed on 13 day of September, 1945

Decision confirmed

24

(F.M.W. Harvey) Brigadier,
District Officer Commanding, M.D. 13.

MEDICAL OFFICER'S REPORT

I certify that No. M610614 Rifleman George John Bezubiak of No.13 District Depot, C.A. is in a good state of health, and is fit to undergo Trial by Court martial.

L. E. Gunn Capt
Medical Officer
R.C.A.M.C. (C.A.) Attached to
No.13 District Depot, C.A.

Station Calgary, Alberta

Date 25th August 1945.

23

M. F. B. 246
50M—9-44 (5437)
H.Q. 1773-39-480

MEDICAL OFFICER'S REPORT

I certify that No. M610614 Rifleman George John Bezubiak

of No.13 District Depot, CA is in a good state of health,

and is fit to undergo Trial by Court martial.

R. E. Johnson Capt

Medical Officer
R.C.A.M.C.(C.A.) Attached to
No.13 District Depot, C.A.

Station Calgary, Alberta.

Date 24th August 1945.

27

M. F. B. 246

50M—9-44 (5437)
H.Q. 1772-39-480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries Calgary.

on the 24th day of August 1945 at 11.30 hours,

for the trial of: M61067 Rifleman George John Bezubiak
Number Rank Full Name

No. 13 District Depot CA.
Unit Attachment, if any

PRESIDENT: Lieut-Col. Walter Kingsley Lill. MC-V.D.
HQ M.D. No 13

PROSECUTOR: Captain Duncan Bingham No. 13 D.D. CA
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. H. M. Harvey No. 13 D.D. CA
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused Not Guilty of the charge of desertion but guilty of absence without leave.

SENTENCE: The Court sentence the accused To undergo detention for 10 months.

To be put under stoppages of pay until he has made good the sum of $20.00 in respect of cost of apprehension and return to his corps.

21

Signed at The Armouries Calgary this 25th day of August 1945

President, Standing Court-Martial.

M.F.B. 1436 25M-6-44 (4826) H.Q. 1772-38-7200

Extracts entered as No. 39412 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 30 day of Aug 1945.

Capt.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No sir.

(For minute of adjournment, See page BB)

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to ..... as interpreter ?~~

Answer: ~~P.9488. W.O.II C.S.M. N. Shaddock. CMSC HQ MD No. 13~~

Question to the accused. Do you object to ..... as shorthand writer ?

Answer: No sir.

The shorthand writer ~~and interpreter (if any) are~~ duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: The accused was remanded for trial by Standing Court Martial

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not guilty

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

20

~~(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

BB

At 1135 hours on the 24th day of August, 1945, the Court adjourned.

At 1000 hours on the 25th day of August, 1945, the Court is re-opened.

The Court proceeds with the trial.

"B2"
GRO 11C1
Prendrick

CHARGE SHEET

The accused, No. M610614 Rifleman George John Bezubiak, No.13 District Depot,C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

Charge
Sec 121.1(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at London, Ontario, at 0600 hours on the 28th December 1944, absented himself from 1st Battalion Oxford Rifles, C.A., until apprehended by civil police at Mundare, Alberta, at 1900 hours on the 18th August 1945, dressed in plain clothes, cost of apprehension and return to his corps being $30.20.

.....Lieut.-Col.,
(J.W.Littleton), Officer Commanding,
No.13 District Depot,C.A.

CALGARY, ALBERTA
24 August 1945.

18

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Captain D. Bingham, No. 13 District Depot, C.A.,

being duly sworn, ~~is examined by the Prosecutor~~ states:

Question

I am Captain D. Bingham, the Legal Officer at No. 13 District Depot, C.A., Calgary, Alberta, and I am producing the following documents:

Certified True Extract of M.F.M. 2 of the accused.

(Certified True Extract of M.F.M. 2 is read, marked "Exhibit F", signed by the President and attached to the Proceedings.)

M.F.B. 375.

(M.F.B. 375 is read, marked "Exhibit G", signed by the President and attached to the Proceedings.)

M.F.M. 215.

(M.F.M. 215 is read, marked "Exhibit H", signed by the President and attached to the Proceedings.)

M.F.B. 1481.

(M.F.B. 1481 is read, marked "Exhibit I", signed by the President and attached to the Proceedings.)

M.F.B. 1481.

(M.F.B. 1481 is read, marked "Exhibit J", signed by the President and attached to the Proceedings.)

M.F.B. 1482.

(M.F.B. 1482 is read, marked "Exhibit K", signed by the President and attached to the Proceedings.)

I identify the accused, No. M.610614, Rifleman George John Bezubiak as the person to whom these documents relate sir.

The Defending Officer Declines to cross-examine.

The witness resumes his seat.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement

Question to the accused. Do you intend to call any witness in your defence?

Answer. no sir

Question to the accused. Is the witness to be called a witness as to character only?

Answer. no sir

THE ACCUSED MAKES AN UNSWORN STATEMENT

Sir, I am M.610614, Pte. George John Bezubiak of the Oxford Rifles, 1st Battalion. Well, I was absent without leave for just the reason that because I was with an Eastern Unit and I was one of the Western Boys which the Eastern Boys didn't agree. The Eastern Boys were in the higher ranks. Either in camp or in town they called me names of all kinds because I was a Westerner. I asked for a transfer and they wouldn't transfer me out of that unit. Also when it came to any leaves or granting of furloughs we would always get them when there wasn't the most work around home. When we asked for Harvest or Spring Leave we couldn't get them or any kind of leave to help around home. Also my dad is in poor health and I wanted to help him out during the busy days and then I was going to report back to my unit, but as it was, the Provost and the civilian police - they got me in army clothes. I was escorted from there by the Provost and the civilian cops too, which the civilian was the only driver. That is all I have to say, sir. I intended to report back to the army as soon as the busy days were over.

The Defending Officer makes a Closing Address.

The Prosecutor makes a Closing Address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir

Question to the accused. Do you wish to address the Court?

Answer. Yes sir through my Defending Officer

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

14

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

Sir, in passing sentence, I would like you to take into consideration the lack of education that this man has had. He has got a Grade Eight in a country school and I feel that he didn't have every opportunity that he might have had, and another thing, he was sent down to an Eastern unit where other soldiers who were from the East seemed to take great delight in calling them "Plough Jockies", from the West, and this seemed to prey on this fellow's mind to a certain extent and on top of this he felt he was not getting a fair deal from his unit. He felt that the leave situation and passes and so on - that the people from the East were getting preference over the Western boys and the Western boys got no leave whatever or whenever they saw fit to give it to them, particularly around the wrong time of the year and this fellow felt he was not given a fair deal. I believe that his father isn't in very good health and this boy went home to assist on the farm. He is young and I feel that he didn't realize the seriousness of the offence and he went away.

Regimental No. M610614 Rank Pte

Sheet

M.F.M. 1 & 2 (a)
300M—12-45 (3501)
H.Q. 1775-99-1646

Name BEZUBIAK George John

Record of Promotions, Reductions, Transfers, Casualties, Reports, etc.—	Rank Shown	Effective Date	Unit	Place	Authority D.O. Number	Authority Dated
A.W.L. from 0600 hrs	Pte	28Dec44	Oxf Rif	London	19	28Dec44
S.O.S. to No. 1district Depot	"	31Dec44	" "	"	22	31Dec44
TOS from Oxford Rifles, London, Ontario (Whilst AWL)	Rfn	1Jan45	#1 D.D.	London	2	2Jan45
AWL from 0600 hrs 28 Dec 44 (2nd entry)	"	28Dec44	"	"	25	25Jan45
A.W.L. from 0600 hrs 28 Dec 44 (3rd entry)	"	28Dec44	"	"	26	26Jan45
S.O.S. Deserter having been decl. illegally absent from 0600 hrs 28Dec 44 by a Ct. of Inq. held 5 Feb 45. Def. of kit $88.60	"	5Feb45	"	"	37	6Feb45
T.O.S. from No.1 District Depot, C.A., on apprs. by Civil Auth. at Mundare, Alberta, at 1900 hrs on the 18th August 1945	Rfmn.	18Aug45	#13 D.D.	Calgary	197	21Aug45

Certified to be a true copy of M.F.M.2
of which it purports to be a copy.

W.A. Blench .....Lieut.
(W.A. Blench)Ass't/Adjutant
No.13 District Depot, C.A.

127

Exhibit "C"
to Precedent

RECORD of the Declaration of a Court of Inquiry assembled at Wolseley Barracks London Ontario

on the 5th day of February 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M.610614 Rfm BEZUBIAK, George John

DECLARATION

The Court declare that No. M.610614 (Reg'l No.) Rfm (Rank) BEZUBIAK George John (Full Name) No 1 District Depot CA (Unit) London Ontario illegally absented himself without leave from 1 Bn Oxford Rifles, Queens Park at London Ontario (Place) at 0600 hours on the 28th day of December 1944, that he is still so absent, and that on the 5th February 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	
CLOTHING DIVISION "A"			
Anklets web prs	2	1	11
Caps winter melton cloth	1		79
Dressings first field	1		22
Gloves woollen khaki prs	1		50
Greatcoats drab	1	11	66
Overalls combination prs	1	1	89
CLOTHING DIVISION "B"			
Blouses B.D.	2	9	75
Boots ankle prs	2	8	73
Caps F.S.	2	1	05
Drawers cotton short pr	2		63
Drawers woollen prs	2	2	10
Clothing Div "B" (cont'd)			
Jerseys pullover	1	1	24
Shirts khaki cotton	2	2	31
Shirts flannel khaki	2	2	45
Shirts undercotton	2		65
Shirts woollen	2	1	80
Shoes canvas prs	1	1	72
Socks woollen prs	4	1	38
Trousers B.D. prs	2	9	83
Trousers K.D. Short prs	1		99
CLOTHING DIVISION "C"			
Bags kit Mk111	1	1	26
Belts waist Web 1½"	1		19
Total carried fwd		$62	25

W.L. Kress (Name) Capt (Rank) No 1 DD CA (Unit) President

(Name) (Rank) (Unit) Member

Signed at London Ontario

(Name) (Rank) (Unit) Member

this 5th day of February 1945

Signature of Commanding Officer H.L. Petrie (Name), Lt.Col (Rank), C.O. (Unit) No 1 DD CA

Certified true copy (Name) (Rank) (Unit) (Signature of Officer having custody of original record)

(W.L. Kress) Capt
O.C. Legal Section

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-157

(see other side)

CLOTHING DIVISION "C" (cont'd)

Brought forward			$62 25
Braces	prs	1	21
Brushes boot polishing		1	16
Brushes button		1	09
Brushes hair		1	30
Brushes shaving		1	32
Brushes tooth		1	07
Caps comforter		1	31
Combs hair		1	03Fo
Forks table		1	06
Holdalls		1	17
Housewives		1	27
Knives clasp		1	75
Knives table		1	14
Nrcktie black		1	19
Razors safety sets		1	32
Socks black	prs	2	56
Spoons table		1	06
Towels hand		2	47
Pins collar safety		1	06
Sticks button		1	03
CATALOGUE SECTION "D"			
Badges cap		1	07
CATALOGUE SECTION "1/A"			
Bags ration Mk IV		1	03
Belts waist W.E. '37 Patt		1	54
Bottles water Mk V11		1	47
Braces W.E. '37 patt L&R		2	51
Brogs bayonet W.E. '37 Patt		1	14
Haversacks W.E. '37 patt		1	1 72
Helmets steel N.P. USA		1	4 25
Packs W.E. '37 patt		1	1 70
Pouches Basic small		12	1 55
Straps shoulder Hvsk L&R		2	47
Straps web supporting		2	21
Tins mess rectangular		1	43
Net camouflage helmet		1	20
CATALOGUE SECTION "A-2"			
Capes anti-gas		1	3 33
Eyeshields anti-gas	prs	6	68
Ointment anti-gas Mk		2	39
OUtfits anti-dimming		1	03
RESPIRATORS A.G. : Containers CP MK 111) Facepieces Mk 1) Haversacks L-1 Mk11)		1	3 14
SECTION J-1			
Sheets ground Mk V111		1	1 79
	Total		$88 60

Exhibit "H"

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN ROUTINE ORDER 1877, AND IN GENERAL ORDER No. 127, 1942.

(Apprehension by Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by

Strike out words not applicable

A/Cpl. J.S.D.Brandon, Reg. No. 11884
(Name of Constable)

at Mundare, Alberta (Place) at 1900 (Hour)

on the 18th day of August 1945

Strike out words not applicable

and at the time of arrest he was dressed in civilian clothes).

Regimental particulars of soldier referred to above.

No.	M.610614
Rank	Rfmn.
Name	George John Bezubiak
Unit	No. 13 District Depot Calgary Alta.

Description

Age	23
Height	5'8"
Complexion	Dark
Hair	Dark Brown.
Eyes	Brown
Marks	Scar upper lip.

Signature of constable by whom arrest was made.

J.S.D.Brandon. A/Cpl. #11884.
(Constable)

An N.R.M.A. Soldier of the Canadian Army placed on Active Service.

Strike out words not applicable

M.F.M. 215
50M—2-43 (8516)
H.Q. 1772-39-1935

10

Subject I
DO
President.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. D.G. Siemon, Officer in charge, Edmonton Detachment, (Rank) (Name) No. 44 Coy., C.Pro.C., CA.

Strike out word not applicable — hereby certify that I (~~issued~~ HAS) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Edmonton, Alberta, (Place) to Lamont, Alberta, (Place)

and return to Edmonton, Alberta, (Place) for the purpose of escorting

Full description of soldier being escorted — No. M.610614 Rfn. George John BEZUBIAK, (Number) (Rank) (Name in full)

The Oxford Rifles of Canada, CA. (Attachment, if any)

Strike out phrase not applicable — alleged to be ~~a deserter or~~ an absentee without leave, the facts, date and particulars of ~~his~~ HIS ~~transportation required~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
19th, August, 1945.	
Transportation via D.N.D. Vehicle No. 59-606 for escorts No. M.107630 Cpl. F.E. Thompson, and No. M.2669 Pte. A.J. Tait, No. 44 Coy., C.Pro.C., CA., from Edmonton, Alberta, to Lamont, Alberta, to return absentee No. M.610614 Rfn. George John BEZUBIAK, The Oxford Rifles of Canada, CA. to Edmonton, Alberta, a total of 80 miles at .06¢ per mile.....	4.80
TOTAL	$ 4.80

Dated at Edmonton, Alberta this 19th. day of August, A.D. 19 45

D G Siemon
Lieut.
Signature, rank, unit, attachment (if any) and appointment of officer ~~issuing the transport warrants~~ (authorizing transportation)

(D.G. Siemon)
Officer in charge, Edmonton
~~Detachment, No. 44 Coy., C.Pro.C., CA.~~

~~Strike out description not applicable.~~

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(Rev—10-42 (5663)
H.Q. 1772-39-1651

9

Schedule "J" to affd. President.

47

M.F.B. 1481
12M—10-43 (2206)
H.Q.-1772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — Captain (Rank) C.W. Lilley, R.C.A.S.C., S. & T.O., EDMONTON, Alberta. (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from EDMONTON, Alberta (Place) to CALGARY, Alberta, (Place) and return to EDMONTON, Alberta (Place) for the purpose of escorting

Full description of soldier being escorted — No. M.610614 (Number) Rifleman (Rank) George John Bezubiak (Name in full) Oxford Rifles of Canada, C.A. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a ~~deserter or~~ an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
M.D. 13	Transportation Warrant No. C931872 dated 20th AUGUST, 1945, covering one single second class fare, from EDMONTON, Alberta, to CALGARY, Alberta, for absentee No. M.610614 Rifleman George John Bezubiak..... Also one meal ticket @ $1.00.....	$3.75 1.00
M.D. 13	Transportation Warrant No. C981872 dated 20th AUGUST, 1945, covering one second class fare from EDMONTON, Alberta, to CALGARY, Alberta and return for escort No. M.102213 Corporal A.E. Tunbridge..... Also one meal ticket @ $1.00.....	7.50 1.00
	TOTAL.....	$ 13.25

Dated at EDMONTON, Alberta this 20th day of AUGUST, A.D. 1945.

C. W. Lilley .....Captain,
(C.W. Lilley) Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorizing transportation)~~
Strike out description not applicable.

R.C.A.S.C.
S. & T.O., EDMONTON, Alberta. C.A.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

8

Schedule "K"
to Paper
Commendent

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH. 1941.

(INCIDENTAL EXPENSES)

Complete description — I, No. M.107630 Cpl. F.E. Thompson, No. 44 Coy., C.Pro.C.,CA.
(No.) (Rank) (Name) (Unit)

Strike out words not applicable — as ~~(escort)~~ (commander of escort) consisting of No. M.107630 Cpl. F.E. Thompson,

Members of escort — and No. M.2669 Pte. A.J. Tait, No. 44 Coy., C.Pro.C.,CA.

detailed to proceed from Edmonton, Alberta, to Lamont, Alberta,
(Place) (Place)

Name and description of soldier escorted — to return No. M.610614 Rfn. G.J. Bezubiak, The Oxford Rifles of Canada, CA.

alleged to be a ~~deserter or~~ absentee without leave, to Edmonton, Alberta,
(Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
18th. August, 1945.	
Expense of escorts No. M.107630 Cpl. F.E. Thompson, and No. M.2669 Pte. A.J. Tait, No. 44 Coy., C.Pro.C.,CA. insofar as absentee No. M.610614 Rfn. G.J. Bezubiak, The Oxford Rifles of Canada, CA. is concerned,	
1 Lunch for each of said escorts at Lamont, Alberta @ .60¢.....	1.20
1 Dinner for each of said escorts at Mundare, Alberta @ .65.....	1.30
18th. August, 1945.	
Expense of Royal Canadian Mounted Police, escort No. 11884, Cpl. J.S.D. Brandon, Lamont Detachment, insofar as absentee No. M.610614 Rfn. G.J. Bezubiak, The Oxford Rifles of Canada, CA. is concerned, transportation via Police Vehicle from Lamont, Alberta, to Mundare, Alberta, to apprehend and return absentee No. M.610614 Rfn. G.J. Bezubiak, The Oxford Rifles of Canada, CA. to Lamont, Alberta, a total of 60 miles at .15¢ per mile.....	9.00
1 Dinner for said escort at Mundare, Alberta.....	.65
Total.....	$ 12.15

Dated at Edmonton, Alberta, this 18th. day of August, A.D. 19 45

F.E. Thompson Cpl.
Signature and rank (of commander of escort)
~~XXXX~~
Strike out words not applicable.

(No. M.107630 F.E. Thompson)
No. 44 Coy., C.Pro.C.,CA.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1482
75M—4-44 (4458)
H.Q. 1773-39-1850

7

"J"

M.F.B. 358
75M—5-42(1441)
H.Q. 1175-35-420
A.F.B. 298

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or unit)~~
M 610614	Rifleman	George John Bezubiak	No.13 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General, Regimental and Squadron, Battery,~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Nil times	AWL 1 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~ ~~or~~

~~Note. If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~ArFA 73~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for..... beginning on the..... day of.....~~ ~~or~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 6 days in military custody, making a total of 6 days in custody, of which Nil days were spent in hospital. ~~Air Force~~

5. The present age of the accused according to his ~~record of service~~ ~~attestation~~ enrolment paper is 24 years 3 months.

Open Arrest .....Nil.....days
Close Arrest.....6.....Days

6. The date of his ~~commission~~ ~~attestation~~ enrolment specified in his ~~record of service~~ ~~attestation~~ enrolment paper is 7 December 1942.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of.....~~

6

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Air Force Unit

Name.....of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th ~~24th~~ day of August 1945. W.A.Blench Lieut.,
(W.A.Blench),Ass't Adj.,
No.13 District Depot,C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with.) is read, marked "G" signed by the president, and annexed to the proceedings.

M.F.M. 6

"B" Coy. O.C.
Private Date of Birth

Reg. No. M610614 Name Rfn. Bezubiak George John Corps Oxford Rifles Date of enlistment or enrolment 7/12/42 "D.S.Gram" Lieut.

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use. Good

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Prince George, B.C.	17/2/44	Rfn.		AWL from 0250 hrs. 17 Feb.44 until 0415 hrs. 7 Mar 44 (19 days 1 hr 25 mins) AA 15(1) Total forf. 48 days pay	Documentary St.Procunier, J.	28 days Det. 28 days pay FR&I 149(1)(b)	8 Mar 44	Lt-Col. E.Elliott	20 days FOP under FR&I 149 (1)(a) "DSG"
London, Ontario	28 Dec.44	Rfn.		SOS deserter having been declared illegally absent from 0600 hrs. 28 Dec.44 by a Ct. of Inquiry held 5 Feb.45 Def. of kit valueof $88.60			5 Feb.45		"WEK"

Certified to be a true copy of M.F.M. 6 of which it purports to be a copy.

Lieut.,
(W.A.Blench) Ass't.Adjutant, No.13 District Depot, C.A.

(P.T.O.)

M.F.M. 6—500M—8-44 (8188)

PRECIS OF EVIDENCE

in respect to the trial by Standing Court-Martial of

The accused, No. M610614 Rifleman George John Bezubiak, No.13 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

CHARGE:

1. Desertion.

To prove the charge the following evidence is available:

Documentary: F M.F.M. 2
G M.F.B. 375
H M.F.M. 215
I M.F.B. 1481
J. M.F.B. 1481
K. M.F.B. 1482

.....Lieut.-Col.,
(J.W.Littleton), Officer Commanding,
No.13 District Depot,C.A.

CALGARY, ALBERTA
24 August 1945.

4

H.Q.C. 55-B-1930 (JAG/D-6)
Your File C.36-B-5049

6 Sept. 45.

District Officer Commanding,
Military District No. 13,
Calgary, Alta.

STANDING COURT-MARTIAL

M.610614, Rifleman George John Bezubiak,
No. 13 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

REA
Capt
for (R.J.Orde) Brigadier,
Judge Advocate-General.

REA/ET

3

8M-7-45(M-188)

THIS COPY FOR: H.Q. C 55-B-1930
M.D. C.36-B-5049

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. M.810614 Name BEZURIAK, George John

Rank Rfmn Unit No 13 DD CA

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 28-12-44

Date of Arrest 18-8-45. Charge Signed 24-8-45

Orders for D.C.M.

Place and Date of Trial The Armouries, Calgary; 24-8-45 & 25-8-45.

Sentence Det 10 mos; stoppages $20.00

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39412

Date 30-8-45

MEMO Balance of sentence remitted by Conf. Auth. 21-12-45 Guilty AWL

MD 13 - No 13 DD CA

Absent	Sentence
7 2/3 mos;	det 10 mos.

2

R. Clinghin Capt.
for Judge Advocate-General

10M-8-45(M-189)

No irregularities.
Passed.
6 Sep 45. R.E.A.
Capt.

R116

C.36-B-5049 (JAJ)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -
Headquarters, M.D. 13
Calgary, Alberta.

AIR MAIL

REGISTERED

CONFIDENTIAL

26th August, 1945.

The Judge Advocate-General,
Department of National Defence,
Ottawa, Canada.

C-55-B-1930

Standing Court-Martial

M.610614, Rifleman George John Bezubiak,
No. 13 District Depot, C.A.

1. Enclosed are the proceedings of the marginally-noted Standing Court-Martial.

Lieut.-Col.,
President,
Standing Courts-Martial.

39412

H.Q.C. 55-B-1931 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BALACKI, METRO MAC L-602020 PTE-

CONFIDENTIAL H.Q.C. 55-B-1931

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 13 1945	12-10-45			JAG	NEW FILE	CR	31-8-45
SEP 14 1945	12/9/45			JAG	With Papers C.R. SEP 14 1945		
OCT 9 - 1945	9-10-45	PA		JAG	With Papers C.R. OCT 6 - 1945		
				JAG	With Papers C.R. NOV 7 1945		
NOV 10 1945	12/11/45	PA					
NOV 12 1945	4/1/46	PA		CONSR	For Requisition C.R. DEC 28 1945		
JAN 5 1946							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1931
(JAG/D-6)

OTTAWA, 9 November, 5

District Officer Commanding
Military District No 10
WINNIPEG, Man.

L-602020, Pte BALASKI, MM

Receipt is acknowledged of your W.44-B-7456 (J) dated 5th November, 1945, under cover of which you forwarded to this office for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

E.L.M

for (R J Orde) Brigadier
Judge Advocate General

/jm

W.44-B-7456 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba.
5th November, 1945.

NOV 7 1945
C.55-B-1931

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE
L-602020, Pte. BALASKI, M.M.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally-named, duly completed in accordance with C.A.R.O. 3974. MFM 288 is also enclosed.

(R.O.S. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

vep
encs.

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQ055-B-
District File No. W.44-B-7456 (J)

PART 1

No. L-602020, Rank Private Name Metro Mac BALASKI

Unit No. 10 District Depot, CA. (Att'd #73 Military Detention Barracks)

PART 11

Date of Trial 27th August 1945
Charge(s) Desertion
Sentence one year detention
Date of Sentence 27 August 1945
Confirmation - (a) Authority
(b) Date (ATT'D TO #11 DISTRICT DEPOT AT TIME OF COURT MARTIAL)

PART 111

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit ~~xxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L.602020 Pte. Metro Mac BALASKI
Number Rank Name in full

No. 12 District Depot, CA
Unit Attachment (if any)

Sentenced to under go detention for one year.

on 27 August 1945 at Regina, Sask.

being served at No 73 Military Detention Barracks, Winnipeg, Man.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 years 9 mos. 28 Aug 41

Medical grade or category 17/1-1-1-1-1-2-1

FIRST TRIAL—PART II

To .....
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on .....) for reasons given in paragraph X.
date

Place .....

.....
Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence ~~(which I hereby commute to~~ .....)

~~(of which I remit~~ ..... ~~) (be suspended)~~ (be put into execution)

(and) be reviewed on 11 Oct 45.

Place Regina, Sask.

Date 20 Sep 45.

G.A.H. Trudeau
Superior Military Authority
(G.A.H. Trudeau), Brigadier,
D.O.C., M.D.12.

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

.....
Confirming Authority

Date .....

M.F.M. 288
(Army Form A-3104)
20M—9-43 (1800)
H.Q. 1772-39-0015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
3rd Oct.45.	Sentence remitted as of 1 Nov.45. (R.O.G.Morton)Brig. D.O.C.,M.D. No.10.	R.O.G. Morton	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE AWL from 0745 hours on the 6 Jan 45 until he surrendered to Military Power at Regina, Sask. a 1700 hours on the 16 Aug 45.	6 Jan 45	27 Aug 45

H.E. Murray
(H.E. Murray) Lieut. Col.
Officer Commanding,
No. 12 District Depot, CA

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
19 Sep 45	THAT SENTENCE BE CARRIED OUT H.E. Murray (H.E. Murray) Lieut. Col. Officer Commanding, No. 12 District Depot, CA	

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

H.Q.C. 55-B-1931 (JAG/D-5)

9th October, 1945.

District Officer Commanding,
Military District No. 12
Regina, Sask.

Standing
L.602020 - Pte. M.M. BALASKI
No. 12 D.D., C.A.
.....Court-Martial

R.1-B-3834 (AJAG)

3 October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

(R.J. Orde), Brigadier,

LCC:jb

Judge Advocate-General.

LEZ

IN REPLY PLEASE QUOTE No. R.1-B-3834(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGINA, Sask., 3 Oct, 1945.

CENTRAL REGISTRY ARMY
CONF. SECT.
1429
OCT 6 1945
File Case B-1931
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
L.602020 - Pte. M.M. BALASKI
No. 12 D.D., C.A.

Reference HQC 55-B-1931 (JAG/D-6) dated 12 September 1945, forwarding proceedings of the marginally named Standing Court-Martial pursuant to C.A.R.O. 4565(12).

2. As the proceedings have now served their purpose they are returned herewith for custody.

(G.A.H. Trudeau), Brigadier,
District Officer Commanding,
M.D. No.12.

Att.

NAT. DEF. B. 440
25800M-4-44 (4321)
M.G. (770)-39 767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask.,

on the 27th day of August, 1945, at 1045 hours,

for the trial of: L.602020 Pte. Metro Mac BALASKI,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major S.L. Waterman, E.D., President Courts-Martial, M.D. 12.

PROSECUTOR: Capt. P.W. McMeans, Prosecutor Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ ~~OR~~ DEFENDING OFFICER: Capt. R.F. Armstrong, No. 12 District Depot, C.A.
(See documents marked "G" and "H" attached.)
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, L.602020 Pte. Metro Mac BALASKI, No. 12 District Depot, C.A., is guilty of the charge.

SENTENCE: The Court sentence the accused, L.602020 Pte. Metro Mac BALASKI, No. 12 District Depot, C.A., to undergo detention for one year.

Signed at Regina, Sask., this 27th day of August, 1945.

S.L. Waterman Major,
President,
Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 39435 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 31 day of Aug. 1945. [illegible] Capt.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter ?~~

Question to the accused. Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, D.H.Q. Sub-Staff, M.D. 12, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~ ?

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2" Swarzman
President. SCM

CHARGE SHEET

The accused, L.602020 - Pte. Metro Mac BALASKI, No.12 District Depot, C.A., Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service is charged with:

CHARGE
SECTION 12(1)(a) Army Act.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Vancouver, B.C., at 0745 hours, on the 6th day of January, 1945, absented himself from No.11 District Depot, C.A., until he surrendered to Military Power, at Regina, Saskatchewan, at 1700 hours on the 16th day of August, 1945.

23 August, 1945,
Regina, Saskatchewan.

H.E. Murray
(H.E. Murray) D.S.O., E.D., Lt/Col.,
Commanding Officer,
No.12 District Depot, C.A.

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

THE PROSECUTOR ADDRESSING THE COURT: Sir, I produce M.F.B. 375 and M.F.M. 216.

The Defending Officer has no objection to either of the documents.

The documents are read and marked Exhibits "I" and "J" respectively, signed by the President and attached to the proceedings.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I just want to make an unsworn statement, sir.
(See document marked "K" attached.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer declines to make a closing address.

The Prosecutor declines to make a closing address.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. No, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" Swarzman
Major
President. Sem

13

DDR 6-0-1 (Legal)

Regina, Sask., 26 August.....19.45..

Major S.L. Waterman, E.D.,
President, Courts-Martial,
Headquarters, M.D. No.12,
REGINA, Sask.

L.602020 - Pte. BALASKI, M.M.
No.12 District Depot, C.A.
Standing Court - Martial

...Captain R.F. ARMSTRONG.....No.12 District Depot, C.A., has been detailed to act as defending officer at the trial of the marginally named soldier.

for (H.E. Murray) Lt.-Col.,
Officer Commanding,
No.12 District Depot, C.A.

"H"

Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q. There is a letter (document marked "G") from the Officer Commanding, 12th District Depot, stating that Capt. Armstrong--the officer on my left (indicating the Defending Officer)--has been detailed to act as your Defending Officer. Is that satisfactory?

A. Yes, sir.

ARTICLES		VALUE	
Bags, kit, Mk II	1	1	27
Belts, waist, leather, brown	1		35
Brushes, boot, polishing	1		21
" button	1		11
" shaving	1		42
" tooth	1		09
Combs	1		04
Housewives	1		35
Knives, clasp & lanyard	1	1	01
Razors, safety, sets	1		42
Sticks, button	1		04
Towels, hand @.31	2		62

ARTICLES		VALUE	
Clo. Div. "D"			
Badges, Cap	1		09
Badges, emb. Worsted Unit Title @.15prs	2		30
TOTAL		$57	90

Exhibit "1" Summary prepared by President. Sgd

17

RECORD of the Declaration of a Court of Inquiry assembled at Vancouver, B.C.

on the 29th day of January 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

L602020 Pte BALASKI Mac #XI District Depot C.A. (A)

DECLARATION

The Court declare that No. L602020 (Regt'l No.) Pte (Rank)

BALASKI (Full Name) Mac #XI District Depot C.A. (A) (Unit)

illegally absented himself without leave from #XI District Depot C.A.

at Vancouver B.C. (Place) at 0745 hours on the 6th day of January 1945,

that he is still so absent, and that on the 6th January 1945 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Clo. Div. "A"				Drawers, cotton, short @.42	2		84
Caps, winter, Melton, cloth	1	1	05	Jackets, sweater	1	1	37
Coats, waterproof, army	1	6	91	Shirts, cotton, khaki	1	1	54
Gloves, woollen, khaki, crosswise prs	1		66	Shirts, undercotton @.43	2		86
Greatcoats, drab	1	15	54	Shirts, woollen @1.20	2	2	40
Clo. Div. "B"				Socks, army @.46 prs	4	1	86
Blouses, battledress, serge	1	6	50	Trousers, battledress, serge	1	6	55
Boots, ankle, army prs	1	5	82	Clo. Div. "C"			
Caps, field service, N.P.	1		70				

J.J. LAW (Name) CAPT (Rank) #XI District Depot C.A. (Unit) President

Signed at Vancouver, B.C. (Name) (Rank) (Unit) Member

this 29th day of January 19 45 (Name) (Rank) (Unit) Member

Signature of Commanding Officer J. NEISH (Name) COLONEL (Rank) #XI District Depot C.A. (Unit)

Certified true copy W.J. Decker (Name) ADJT/CAPT (Rank) #XI District Depot C.A. (Unit)

(W.J. DECKER) (Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-257

Exhibit "J" Affidavit of President SCM

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(~~[illegible]~~ OR SURRENDER TO SERVICE AUTHORITIES)

I, Lieut. Col. H.E.Murray, D.S.O.E.D. Officer Commanding # 12 DD
(Number) (Rank) (Name) (Unit)

hereby certify that L 602020 Pte. Balaski, M.M.
(Number) (Rank) (Name in full)

of the Prince of Wales Rangers, Vernon, B.C.
(Unit and attachment, if any)

Strike out words not applicable } ~~[illegible]~~ (surrendered to) L 92925 Cpl.
(Number) (Rank)

Seymour, F.P. No. 12 D.D.
(Name) (Unit or appointment)

at Regina, Sask. at 1700 hrs
(Place) (Hour)

on the 16th day of August 19 45

Strike out words not applicable } ~~[illegible]~~ (or absentee without leave), and that at the time of his arrest he was wearing military ~~[illegible]~~ uniform ~~[illegible]~~

Dated at Regina, Sask. this 17th day of August 19 45

H.E.Murray Lieut. Col.
(Signature, Number, Rank, Unit or appointment)
Officer Commanding,
No. 12 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3720)
H.Q. 1772-39-1936

"K"

Major,
President, Standing Court-Martial.

STATEMENT BY THE ACCUSED

On my arrival on the furlough home, I found things in quite difficult position. My wife had been sick for the last two years, I would say, with two children, fourteen head of cattle, seven horses, about eighty chickens to look after; which was impossible for her to do it. I tried many times before to get a compassionate leave but for some reason I was never informed what was done about it.

And the land--the person that was renting the land got sick with sugar diabetes and was unable to work; so he left the land out so I had to put the crop in this spring.

And with me going on the A.W.L., but I had the intentions to come back; and I did, sir.

THE COURT ADDRESSING THE ACCUSED: Is that all?

THE ACCUSED ADDRESSING THE COURT: That is all, sir.

"Y" Swarman
Major
President SCAR

M.F.R. 255
MM—9-43 (5992)
H.Q. 1772-39-63)
A.F.R. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
L.602020	Pte.	Metro Mac BALASKI	No. 12 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field Service ~~and Regimental and Squadron or Company~~ Conduct sheets ~~Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AWL	One times	AWL	One times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ Zero

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form is ~~attestation paper is~~ 27 Years, 9 Months.

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ enrolment form is ~~attestation paper~~ 28 August, 1941.

7. ~~The period which the accused is allowed to reckon towards discharge is~~

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~the regimental rank of~~ ~~Air Force~~ .....

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Offence upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of Aug 45 (E.W. Childerhouse) A/Capt.,
Legal Officer, No. 12 District Depot, C.A.

Officer having charge of original records, No. 12 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.F.M. 6

Date of Birth 21 Nov 17

Reg. No. L.602020 Name Metro Mac BALASKI Corp. P. of W. Rang. Date of enlistment or enrolment 28 Aug 41

Signature O.C. Company, etc. "H.C.Parker,Lt." Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed 28Aug43					
Prince Rupert, B.C.	11Sep 44	Pte.		AWL from 0001 hrs 30 Aug 44 until 2315 hrs 9 Sep 44. A.A. 15 Sec.1 Total Absence: 10 days,23 hrs, 14 Min.	Doc.	28 days Det.	11 Sep 44.	Lt. Col. R.J. Bolton	11 days Auto. forf. FR&I 149(1)(a).
						"L" Guardroom Sgt. President SCM			

(CERTIFIED TRUE COPY)

(E.W.Childerhose) A/Capt.,
Legal Officer, No. 12 District Depot,CA,
Officer having charge of original records,No.12 D.D. CA.

(P.T.O.)

M.F.M. 6—500M—8-44 (5388)
H.Q. 1779-39-1653

MEDICAL OFFICER'S REPORT

I certify that No. L.602020 - Pte. BALASKI, M.M.
of No. 12 District Depot C.A is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer
R.C.A.M.C. att. No.12 District Depot, C.A.

Station Regina, Sask.

Date 27 August, 1945

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

PRECIS OF EVIDENCE

in the case of

L.602020 Pte. Metro Mac BALASKI, No. 12 District Depot, C.A., Regina, Saskatchewan.

CHARGE: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

To prove the charge, the following evidence is available:

DOCUMENTARY: M.F.B. 375
M.F.M. 216

23 August, 1945.
Regina, Saskatchewan.

(E.W.Childerhose) A/Capt.,
Officer detailed to take
the Precis of Evidence,
No.12 District Depot, C.A.

HQC.55-B-1931 (JAG/D-6)
Your File R.C.1-B-3834

12 Sep 45

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

STANDING COURT-MARTIAL

L.602020 - Pte. Metro Mac BALASKI
No. 12 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

REA/AB

(R. L. Orde), Brigadier,
Judge Advocate-General.

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-1931
M.D. R.C.A. 1-B-3834

NRMA

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. L.602020 Name BALASKI, Metro Mac

Rank Pte Unit No 12 DD CA

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 6-1-45

Date of Arrest 16-8-45. Charge Signed 23-8-45.

Orders for D.C.M.

Place and Date of Trial The Armoury, Regina, Sask; 27-8-45

Sentence Det 1 yr.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39435

Date 31-8-45.

MEMO Balance of sentence remitted by Conf. Auth. 1-11-45

MD 12 - No 12 DD CA

Absent	Sentence
7 1/3 mos;	det 1 yr.

R. Chaplin Capt.
for Judge Advocate-General

10M-8-45(M-189)

No irregularities.
Passed.
12 Sep 45. REG.
Capt.

IN REPLY PLEASE QUOTE
No. R.C.1-B-3834

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

VIA AIRMAIL

Regina, Sask., 29 Aug 1945.

CONFIDENTIAL

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C-S-S-B-1931

L.602020 - Pte. Metro Mac BALASKI
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4566, I enclose herewith proceedings of the Standing Court-Martial held in connection with the marginally named soldier.

S.L. Waterman

(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl.

39435

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

H.Q.C. 55-B-1932 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BONES, HORACE GRANVILLE B-75591 PTE-

CONFIDENTIAL H.Q.C. 55-B-1932

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 2 - 1945	1 9/45			JAG	NEW FILE	CR	31-8-45
OCT 13 1945		cancelled		JAH	With Papers C.R. OCT 18 1945		
OCT 23 1945	18/10/45	PA		JAG			
				JAG	With Papers C.R. OCT 29 1945		
OCT 30 1945	31/10/45			Admin	To note pls		29-10-45
OCT 31 1945				JAG	With Papers C.R. NOV 23 1945		
NOV 24 1945				CMBR	To note pls		24-11-45
NOV 26 1945	27/11/45	PA		JAG	Minute, please.		26/11/45
NOV 27 1945	10/12/45	PA		CMBR			
DEC 10 1945				JAG	With Papers C.R. FEB 14 1946		
FEB 16 1946				Admin	memo pls		15 Feb 46
FEB 22 1946				JAG	memo pls		21/2/46
FEB 22 1946				DAG(B)			22/2/46
				AG			23/2/46
				MS			25 Feb 46
				A.G.	Passed pls		26/2/46
				Adm			
FEB 26 1946	27			JAG	Memo Pls		28/2/46
APR 2 - 1946	3/4/46	PA		Admin	To note + PA		1 Apr 46
APR 2 - 1946				JAG	With Papers C.R. APR 1 1946		
APR 2 - 1946	2 Apr			Admin	To note + PA		2 Apr 46
APR 5 1946	2/4/46			JAG	— APR 24 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. at three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other branches access to one issue.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All unsolicited letters should bear the official file number.

PASS THIS FILE IN E

C A N A D I A N A R M Y

T-20-B-15393 (AJAG)
HQ MD 2
28 Mar 46

Secretary
DND (Army)

CENTRAL REGISTRY Army
CONF. SEC.
15514
APR 1
Referred to JAG.

Standing Court-Martial
B-75591 - Pte Horace Granville BONES
(HWE) Spec Distributing Depot, RCOC

1 Reference HQC 55-B-1932 (JAG/D-9) dated 1 Mar 46.

2 With respect to para 3 of the above-mentioned reference herewith certified true copies of receipts.

(P.J.Flynn) Maj
for D.O.C. MD 2

BMS/SP

P. Flynn
To note & PA. pl.
H.C. Caudell Lt. Col
f. JAG
Noted
Elizabeth Lecker
8/4/46

N.D.F.C. 574
10M Pads of 200—9-44 (5440)
H.Q. 1
K.P. 165 D.L.L.

CERTIFIED TRUE COPY

Number of sheets in this Voucher ..... (see footnote)

§Issue Voucher No.	Station Indent Number	Issue Order Number	B.164165
§Account		1 x 1	*Receipt Voucher No.
§Period	This space for consignor use only		*Account
			*Period

Station

Date 28 Feb 46

ISSUED by Certificate

to Rec. by Spare Parts Officer at Ford Plant, Toronto

Authority for returning the Stores to consignee ‡

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section LV-2?	Total Number or Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
		Torches Hand 2 Cell	1		
		3 Cell	1		
		SECTION LV6 ;T1			
		Guns Grease 9 Oz. Cap push type	1		
		"Certified that the above stores are exhibits admitted in the case of Pte. Bones tried by L.C.M. 10 Sep 45. To be turned into stock. Authority: J.A.G. Signed copy of this C.R.V. to be forwarded to L.C.M. Durham, Room 616, 139 Bay St."			
		(signed) E. . Thomas, Capt.			
		for Spare Parts Officer			

*N.B.—The Receiving Officer will complete this document by filling in these particulars on all copies of the Voucher.
§N.B.—The Issuing Officer will complete this document by filling in these particulars on all copies of the Voucher.
‡When returning articles a separate sheet will be used for each different Vocabulary section, and each sheet will bear the Regimental or Corps office stamp, the last sheet only being signed by the Issuing Officer.
†This column will be used only by O.C. units.

N.D.F. E. 574
Pads of 200—7-45 (7726)
H.Q. 1777-21-26
E.P. 40216—D.L.L.

Number of sheets in this Voucher 1X11 (see footnote)

Issue Order Number

*Receipt Voucher No. 26397

Station Indent Number

*Account

*Period

Issue Voucher No.

This space for consignor use only

Account

Date 28 Feb 46

Period

Station Certificate

ISSUED to District Ordnance Officer, M.D.#2. at TORONTO, Ontario.

Authority for returning the Stores to consignee ‡ SUDT B 74(R(

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section "A"		Total Number or Quantity†	NOT TO BE USED BY O.C. UNITS	NS
		A 6750	Coats	2		
		~~A 1700~~	~~Mitts~~	~~1~~		
		A 12300	Gauntlets prs.	2		
		A 21850	Pantaloons	1		
		A 12750	Gloves prs	2		
		A 21450	Mitts prs	2		
		A 33250	Tapsoles prs	1		
		A 7750	Coats	1		
		A 13000	Gloves prs	1		
		A 7800	Coats	1		
		A 30250	Spokeshave	1 1/2		
		A 12650	Gloves prs	15		
		A 42060	~~Tuplits~~ Tapsoles prs	9		
		A 33150	~~Rompers~~ prs	2		
		A 7700	Coats	2		
		A 4800	Caps			

"Certified that the above stores are exhibits admitted in the case of Pte. Bones tried by SCM 10 Sep 45. To be turned into stock. Authority A.J.A.G."

R. Robertson Capt
for District Ordnance Officer.
District No. 2
Military District
Toronto, Ontario.

*N.B.—The Receiving Officer will complete this document by filling in these particulars on all copies of the Voucher.
‡N.B.—The Issuing Officer will complete this document by filling in these particulars on all copies of the Voucher.
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†This column will be used only by O.C. units.

N D F C 574
M Pads of 100—7-45 (7726)
H.Q. 1726-1-126
K P. 40225—D.L.L.

Number of sheets in this Voucher 2X11 (see footnote)

Station Indent Number

Issue Order Number

*Receipt Voucher No. 26397

‡Issue Voucher No.

‡Account

‡Period

*Account

*Period

This space for consignor use only

Station Certificate

Date 25 Feb 46

ISSUED by District Ordnance Officer, M.D.2.

to at Toronto, Ontario.

Authority for returning the Stores to consignee ‡ SDDT B 74 (R)

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section	Total Number or Quantity†	‡NOT TO BE USED BY O.C. UNITS S	NS
		B 7950 B Shirt	1		
		B 10350 A Trousers	1		
		B 6150 Jacket	1		
		B 3550 B Drawers	1		
		B 10350 Trousers	1		
		B 8750 Shoes prs	1		
		B 8020 Shirts	1		
		~~B 4500 Caps~~	~~2~~		
		B 3300 Drawers	8		
		B 11050 Trousers	4		
		B 450 B Blouses	1		
		B 10200 Trousers	2		
		B 10500 Trousers	3		
		B 1800 Caps	3		
		B 10650 Trousers	1		
		B 8000 Shirts	2		
		B 600 Bonnets	2		
		B 8350 Shirts	10		

District Ordnance Officer
Military District No. 2,
Toronto, Ontario.
for:

"Certified that the above stores are exhibits admitted int the case of Pte. Bones tried by S.C.M. 10 Sep. 45. To be turned into stock Authority A.J.A.G."

*N.B.—The Receiving Officer will complete this document by filling in these particulars on all copies of the Voucher.
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N.D.F.C. 574
M Pads of 200—7.45 (1726)
H.Q. 17-21-26
K.P. 40226 D.L.L.

Number of sheets in this Voucher 3x11 (see footnote

‡Issue Voucher No.	Station Indent Number	Issue Order Number	*Receipt Voucher No. 26397
‡Account			*Account
‡Period	This space for consignor use only		*Period

Station ..... Date 26 Feb. 46

ISSUED by Certificate

to District Ordnance Officer, M.D.2 at Toronto, Ontario.

Authority for returning the Stores to consignee ‡ SDRT B 74 (R)

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section		Total Number or Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
		C 2100	Socks	5		
		C 2400	Towels	7		
		C 100	Bags	4		
		C 650	Braces	5		
		C 1470	Knives	1		

"Certified that the above stores are exhibits admitted in the case of Pte. Bones tried by S.C.M. 10 Sep. 45. To be turned into stock. Authority A.J.A.G."

D L Robertson S/Sgt.

for: District Ordnance Officer,
Military District No. 2,
Toronto, Ontario.

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N.D.F.C. 574
M Pads of 200—7-45 (27726)
H.Q. 1704-11-26
K.P. 40216—D.L.L.

Number of sheets in this Voucher 4x11 (see footnote

Issue Voucher No.	Station Indent Number	Issue Order Number	*Receipt Voucher No. 26397
Account			*Account
Period	This space for consignor use only		*Period

Station

Date ~~Toronto, Ontario.~~ 28 Feb 46

ISSUED by Certificate

to District Ordnance Officer, M.D.2 at Toronto, Ontario.

Authority for returning the Stores to consignee ‡ SDNT B 74 (B)

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

‡Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section		Total Number or Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
		E 2100	Coat	1		
		E 2400	Gloves	1		
		E 4100	Skirts	2		
		E 50	Aprons	1		
		E 3000	Mitts	8		

"Certified that the above stores are exhibits admitted in the case of Pte. Bones tried by S.C.M. 10 Sep 45. To be turned into stock. Authority A.J.A.G.".

D L Robertson S/Sgt

for: District Ordnance Officer,
Military District No.2
Toronto, Ontario.

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N.D.F.C. 574
(Pads of 200—7-45 (7726)
H.Q. 17-21-26
K.P. 46225 D.L.L.

Number of sheets in this Voucher 5 x 11 (see footnote)

26397

Issue Voucher No.	Station Indent Number	Issue Order Number	*Receipt Voucher No.
Account			*Account
Period	This space for consignor use only		*Period

Station

Date 28 Feb 46

ISSUED by Certificate

to District Ordnance Officer, M.D.#2. at Toronto, Ontario.

Authority for returning the Stores to consignee ‡ SDDF B 7h (R)

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section	Total Number or Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
		~~1A Belts Webb F.S. Patt. .08~~	~~1~~		
		~~1A 11500 Cover~~	~~1~~		
		~~1A1450 Bags~~	~~1~~		
		~~1A NIV Belts leather 48"~~	~~1~~		
		1A 1950 Belts	2		

"Certified that the above stores are exhibits admitted in the case of Pte. Bones tried by S.C.M. 10 Sep 45. To be turned into stock. Authority A*J.A.G."

D L Robertson S/Sgt.

for‡ District Ordnance Officer,
Military District No. 2
Toronto, Ontario.

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N.D.F.C. 574
(Pads of 200—2.45 (7726)
H.Q. 7[illegible] 21-26
K.P. 402[illegible] D.L.L.

Number of sheets in this Voucher 6 X 11 (see footnote)

Issue Voucher No.	Station Indent Number	Issue Order Number	*Receipt Voucher No. 26397
Account			*Account
Period	This space for consignor use only		*Period

Station ..... Date ~~Toronto, Ontario~~ 28 Feb 46.

ISSUED by Certificate

to District Ordnance Officer, M.D.#2. at Toronto, Ont.

Authority for returning the Stores to consignee ‡ SDDT B 7¼(R)

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

‡Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section "2-i"	Total Number or Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
		2A 4750 Gloves	2		
		2A 17750 ~~Satchels A.G.~~	2		
		"~~Certified that the above store are exhibits admitted~~			
		in the case of Pte. Bones tried by S.C.M. 10 Sep. 45.			
		~~To be turned into stock. Authority A.J. A.G.~~"			
		D L Robertson S/Sgt			
		for: ~~District Ordnance Officer,~~			
		~~Military District No.2~~			
		~~Toronto, Ontario.~~			

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N.D.F.C. 974
5M Pads of 200—7-45 (7726)
H.Q. F.S. 1-26
K.P. 40216 D.L.L.

Number of sheets in this Voucher 7411 (see footnote

§Issue Voucher No.

Station Indent Number

Issue Order Number

*Receipt Voucher No. 26397

§Account

*Account

§Period

This space for consignor use only

*Period

Station

ISSUED by Certificate

Date 28 Feb 46

to District Ordnance Officer M.D.#2, at Toronto, Ontario.

Authority for returning the Stores to consignee ‡ SDDT B74 (R)

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section "1-F"	Total Number or Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
		1F 85200 Knives	1		
		"Certified that the above store are exhibits admitted in the case of Pte. Bones tried by S.C.M. 10 Sep 45. To be turned into stock. Authority A.J.A.G."			
		D L Robertson S/Sgt for: District Ordnance Officer, Military District No. 2 Toronto, Ontario.			

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N.D.F.C. 574
5M Pads of 200—2.45 (7726)
H.Q. B/S 21-26
K.P. 40278 D.L.L.

Number of sheets in this Voucher 8X11 (see footnote

§Issue Voucher No.	Station Indent Number	Issue Order Number	*Receipt Voucher No. 26397
§Account			*Account
§Period	This space for consignor use only		*Period

Station

ISSUED by Certificate Date 28 Feb 46

to District Ordnance Officer, M.D.#2. at Toronto, Ontario.

Authority for returning the Stores to consignee ‡ SDDT 74 B (R)

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section #2-J#	Total Number or Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
		2J- 5550 Stoves	1		
		"Certified that the above stores are exhibits admitted in the case of Pte. Bones tried by S.C.M. 10 Sep 45. To be turned into stock. Authority A.J.A.G.".			
		D L Robertson Sgt for: District Ordnance Officer, Military District No. 2 Toronto, Ontario.			

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N.D.F.C. 574
M Pads of 200—7-45 (7726)
H.Q. D.N.D. 21-26
K.P. 4027 D.L.L.

Number of sheets in this Voucher 9 x 11 (see footnote)

§Issue Voucher No.	Station Indent Number	Issue Order Number	*Receipt Voucher No. 26397
§Account			*Account
§Period	This space for consignor use only		*Period

Station

Date 28 Feb 46

ISSUED by Certificate

to District Ordnance Officer M.D.#2 at Toronto

Authority for returning the Stores to consignee ‡ SDMT 74 B (R)

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section "K"	Total Number or Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
		K 55100 Slings	4		
		K 46350 Handcuffs	1		
		K 83250 Sprayer	1		
		K 51550 Knives	1		
		K 6150 Billies	1		
		K 7850 Blankets	2		
		K 50650 Sheets	5		

"Certified that the above stores are exhibits admitted in the case of Pte. Bones tried by S.O.M. 10 Sep 45. To be turned into stock. Authority A.J.A.G."

A L Robertson S/L

for: District Ordnance Officer,
Military District No.2
Toronto, Ontario.

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N.D.F.C. 574
Pads of 200—2/45 (7726)
H.Q. 1/Ord/11-26
K.P. 4027/D.L.L.

Number of sheets in this Voucher 10x11 (see footnote)

Issue Voucher No.	Station Indent Number	Issue Order Number	*Receipt Voucher No. 26397
Account	This space for consignor use only		*Account
Period			*Period

Date 28 Feb. 46

Station

ISSUED by Certificate at Toronto, Ontario.

to District Ordnance Officer, M.D.#2. SDDP B 74 (R)

Authority for returning the Stores to consignee ‡

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section Obsolete	Total Number of Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
		145 Belts Waist OS Patt	1		
		Certified that the above stores are exhibits admitted in the case of Pte. Bonas tried by S.C.M. 10 Sep 45. To be turned into stock. Authority A.F.A.G.			
		D L Robertson S/Sgt for District Ordnance Officer, Military District No.2 Toronto, Ontario.			

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N.D.F.C. 574
1M Pads of 200 - 9-45 (7726)
H.Q. [illegible]-46
K.P. 402[illegible] O.L.L.

Number of sheets in this Voucher 11 X 11 (see footnote)

§Issue Voucher No.	Station Indent Number	Issue Order Number	‡Receipt Voucher No. 26397
§Account			*Account
§Period	This space for consignor use only		*Period

Station Date 28 Feb. 46

ISSUED by Certificate

to District Ordnance Officer, N.D.#2 at Toronto, Ontario.

Authority for returning the Stores to consignee ‡ SDDT. B 74 (R)

Immediately on receipt of clothing or stores, check should be made and the duplicate copy of this Voucher receipted and returned to the officer making the issue.

§Ledger Folio Issues	*Ledger Folio Receipts	ARTICLE ‡Section Obsolete	Total Number of Quantity†	NOT TO BE USED BY O.C. UNITS S	NS
	1776	Blouses Overall Denim	1		
		"Certified that the above stores are exhibits admitted in the case of Pte. Bones tried by S.C.M. 10 Sep. 45. To be turned into stock. Authority A.J.A.G."			
		D L Robertson Capt. for District Ordnance Officer, Military District No.2 TORONTO, Ontario.			

*N.B.—The Receiving Officer will complete this document by filling in these particulars on all copies of the Voucher.
§N.B.—The Issuing Officer will complete this document by filling in these particulars on all copies of the Voucher.
‡When returning articles a separate sheet will be used for each different Vocabulary section, and each sheet will bear the Regimental or Corps office stamp, the last sheet only being signed by the Issuing Officer.
†This column will be used only by O.C. units.

Received the following items returned to Pte. Bones, by direction of Major Flynn, AJAG - as listed below:

Bed Rolls (in Containers)	2
Pup Tent (Apparently U.S. Army Issue)	1
Ground Sheet	1
Bags, Kit, Navy Blue	4
Bags, Kit, Miscellaneous	5
Drawers Woollen	6
Shirts Woollen	7
Naval Shirts	4
Mosquito Netting, Pieces	2
Shirts Khaki, American Issue	2
Caps Peak, U.S.	1
Caps Naval	1
Raincoat Air Force Officer's	1
Blue Woollen Mitts, Prs. (Red Cross Issue)	4
Swagger Sticks, Officers	22
Covers removed from Mattresses B.D.T.	4½
Khaki Stockings	12
Pieces of Leather Soling	5
Towels, Hand	12
Coveralls, Prs.	1
Hose, Black, Prs.	5
Shirts, Khaki	2

(Above items not exhibits at S.C.M.)

(Sgd.) "F. Gledhill", R.S.M.

(Sgd.) "H.G. Bones"

Feb.28.

CERTIFIED TRUE COPY

[illegible] Lieut.
for O.C.No. 2 Ord.Depot,RCOC.

HQC 55-B-1932 (JAG/D-9)

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

1 March 46.

Attn AJAG

SCM Exhibits
B-75591 Pte Bones H.G.

With reference to your T-20-B-15393(AJAG) of 19 Feb 46 and telephone conversation (Lt.Col Carroll-Maj Flynn) this will confirm that on 26 Feb 46 the Minister of National Defence ordered, under the provisions of AA 75(1), that the articles of public property found in the possession of the m/n and filed as exhibits at his trial by SCM on 13 Sep 45, of which he was convicted of stealing, be restored to the special Distributing Depot, RCOC, Aurora, Ont, the apparent lawful owners thereof. The goods referred to in this order are the goods listed in the charge sheet with the exception of 1 pair of overalls, 4 prs of socks, 7 shirts and 12 towels.

2. The 1 pair of overalls, 4 pairs of socks, 7 shirts and 12 towels excluded from the charge by the special finding of the court, having been found in the possession of the m/n, and there being no other claim to them, should be returned to the m/n and authority is granted to make such return.

3. Receipts should be obtained for these deliveries and forwarded to this branch.

(R.J. Orde) Brigadier,
Judge Advocate-General.

RMMS/7096/mh

CANADA

In reply quote No. HQC 55-B-1932 . Adm 3(b)1

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

JAG

28 Feb 46

Attn Maj Shaw

B-75591 Pte H.G. Bones

1. Ref conversation Maj Shaw and Capt Legg on 20 Feb 46.

2. Two folios below please find the Order, signed by the Minister, restoring to the lawful owners property forming exhibits of this soldier's SCM.

3. The file is passed to you as requested in our above ref conversation.

S.V. Legg Capt
(S.V. Leggs)
Major-General
Adjutant-General

SVL/6293/HMR

M.F.A. 1326
1,000M—5-43 (9995)
H.Q. 1772-39-2009

MEMORANDUM

THE MINISTER

MINISTERS OFFICE
FEB 25 1946
DEPT. N. D. OTTAWA.

Department of National Defence
H.Q.C 55-B-1932 Adm 3(b)1
OTTAWA, Ontario, 21 Feb 46

B-75591 Pte H.G. BONES

The purpose of this memorandum is to request that an Order be issued restoring to the lawful owners, property forming the exhibits of a Standing Court-Martial.

2. This soldier was convicted by Standing Court-Martial on 13 Sep 45 under Army Act Section 18(4) - stealing public property.

3. At his trial numerous articles of clothing and miscellaneous articles found in the possession of the accused were filed as exhibits and with the exception of - 1 pair of coveralls, 4 pairs of socks, 7 shirts and 12 towels, were found to be public property stolen from the Special Distributing Depot, RCOC, Aurora, Ontario. All of the articles are presently held in the custody of the AJAG, Military District No 2 and authority is required to restore them to their lawful owners.

4. The Judge Advocate-General has certified that the proceedings are regular, the Finding properly made and the Sentence according to law. He has further stated that there is no legal objection to issuing an Order that the public property found in the possession of this soldier be restored to the Special Distributing Depot, RCOC, and that the articles found to be the property of this soldier filed as exhibits be released to him.

5. Under Army Act Section 75, where a person has been convicted of having stolen property and the property or part thereof is found in the possession of the offender, the authority confirming the Finding and Sentence of such Court-Martial, or the Minister of National Defence exercising the powers of the Army Council pursuant to GO 93 of 1925, may order that the property so found be restored to the persons appearing to be the lawful owners thereof.

6. Under PC 3375/44 establishing Standing Courts-Martial, no confirmation of such a Court is necessary and there is no confirming authority who can issue an Order under Army Act Section 75. It is therefore considered desirable that the Minister of National Defence issue such an Order.

7. It is recommended that the attached Order be signed, if you approve.

D. Adm
For further action
R.D. Amarell Capt
27 Feb 46 PA to AG

(E.G. Weeks)
Major-General
Adjutant-General

O R D E R

WHEREAS certain public property herein listed belonging to the Special Distributing Depot, Royal Canadian Ordnance Corps, Aurora, Ontario, was found in the possession of B-75591 Private Horace Granville BONES and the said B-75591 Private Horace Granville BONES was on the 13 September 1945 convicted by Standing Court-Martial of having stolen the said property,

Therefore I, Douglas Charles Abbott, Minister of National Defence, pursuant to Section 75 sub-section 1 of the Army Act and General Order 93 of 1925, hereby order that the public property listed hereunder and found in the possession of B-75591 Private Horace Granville BONES of which he was convicted of stealing, be restored to the Special Distributing Depot, Royal Canadian Ordnance Corps, Aurora, Ontario, the apparent lawful owner thereof:-

1 Pr Handcuffs
1 Knife
2 Blankets
5 Sheets
1 Billy
1 Drawknife
7 Towels
5 Prs Socks
4 Bags
5 Prs Braces
1 Knife
2 Prs Trousers
1 Pr Trousers
1 Pr Trousers
1 Jacket
1 Pr Trousers
8 Prs Drawers
3 Shirts
2 Bonnets
1 Blouse
8 Shirts
1 Pr Shoes
1 Shirt
2 Shirts
3 Prs Trousers
3 Caps
1 Pr Drawers
1 Pr Gloves
2 Skirts
1 Coat
8 Prs Mitts
2 Caps
1 Pr Gloves
2 Prs Gloves
2 Prs Mitts
2 Prs Gauntlets
1 Pr Pantaloons
9 Prs Tapsoles
13 Toplifts
1½ Prs Gloves
1 Coat
1 Apron
2 Coats
1 Blouse
2 Coats
1 Coat
1 Spokeshave
2 Prs Tapsoles
1 Bag
1 Cover
1 Pr Gloves
1 Hand Torch, 2-Cell
1 Hand Torch, 3-Cell
1 Grease Gun, 9-oz capacity
1 Duster
1 Cookers Portable No 2 Stoves
1 Belts Waist Patt '08
4 Belts
1 Belt
2 Belts P.F.
4 Prs Dress Trousers
2 Bags for AC Stores

Signed at Ottawa, Ontario this 26th day of February, 1946.

MINISTER OF NATIONAL DEFENCE

In reply quote No. HQC 55-B-1932 Adm 3(b)1

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

21 Feb 46

AG (Through VAG & DAG(R))

Over through JAG

Return of Exhibits of SCM

1. The attached memo is recommended for signature if you approve.

(H.M. Cathcart)
Colonel
D of Adm

II
Approved.
W.M.W. Shaw
Maj
for JAG.
22 Feb 46

SVL/6293/HMR

FEB 23 1946

RECEIVED
ADJUTANT-GENERAL

M.F.A. 1325
1,000M—2-61 (1955)
H.Q. 1772-30-2009

IN REPLY PLEASE QUOTE No. T-20-B-15393(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
19th February 1946.

Army
8290
FEB 20 1946
File
Chgd. to advised 16/2/46
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-75591, Pte. Horace Granville BONES,
(HWE) Spec. Distributing Depot, RCOC.

Reference HQC 55-B-1932 (JAG/D-9) dated 22nd October 1945 and further to this Headquarters' letter numbered as above and dated 13th February, 1946.

2. The exhibits referred to are being held under lock and key by Special Distributing Depot, R.C.O.C. Toronto awaiting instructions as to disposition. Advice has now been received that this unit is being closed out and the premises vacated and necessary instructions are requested as soon as possible, please.

(C.C. Mann)
Brigadier
M.D. 2.

P.O.C.

MEMORANDUM

TO:

D. OF ADMIN.

DEPARTMENT OF NATIONAL DEFENCE,

H.Q.C.55-B-1932 (JAG/D-9)

OTTAWA, 18 Feb 46

B.75591 Pte. Horace Granville BONES,
(HWE) Spec. Distributing Depot, RCOC.

On 13 Sep 45 the m/n was convicted by Standing Court-Martial of an offence of stealing public property under Section 18(4) of the Army Act and sentenced to 140 days detention.

2. I have reviewed the proceedings of this Court and certify that the proceedings are regular, the finding properly made and the sentence according to law.

3. On his trial numerous articles of clothing and miscellaneous articles found in the possession of the accused were filed as exhibits and, with the exception of 1 pr. coveralls, 4 prs. socks, 7 shirts and 12 towels proved to be the property of the accused purchased on repayment, were found to be public property stolen from Special Distributing Depot, R.C.O.C., Aurora, Ontario. These exhibits form part of the Standing Court-Martial proceedings and are presently held, for convenience, in the custody of the A.J.A.G., M.D.#2, and authority is required to restore them to their apparent lawful owners.

4. Under Section 75 of the Army Act where a person has been convicted of having stolen property and the property or part thereof is found in possession of the offender, the authority confirming the finding and sentence of such Court-Martial or the Minister of National Defence, exercising the powers of the Army Council pursuant to G.O. 93/125 (para. 2 of Appendix XI at page 325 K.R.(Can)) may order the property so found to be restored to the person appearing to be the lawful owner thereof.

5. Under P.C. 3375/44 establishing Standing Courts-Martial, no confirmation of such a Court is necessary and there is no confirming authority who can make an order under A.A.75. It is therefore necessary to have the Minister of National Defence make such an order.

6. There is now no legal objection to making an order that the public property found in possession of the m/n be restored to the Special Distributing Depot, R.C.O.C., and that the property of the m/n filed as exhibits be released to him, and such an order is requested and recommended.

W.M.W. Shaw maj
for (R.J.Orde) Brigadier,
Judge Advocate-General.

WMWS/MM

IN REPLY PLEASE QUOTE No. T-20-B-15393(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
13th February 1946.

CENTRAL REGISTRY ARMY
7210
FEB 14 1946
File
Charge No.
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-75591, Pte. Horace Granville BONES,
(HWE) Spec. Distributing Depot, RCOC

Reference HQC 55-B-1932 (JAG/D-6) dated 22nd October 1945, and further to para. 4 of this Headquarters' reference numbered as above and dated 26th October 1945.

2. May advice be now received please as to the disposition of the Exhibits from the marginally-noted Standing Court-Martial.

for (C.C. Mann)
Brigadier
M.D. 2.

D.C.C.

NAT. DEF. B 440
JUDGEM. 12-45 (300)
H.Q. 1176-26-747

HQC 55-B-1932
(JAG/D-6)

OTTAWA, 24 November, 5

District Officer Commanding
Military District No 2
TORONTO, Ontario

B-75591 , Pte Horace Granville BONES
(HWE) Spec Dist Depot, RCOC

Receipt is acknowledged of your T-20-B-15393 (AJAG) dated 21st November, 1945, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

(R J Orde) Brigadier
Judge Advocate General

/jm

JAG:
Noted: you forgot to send original letter.
Capt.
26/11/45 CMBR-3

IN REPLY PLEASE QUOTE No. T-20-B-15393 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
21st November, 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

10790
NOV 23 1945
55-B-1932

Remission of Sentence
B-75591 - Pte. Horace Granville BONES,
(HWE) Spec.Dist.Depot, R.C.O.C.

Reference HQC 55-B-1932 (JAG/D-6) dated 29th October, 1945.

2. Herewith completed Appendix "G" to C.A.R.O. 5913.

3. Herewith also M.F.M. 288 for custody.

for (A. E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. W. 440
2500M-4-44 (4320)
H.Q. 1772-39-767

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM.

NDHQ File No. HQC 55-B-1932
District File No. T-20-B-15393

PART I

No. B-75591 Rank. Private Name. Horace Granville. BONES
Unit. (Home War Establishment). Special Distributing Depot. Toronto. R.C.O.C.

PART II

Date of Trial. 11th, 12th & 13th days of September, 1945.
Charge(s). STEALING PUBLIC PROPERTY (Army Act. Section 18(4)).
CONDUCT TO THE PREJUDICE (Army Act. Section 40).
Sentence. Detention (140 days).
Date of Sentence. 13th September, 1945
Confirmation - (a) Authority : N/A (S.D.M.)
(b) Date : --

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (superior military authority under Section 57A of the Army Act (~~xxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B-75591 (Number) Pte. (Rank) Horace Granville BONES (Name in full)

Special Distributing Depot, Toronto, RCOC (Unit) Nil (Attachment (if any))

Sentenced to 140 days' detention

on 13 Sep 45 at Stanley Barracks, Toronto, Ont.

being served at No. 91 Military Detention Barracks, Chippewa, Ont. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 32, 5 Sep 39.

Medical grade or category Pulhems - 1131114.

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... (date)) for reasons given in paragraph X.

Place .....

Date ..... (Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 283
(Army Form A-3104)
25M—9-43 (1802)
H.Q. 1772-39-2016

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
7 Nov 45	Remit effective 15th November 45	Arthur E Potts A. E. POTTS, Maj.-Gen. D.O.C. M.D.No. 2	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
See Charge Sheet attached.	19 Jan-- 11 Aug45	11,12,13 Sep 45.
Signature of Officer making entry		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
23 Oct 45	It is recommended in view of the previous exemplary conduct of this soldier ~~and his efforts to maintain a satis-~~ factory home for his wife and children providing his conduct and industry during the period of his detention has been satisfactory, the fullest possible remission of sentence be considered. Suitable employment will be found in this Unit on the completion of the detention of Pte.	P.C.Tidy (P.C.Tidy)Lt-Col C.O., S.D.D.T., RCOC.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26 Oct 45	Review 10 Nov 45	Arthur E Potts (A.E.Potts) Major-General D.O.C. M.D.2

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-1932 (JAG/D-6)

29 Oct 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing
B.75591 Pte. Horace Granville BONES
.....Court-Martial

T-20-B-15393 (AJAG)

26th October 5

Receipt is acknowledged of your Standing dated 194 , under cover of which you returned to this office for custody the proceedings of the matter hereinafter noted Court-Martial.

Your explanation of the delay in this case has been noted.

E.L.M.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

IN REPLY PLEASE QUOTE No. T-20-B-15393 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
26th October, 1945.

REGISTRY Army
CONF. SEC.
5584
OCT 28 1945
File 6.25-B-1932
Chgd. to
Referred to JAG

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

B-75591, Pte. Horace Granville BONES

Reference H.Q.C. 55-B-1932 (JAG/D-9) dated 17 Oct 45 and 22 Oct 45.

2. Herewith returned proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. Herewith steps taken to bring the marginally-named soldier to trial:

11 Aug 45 - Arrested
14,16,17 Aug 45 - Summary of Evidence taken
27 Aug 45 - Summary of Evidence received at this Headquarters.
28 Aug 45 - Charge Sheet and Summary of Evidence forwarded to Secretary, pursuant to K.R. (Can) 540.
4 Sep 45 - Charge Sheet and Summary of Evidence approved, received at this Headquarters.
11,12,13 Sep - Case tried on first available date.

4. The exhibits referred to in this Headquarters' T-20-B-15393 (AJAG) dated 15 Oct 45 will now be apparent with the return of the proceedings.

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

Copies for Bde Office 31 10 45 N.P.

NAT. DEF. B. 440
250694-4-44 (4320)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ontario.

on the 11th, 12th & 13th day of September 19 45 at 1015 hours,

for the trial of: B-75591 Private Horace Granville BONES
Number Rank Full Name

E.W.E. Special Distributing Depot, Toronto, R.C.O.C.
Unit Attachment, if any

PRESIDENT: Major R.D. EVANS, (Lorne Scots) Headquarters M.D. 2

PROSECUTOR: Captain J.L. DOWNEY, Headquarters M.D. 2
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieutenant C.A. LERER, (RCA) No 2 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: NOT GUILTY OF THE SECOND CHARGE; BUT GUILTY OF THE FIRST CHARGE WITH THE EXCEPTION THAT HE DID NOT STEAL THE FOLLOWING ITEMS:-

1 PAIR COVERALLS

4 PAIR SOCKS

7 SHIRTS

12 TOWELS

SENTENCE: TO UNDERGO DETENTION FOR ONE HUNDRED AND FORTY (140) DAYS.

Signed at TORONTO, Ontario this 13th day of September 194 5

Major,
President,
Standing Court-Martial

Extracts entered as No. 10242 in the Record of Court-Martial kept in the Office of the Judge Advocate-General this 10 day of Oct 1945

M.F.B. 1486
25M-6-44 (48283)
H.Q. 1772-39-2298

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ .....

Answer: ~~as interpreter ?~~

Question to the accused. Do you object to W11059 CSM (WOII) I.C. ALEXANDER CWAC No 2 Det CMSC as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: Yes, sir, the accused has elected to be tried by Standing Court-Martial.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you~~ have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

Br - [illegible] Regt.
presided S.C.M.

THE ACCUSED SOLDIER HAS ELECTED TO BE TRIED BY STANDING COURT-MARTIAL.

CHARGE SHEET

The accused, No. B.75591 Private Horace Granville BONES, H.W.E., Special Distributing Depot, Toronto, R.C.O.C. a G.S. Soldier of the Canadian Army placed on Active Service is charged with:

FIRST CHARGE
SECTION 18(4)
ARMY ACT.

STEALING PUBLIC PROPERTY

- in that he -

at Aurora, Ontario, between the 19th day of January, 1944 and the 11th day of August, 1945 stole

1 Pr. Handcuffs
1 Knife
2 Blankets
5 Sheets
1 Billy
1 Drawknife
(7) 19 Towels × 12 out
(5) 9 Prs. Socks — x 4 out
4 Bags
5 Prs. Braces
1 Knife
2 Prs. Trousers
1 Pr. Trousers
1 Pr. Trousers
1 Jacket
1 Pr. Trousers
8 Prs. Drawers
(3) 10 Shirts — x 7 out
2 Bonnets
1 Blouse
8 Shirts
1 Pr. Shoes
1 Shirt
2 Shirts
3 Prs. Trousers
3 Caps
1 Pr. Drawers
1 Pr. Gloves
2 Skirts
1 Coat
8 Prs. Mitts
1 Apron
2 Caps
1 Pr. Gloves
2 Prs. Gloves
2 Prs. Mitts
2 Prs. Gauntlets
1 Pr. Pantaloons
9 Prs. Tapsoles
13 Toplifts
1½ Prs. Gloves
1 Coat
(out) 1 Pr. Overalls X out
2 Coats
1 Blouse
2 Coats
1 Coat
1 Spokeshave

CHARGE SHEET

2 Prs. Tapsoles
1 Bag
1 Cover
1 Pr. Gloves
1 Hand Torch, 2-Cell
1 Hand Torch, 3-Cell
1 Grease Gun, 9-oz Capacity
1 Duster
1 Cookers Portable No. 2 Stoves
1 Belts Waist Patt. '08
4 Belts
1 Belt
2 Belts P.F.
4 Prs. Dress Trousers
2 Bags for A.G. Stores

public property from the Special Distributing Depot, Toronto, R.C.O.C., Returned Stores Section, Aurora, Ontario.

SECOND CHARGE
Section 40
ARMY ACT
(Alternative)

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

- in that he -

at Sutton West, Ontario, on the 11th day of August, 1945 was improperly in possession of

1 Pr. Handcuffs
1 Knife
2 Blankets
5 Sheets
1 Billy
1 Drawknife
19 Towels
9 Prs. Socks
4 Bags
5 Prs. Braces
1 Knife
2 Prs. Trousers
1 Pr. Trousers
1 Pr. Trousers
1 Jacket
1 Pr. Trousers
8 Prs. Drawers
10 Shirts
2 Bonnets
1 Blouse
8 Shirts
1 Pr. Shoes
1 Shirt
2 Shirts
3 Prs. Trousers
3 Caps.

CHARGE SHEET

1 Pr. Drawers
1 Pr. Gloves
2 Skirts
1 Coat
8 Prs. Mitts
1 Apron
2 Caps
1 Pr. Gloves
2 Prs. Gloves
2 Prs. Mitts
2 Pr. Gauntlets
1 Pr. Pantaloons
9 Prs. Tapsoles
13 Toplifts
1½ Prs. Gloves
1 Coat
1 Pr. Overalls
2 Coats
1 Blouse
2 Coats
1 Coat
1 Spokehave
2 Prs. Tapsoles
1 Bag
1 Cover
1 Pr. Gloves
1 Hand Torch 2-Cell
1 Hand Torch 3-Cell
1 Grease Gun, 9-oz Capacity
1 Duster
1 Cookers Portable No. 2 Stoves
1 Belts Waist Patt. '08
4 Belts
1 Belt
2 Belts P.F.
4 Prs. Dress Trousers
2 Bags for A.G. Stores

public property.

Dated at Toronto, Ontario,
18th Day of August, 1945.

P.C. Tidy
.....
(P. C. Tidy) Lt.-Colonel,
Officer Commanding,
Special Distributing Depot, Toronto, Ont.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. C-35539 Sgt F.H. FOSTER, R.C.O.C., Special Distributing Depot, Aurora,

being duly sworn, is examined by the Prosecutor.

Question

Q Tell the Court what your Unit is.

A R.C.O.C., Special Distributing Depot, Aurora, Ontario.

Q And what do you do at Aurora Ontario ?

A In charge of the security guard.

Q What section of R.C.O.C. is that place at Aurora ?

A Number 2 Distributing Section.

Q Has it got any other name ?

A Not that I recall, sir.

Q What kind of stores are kept there ?

A Returned stores.

Q Will you give us the name ?

A Army or Government property.

Q Returned stores, you mean, returned Army stores ?

A Yes, sir.

Q And how many - what is the personnel of your security guard? What was it ? How many in it ?

A Our peak is thirteen men.

Q Do you know the accused ?

A I do, sir.

Q What is his name ?

A Private Bones, H.D.

Q Do you know where he has been employed, say for the last six months ?

A He was employed under myself, as security guard.

Q How many would be on duty at one time ?

A On day shift, there is four men, on four to twelve, two, and on twelve to eight, two.

Q Do you ever go on duty yourself ?

A I have, sir.

Q Do you know - can you tell the Court, whether or not Private Bones is employed there at the present time ?

A At the present time, he is not.

Q When did he leave ?

A I just couldn't tell you the date. I think he left the 10th of August

Q The 10th of August of what year ?

A 1945, sir.

Q What had he done up there prior to the 10th of August, 1945. What were his duties ?

A Acting as security guard.

Q Who was his immediate superior ?

A Myself.

Q In other words, are you telling us he acted as security guard under you ?

A In Aurora, sir.

Q But he was under you, was he ?

A Yes, sir.

Q What did he have to do? What was his job? What was he doing ?

A His duties were to check personnel on entering the buildings or grounds, to check all fire equipments and generally supervise the goods contained at the Depot in Aurora, to see to the best of his ability, that no goods were lifted or taken from the Depot without proper authorization.

Q In other words, you are telling us that his job was to keep other people from stealing any of the goods there, is that what you mean ?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q Now, what is the procedure with regards to visitors entering the Returned Stores Section ?

A A visitor on entering the Depot at Aurora, is issued with a visitor's badge and a register is kept where the name, regimental number, and their address, - civilian people also give their name and address.

Q What happened when these people left ?

A The badge is turned in and if they are taking anything out they must have a pass signed, in order to clear the barrack.

Q Any signatures necessary ?

A Yes, sir.

Q Tell us about that ?

A Major Campbell, Captain Badley, Miss Barber, Sub-Conductor Deacon, I think that was all at the time.

Q Did these people have to sign their names in a register ?

A Visitors did.

Q On entering or going out ?

A On entering . Going out the turned-in badges are checked.

Q What is the purpose of all this security ? Why is that done ?

A The purpose of all this was to see, to the best of the Security Guards' ability that nothing will leave or no one will leave that Depot without the proper authorization; and to stop any pilfering of the goods; and to protect from fire.

Q Take the case of the accused himself. Would he, or would he not, have to go through this procedure when he went in and out of the building ?

A The security guard did not go through that procedure, no. They are already issued with a permanent badge on the duty they perform. I never was instructed to go through that procedure.

Q I just want you to tell us, that's all. You are not being blamed for anything. Would or would not a person on the job the accused had have any opportunity to take anything out without being seen ?

A Yes, sir.

Q How could that be done ?

A Especially on the night shift. From night to morning there are two men on duty. While one man is on his rounds, the other man would have access to the property in the building.

Q D id the accused ever work on the night shift ?

A Yes, sir.

Q Do you know whether the accused has an automobile or not ?

A He drove an automobile.

Q Was it ever kept at the Returned Stores Depot ?

A To my knowledge it was never in the Depot grounds.

Q Was it near there ?

A On the street, next to the grounds .

Q How far would it be from the grounds, approximately, anyway ?

A Approximately seventy-five to a hundred feet, sir.

Q At night-time, or on the night shift, you called it , would there be any N.C.O. around or just the two Privates ?

A Just the two Privates. The Orderly Sergeant makes an appearance any time during the night, and myself, I come down to make an appearance, to check.

Q Will you tell us something about this Returned Stores Depot at Aurora ? What street is it on? What does it look like ?

A At the present time there are four distinct buildings, just fenced in, barbed-wire fencing at the top. There is four gates, one which is used.

Q Whichis that one ?

A It was the west gate on Wellington Street.

Q Where does it face ? Where does that Stores Section face ? What street does it face on ?

A Wellington Street.

Q Would that be the main gate ?

A That was the main gate.

Q Is that the gate you used to go in and out ?

A Yes, sir.

Q How high is that barbed-wire fence ?

A Roughly, five feet.

Q Is it possible to get over ?

A Quite easily, sir.

Q It could be scaled, is that it ?

A It could be, sir.

Q Is there anything you want to tell us yourself, Sergeant, in this case ?

A The only thing I could say, if I may speak...

---PRESIDENT: Quite.

---WITNESS: As far as Private Bones is concerned, while he was in my employ, he was above reproach in his duties.

Q ---PROSECUTOR: Just one more question. Putting it very briefly. Would or would not the accused, and the other soldier with him on the night shift, have the opportunity of helping themselves ?

A They would, sir.

Q ---THE DEFENDING OFFICER CROSS-EXAMINES: Sergeant Foster, I presume, as is common with all guard commanders, you are rather proud of your security guard there ?

A I am.

Q Did you feel you had attained a high degree of integrity with this guard ?

A I did.

Q Did you have them smartly turned out at all times ?

A They were.

Q Did you take any special means of seeing they were smartly turned out ?

A As I am the only N.C.O. I cannot be there at all times when they come on shifts. We don't form a guard as they do other places, or parade them to duty. It is quite impossible, sir.

Q The issuance of equipment to members of your guard - would there be anything special issued to them ?

A No, sir.

Q Would they be issued with any extra pairs of trousers, for instance ?

A No, not to my knowledge, sir.

Q In some places, it is the practice to have extra trousers, for instance, for the purpose of the guard having a pair handy, ready to go on guard. Would that apply to your guard ?

A That is correct, but we had to secure our own clothing through the proper channels.

Q In order to have the extra clothing and to have over and above the regular issue, it was possible for a member of your guard to obtain extra clothing from your quarter stores, was it ?

A It was possible.

Q Do you know if it so happened ?

A I couldn't say.

Q If it did so happen, have you any idea how it would happen ?

A For instance, myself, I would, if I wanted extra clothing, have to go to Quarter Stores and receive it from there. That's the only way I know of to get them.

Q On what basis? Would you buy them ?

A You would have to buy them.

Q You couldn't get a loan of them ?

A I never was able to sir.

Q You speak of the accused as having a good record while in your employ, is that correct ?

A That is correct.

Q Does that mean he was ever successful in apprehending anyone ?

A He has.

Q He has. More than on one occasion ?

A On one accasion he did, sir.

Q Could you tell us something about that ?

A On that particular occasion the man involved was taken to Court and he was convicted in Court. He lost his job at the Depot.

Q Was this man a civilian ?

A He was.

Q Do you know where he resided ?

A At Newmarket.

Q And that is fairly handy to the Depot ?

A Four miles.

Q Did the accused go as a Crown witness in his case ?

A Yes, sir.

Q You spoke of the accused owning an automobile, at least driving one. Did you say you had ever seen him park it handy to the Depot, or leave in it from the Depot ?

A The parking lot is directly across from the Depot, on the street, and people who work at theDepot and drive cars park them there.

Q Did you ever observe the accused doing so ?

A The accused has had his car there, yes.

Q You are telling the Court you have observed him park his car in the parking lot, or else you have seen him drive away from there ?

A I have seen him drive to and from work.

---THE PROSECUTOR DECLINES TO RE-EXAMINE

Q ---QUESTIONED BY THE PRESIDENT: What precautions are taken, if any to avoid just what happened in this case ?

A I don't know just hardly what to say.

Q Let me put it to you a little differently. What preventative measures did you take with regard to pilfering of goods by anyone going into the Depot ?

A Well, the security guard patrolled the grounds and the buildings and kept a sharp lookout to see that there is no pilfering. Their being short-handed, and four distinct buildings, and you only have two men, two or even three at times, it is pretty hard to see or control what might go on in the building. We, on security guard, on many occasions

we have seen things and it has been put back in stock. We haven't had the staff to do the job as it should be done. This has been drawn to the attention of the Commanding Officer on different occasions, but we still were not able to have the men we should have had on duty.

Q I take it any man who is on security guard is in a position of responsibility in that Depot ?

A He is.

---PROSECUTOR: There is a point. Would the Sergeant tell the Court how long the accused was employed there on that particular duty ? For what length of time.

Q ---PRESIDENT: How long had the accused been employed on that particular duty at that particular centre ?

A ---WITNESS: I am not sure. I think he came there in January, of 1944.

---THE WITNESS WITHDRAWS

2nd Witness for THE PROSECUTION

Captain Wilfred Charles CHICK, H.W.E. Special Distributing Depot, R.C.O.C., being duly sworn is examined by the Prosecutor:

Q Captain Chick, you have given your Unit as Special Distributing Depot, R.C.O.C., is that right ?

A That is correct.

Q Where are you stationed ?

A In Toronto, at the Special Distributing Depot.

Q Where is that ?

A In Toronto at Bay and Fleet Streets.

Q What building ?

A The new Post Office building.

Q What do you do ?

A I am theAssistant Ordnance Accounting Officer.

Q For the Special Distributing Depot ?

A That's right, sir.

Q Do you know the accused ?

A I do.

Q Do you know what his name is ?

A Horace Granville Bones.

Q Rank ?

A Private.

Q What is his Unit ?

A R.C.O.C., Special Distributing Depot, at Returned Stores Section, at Aurora. Security Guard at that Depot.

Q Is he employed there at the present time ?

A He was until August.

Q Of what year ?

A August, 1945.

Q And his duties consisted of what ?

A Security Guard.

Q What is the purpose of the Security Guard ?

A The purpose of the Security Guard is to see that unauthorized persons do not enter the Depot and proper discipline is maintained around the Depot generally; on guard duty at the gate, and touring the building; to see that military personnel are disciplined properly.

Q An y other duties to take stores in and out ?

A No, he has no responsibility in respect to receiving stores.

Q Could you tell us something about the security guard might be for the purpose of anything else except what you have told us ?

A His duties in security guard are just to see that unauthorized persons do not come in at all; that no one takes anything out they are not authorized to take out. The guard has to see that no goods are taken out without a gate pass.

Q You see I can't lead you. Would you say it is his duty to keep people from taking or stealing things from the Returned Stores Depot ?

A Yes, that would be correct.

Q Including everybody, or how many people ?

A Anyone at the Depot.

Q Would you tell us, Captain Chick, whether or not you are qualified to tell the Court what the purpose of Returned Stores Section is ?

A I believe so.

Q Would you tell us what the purpose of the Returned Stores Section is ?

A The function of the Returned Stores Section at Aurora is to receive all surplus and non-serviceable stores from Units. They also receive non-serviceable stores for repair. With the latter stores, those things received for repair, they are sent in on a repair indent and are not on the Unit'scharge. The repair indent is merely a record of what was taken over. After the stores are repaired, they are returned to the Unit with the repair indent as the covering document.

Q You speak of Units. What Units in what Military Districts ?

A Units in M.D.'s 1, 2 and 3, and Camp Borden

Q Will you carry on, please.

Q All the other non-serviceable stores and surplus stores which are returned by Units are actually vouchered to the Special Distributing Depot. They are received in the Depot with a receiver's memo and properly accounted and identified and the packing note which has been checked in that way is used to bring them to charge in our ledgers. The stores themselves are then conditioned. They are checked over to see whether they are of any further use as military stores; or whether they could be repaired to make them of further use; or whether they have ceased to have any further value for use in the Army. The stores which are found to be repairable are turned over to our non-technical workshops within the Returned Stores Section at Aurora, and are repaired at that point. Certain items of barrack stores may be sent to the R.C.O.C. workshops to be repaired; and they are controlled by means of a repair indent. The repaired stores, together with those serviceable when received, are laundered, if necessary, either by the Depot themselves, or are sent out to civilian contractors, and then are packaged and sent to the Special Distributing Depot at Toronto for re-issue to Units. Any stores which we decide cannot be repaired for use again by the Army, are converted to prod

or rubbish, depending upon their nature. I don't know whether you want the technical detail. The articles are written off. They are on charge as articles first. After they are converted to produce, the number of articles are written off charge and they are brought to charge again as poundage. They are considered as produce. Stores which have been converted to produce in this manner are held for disposal by War Assets Corporation. They are either sold to contractors on the basis of contracts let by War Assets, or to dealers and they are shipped in a properly authorized way to the War Assets Corporation at Valleyfield, Quebec. The articles which have no value as produce and cannot be put to use again are written off as rubbish and disposed of as such. I think that covers the complete operation very briefly, sir.

Q Can you give us any information about lost and found articles ?

A Yes, in addition to the stores which we get back from Units, we also get periodic calls from the railway offices, public waiting rooms and the police departments to say that they have picked up articles which have been left in trains or other public waiting rooms and buildings. We pick up these stores and then take them to Aurora and they make a special list of each bundle we might get. Forinstance, we might have a kit bag picked up with articles in it. A complete list is made of the articles. We also record any identification marks found on any of the articles. These stores are brought to charge in our ledgers in the regular manner and we keep these packing notes on file; or if we get a request as to whether or not certain stores have been found we turn up our records and give credit to the man that lost his kit.

Q The stores that are received and held on charge to the Returned Stores Section at Aurora, belong to whom ?

A They are Government property - public property.

Q What must have been done if anything, before they are removed from Aurora ?

A They must be covered by a properly authorized document. If they are fit for further use, Aurora sends them down to our Depot in Toronto on a proper voucher. If they are authorized for sale by War Assets, we receive a War Assets Corporation Sales Order, which is our authority to prepare an issue voucher and ship the stores to the consignee named in the sales order.

Q Has anyone in the Returned Stores Section at Aurora permission, of their own volition, to remove any stores from the Depot ?

A Not without a proper covering document.

Q In other words then, would or would not the accused have any authority, providing he had no document, to take the stores out ?

A None whatsoever.

Q Would anyone have the authority ?

A No one would.

Q Is it possible to purchase these stores at Aurora ?

A No, sir, other than through the War Assets Corporation, which means in bulk lots by contract.

Q Would or would not the articles kept at the Returned Stores Depot, articles of clothing and equipment, normally would they be sold to individuals through the Depot at Aurora ?

A No, sir. The only item is scrap. We had, for instance, broken chairs and tables which are not repairable and are converted to scrap and we have authority from the War Assets Corporation to sell that scrap we had to the employees.

Q Have you any other authority ?

A No, sir. Even that scrap we had is properly authorized by a War Assets Corporation Sales Order.

Q Do you know of your own knowledge whether or not any articles have ever been sold to the accused ?

A I haven't such knowledge, sir.

Q Take for instance articles of a soldier's kit and equipment, which he needs to carry on his duties. How would he get them ?

A He would be paraded on a regular clothing parade to Quartermaster Stores and draw them from the Quartermaster the same as any soldier. Personnel at Aurora draw them from Newmarket at the present time.

Q Would that be because of the fact he would be getting new articles ?

A The Ordnance Depot never issues stores direct to an individual. That is controlled through the Quartermaster Stores. We have a Composite Stores at Headquarters where our personnel are outfitted. They draw their stores from us, and we have no dealings with the individual at all.

Q If anyone put things aside for himself, would or would not that be proper ?

A As I said before, all the stores at Aurora are public property and no one has any right to appropriate them for their own use.

Q Is there anything else you wish to tell the Court yourself ?

A I don't think so, sir.

Q Does that cover your evidence pretty well ?

A Yes, sir.

Q ---THE DEFENDING OFFICER CROSS-EXAMINES: Captain Chick, is it the custom at the Returned Stores Section at Aurora to carry out stock-takings ?

A That's right, sir. They make up inventory of all stocks on hand. Stocks at all Ordnance Depots must be taken at least twice a year. Stock was taken in Aurora in April, 1945, shortly before Special Distributing Depot assumed responsibility for the operations at Aurora. We have recently completed another stock-taking which was taken on August the 1st at that Depot.

Q With regard to the inventory of April, 1945, were there any shortcomings noticed in the stock at that time ?

A That was prior to the time we assumed responsibility for the operations there. You would have to refer to the District Ordnance Officer for that information.

Q Referring to the stock-taking of the 1st of August, were there any shortcomings ?

A There are some shortcomings, yes.

Q Are you able to detail them ?

A I couldn't right here. What with something like six or seven hundred actual items and far more actual accounts than that, it would be impossible for me to detail them here.

Q I understand there are a great number of articles in stock; but you were present in Court when the charge-sheet was read out.

---PRESIDENT: No, I am afraid not, Mr. LeBer, the witnesses were excluded.

Q ---DEFENDING OFFICER: Do any of the articles short on the stock-taking on the 1st of A ugust, 1945, come to your mind ?

A No, my particular responsibility does not cover that information. The stock-taking personnel would have that information, but I don't deal with it myself at the present time.

Q We are given to understand in your evidence that in connection with stores returned from Units, there comes a point where they do not become individual items, but they have been adjudged to be non-serviceable, and made into produce and baled, and therefore become so much poundage, is that right ?

A That is right.

Q Dealing with the lost and found articles. You say they are itemized and placed on charge in a ledger.

A In a special ledger. Not in a regular ledger

Q Other regular items of Ordnance Stores, for instance, a battle-dress. It is brought on charge with regular items ?

A They are brought on charge with regular items.

Q Is it not likely the lost and found articles have previously been placed on charge to some individual ?

A You mean before they were lost ?

Q Yes.

A Correct, but that is why we keep a record of any identification marks found on the articles. For instance, if a man loses his kit bag, he may have his regimental number on it. We make a record of the contents. If any enquiries are made, we go through our records, and endeavour to find it. We don't pick up these kits for some time. They are held until the person has had a reasonable chance to claim them.

Q So then, in the regular Army routine, the man who has lost some article for which he is charged, in the regular Army routine, no doubt he is brought to account for that lost article, and makes compensation to the public for such, would that not be so ?

A That is true. At his next kit inspection, he would be short certain articles, and he would be charged. If he tells his Quartermaster he left his kit on such and such a train, or in a waiting-room, the Quartermaster will try to recover it and re-imburse him.

Q Again, it is regular Army routine, if some of the kit or kit a man had bought on a repayment basis, has he also to account for such kit ?

A No, because no soldier buys any of his kit unless he previously lost it. The only time a soldier has to pay for kit is if he lost it and it had been on his charge. By kit, I am including all articles a soldier uses. There are some articles, towels for example, that can be bought on a repayment basis. A soldier can buy, but is not supposed to have more than his standard scale of issue. It is their responsibility. It is their own article, not a Government store. He would not be charged if the article were lost. As long as a man

can produce his complete kit he is not charged. A man's M.F.C. 800 shows two suits of battle-dress and other additional articles. If he bought additional suite of battle-dress and lost them, as long as he can produce two suits of battle-dress he isn't charged. He has already bought them, but they are not regular kit in that case.

Q In your evidence you speak words to this effect: that articles of no value are rubbish, and are disposed of as such, disposed of as such. Are you aware of the system of disposal ?

A I think Major Campbell can probably give you more information on that regard, when he is called as a witness. Certain articles that can be burnt, are burnt. My understanding is that they are to be in such a condition that they cannot be used at all.

Q ---THE PROSECUTOR RE-EXAMINES: Am I to understand, Captain Chick, - this arises in connection with an answer made by you to the Defending Officer - that articles of a soldier's kit belong to the Dominion Government ?

A Yes.

Q Then if a soldier is short in his kit inspection and is charged under Army Act Section 24, of losing by neglect, either by his Commanding Officer or a Court-Martial, and as a result, is made to pay for whatever he is deficient of, then, would or would not the article that he is made to pay for belong to the soldier or would it belong to the Dominion Government ?

A It would still belong to the Dominion Government. A soldier cannot alienate his kit.

Q Supposing he bought them on repayment, M.F.C. 512, would the same apply ? Supposing he was short a battle-dress, and before a kit inspection was taken, he was smart enough to go and buy a battle-dress. Would it belong to the soldier, or would it belong to the Dominion Government ?

A It would belong to the Dominion Government; because he is still charged with two battle-dress on his M.F.C. 800, and he has only two to produce.

THE WITNESS WITHDRAWS.

3rd Witness for THE PROSECUTION — Major Leslie CAMPBELL, Officer in charge of Returned Stores Depot, Aurora, Ontario, H.W.E. Special Distributing Depot, Toronto, R.C.O.C., being duly sworn is examined by the Prosecutor:-

Q Major Campbell, you have given your Unit as Sepcial Distributing Depot, Toronto, officer in charge of Returned Stores Section, is that correct ?

A That is correct.

Q Returned Stores Section is where ?

A Aurora .

Q Is that actually your present Unit or present depot ?

A No .

Q Tell us your present Depot ?

A I am attached to Army Salvage and Disposal Board, N.D.H.Q., Ottawa.

Q But you were officer in charge of Returned Stores Section ?

A I was.

Q When did you change your employment ?

A I think that was dated on the 1st of September, but I didn't go to Ottawa until approximately the 7th. I think it was the 7th, but I am not sure of the date.

Q When did you leave Aurora, approximately ?

A I left Aurora last Wednesday morning, pardon me, Tuesday. I took the Tuesday night's train out and arrived in Montreal Wednesday morning and went to Ottawa at one thirty.

Q Do you know the accused ?

A I do.

Q What is his name ?

A Private Bones.

Q How does it come about that you know the accused ?

A Private Bones was employed as Regimental Police at Aurora.

Q Do you know how long he was employed in that capacity ?

A I couldn't give you the exact time, but I think he was up there I would say approximately nine months.

Q Do you recall the time approximately the 11th of August, 1945. Was he employed there on that date and prior thereto ?

A That is something I cannot exactly say or recall, for the simple reason, the regimental police came under the jurisdiction of the Regimental and Security Officer in Toronto.

Q Have you or have you not told us that he did work there for approximately nine months ?

A Yes, he was up there for some time.

Q Could you give us some evidence with reference to your lost and found department? The lost and found articles of kit and equipment that might have been turned in to the Returned Stores Depot ?

A Yes.

Q Would you do that, please ?

A Prior to the change-over, to Special Distributing Depot, when we were under the District Ordnance Officer, it was the habit of both the Canadian Pacific and the Canadian National Railways' lost and found, to ring us up and tell us to send a truck down to pick up the lost and found articles. At that time we had an arrangement whereby we sent a driver down, and an N.C.O., and there was supposed to be one man from the Provost Corps there. The items were loaded onto a truck and a list was made up. They were received through the Receiving Department at Aurora, and packed on a packing note, and a complete list was made out. If there was any identification which could be kept, either from papers, a man's name on a kit bag, anything at all, then this information was sent through to the Records, at District Headquarters. If any - pardon me, if the items were of a personal nature, such as insurance policies, pay-books, anything of that nature, particular attention was paid to reporting them to the Records. If it was a case of equipment, issue of clothing, etcetera,

they went back into stores, or through re-conditioning, they were conditioned. If they were fit for return to Ordnance that process took place. If they were not they went through to produce. The lists were made out in three copies. One went to the District Ordnance Officer; one to the Provost Corps; and we get one. After being changed, and being absorbed by Special Distributing Depot, the accounting and instructions were changed, and we did not send a copy to the District Ordnance Officer, or the Provost Corps, but all that information went to the R & I - Receipt and Issue - Clerk, in Toronto, and if anybody wanted any information regarding the lost and found, they made application through the Sepcial Distributing Depot, to the Chief Clerk, who in turn got that information from the R & I.

Q Who would you say that these articles that were received by Returned Stores Depot from the lost and found, belong to ?

A I would like to have that statement aga in.

Q Who would you say that these returned stores that came from the lost and found of the Railway Companies, belong to? Who were the owners of them? I will put it this way. Did they belong to the respective owners that lost them, or did they belong to the public.

----PRESIDENT: Anyone else .

Q ----PROSECUTOR: Or to anyone else ?

A The only way I could state that is to give an example. If a kit bag is returned to us and in it is equipment that is on a man's SOO that has to be returned either on disposal or upon discharge, then it is Government property. If other items are found which are obviously personal property, then that property belongs to the owner who has lost it.

Q As Officer Commanding that Retruned Stores Depot, can you tell us what the duties of the accused were, or do you know ? What was he there for ? What was the purpose of his being there ?

A The Security Police are there for the purpose of security, fire protection, and the equivalent of night or day watchmen.

Q When you say security - security for what purpose ?

A In the full meaning of the term security. That is security against theft, either from the outside or in. Fire protection, which is very important.

Q Would the accused have any right to remove from the premises any articles ?

A None whatever.

Q Major Campbell, is there anything else you would like to tell the Court yourself, or is that your complete evidence ?

A I prefer it the other way, Captain Downey. If you wish me to say anything else, ask me questions.

Q I have asked you all the questions I can think of. Is there anything you wish yourself to tell the Court ?

A Yes, I might make a statement. I don't think it would have any bearing. We ourselves, both myself, as Officer Commanding, and my 2 i/c, including the N.C.O. in charge of the Security Police, tried our utmost to take all precautions that we thought necessary, or felt necessary for security.

Q Had you any knowledge that it might be a possibility that it was a practice for any of the personnel to take any goods or articles from the Returned Stores Depot for the purpose of - so it wouldn't go to waste ? Do you know what I mean by that ?

A No, I would rather you make it more clear Captain Downey, please.

Q Well, then, put it this way. Was it or was it not common practice for personnel of returned stores depot to take stuff or articles that were going to be destroyed and put them to some beneficial use, rather than see them wasted ?

A We were under strict orders from Army Salvage and Disposal Board that if any items were rubbished, or to be rubbished, they had to be definitely burned. The idea being to keep the Army Salvage,- no, cross that out, please - to keep the Army from any public criticism. Does that answer your question, Captain Downey ?

Q I believe it does. Excepting you might say, if you will, or could, something about whether or not it was a common practice.

A The common practice to what, Captain Downey ?

Q For the personnel of the Returned Stores Depot to help themselves.

A To my knowledge, no.

Q ---THE DEFENDING OFFICER CROSS EXAMINES: Sir, the materials that were rubbished that you have just spoken about, was there an accounting kept of them ?

A Definitely. Everything that is rubbished, there has to be, what we call, a transfer voucher made out, and the N.C.O., or the N.C.O.'s representative would report, or rather I should, theproduce is made up of ever so many items across the line, and the representative, or the Ordnance Stores Officer, who is solely responsible for produce or rubbish, would have to sign for the number of articles, and then would be responsible to see that they were burned.

Q And that record is kept in the manner of certain number of articles, and not in the manner of certain pounds ?

A No, no, excuse me. When the transfer voucher action takes place, they are then transferred from items to pounds. Does that answer your question ?

Q Yes. In other words, the rubbished articles become so much poundage ?

A That is correct. Whether burned or saved as articles for sale.

Q But they have ceased to become articles, and become poundage.

A That is correct.

Q Any staff of the Special Distributing Depot at Aurora requiring equipment from Quartermaster stores, where do they obtain such ?

A I have to answer that by a further explanation, for the simple reason, a change in the procedure only recently took place. Prior to the recent change the men were serviced by the Composite Stores, Postal Building, Toronto. The Composite Stores were servicing both the Special Distributing Depot and the District Ordnance Officer's staff at the time, and Aurora; and the S.Q.M.S. would come up with a truck, and sufficient items of clothing and equipment to make the necessary changes or issues. Approximately a month ago - I am not sure of the date - the Officer Commanding Special Distributing Depot requested that I make special arrangements with Newmarket through the Officer Commanding there for their Quartermaster Stores to service Aurora. That change was put through and the men were sent up in groups to Newmarket, which is only about four and a half miles away, and were serviced there, which was a happier arrangement - a better arrangement. Does that answer your question?

Q Now, on either system, these clothing parades, whether they are at the Special Distributing Depot with the Q.M.S. coming up from Toronto, or the clothing parade with the Newmarket Q.M.S., would it not be, in the case of a man living out on quarter's allowance, that he would take his clothing or equipment to the place of employment at the Depot, then return it to his home, where he was living, on his discharge from his day's duty ?

A Yes, that could be done. It would have to be checked in through the R.P. at the gate and left there.

Q Were inventories taken of the stock of the Special Distributing Depot at regular intervals ? That is the returned stores depot at Aurora ?

A Yes, stock was taken every six months.

Q Could you tell us of any recent stock-takings there ? When they occurred.

A Yes, they had a recent stock-taking which they took stock in one day. I wasn't there. I was on my furlough. I couldn't give you the exact date, but you could get it.

Q Would you advise us of the date of the last stock-taking when you were there ?

A That was approximately three months before that, when we were under the District Ordnance Officer.

Q Could you advise the Court of the approximate date ?

A No, I couldn't. I don't remember those dates. I would have to look it up.

Q On the last stock-taking you were present at in the Returned Stores Depot, do you recall if there were any losses found out ?

A No, for the simple reason I didn't see the results of the stock-taking. They had no sooner finished one stock-taking when the change-over took place from the District Ordnance Officer to Special Distributing Depot. In either case I haven't seen the results of the stock-taking. I would like to add there, if I may, I am not responsible for stock-taking. That is definitely under the Ordnance Stores Officer. You could see the set-up by referring to the Accounting Instructions, No. 16.

Q Are you aware that a search was conducted at the home of Private Bones ?

A Yes, because I gave permission. There were two Provost Corps men who came in on Saturday morning and presented their identification and authority for wearing plain clothes. One was a Sergeant, and the other was, I think, was a Corporal. They asked permission to interview Private Bones. I calledin Sergeant Foster and ascertained the fact that Private Bones was not on duty at the time. They asked my permission if they could go and find Private Bones, taking Sergeant Foster with them, as they wanted to make a search. I gave them that

permission. At twelve o'clock I left. What took place after that I was not aware.

Q Did the Provost personally advise you of why they wished to effect this search ?

A Yes, they said that they had received instructions from Headquarters. That is the only information I got.

Q These instructions from Headquarters, could they possibly have originated with yourself ?

A No, not in this case.

Q Previous to the incident under question in this Court, how did you find the services of the accused, Private Bones ?

A The conduct of Private Bones, as far as we found, was very, very good. He paid attention to his duties; was always on time; apparently quite conscientious. That is, as far as I know, until he was placed under arrest, which was a surprise to myself as his Commanding Officer.

---THE PROSECUTOR DECLINES TO RE EXAMINE

Q ---QUESTIONED BY THE PRESIDENT: These security guards, as you call them, are they in any special position of trust and responsibility ? In other words...

A Yes, I know what you mean, but I want to answer it very carefully.

Q I shall be very glad to put it any way you like ?

A The security guard, as far as we ourselves are concerned, are in a position of great trust

Q In other words, their job is to control the....

A Government Stores.

Q To guard any material from pilfering ?

A Definitely.

---THE WITNESS WITHDRAWS.

4th Witness for THE PROSECUTION — Captain Otto Lennox LOVELL, Regimental Officer, Special Distributing Depot, Toronto, R.C.O.C. being duly sworn is examined by the Prosecutor:-

Q Captain Lovell, your Unit is Special Distributing Depot, Toronto, R.C.O.C., is that right ?

A That is right, sir.

Q What appointment do you hold there ? What do you do ?

A I am the Regimental Officer, sir.

Q As Regimental Officer, just what duties, just briefly, what do you have to do there ?

A Generally, the duties of Adjutant; taking care of Part I and Part II Orders; minor cases of discipline; incoming and outgoing personnel.

Q Have you anything to do with documents ?

A Yes, sir.

Q What have you to do with them ?

A I have the custody of the documents.

Q Do you know the accused ?

A Yes, sir.

Q What is his name ?

A Private Horace Granville Bones, sir.

Q What is his Unit ?

A Special Distributing Depot.

Q Where, up until recently, was he employed ?

A At Returned Stores Depot, Aurora.

Q Does or does not Private Bones' military life, in the way of documents come under you ? Do you have his documents ?

A Yes, sir, I do.

Q Can you advise the Court as to where the accused has been, say in the last two or three years, starting in January of 1944 ?

A Yes, sir.

Q Have you his documents with you ?

A Yes, sir, I have.

Q Will you refresh your memory with them ? Tell us where he has been stationed ?

A .....

Q ---PRESIDENT: This is only for the purpose of refreshing his memory, Captain Downey ?

A ---PROSECUTOR: That's right, sir. (To witness) What is that you have in your hand ?

A An M.F.M. 2

Q For whom ?

A Private Horace GranvilleBones.

Q Tell theCourt where he has been recently, the last two or three years.

A On the 19th of January, Private Bones...

Q What year ?

A 1944, sir.

Q Yes ?

A Was struck off strength of 2 District Depot, and posted to No 2 Ordnance Depot for discipline and duty, at the Returned Stores Depot at Aurora, Ontario, and he has been in that employment since that date until the 11th of August, 1945, sir.

Q And do you know where he has been since the 11th of August, 1945 ?

A In custody, sir.

Q ---THE DEFENDING OFFICER CROSS EXAMINES: Captain Lovell, you have designated yourself as regimental officer of the Special Distributing Depot, Toronto, R.C.O.C. ?

A Yes, sir.

Q Does that also include Security Officer ? Is the proper title Regimental and Security Officer ?

A Yes, sir.

Q The, I take it, the Security Guard at Aurora Depot comes under your administration ?

A Yes, sir, it does. If I might be allowed to explain further. On the first of May, of this year, No. 2 Ordnance Depot, the Returned Stores part at Aurora, became a part of Special Distributing Depot; and Major Campbell was there as Detachment Commander in charge, and for that reason, as Security Officer at Special Distributing Depot at Bay and Fleet Streets, we were advised by our Commanding Officer to not interfere in the security angle up at Aurora, outside of our C.S.M. from Monteith and our R.S.M. visiting and inspecting the guard at Aurora. I mean to say by that, I don't know the men on the guard personally, and except for two visits to Aurora, I have had very little

connection with the guard at Aurora.

Q Now, are you aware of any special arrangements for this Security Guard at Aurora to obtain extra clothing so that at all times they are prepared to go on duty in an orderly manner of dress ?

A I know that their instructions are that they obtain their equipment and all essentials they might need from the Quartermaster Stores at Newmarket.

Q Are you aware that the Quartermaster Stores at Newmarket would issue pairs of trousers, say, over and above the regular scale of issue to this Security Guard ?

A No, sir.

Q You are not aware, forinstance, that it would be possible to obtain extra clothing of that nature by signing a packing slip in their Quartermaster Stores ?

A No, sir, I am not aware of that.

Q As custodian of the service record of the accused, how would you say that record reads ?

A I would say it was excellent, sir.

---THE PROSECUTOR DECLINES TO RE EXAMINE

Q ---QUESTIONED BY THE PRESIDENT: Your job, then, Captain Lovell, keeps you pretty much bound to the R.C.O.C. Depot in Toronto, I take it ?

A Yes, sir.

Q And while you are Adjutant, or equivalent of Adjutant, and serving the Returned StoresDepot, you are actually here in Toronto ?

A Yes, sir. Up to now...

Q Just one of the many jobs that come under your jurisdiction ?

A We have personnel of six hundred seventy-three, of which two hundred ninety-six are at Aurora; and up to this time, my connection with them has mainly been in connection with their re-inforcements in personnel and matters of that kind. My contact with them has been mainly by letter or telephone. As I say, I have only been to the Depot

three times. I have left the security to the visit of the C.S.M. and the R.S.M. who is in charge of security guard at the Special Distributing Depot at Toronto.

---THE WITNESS WITHDRAWS.

5th Witness for THE PROSECUTION B-97712 Sgt John ATKINSON, Investigation Section, 31 Company, Canadian Provost Corps, 339 George Street, Toronto, Ont., being duly sworn is examined by the Prosecutor:-

Q Will you tell the Court where you are employed ?

A I am employed as an investigator at 339 George Street, Toronto, with No 31 Company Canadian Provost Corps.

Q Do you recall the 10th of August, 1945 ?

A I do.

Q What, if anything, happened on that date ?

A Information was sent to me from Headquarters, to investigate a complaint at the home of the accused, now present in Court.

Q Incidentally, what is the accused's name ?

A Private Bones.

Q W here was Private Bones stationed at the time ?

A At Returned Stores Depot, Aurora.

Q As a result of information received, did you take any action ?

A I proceeded to the home of the accused, accompanied by Lance Corporal Campbell, on the 11th of August, and there met and interviewed the accused.

Q What was the date you proceeded to the accused's home, did you say ?

A The 11th of August.

Q This year ?

A Yes, sir.

Q Where is his home ?

A It is located in Sutton West.

Q Where is Sutton West in relation to Aurora Ontario ?

A I believe it is approximately twenty - I am not certain of the distance, I believe about twenty-five miles north and west of Aurora.

Q Can you tell us about the accused's home ? Is it a house, or an apartment, or what is it ?

A It is a home, I believe. There are two rooms on the second storey and three larger rooms on the first floor; and there is a basement.

Q How did you know that the accused who is now present, was the man you were looking for ? How did you know he was Private Bones ?

A I spoke to Private Bones and asked him to identify himself, which he did. He stated he was Private Bones and stated he lived at that address.

Q Did you have any other conversation with him ?

A I stated to him the nature of our call. We had been informed he was in possession improperly of Government equipment and ordnance. We asked him if this was true; and he said yes. I then asked him if we might look through his home and he also said yes.

Q Did you look through his home ?

A Yes, we did.

Q Who looked through it ?

A Lance Corporal Campbell, myself, and the accused.

Q Tell us just what happened when you looked through his home ? Give us the story very completely .

A With the assistance of Private Bones we located certain equipment which we considered was military ordnance and put it in the haversacks and bags ready for transportation to Toronto.

Q What did the accused do while you were doing this ?

A He assisted us in every way possible to locate the goods. He took us from one room to the other and pointed out equipment that we might have missed. I might say the accused was very helpful in the search.

Q Whereabouts did you look for these things?

A In cupboards, bureau drawers, and the various rooms in the house. There was no attempt apparently at concealment, it was just located through the house.

Q Did you have any trouble in making up your mind this was government ordnance ?

A No, we didn't. Some of it we were doubtful of and some of it we thought might belong to the man himself. We took all we considered was government property and stated any that was rightfully his, would be returned to him.

Q Did he make any objection to that ?

A No, he didn't.

Q What was the next thing that was done ?

A We took the equipment, and along with Private Bones proceeded to our Headquarters in Toronto, where we laid out all the equipment and took an inventory. This was done in the presence of the accused.

Q Was the accused under any arrest ?

A The accused was not under close arrest. We had asked him to come with us to Toronto. We had not put him under arrest.

Q What was done with these stores after that ?

A They were put back into bags and were locked in our locker room.

Q Where ?

A In the basement of 339 George Street.

Q Where was the accused at that time ?

A The accused was present when we put the goods away.

Q What was done with these stores after that ?

A Subsequently they were taken to the Ordnance Depot on Bay Street, and under our supervision, were examined by members of the Ordnance Corps who identified then as military equipment.

Q Was everything identified as military equipment ?

A No, there were certain articles that could not be identified as Government property. The articles which we believed were the property of the accused were taken from the lot and returned to him. This was done by checking through his M.F.C. 800

Q What was done with any of the articles you were not sure of ?

A They were held and will be produced in evidence.

Q Has the accused been charged with these articles that you speak of that you were not sure of ?

A No, he is not.

Q Do you know where these articles the accused is being charged with either stealing or being in improper possession of, do you know where they were kept from that time until the time of the trial ?

A They were taken to the locker room at 339 George Street and left there until the time of the trial.

Q That is what date ?

A To-day, the 11th of September.

Q How were these articles brought from the Ordnance Depot to this Court-room ?

A They were brought over in a D.N.D. vehicle and were in sealed packages or cartons.

Q Who brought them over ?

A Myself and Corporal Campbell.

Q So much for stores for the time being. I am going to ask you some questions about any conversation you might have had on the 11th of August, 1945. I want you to be very careful how you answer, if you will. Did you or did you not have a conversation with the accused on the 11th of August, 1945, after the stores had been locked up at 339 George Street ?

A I did, sir.

Q Who was present at the time of the conversation ?

A Lance Corporal Campbell, sir.

Q In other words there were three of you present ?

A The accused, myself and Corporal Campbell.

Q Where did that conversation take place ?

A The conversation took place in our Orderly Room.

Q Did you, on the way down from Sutton West to Toronto have any conversation with the accused about this particular matter ?

A We discussed the accused's previous military record, and we discussed the method of operations at the Depot at which he was stationed, but we didn't discuss the matter at hand.

Q What matter ?

A The matter of the equipment

Q Did you discuss the matter of the equipment on this occasion in the room at 339 George Street ?

A Yes, I did, sir.

Q Will you tell in your own words to the President of this Court-Martial the exact circumstances of the conversation leading up to a certain thing that happened, but don't tell us anything of what happened. Do you understand ?

A I do, sir.

Q Carry on then .

A I told the accused that he would be charged with being in possession of government equipment and ordnance improperly, and that he might make a statement if he wished to do so. He asked me what type of statement he could make and I stated that he could answer our questions, or that he could write a statement in story form. He preferred the question and answer type of statement. I then warned the accused and the statement was made.

Q What kind of a statement ? What was the statement about ? What statement would it be ?

A In connection with the accused's character; his previous military military training and conduct and in connection with the equipment which we had ceased at his home .

Q Have you that statement with you ?

A I believe Corporal Campbell has it. This is a true copy of the statement.

---PRESIDENT: I want you to be very careful that no part of that statement comes into the record at this time .

---PROSECUTOR: I want to be careful of that, except I do have to go through the formality of offering it to the Court. Have you that statement with you ?

A Yes, I have, sir.

Q What is the date on that statement ?

A the 11th of August, 1945.

Q Are there any signatures on that statement ?

A There are, yes, there are, sir.

Q Whose signatures appear on that statement ?

A The signature of myself, Corporal Campbell, and the signature of Private Bones, H.G.

Q How do you know that is Private Bones' signature ?

A He signed it in my presence.

Q Now, sir, it is my intention to offer this document to the Court as an Exhibit and hand it in, subject to the Defending Officer's consent.

---PRESIDENT: Well, Captain Downey, as I have heard it, this was completed by this witness, Lance Corporal Campbell, and Private Bones. Now, as I understand it, all the evidence must be produced at this time before the statement is either accepted or refused; and that being the case, I should think that it would be obligatory on the prosecution to produce Corporal Campbell, and any other evidence which you have in connection with the taking of this statement.

---PROSECUTOR: That is right, sir. The reason I am offering the exhibit in this way is for the purpose of having the Court decide whether or not the document is admissible in evidence, and it is my desire to produce to the Court all the information both from this witness andCorporal Campbell to show the method in which the document was obtained.

---PRESIDENT: I appreciate that, Captain Downey, but as I understand the law, all the evidence must be produced to the Court relevant to the document before the document is tendered. If I am wrong I shall be glad to hear your argument.

---PROSECUTOR: My submission is no ruling is needed at the present. There has been no objection made to the document, and if an objection is made, then, we can have what is commonly said to be a trial within a trial.

---PRESIDENT: I think the practice in our civil courts differs from the military courts in that respect, in that if no objection is raised by the defence in a civil case, it could be accepted; but I think in a military court all the evidence must be tendered before the document is accepted and whether or not an objection is made by the accused or his Defending Officer.

---PROSECUTOR: Very will, then, I have no objection to carrying on the way the Court has decided.

---DEFENDING OFFICER: The Defence has not objected to this document, because it has not been produced yet. We definitely do object to this document, and I will give you my argument at the proper time.

---PRESIDENT: Do you feel I am correct, Mr. LeBer ?

---DEFENDING OFFICER: Very definitely, sir. I do indeed.

---PRESIDENT: I think you should produce Corporal Campbell or anyone else you might have. This witness becomes subject to cross-examination by you, Mr. Leber.

---PROSECUTOR: I haven't exactly finished with him yet.

---PRESIDENT: Take that opportunity now, Captain Downey.

Q ---PROSECUTOR: In connection with all the circumstances leading up to the taking of this statement, have you anything else to tell the Court ?

A No, I have not, sir.

Q Are these all the facts then that transpired prior to this statement being taken and signed?

A Those are the facts.

Q Has anything been left out ?

A Nothing that I recall, no, sir.

Q Can you tell the Court anything about any warning, if any warning was given, or the warning given ?

A Yes, a warning was given by Corporal Campbell in my presence . The warning was given in this manner: Before you say anything about the charge against you I wish to read you the following warning. You are charged with being in possession improperly of government stores, the property of the public. Do you wish to say anything about the charge. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.

Q Did the accused indicate whether or not he wished to make a statement ?

A Yes, he did.

Q Did he indicate what type of statement he wished to make ?

A He said he preferred to make the question and answer type of statement.

Q Was a question and answer type of statement then taken ?

A Yes, it was.

Q Who gave the questions ? Who asked the questions ?

A Corporal Campbell.

Q Were you present ?

A Yes, sir. I asked some of the questions. Corporal Campbell asked some of the questions. There were only eight or ten questions asked.

Q What type of statement was that ?

A It was a voluntary statement, sir.

Q As Provost sergeant, have you ever taken sta tements before ?

A Yes, sir.

Q Do you know what needs to be, what essentials must be present when warning the accused before a statement can be obtained that might be admissible in a Court ?

A I do, sir.

Q What are those essentials ?

A He must not be threatened; no promise of favour must be held out to him, and it must be entirely voluntarily.

Q Was the accused threatened in any way ?

A No, sir.

Q Was any prospect of any favour held out to him or promise that he he made a statement, he would get any benefit out of it ?

A No, sir.

---PROSECUTOR: I think that is all I have, sir, in connection with this witness for the moment.

Q ---THE DEFENDING OFFICER CROSS-EXAMINES: In short, Sergeant, the accused was invited to make a statement.

A The accused was given an opportunity to make a statement. He was asked if he wished to do so, which he said he would do. I don't know whether you would say invited. I would say he was given an opportunity of making a statement when we had completed our inventory of the goods.

Q That is certainly an invitation: do you wish to make a statement? .

A Those were the words, do you wish to make a statement?, we asked him.

Q You would agree that would be a bid, an invitation to make a statement, if he wished ?

A It could be considered as such.

Q In any event, the statement was not spontaneous on the part of the accused. He didn't ask if he might make a statement, did he ?

A No, I don't believe. I believe the question was brought up by myself and Corporal Campbell as to the fact of his wishing to make a statement and he then asked us, or we asked him, what type he would like to make when he signified his wish to make a statement.

---THE PROSECUTOR DECLINES TO RE EXAMINE.

Q QUESTIONED BY THE PRESIDENT: I believe you said it was on the 11th of August, 1945, that you went to the home of the accused at Sutton West ?

A I did, sir.

Q About what time of the day was it ?

A About 1130 in the morning when we arrived at his home.

Q When you arrived there, did the accused identify himself to you ?

A He did sir, he was working in the back yard.

Q As soon as the accused identified himself to you, what was next said ?

A I then told him that I had a complaint, that he was, that he had in his domicile certain articles or equipment which were military, and which he had no right to. We had that complaint. I asked him if that were true, and he said, yes, he had.

Q Did he say anything more about that ?

A Not at the time. We asked him if we might search, if we might look through his house with the idea of recovering the goods; and going through the house he explained to us how he had these goods. I don't know whether I can admit that as evidence, he wasn't charged, but he did say...

Q Was this matter purely under investigation at that time ?

A It was. There was no question of a charge being laid; it was just a matter of the goods being recovered. He told us he was employed at the Returned Stores Depot, and the goods he had would be destroyed, and rather than see them destroyed, he considered he could put them to more beneficial use. He had children of his own, and the children could make use of them, rather than see the goods destroyed. He also said it was a practice for others besides himself to take these goods and he had never considered the thing from any criminal aspect. He thought everybody was doing it, and he might as well do it also. That is the way he explained it.

Q Did you have any other conversation with him while going through the house ?

A Our conversation then turned to the man's own military record, in which he told us he had been in the Army for a period of five years, and that he had never had a crime in all the time of his service. He had served overseas, and was back here for medical reasons; and had served in the militia prior to the War; and had never had any crime either civil or military. This was the first time anything of that nature had ever happened.

Q Was Corporal Campbell there all the time through this conversation ?

A Yes, he was.

Q What time was it the following day you obtained this statement ?

A It was the same day. On the 11th of August, in the evening about 1830 hours.

Q You say it took place in the presence of Corporal Campbell, yourself and the accused, in the Orderly Room at 339 George Street ?

A Yes, sir, in the Orderly Room at 339 George Street in Toronto.

Q When this took place were there any others present at any time ?

A Yes, there were.

Q Who were they ?

A There were other men in the Orderly Room, but they had no contact with myself or the accused, or Corporal Campbell. When the statement had been completed, I do believe the Sergeant Major spoke to Private Bones.

Q During the taking of the statement from the accused, until the statement from the accused, until the statement was completed, was there anybody in that room besides the three of you ?

A Yes, sir.

Q For what purpose ?

A One of them is the telephone despatcher, and the other is the Sergeant Major of the Unit, and he was working at his desk on routine matters.

Q In the same room ?

A Yes, sir. In the same room.

Q When questions were being asked and answered ?

A Yes, sir.

Q Did he take part in it ?

A No, he didn't. At that time I was trying to have the accused placed under open arrest by someone in his Unit. The statement had been made, and I tried to get in touch with the Unit to notify them he wasn't to be on his tour of duty that night. I did do that in Toronto; but I did get in touch with Aurora to see if they would accept the responsibility of the man for trial, or for Orderly Room, but I wasn't successful.

Q Did the other soldier in the room go in and out or did he remain throughout ?

A The despatcher didn't leave his desk. His desk is at the front of the room, and we were at the rear of the Orderly Room.

Q Would he know anything that might have transpired ?

A I don't think he would get any connection. He might hear certain words, but I don't think he could get the connection

Q Apparently this was a question and answer business ?

A Yes, it was.

Q All the questions that were asked at that time, and all the answers that were made, are they all in this document which I understand is in your possession ?

A Yes, sir.

Q Were any other questions asked that do not appear in that statement ?

A No, sir. There were no other questions asked.

Q Were any other answers made ?

A There were no other answers made. The only other answer that might have been made and which might not appear in the statement is to the effect that this was a common practice at Aurora, this pilfering; and I can't recall, without reading the statement over, if he was asked that question in the statement, but I do know he made that answer.

He did say that.

Q I don't wish to know what is in the statement. My purpose in asking you the last question was to find out if everything that was said in the room was recorded in this statement which you propose to produce.

A As far as I can recall everything is in the statement that we asked him.

Q Why was it necessary, Sergeant Atkinson, to obtain the statement from the accused in view of what he had told you earlier in the day at his own home?

A I might answer that this way, by saying that in all cases of this type, either from civil experience, and also from military experience, we take statements from the accused where it is possible, and then we have them to produce, or as a record to be produced, in any courts which might follow. It is laid down in our duties that we do take statements where possible.

Q Did you or Corporal Campbell or the accused raise any question as to the charge being one of theft or of receiving at either the conversation at Sutton West, or the conversation later over at 339 George Street ?

A No, sir.

Q How was that caused ?

A In all my questioning and in all my interview with the accused, I only brought up the point that he would be charged, as far as we were concerned, with being in possession of the goods, or the property of the public improperly; but we didn't discuss the question of theft.

Q Was there any discussion as to the relative punishment of theft as against the punishment for receiving, between either you or Corporal Campbell or the accused ?

A No, I don't recall any. We didn't discuss the matter of theft in any way. It was a matterof his being in improper possession. We didn't discuss any of the merits, or demerits, between that charge and the charge of theft.

Q Did you discuss the matter of punishment with the accused in any way ?

A Not at the time I didn't.

Q Neither at Sutton West,nor when the statement was taken ?

A I spoke to him after the statement was taken.

Q Apparently, you had made up your mind that it was improper possession, and it was from that angle you took the matter up with the accused, is that correct ?

A That is right, sir.

Q Had the accused been charged with any offence prior to his making the statement which you are now tendering ?

A No, sir. It was not until afterwards that he was charged. He was charged and then warned. That was when the statement was made.

Q Was the charge laid prior to the time when the question and answer statement was taken ?

A No, sir.

Q It was not until after the charge was laid ?

A Yes, sir.

Q Was any inducement of any kind made to the accused to obtain the information the first time - or the statement ?

A No, sir, the accused was, I might say, most co-operative. When we told him we were aware of this he took us and showed us these goodi He produced the ones we didn't recover. In his whole investigation, in his recovery, and the statement he made, he was most co-operative. He wanted to get the thing off his chest. It was his own idea.

Q So, no inducement was made to him ?

A No, sir.

Q Was there any threat of any kind made to him ?

A No, sir.

Q Was there any promise of any kind made to him ?

A No, sir.

Q Had you, when you got the statement at Sutton West, made up your mind to charge the accused ?

A No, I had not.

Q Had you, prior to getting the question and answer statement, made up your mind that a charge would be laid against the accused ?

A No, as a matter of fact, when we left Sutton West, we proceeded to Aurora, to get in touch with the Officer Commanding at Aurora, to turn the whole business over to him, and there was nobody there other than the security guards; consequently we had to proceed to Toronto, and deal with the matter ourselves. But we wished at the time to turn the matter over to the Officer Commanding at Aurora.

Q Before this statement - before this question and answer statement was signed, that is after you asked the questions, and the answers were made, before the accused signed it, or before either of you signed it as witnesses, was the accused given an opportunity to do anything in connection with it ?

A Yes, sir. He read it over.

Q Did he have any comment to make, or anything to say about it ?

A He said that that was his statement. He was satisfied with the questions, and that he considered it a complete statement.

Q Was he invited to make any corrections in the statement ?

A I believe there was one or two places where it was necessary to make a change and he initialled the changes. It is only the matter of the date, and the mis-spelling of a word.

Q Was this statement induced by any fear of prejudice or hope of advantage ?

A No, sir.

Q Have you given us all the circumstances preceding the signing and obtaining of the writeen statement, or what is known as a confession ?

A Yes, sir.

Q ---PRESIDENT: Are there any questions arising out of my examination, gentlemen ? Captain Downey ?

A ---PROSECUTOR: It came to my mind as a result of your examination, could we - would you ask the witness the time when the accused was put under close arrest. In other words, was he under close arrest or under open arrest at the time the statement was given ?

Q ---PRESIDENT: Was the accused under either open arrest or close arrest at the time the question and answer statement was made ?

A ---WITNESS: No, he wasn't. It was after the statement was made that I phoned the members of the man's Unit to have him placed under open arrest. My instructions were if I had to take the responsibility for him, I had to place him under close arrest. I had to proceed with that because no one in the accused's unit would take that responsibility.

Q ---PRESIDENT: Have you any questions, Mr. LeBer ?

A ---DEFENDING OFFICER: No, I have none, sir.

Q ---PRESIDENT: Sergeant Atkinson, how long have you been in the Canadian Provost Corps ?

A ---WITNESS: Four years, sir.

Q Did you have any experience previously in the civil police ?

A Yes, I did, sir.

Q How long ?

A Five years, sir.

Q And where ?

A Timmins, Ontario.

Q With the local police or the provincial police ?

A Yes, sir, city police.

Q ---PRESIDENT: Is there anything you would like to ask, Captain Downey, as a result of that ?

A No, sir.

Q ---PRESIDENT: Mr. LeBer ?

A ---DEFENDING OFFICER: No, sir.

---THE WITNESS WITHDRAWS.

6th Witness for-THE PROSECUTION

B-97703 Lance Corporal Peter CAMPBELL, 31 Company, Canadian Provost Corps, being duly sworn is examined by the Prosecutor:-

Q Just tell the Court exactly what you do ?

A I am employed on investigation with 31 Company, Canadian Provost Corps

Q And do you recall the 11th of August, 1945 ?

A Yes, sir.

Q What, if anything, happened on that date that might be relevant to this charge ?

A On investigation at the Bones' residence at Sutton West...

Q Who was with you ?

A Sergeant Atkinson, 31 Company, Canadian Provost Corps accompanied me.

Q To the Bones' residence in - where did you say ?

A SuttonWest, Ontario.

Q Who lived there ?

A Private Bones.

Q Who is he in this case ?

A The accused. His wife and four children..

Q Do you know why you went up there on an investigation ?

A I went up there under instructions from Captain Duffy, to investigate, on instructions received from Major Whitton, D.A.P.M. of M.D. 2.

Q What time would it be when you arrived at the Bones' residence ?

A We arrived at the Bones' residence at 1140 hours on the 11th of August.

Q What did you see when you arrived there ?

A I saw the accused in the back yard..

Q Any conversation between you and the accused, or Sergeant Atkinson ?

A We told the accused that we had information that he was in possession improperly of stores, the property of the public.

Q Did the accused make any answer to that ?

A The accused admitted he did have stores.

Q And did he tell you anything else ?

A We asked the accused for permission to search the house, which he gave us.

Q Did you have any trouble getting permission from him ?

A No trouble whatever.

Q What was his attitude ?

A He co-operated to the utmost extent with us.

Q Alright. Concerning the search.

A We searched the house, Sergeant Atkinson and myself.

Q What did the accused do ?

A He assisted us in the search, and told us where the articles were, and anything we didn't discover he picked them out for us.

Q What was done after you obtained the articles ?

A After we obtained the articles we put them in our D.N.D. vehicle and took them, along with the accused, to the Returned Stores Depot at Aurora. When we arrived at the Depot in Aurora, there was nobody in authority to take care of the accused. We proceeded to our Headquarters at 339 George Street in Toronto.

Q Do you remember any other conversation that might have taken place between yourself and the accused or Sergeant Atkinson, between Sutton West and Toronto ? Was there any other conversation ?

A There was conversation about how the stores came to be at his home .

Q Tell us about that .

A The accused stated it was common practice for anyone in the Returned Stores Depot to take these stores.

Q Did he say anything else that you recall ?

A I don't recall anything else at the time.

Q Between the time you left Sutton West and you arrived in Toronto, was there any conversation between either yourself or Sergeant Atkinson and the accused relevant to this charge? Did you discuss it with the accused or not ?

A No, sir, we didn't discuss the case.

Q After you came to Toronto, what did you do with all these things you had taken from the accused's home ?

A They were taken into a room where..

Q Whereabouts ?

A At 339 George Street, Toronto. They were taken ..

Q What ?

A The articles .

Q By whom ?

A Sergeant Atkinson and myself in the presence of the accused.

Q What was done with the articles ?

A They were put in kit bags and were placed in a locked room in the basement of our barracks in the presence of the accused.

Q What was done with these articles after that ? What was done with them after that ?

A The followingTuesday, that would be the 14th, Tuesday, the 14th of August, they were removed to the OrdnanceDepot at Bay and Fleet Streets.

Q What was the purpose of that, do you know ?

A To be identified and valued.

Q Was this done ?

A Yes, sir.

Q Was there any proceedings of a legal nature taking place at that time when they were taken to Eeet Street ?

A I don't quite understand what you mean, sir.

Q Was there a Summary of Evidence taken in this case ?

A Yes, sir.

Q By whom was it taken do you remember ?

A Captain Downey.

Q That is myself. Did you give evidence at that Summary of Evidence ?

A Yes, sir.

Q Were these goods produced at the Summary of Evidence ?

A Yes, sir.

Q Do you know ~~what goods~~ what goods that the accused is charged with, first of all, stealing, or alternatively, being in improper possession of ? Do you know what goods are designated as such ? Do you know what they are ?

A Do you mean these here ?

Q You know the goods, do you ?

A Yes, sir.

Q Are the goods that the accused is charged with stealing, are they the ones, or were there other ones brought by you, from the accused's home on that occasion as well ?

A There were others that were not identified.

Q Do you know what was done with these goods or articles ?

A Some of the articles were on the man's SOO. All the articles that were credited to the accused on his SOO, these articles were returned to the accused.

Q Were there any other articles that he is not charged with ?

A Yes, there were other articles that were not identified as property of the public.

Q I see, and he wasn't charged with them ?

A No, sir.

Q Was a list made of these articles ?

A Yes, sir.

Q Where are the articles that the accused is charged with taking ? Do you know where they are at the present time ?

A Right here in this room.

Q How did they get here ?

A By Sergeant Atkinson and myself.

Q By what means ?

A D.N.D. vehicle.

Q Where did you get them ?

A They were taken from the room in the basement, at our barracks.

Q And brought from there to where ?

A From there to this room here now.

Q What has happened to the goods in the meantime ? Since the taking of the Summary of Evidence, in whose possession have they been ?

A They were in our possession up until the time they were taken to Bay and Fleet Streets. After that they were placed in a locked and sealed room. The only person who had a key to this room would be the Orderly Officer.

Q Did they remain in this room until they were brought here ?

A Yes, they were returned from there to our barracks and then brought here.

Q That is what happened, is it ?

A Yes, sir.

Q I am going back again in your story to the 11th ofAugust, 1945; you remember you told me that the accused, and yourself and Sergeant Atkinson came to 339 George Street, right ?

A Right, sir.

Q After an inventory was taken of these goods, did you or did you not have any conversation with the accused ?

A You mean prior to the inventory being taken ?

Q After the inventory was taken ?

A Yes, sir, after the inventory was taken we had.

Q Was anything done as a result of this conversation ?

A The accused was asked, at least he was cautioned and asked if he wanted to make a statement, a voluntary statement.

Q Did he or did he not make a statement ?

A Yes, sir, he did.

Q Was it a question and answer statement, or was it in narrative form ?

A Question and answer.

Q Why was it question and answer ?

A At the discretion of the accused, which he wanted. We asked him which he wanted to make, a question and answer statement, or a statement in story form.

Q Who asked the questions ?

A I did.

Q Who typed them ?

A Sergeant Atkinson.

Q What kind of a statement was it that he made, do you think ?

A It was a voluntary statement.

Q Why do you say that ?

A The accused was cautioned. He was not threatened; and there were no promises held out to him.

Q Have you had any - how long have you been in the Provost Corps ?

A Since May 20th, 1942.

Q Have you had any experience taking statements from soldiers ?

A Yes, sir.

Q Have you ever had police experience before ?

A Yes, sir.

Q Where ?

A In the township of York .

Q How long ?

A Three years.

Q I am showing you a document which has not yet been accepted by the Court. Would you tell us what that document is. Don't read any part of it but tell us what it is.

A A voluntary statement taken from the accused at 1830 hours on the 11th of August, 1945.

Q Are there any signatures on it ?

A It was witnessed by Sergeant Atkinson and myself and signed by the accused ?

Q How do you know it was signed by the accused ?

A It was signed in my presence .

Q You mentioned the fact he was cautioned. Can you tell the Court just what the words were that were used ?

A "Before you say anything about the charge," This is the warning: "You are charged with being in possession improperly of stores the property of the public. Do you wish to say anything in answer to the charge ? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be used in evidence."

Q Who read that off to him ?

A I did.

Q Don't tell us the effect of what he said; but, did he indicate whether or not he wanted to make a statement after that ?

A Yes, sir, he said he wanted to make a statement .

---PROSECUTOR: I think that's all I have, sir, in connection with this.

Q ---DEFENDING OFFICER CROSS EXAMINES: I understand, Corporal Campbell, from your evidence, that the accused was invited to make this statement ?

A No, sir, he was not invited to. He did so voluntarily.

Q But, you have told us he was asked, did he wish to make a statment ?

A Yes, yes he was asked if he wished to make a statement.

Q Well, that is surely an invitation to make a statement, don't you agree?

A I can't answer that question, sir.

Q Now, you have just said that in connection with the accused, a voluntary statement was taken from the accused. Now, does that sound to you as though a statement was voluntarily made by the accused ?

A The statement was made voluntarily by the accused.

---DEFENDING OFFICER: No further questions, sir.

---THE PROSECUTOR DECLINES TO RE EXAMINE.

Q ---QUESTIONED BY THE PRESIDENT: Corporal Campbell, when you went out to Sutton West and you saw the accused at his home there, would you tell us just what conversation went on between either Sergeant Atkinson or yourself, and the accused ?

A You mean prior to going into the house, or ...?

Q Prior to going into the house ?

A Prior to going into the house, the accused was told by Sergeant Atkinson that we were in possession of information indicating that he was in possession improperly of stores the property of the public, which the accused admitted.

Q Was there any further conversation before the accused made this admission ?

A No, sir, not other than Sergeant Atkinson and myself identifying ourselves.

Q What did the accused say in making that admission ?

A What did he say, sir ?

Q Yes, if you can remember ?

A He said that he had some stores in the house.

Q And then after you went into the house, I think you stated that he assisted you in every possible way to find the stuff ?

A That's right, sir.

Q Did you make any further comments to him in the house, or he to you, with respect to the stuff you found there ? You see, I want to get the whole circumstances ?

A I don't recall anything other than asking how he came to having the stuff there, and the accused admitted, or stated, it was a common practice for the personnel of the Returned Stores Depot to take these articles.

Q You can't remember any other particular conversation which may have taken place then ?

A No, sir.

Q Had a charge been laid at that time, or was the matter under investigation ?

A No charge had been laid.

Q Was this purely an investigation that Sergeant Atkinson and you were carrying out ?

A Yes, sir.

Q Did you attempt to obtain any statement from the accused after, when you did find the stuff in Sutton West ?

A No, sir.

Q And before you took this formal question and answer statement had a charge been laid against the accused by anyone ?

A No, sir.

Q I take it then, that the charge was subsequently laid. The charge was later laid against the accused ?

A The charge was later laid, yes, sir.

Q Why did you and Sergeant Atkinson decide to take a formal statement from the accused, in view of what he had told you earlier in the day ?

A Well, the accused was charged. He had to be cautioned, before you could question him.

Q Well, that is not what I am getting at. What I am getting at is this: Earlier in the day he did admit that the stuff you had fouhd in his home was in part, public property, or property belonging to the public. Why, after his having admitted that, did you decide to get a formal statement from him ?

A Up until the time we arrived at the Returned Stores Depot with the accused and the goods, we were not particularly interested in the case. We were willing to turn it over to the Commanding Officer or the 2 i/c to be dealt with. When we arrived at the Returned Stores Depot, there was nobody in authority to take charge. We had to take over ourselves. The statement was taken to produce as evidence at the trial or hearing

Q After you found that nobody was taking charge in Aurora, did you then take over the case ?

A Yes, sir.

Q Is that the reason you obtained the statement from the accused at that particular time ?

A Well, it is a common practice when we charge any person, to endeavour to take a voluntary statement.

Q Had the actual charge been laid just previous to your obtaining this statement, or was it obtained or was it laid after the statement was taken ?

A Will you repeat that ?

Q Was this statement taken from the accused after he was formally charged, or after the charge was laid ?

A He was charged before the statement was taken

Q By whom ?

A By myself and Sergeant Atkinson.

Q How had the charge been laid ?

A The accused was told he was going to be charged.

Q But had any actual charge been laid in a formal way ?

A No.

Q I take it, it was laid after, was it ?

A Yes, sir.

Q And though the formal warning shows, as I remember it, you are charged with something...

A I don't profess to remember, that is, not right off.

Q You may refresh your memory .

A "Before you say anything about the charge preferred against you, I wish to read you the following warning. You are charged with being in possession improperly..."

Q That's what I am getting at. That, in fact, was not absolutely technically correct, in every sense of the word, because a charge was laid later, is that right ?

A That is right, sir.

Q I just wanted to clear that up, Corporal. In the statement which it isproposed to tender to the Court, are all the questions and answers contained therein ?

A Yes, sir.

Q Were there any questions asked which were not answered by the accused ?

A No, sir.

Q And what was done, what,if anything, was done, before the accused signed the statement ?

A The accused was given the statements to read; he read them over, and he stated that they were correct before signing them.

Q Did you say the statements, or the statement ?

A The statement.

Q The statement that has been referred to ?

A Yes, sir.

Q And did he ask that any corrections be made, or that anything be changed ?

A Not to my knowledge

Q Pardon ?

A Not to my knowledge.

Q Were any corrections, or anything of that nature made ?

A I believe there was a correction made in the date. This was signed by the accused.

Q Was that done at the time, during the time he was reading that over, or when the statement was taken ?

A That was done later. After he had read it over.

Q Before or after he had signed it ?

A It would be after he signed it.

Q Was any inducement held out to the accused ?

A No, sir.

Q Was any threat made to the accused ?

A No, sir.

Q Was any promise made to him ?

A No, sir.

Q Was this statement induced by any fear of prejudice or hope of advantage to the accused ?

A Absolutely not, sir.

Q Was the accused induced to speak through the prospect of his receiving a less severe punishment than that which a conviction on theft might entail ?

A No, sir.

Q In other words, this whole matter of everything which took place in connection with the verbal statement at Sutton West, and the question and answer statement at Toronto, has been stated, Corporal ?

A Yes, sir, I think so.

Q You think everything has been stated that took place, as nearly as you can remember, is that correct ?

A That's right, sir.

Q ---PRESIDENT: Are there any questions arising out of my examination, Captain Downey ?

A ---PROSECUTOR: No, sir.

Q ---PRESIDENT: Mr. Le Ber ?

A ---DEFENDING OFFICER: Did you wish to enquire if there were any other people in the room ?

Q ---PRESIDENT: Well, yes. During the time that this statement was being taken, Corporal Campbell, were there any others in the room, that is, besides the accused, Sergeant Atkinson and yourself ?

A The despatcher would be in the room.

Q Who would he be ?

A I couldn't be sure just who the despatcher was that night.

Q Anyone else ?

A And the Sergeant Major. I wouldn't say whether he was in the room when the accused was cautioned, but I do know he did enter the room and went out and re-entered on different occasions.

Q Was there any other possible person who might have been in there during the time this statement was being taken '

A Not to my knowledge, sir.

Q ---PRESIDENT: Any other questions, Mr. LeBer ?

A ---DEFENDING OFFICER: No, sir.

---THE WITNESS WITHDRAWS.

---PRESIDENT: It has been brought out that there were two other people in that room, and my view is that anyone who was present in the room at the time should be produced, if possible, whether they know anything that occurred, or not. I don't know whether you agree with me or not, Captain Downey, or Mr. LeBer, but that is my view at the moment. I would not like to break this up by bringing in other witnesses, and breaking up the trial within the trial.

---PROSECUTOR: I think possibly I could ascertain if these witnesses were available.

---PRESIDENT Will we be able to get any further to-day anyway, in view of what has just come out, Captain Downey ?

---PROSECUTOR: If these witnesses are available we couldn't get any further to-day. If, on the other hand, they are not available, and cannot be called in any event, we could proceed a little further with the evidence on tha case itself.

---PRESIDENT: I think the Court should adjourn until 1000 hours to-morrow.

---On the 11th day of September, 1945, at 1615 hours, the Court adjourns until 1000 hours on the 12th day of September, 1945.

---At 1000 hours on the 12th day of September, 1945, the Court re-assembles pursuant to adjournment

---PROSECUTOR: Sir, there has been some mention made in the evidence of Sergeant Atkinson and Corporal Campbell, the two Provost N.C.O.s, with reference to the fact that there may have been other people present when this alleged confession was taken, or taken and signed, by the accused. It was considered that the Prosecution should endeavour to secure the attendance of these witnesses, for the purpose of placing the whole matter before the Court, in fairness to the accused. It appears, after an investigation, made by the Provost N.C.O.s, that both of these witnesses are not available to give evidence at the present time. It appears that one, C.S.M.Phillips is presently on furlough, and is believed to be in New York City, and the other one, the despatcher, John Cairns, is on, what is called in the Provost Corps, a long change. He is out of the city and cannot be reached. It might be possible to obtain the attendance of these witnesses, but it would necessitate asking the Court for an adjournment, and I am unable to say at the present time - to obtain the presence of these witnesses at the present time, and I hope, with the concurrence of the Defending Officer, I am asking the Court to more or less consider the fact I have attempted to contact these witnesses and cannot do so.

---DEFENDING OFFICER: The Defence concurs with theProsecution in this regard. We do wish to recall, however, the two Provost witnesses for some short questioning.

---PRESIDENT: In connection with the trial within the trial ?

---DEFENDING OFFICER: Yes, sir.

---PRESIDENT: I would certainly grant you that right. Whom would you like to call ?

---DEFENDING OFFICER: Sergeant Atkinson.

5th Witness for THE PROSECUTION (recalled)

B-97712 Sgt John ATKINSON, Investigation Section, 31 Company, Canadian Provost Corps, 339 George Street, Toronto, Ont, is recalled on his former oath at the request of the Defending Officer and questioned through the President:-

---DEFENDING OFFICER: The Defence would like to know why the present witness is dressed in civilian clothes

Q ---PRESIDENT: Why is it at this trial you are dressed in civilian clothes, Sergeant Atkinson ?

A ---WITNESS: I am operating under the authority of the D.A.P.M., and Major Mc Mahon, our Officer Commanding, to wear civilian clothes in the execution of my duties. I have my authority.

Q ---PRESIDENT: Do you wish to see the authority ?

A ---DEFENDING OFFICER: That is acceptable. Might I also know if the witness was so dressed in civilian clothes on the 11th of August.

Q ---PRESIDENT: On the 11th of August, when you made your investigation and took the accused to 339 George Street, Toronto, were you and Corporal Campbell in civilian clothes ?

A ---WITNESS: We were sir.

---DEFENDING OFFICER: That is all, sir.

Q ---PRESIDENT:- Do you wish similar questions to the other witness ?

A ---DEFENDING OFFICER: I guess not, he included Corporal Campbell in that answer.

---THE WITNESS WITHDRAWS.

---PRESIDENT: Mr. LeBer, you have the right, and privilege, at this time to call the accused and have him give his story about what happened, or any witnesses, at this trial within a trial. What is your pleasure ?

---DEFENDING OFFICER: The Defence does not wish to call the accused or any witnesses, sir.

---PRESIDENT: The question now arises as to admission or non-admission of this confession. I think Captain Downey, you speak first.

---PROSECUTOR: At page 90, in the Manual of Military Law, the law is set out pertaining to admissions and confessions, and as it is rather lengthy, I therefore do not propose to read it to the Court,

---PROSECUTOR (Cont'd) but just refer to the paragraphs. The first paragraph deals with rule as to admissions. Paragraph 72. Paragraph 73 deals with meaning of confessions. Then 74: confessions must be voluntary. I would like to read that: "The rule is that before a confession can be received in evidence it must be proved affirmatively by the Prosecution that it was free and voluntary." Paragraph 75 deals with confessions when not deemed voluntary. Paragraph 76 deals with confessions when deemed voluntary. Then it goes on to 77 and 78; and in 78 there are nine rules which have been laid down by the Judges of the King's Bench Division, and which are applicable. And then there is paragraph 79, 80, 81, 82, and 83. I think the real test is whether or not this confession is voluntary or free. On that we have evidence before the Court from two Provosts, and it is submitted that the very appearance of the Provosts before the Court, and the way they have given their evidence, is indicative of the type of men they are; and the Court could see how they gave their evidence, and that their evidence should be believed. They seemed to be very fair and impartial, and even more or less towards the accused. They told the Court how co-operative he was; and I think they tried to give the Court the impression that the accused really helped them in their investigation. I think they wanted to be fair to him in that regard.

However, we find that the two Provost, from the evidence, went to the accused's home, and met him in his back yard; and he was asked if he had any property belonging to the public or government, and he right off the bat, said, in fact, yes. He gave them permission to search his house . They had no trouble. He helped them find the articles, even obtained articles and gave them to the Provosts that they did not even find. He was most co-operative. At the time he apparently told them - he admitted he had this government property. The reason he had it was because it was a common practice for the personnel at the Returned Stores Depot to take these goods, and put them to some beneficial use, rather than see them be destroyed.

---PROSECUTOR: (Cont'd) In any event, the accused accompanied the two Provosts in the station wagon together with the government articles, to Toronto; and they told us he was not under arrest. He apparently came voluntarily; and while in Toronto, after the goods were checked, he was asked if he wished to make a statement. At that time, apparently, he had not been charged, and he was not under arrest. Thereupon he indicated to the two Provost that he wanted to make a statement by means of question and answer. Lance Corporal Campbell asked the questions and Sergeant Atkinson typed out the statement, answers yes and no, I am sorry, questions and answers. They tell us also in evidence, these are the only questions and answers that were given. In other words, they gave the whole situation.

After the confession, or alleged confession, was taken down, the accused read it, signed it, it was witnessed by the two Provosts and the accused signed it in their presence; and later on there was a change made and it was initialled by the accused.

The Provosts say there was no threat - they testify they did not threaten the accused, nor did they hold out to him the prospect of any favour..

It is very respectfully submitted, looking at the evidence as a whole, that the statement obtained was free and voluntary, and therefore, it is urged, and submitted to the Court, that same should be accepted as admissible in this case.

---DEFENDING OFFICER: Sir, the Defence objects to the acceptance or consideration of this proposed exhibit on the grounds that the statement it contains was not obtained in a free and voluntary manner. It cannot be said to be a free statement when both the Provost witnesses acknowledge there were other than themselves and the accused

---DEFENDING OFFICER (Cont'd) in the same room and within hearing during the interview; and two: as regards it being a free statement, we find both the Provost witnesses appearing to the accused at his home in civilian clothes, which hardly bespeaks the comrades-in-arms policy that usually applies in the army, by which the accused would have felt more at ease, instead of being under the impression he was being investigated by some type of special investigator. Nor can it be argued the statement was obtained voluntarily, because, as Corporal Campbell says, the statement was taken from the accused. Then, secondly, both the Provost witnesses said the accused was asked if he wished to make a statement. Certainly this shows the accused did not specifically request to make a statement. He did so at the bid of the Provosts, and it cannot be argued he voluntarily made a statement. Thirdly, it seems there was confusion as to whether the accused was charged before the statement was taken, or after the statement was taken, and this no doubt, was equally confusing to the accused.

With all these factors considered, the defence is definitely of the opinion, the statement of the accused was not obtained in a free and voluntary manner.

---PRESIDENT: The test of whether this alleged confession should be admitted or not, is whether it was free and voluntary. I have listened very carefully to the evidence which has been put in; and it seems to me that this was in every sense of the word, a free and voluntary statement. As the two Provost said that they, or one of them, asked the accused if he wanted to make a statement, after having identified themselves to the accused at his home in Sutton West, they informed him he could either make it in narrative form, or that he could make it in question and answer form. He advised them that he

---PRESIDENT: (Cont'd) would prefer to make it by question and answer. The questions were asked and asnwered; and I have no reason to disbelieve the evidence which has been given before me, that these were the only questions and answers given. The statement was signed, according to the evidence, was read over, - was read over first, was signed, and some correction made afterwards and initialled by the accused, according to the evidence. All these facts, to my mind, establish a free and voluntary statement, and there is certainly no evidence that the accused was threatened, or there was any prospect of favour held out to him. I find this was a free and voluntary statement, and it will be admitted.

---PROSECUTOR: I wish to recall Sergeant Atkinson to produce the statement.

Sergeant Atkinson is recalled, and questioned by the Prosecutor:-

Q ---PROSECUTOR: The President of this Court-Martial has just ruled that the statement obtained from the accused is admissible in evidence. Would you, therefore, please offer that statement to the President of the Court as an Exhibit.

A ---WITNESS: This is a document headed "Headquarters, 31 Company, Canadian Provost Corps, 339 George Street, Toronto, 1830 hours, 11th of August, 1945" and is the statement of B-75591, Private Bones, Horace Granville, R.C.O.C. Returned Stores Depot, Aurora, Ontario.

Q Would you then, just hand it to the President of the Court.

---Pertinent parts are read to the accused, document is marked Exhibit "F" signed by the President and attached to the proceedings.

Q ---PROSECUTOR: I believe, Sergeant Atkinson, did you tell us yesterday, that the goods and stores obtained by yourself were - and Lance Corporal Campbell, were brought to this Court-room by yourself and Corporal Campbell ?

A That's right, sir.

Q Did you tell us that, is that right ?

A That's right, sir.

Q Are these goods in the Court-room at the present-time ?

A Yes, sir.

Q Now, I will take you back now to the time - who checked the stores with you? You did check the stores, you told us, at Ordnance with - who checked them with you ?

A I believe he is Sergeant Donat, and there was a Quartermaster Sergeant there also. I don't recall his name. Two members of the R.C.O.C. at that Depot.

Q Was there anything done at the time of that check in order to give the accused credit for any articles that might be found on his M.F.C. 800 ?

A There was sir.

Q Tell us about that.

A His 800 was procured, his M.F.C. 800, and all the articles shown to be on the 800, on charge against the accused, were taken from the equipment which we had seized, and returned to the accused.

Q And what was done with the articles which you were not sure of ? In other words you were not sure they were public property.

A They are at present in the Court, and were done up in separate bundles and no charge against the man was made.

Q ---PRESIDENT: Regarding those articles ?

A ---WITNESS: Regarding those articles, sir.

Q ---PROSECUTOR: Now, the articles that were considered to be government property, or public property, are where at the present time ?

A They are in the Court-room now.

Q Will you then offer as Exhibits at this Court-Martial those articles, one by one, and telling the Court what the article is and whether or not it is public property, and how you know it is public property. Starting with the way they are set out on the charge-sheet.

A The first exhibit is a set of handcuffs or shackles for which there is no key, sir.

Q ---PRESIDENT: You have seen these. Have you any objection ?

A ---DEFENDING OFFICER: I wish to object on the grounds you called them a pair of shackles.

---WITNESS: They are known as shackles or handcuffs. These are the old style. They used them to place the prisoners of war under restraint. They termed them as a shackle then. I think some police departments might still use them and might still call them a handcuff.

---PRESIDENT: Handcuff or shackle is how you recognize them.

---DEFENDING OFFICER: The objection I have will apply to all these exhibits. It has already been shown in evidence before this Court that there is a time when these articles after they are sorted out then become known as so much poundage or rubbish.

---PRESIDENT: The objection is noted, but the articles will be admitted as exhibits subject to any later objection you may have.

---Handcuffs are tagged, marked Exhibit 1 for purposes of identification.

---WITNESS: The next exhibit is a knife.

---Knife is tagged, marked Exhibit 2 for purposes of identification.

---WITNESS: Army blankets of which there are two, sir.

---Blankets are tagged, marked Exhibit 3 for purposes of identification.

Q ---PROSECUTOR: Sergeant, there is a point I might clear up before you continue. Can you tell the Court, in connection with all these articles, to whom they belong ? What are they ?

A ---WITNESS: They are Ordnance equipment and supplies, sir, and stamped by the Ordnance mark; and they are the property or inventoried at R.C.O.C. Returned Stores Depot at Aurora.

Q ---PROSECUTOR: Speaking generally, to whom do these belong ?

A ---WITNESS: They are the property of the public, sir.

Q ---PROSECUTOR: Then carry on, please, Sergeant.

A ---WITNESS: The next Exhibit are sheets, five in quantity, sir.

Q ---PRESIDENT: If you have any further objection to any of these, if you will, let me know, Mr. LeBer.

---Sheets are tagged, marked Exhibit 4, for purposes of identification.

---WITNESS: The next exhibit, sir, is a Billy. There is one.

---Billy is tagged, marked Exhibit 5 for purposes of identification.

---WITNESS: A drawknife.

Q ---PROSECUTOR: On that partifular knife is there any government markings ?

A ---WITNESS:: Yes, there is, sir. It is on the handle.

Q ---PROSECUTOR: I think, Sergeant, I suggest each time you produce an article you show the government marking, on each one of the articles, if you can find one.

Q ---PRESIDENT: What is the government mark on that?

A ---WITNESS: An arrow with the circle.

---Drawknife is tagged, marked Exhibit 6 for purposes of identification

---WITNESS: The next exhibit is towels, of which there are nineteen. They have a government mark in the corner.

---Towels (19) are tagged, marked Exhibit 7 for identification purposes.

---WITNESS: Nine pairs of black hose, government marked.

---Black socks (9 pr) are tagged, marked Exhibit 8 for identification purposes.

---WITNESS: Kit bags, of which there are four. They are marked just inside here. (indicating inside of kit bag).

---Kit bags (4) are tagged, marked Exhibit 9, for identification purposes.

Q ---PRESIDENT: You are stating the government mark is contained on each of these four bags, or not ?

A ---WITNESS: Yes, it is, sir. The next exhibit is braces, of which there are five pairs, sir, and there is an Ordnance mark on the leather part of the brace, in each case, sir.

---Braces (five pr) are tagged, marked Exhibit 10, for purposes of identification.

---WITNESS: One knife. I don't believe there is a mark on that, sir. It has been identified as a British issue, but there is no mark, no Canadian mark on it, that I know of. It was issued to the Canadian Army overseas.

---DEFENDING OFFICER: It looks very similar to a Boy Scout's knife I once owned. I have never seen that as an issue.

---PRESIDENT: It is a little similar.

---WITNESS: I believe the Ordnance personnel have examined it and have identified it. It has a catalogue number, but they can probably give expert testimony on it. I am not prepared to at the time.

---PRESIDENT: This will be accepted for the time being and will be Exhibit 11.

---Knife is tagged, marked Exhibit 11 for purposes of identification.

---WITNESS: Two pair of trousers, sir, both stamped with the government mark.

---Trousers (2 pr) are tagged, marked Exhibit 12 for purposes of identification.

---WITNESS: One pair of trousers, bearing the Ordnance stamp on the waistband.

---Trousers (1 pr) are tagged, marked Exhibit 13 for identification purposes.

---WITNESS: Trousers khaki drill, sir, bearing the Ordnance stamp on the waistband.

---Trousers K.D. (1 pr) are tagged marked Exhibit 14, for purposes of identification.

---WITNESS: One woollen jacket. I can find no Army mark on it, but I believe the Ordnance people are prepared to give...

Q ---PRESIDENT: It was part of the goods found ?

A ---WITNESS: Yes, sir.

---Sweater is tagged, marked Exhibit 15 for purposes of identification.

---WITNESS: Khaki drill trousers with the Ordnance mark on the waistband.

---Trousers K.D. (1 pr) are tagged, marked Exhibit 16 for purposes of identification.

---WITNESS: Cotton drawers, eight pair, I can't locate the Ordnance marks on them.

Q ---PRESIDENT: Are they part of the goods found ?

A ---WITNESS: Yes, they are, sir. They bear numbers, but have no Ordnance stamp, except one pair. There is one pair stamped. The second pair is stamped. I can find no others. Just the two pair with the stamp.

---Drawers (8prs) are tagged, marked Exhibit 17 for purposes of identification.

---WITNESS: Cotton shirts, of which there are ten. In this case there are some of them numbered, and some of them have an ordnance mark on them, sir. This one is marked; that one is marked also; there is a mark on this one, but I can't see whether it is an Ordnance mark or not. Not all are numbered, some of them are. Four are not numbered, sir, and two are numbered. Two are definitely marked.

---Shirts (10) are tagged, marked Exhibit 18 for purposes of identification.

---WITNESS: Two bonnets, and they are both marked, sir, on the inside.

---Bonnets (2) are tagged, marked Exhibit 19 for purposes of identification.

---WITNESS: One battle-dress blouse marked on the inside of the jacket.

---Blouse is tagged, marked Exhibit 20 for purposes of identification.

---WITNESS: Eight shirts. This one is marked on the collar band; this one is marked, this one is marked; this oneis marked; this one is marked; the marking is faint; I can find no mark; I can find no mark; this one is marked. Six marked, and two not marked.

---Shirts (8) are tagged, marked Exhibit 21 for the purposes of identification.

---WITNESS: One pair of shoes. I don't believe there is any mark. They are very well worn.

---Shoes are tagged, and marked Exhibit 22 for purposes of identification.

---WITNESS: One shirt.

---Shirt is tagged, marked Exhibit 23 for purposes of identification.

---WITNESS: Shirts two. This one is marked. I can see no mark on the other.

---Shirts (2) are tagged marked Exhibit 24 for purposes of identification.

---WITNESS: Three pair of K.D. Trousers. All Ordnance marked on the waistband.

---Trousers (3 pair) are marked Exhibit 25, tagged for purposes of identification.

---WITNESS: Three caps. These are all marked, sir, marked on the inside.

---Caps (3) are tagged, marked Exhibit 26 for identification purposes.

---WITNESS: One pair of drawers, numbered but not marked.

---Drawers (1 pr) are tagged, marked Exhibit 27 for identification purposes.

---WITNESS: One pair of gloves, issued to C.W.A.C. drivers, identified by Ordnance. I don't believe they are marked.

---Gloves (1 pr) are tagged, marked Exhibit 28 for identification purposes.

---WITNESS: Two skirts, C.W.A.C. style, and they are marked on the waistband. Both are marked, sir.

---Skirts (2) are tagged, marked Exhibit 29 for purposes of identification.

---WITNESS: One coat, and it is marked, sir, C.W.A.C. style.

---Coat (1) is tagged, marked Exhibit 30 for purposes of identification.

---WITNESS: Eight pair of mitts, issued to C.W.A.C. personnel, and in some cases they are marked, and some the mark is worn off. Five pairs are marked, and one pair bearing the number W-7814, and the name Kennedy; one pair number W-80037, and the name Perrie. One pair not marked and no identification.

---Mitts (8 pr) are tagged, marked Exhibit 31 for purposes of identification.

---WITNESS: One apron, sir, and it is not marked.

---Apron is tagged, marked Exhibit 32, for purposes of identification.

---WITNESS: Two caps melton. I don't see the mark. It seems to have no mark on it.

---Caps melton (2) are tagged, marked Exhibit 33 for purposes of identification.

---WITNESS: One pair of khaki gloves, unmarked.

---Gloves are tagged, marked Exhibit 34, for purposes of identification.

---WITNESS: Two pair of leather gloves five finger style, and they are not marked, sir.

---Gloves (2 pr) are tagged, marked Exhibit 35, for purposes of identification.

---WITNESS: Two pair of mitts, one bearing the number B-634605. One pair bearing that number and the other bearing the Ordnance mark.

---Mitts (2 pr) are tagged, marked Exhibit 36 for purposes of identification.

---WITNESS: Two pair of gauntlets, sir, and they are Ordnance marked on the inside of the glove.

---Gauntlets (2 pr) are tagged, marked Exhibit 37 for purposes of identification.

---WITNESS: One pair of pantaloons, Ordnance marked on the waist band.

---Pantaloons are tagged, marked Exhibit 38, for purposes of identification.

---WITNESS: Tapsoles, nine pairs, all Ordnance marked, sir.

---Tapsoles (9 pr) are tagged, marked Exhibit 39, for purposes of identification.

---WITNESS: Thirteen pair of top lifts, or heel pieces, all Ordnance marked.

---Top lifts (13 pr) are tagged, marked Exhibit 40 for purposes of identification.

---WITNESS: One and one half pair of gloves, not marked but identified by Ordnance.

---Gloves (1½ prs) are tagged, marked Exhibit 41 for purposes of identification.

---WITNESS: One coat, sir, waterproof, and ordnance marked.

---Coat waterproof is tagged, marked Exhibit 42 for identification.

---WITNESS: One pair of coveralls, bearing the number B-75591, which I believe is the regimental number of the accused. The possibility with this item is they are, or did, belong to the accused rightfully, and were purchased by him on repayment. I am not prepared to state whether they are his rightfully or not. They bear his number, and they may have been purchased by him according to his statement, on repayment. This question arose after the inventory had been made.

---PROSECUTOR: There is no difficulty especially about that. If they are found to be the accused's own coveralls, he will be given credit for them.

---Pair of coveralls is tagged marked Exhibit 43 for the purposes of identification.

---WITNESS: Two coats. There is an Ordnance mark on this one, and I cannot locate one on this one. One is marked and one is not.

---Coats (2) are tagged, marked Exhibit 44, for the purposes of identification.

---WITNESS: One blouse, Ordnance marked, sir.

---Blouse is tagged, marked Exhibit 45 for purposes of identification.

---WITNESS: Two coats. This one is ordnance marked, and the other one is ordnance marked.

---Coats (2) are tagged marked Exhibit 46 for purposes of identification.

---WITNESS: One coat, Ordnance marked.

---Coat is tagged, marked Exhibit 47 for purposes of identification.

---WITNESS: One spokeshave, not marked, but identified by Ordnance.

---Spokeshave is tagged, marked Exhibit 48 for purposes of identification

---WITNESS: One pair of tapsoles, makred.

---Tapsoles (1 pr) are marked Exhibit 49 for purposes of identification.

---WITNESS: One bag, and marked.

---Bag is tagged, marked Exhibit 50 for identification.

---WITNESS: One bag, not marked. A cover, bearing No. B-15695.

---Bag is tagged, marked Exhibit 51 for identification purposes.

---WITNESS: One pair of gloves. Ordnance marked on the inside.

---Gloves (1 pr) are tagged, marked Exhibit 52 for identification purposes.

---WITNESS: Two-cell hand torch not marked, but identified by Ordnance.

---Hand torch, two-cell is tagged, marked Exhibit 53 for identification purposes.

---WITNESS: One three-cell, not marked.

---Hand torch, three-cell, is tagged, marked Exhibit 54 for purposes of identification.

---WITNESS: One duster, not marked.

---Duster is tagged, marked Exhibit 56 for purposes of identification.

---WITNESS: One camp burner. I don't believe this is marked, but it was identified by Ordnance.

---Cookers Portable No 2 Stoves (1) is tagged, marked Exhibit 57 for purposes of identification.

---WITNESS: Belts waist, one. It bears the number 75569, but not marked.

---Belt waist is tagged, marked Exhibit 58 for purposes of identification

---WITNESS: These are belts waist, four. Ordnance identified them as belts. I believe they are straps. No mark on them.

---Belts (4) are tagged, marked Exhibit 59 for purposes of identification

---WITNESS: Belt one, not marked .

--- Belt is tagged, marked Exhibit 60 for purposes of identification

---WITNESS: Belts two and they are not marked. I beg your pardon, they are both marked.

---Belts (2) are tagged and marked Exhibit 61 for purposes of identification.

---WITNESS: Dress trousers, four pair; and they are Ordnance marked on th waistband.

---Dress trousers (four pair) are tagged, and marked Exhibit 62 for purposes of identification.

---WITNESS: Two bags with zipper; and one is Ordnance marked, I believe they both are. Yes, there is a mark on both.

---Bags for A.O. Stores (2) are tagged, marked Exhibit 63, for purposes of identification.

Q ---PROSECUTOR: Sergeant Atkinson, I am showing you a document. Will you look at this document, please and tell me what it is ?

A ---WITNESS: This document is a list of the items found in the possession of the accused. It contains the item name, the catalogue number, the quantity of the item, the value placed on it, the new value, and the value that it was assessed by the members of the Ordnance who examined it along with myself in the presence of Corporal Campbell, and the accused. It is signed by myself, and Sergeant Dunnett, and Q.M.S. Melvin and Corporal Campbell.

Q What relation has the articles mentioned in that document with the articles mentioned in the charge-sheet in this case.

A The articles produced in evidence are the articles named in this list of items found in the possession of the accused.

Q What type of property are these articles mentioned in the list ?

A Public property.

Q You tell us you signed that document yourself ?

A I did.

Q Hand that to the President and tender it as an Exhibit.

Q ---PRESIDENT: Any objection ?

A ---DEFENDING OFFICER: No objection to the document, the admission of the document, but the Defence raises the question of value placed on these goods, in view of the evidence already heard, that these goods are considered as rubbish, and can only be properly valued as so much poundage or rubbish.

---PRESIDENT: I think I see your point, Mr. LeBer. I will accept the document because it shows the articles as listed in the charge-sheet, but with regard to their value, that will be up to the prosecution to establish, if it so desires, in the proper way.

---Pertinent parts are read to the accused, document is marked Exhibit "G" signed by the President and attached to the proceedings.

---PROSECUTOR: In connection with just what has been stated by the Defending Officer and yourself, I would just like to point out that the accused is not being charged with any amount on the charge-sheet. There is no valuation of money in the charge-sheet.

---PRESIDENT: I quite realize that, but as this does show values, if it is your intention to prove values, I think the evidence would have to be tendered in the normal way.

---PROSECUTOR: I think the witnesses which I intend to call from Ordnance to give evidence, can possibly give us that evidence.

---PRESIDENT: I think that is up to you to carry out in your own manner, Captain Downey. What I am trying to make out is this: I am not making these out as true values until they are brought out by a witness in evidence.

Q ---PROSECUTOR: Sergeant, where was the accused when this inventory was checked - when it was being made ?

A He was present with us at the Ordnance Depot at Fleet and Bay Street.

Q Did he take any part in assisting you in taking the check ?

A Yes, sir, he did. He co-operated in every way possible.

Q Was he or was he not present when the list was made up from which that present exhibit was later typed ?

A Yes, he was. There was a rough copy made and this is a true copy of the rough copy, I believe, sir.

Q ---PRESIDENT: Was he present when this was signed by these various people whose signatures appear here ?

A I don't think he was. I am not certain of that.

---PROSECUTOR: I don't think the witness could answer that question, because it was signed in front of me and I don't remember whether the accused was present or not.

Q ---PROSECUTOR: Sergeant, referring to the Exhibit, Number 43, one pair of overalls.

A Yes, sir.

Q You will remember that you ascertained in your evidence that they bore the accused's own number ?

A Yes, they did, sir.

Q Do you know whether or not - did he get a pair of overalls when his M.F.C. 800 was being completed, - in other words,-do you understand what I mean?

A Yes, I believe he did receive one pair. He was charged with a pair of coveralls on his M.F.C. 800 and I believe there was a pair returned to him, and I am also of the opinion...

---PRESIDENT: No, not opinion.

---WITNESS: I have been informed by the accused after the inventory was made up that these overalls were his rightful property and had been purchased by him on repayment at his Unit.

Q ---PROSECUTOR: Sergeant, is there anything else you will to tell the Court yourself, in connection with this case. In other words, has the whole story been told as you know it ?

A I believe I have brought everything out that the accused stated to me in my evidence. There were certain discussions that we had after the statement had been taken, and after this inventory had been made. I could give it in evidence, but I would have to wait for authority from the President of the Court, to know whether it is permissible for me to give that evidence.

---PRESIDENT: I think anything that is relevant to these charges should be brought out because the accused is on trial charged with a serious offence.

---WITNESS: The discussions centered around how he had taken, or had in his possession these articles. He stated that the reason for it was that there was considerable example set for him by other members of the Returned Stores Depot at Aurora, in so much as they were taking goods which would later, or would subsequently be destroyed, to their own homes and making some use of them. He also stated that certain equipment had been loaned to other members of the Returned Stores Depot, and on the authority of the officers or the officer in charge of the Unit; and he considered there was no harm in taking this equipment which was of very little or no value, to his home so that he might make some beneficial use of it. That was his explanation, and I believe that was the only discussion that we had.

Q ---PRESIDENT: Who initiated what you call the discussion, Sergeant ?

A ---WITNESS: I believe I did so myself, sir.

Q ---PROSECUTOR: That is all the evidence you have for the Prosecution ?

A ---WITNESS: That is all .

Q ---THE DEFENDING OFFICER CROSS-EXAMINES: Sergeant Atkinson, you have given evidence to the fact that you searched the premises of the accused, and took away these articles before us, is that correct ?

A ---WITNESS: That is correct, sir.

Q Is it your opinion that all of these articles before us are, or could be, government issue ?

A Yes, sir.

Q Is it your opinion that all of these articles before us are government issue ?

A Yes, sir.

Q I would like to point out one or two of the exhibit, for example the two unit cell flashlight. Have you ever seen a similar flashlight sold in any store, for example ?

A I believe so.

Q Some of the underwear, shirts and drawers, for example, do you think it could be purchased in retail stores ?

A There is a possibility, sir. I have never purchased any of that particular type in a store. I don't know whether it is offered for sale or not, but there is the possibility it might be.

Q But at least you think the flashlight there, for one thing, could be purchased in a retail store ?

A I believe so.

Q So the, not all of these articles, do you agree, are not positively in your mind as a Government issue ?

A There is a possibility it might not be. I am not an expert on Ordnance. I cannot answer the question and be honest with myself.

Q But you and one other Provost conducted a search of the accused's premises ?

A Yes, sir.

Q And you had no Ordnance assistance in the identification of the articles at the time of the search ?

A No, sir.

Q Now, about this search of the accused's premises, you have said in your evidence that it was ordered by Headquarters. Could you be a little more explicit ? What headquarters you refer to ?

A From Major Whitton the D.A.P.M. of No 2 District, at 159 Bay Street sir.

Q Is that all the information you have as to the origination of the order to search the accused's premises ?

A That's all I have with me, I believe, sir. I have a letter - Corporal Campbell may have it now, setting out our authority or the complaint, and it is signed by Major Whitton. I have not got it with me at the moment, but I have that letter. It is probably with the other docu-

Q ---PRESIDENT: Do you wish it produced ?

A ---DEFENDING OFFICER: He hasn't got it.

Q ---PRESIDENT: Is Corporal Campbell here ?

A ---WITNESS: Yes, he is, sir.

Q ---PRESIDENT: I suggest you see him and get it.

A ---WITNESS: I have it here, sir.

Q ---DEFENDING OFFICER: Can you add anything to your last statement re the origination of the authority to search the accused's premises ?

A I cannot, sir. Our information came from the D.A.P.M., and I couldn't say where his information originated.

Q You have said in your evidence that when you arrived at the home of the accused and spoke to him, you put it this way, as I took it down. You asked him was he improperly in possession of public property, and then you went on to say, that he said yes he was.

A That is so.

Q Are you very sure that you used the word "improperly"?

A I believe that that is the term that I used. I may have differed slightly in my phrasing, but I believe that is the way I worded it, practically as it is stated in the letter.

Q Could it have been that you used any other wording in your question ?

A It is possible. I might have asked him if he had in his possession any military equipment to which he had no right but I am not certain. That is the way I approached the man, I believe. I asked him if he was improperly in possession of any equipment, the property of the Returned Stores, and his answer was yes.

Q But, it could be that you asked merely was he in possession of public property ?

A I may have. I may have asked him that. I couldn't swear to it, sir.

Q In your search of the premises of the accused, did you bring away all the public property of an Army issue character, which you found .

A Yes, I did, sir.

Q And that included all his kit and all items issued to him in the regular manner ?

A I believe it included all, or practically all, of his kit. He had some other equipment that we didn't locate in his house, and I believe that is at his own Depot; but everything that belonged to him was brought along with the equipment which I have produced in evidence here.

Q We have heard in your evidence that you loaded the equipment and proceeded with the accused and your colleague to Aurora, where you found not in the local Provost, and then you proceeded to your own office in Toronto, correct ?

A I don't believe I said, or stated, that I found not in the local Provost. We have no local Provost there. I went to Aurora to locate some officer or man in charge of this man's unit, to hand this equipment and the man over to him; but I didn't find anyone there with the authority to do that, and subsequently we arrived, or proceeded, to Toronto.

Q It was to this man's unit you went, and found no-one there of responsibility ?

A That's right, sir.

---THE PROSECUTOR DECLINES TO RE-EXAMINE

Q ---QUESTIONED BY THE PRESIDENT: As I understand your evidence this morning, the accused pointed out certain goods at his home in Sutton West, and there were other goods as well which were taken away, is that correct ?

A That's right, sir.

Q Exhibits 1 to 63, are part of the goods which you took away from his home, is that correct ?

A Yes, they are.

Q Which you, as you have stated, considered to be public property ?

A Yes, sir.

Q But as I understood, your evidence this morning was to the effect there were a number of other articles which are not included in this

charge-sheet.

A Yes, sir.

Q I just want to get some little idea as to how this discussion, as you term it, started, after you had obtained the statement, just now filed as Exhibit "F" .

A The man in his statement stated that this apparent offence was a common one in Aurora, and it was with a view to obtaining additional information and with the idea of possible further investigation into the activities at Aurora, that prompted me to question him further along that line; and with that idea I resumed our discussion at a later date.

Q When was that discussion ?

A I believe it was the day on which we completed the inventory at the Ordnance Depot on Bay and Fleet.

Q Do you remember that date ?

A The statement was taken on the 11th of August, 1945. I think it was the 15th or 16th of August, sir. I am not just certain.

Q But that was after the accused had been formally charged, was it Sergeant ?

A Yes, sir.

Q Was he given any warning at that time ?

A No, he was not, sir.

Q Who else was present ?

A Corporal Campebll and myself, sir.

Q Did he really give you any further information on this last occasion than was in the statement, Exhibit "F" ?

A No, he didn't sir, except that he may have detailed it a little more; but the general information was the same as in the statement which he made on the 11th of August.

Q The information you desired, I take it from your evidence, was information which would link up probably others with the activities at Aurora ?

A That's right, sir.

Q Any reason for not warning the accused at the time, Sergeant ?

A No, I hadn't, sir, any reason. I considered that he had been warned and had made his statement and I hadn't at the time been considering submitting this discussion that we had, at a later date as evidence. Actually, I didn't believe it had anything to do with this case, but that it might lead to further investigation at Aurora.

Q It is very proper that everything that occurred should be given in evidence here, so that the Court may be able to judge just what the situation is.

---THE WITNESS WITHDRAWS.

6th Witness for THE PROSECUTION (recalled)

B-97703 Lance Corporal Peter CAMPBELL, 31 Company Canadian Provost Corps, being recalled, is examined on his former oath, by the Prosecutor:-

Q Corporal Campbell, I propose now to ask you questions in reference to the trial. It is not the trial within the trial. Do you understand what I mean ?

A Yes, sir.

Q The statement with reference to which you had been called as a witness with regard to admissibility, has been admitted and accepted by the Court as an admissible document. I will carry on from there with any questions that might deal with the case itself. Do you remember whether or not I asked you questions dealing with the taking of the inventory at Fleet Street ?

A Yes, sir.

Q I did ?

A Yes, sir.

Q I am showing you a document already filed and accepted by the Court as Exhibit "G". Will you look at that, please. Tell us what it is, its date, and by whom it is signed ?

A This is the document which was made up at the Summary of Evidence when the inventory of goods which were identified as Army equipment was made. It is signed by Captain Downey, myself, Sergeant Atkinson, Sergeant Dunnett, and S.Q.M.S. Melvin.

Q what is the date ? Is there a date on it ?

A I don't see any date on it, sir.

Q Is your signature on there, did you tell us ?

A Yes, sir.

Q Now, you noticed the articles that were set out in that document, signed by yourself, what relation, if any, has the list of articles as set out in that document, Exhibit "G", with the articles as set out in the charge-sheet in this case ?

A It is identical, I believe.

Q You will see on the floor in front of you, in front of the President of the Court, certain goods, will you look at these articles carefully, and tell the Court what they are ? What are these articles ?

A These are the articles that were recovered at the Bones' residence at Sutton West, Ontario, which were identified by Sergeant Dunnett, and S.Q.M.S. Melvin, at Bay and Bleet Streets, Toronto, as government property .

Q Who was present when they were identified as Government property ?

A Myself, Sergeant Atkinson, S.Q.M.S. Melvin, and Sergeant Dunnett .

Q Anybody else ?

A Captain Downey.

Q Where was the accused ? Was the accused present, or was he not ?

A No, sir.

Q Was he present at any time when these articles were being handled ?

A He was present when these articles were handled at our Company Headquarters at 339 George Street.

Q Was he present when these articles were being signed by myself, as officer taking the Summary of Evidence, on the tags, do you remember that ?

A I don't recall that. I wouldn't be prepared to say.

Q For the purpose of the record, Corporal Campbell, these exhibits from 1 to 63, to whom do exhibits 1 to 63 belong ?

A They belong to the accused, as far as I know up to now.

Q Well, you have told us that they belong to the accused. Do you mean that ?

A To my knowledge they are government stores, the property of the public, but were in the possession of the accused.

Q ---THE DEFENDING OFFICER CROSS EXAMINES: Corporal Campbell, you have just stated to your knowledge the goods here laid out were the property of the government in the possession of the accused, and earlier in your evidence, yesterday, if you will harken back, you said then when you called at the home of the accused you enquired of him if he was improperly in possession of public property, is that correct ?

A That is right, sir.

Q Did you use the word "improperly" when you called at the home of the accused ?

A He was asked by Sergeant Atkinson - he was told by Sergeant Atkinson that we had information that he was in improper possession of government stores, the property of the public

Q Did you ask the question ?

A No, sir, I didn't ask it, Sergeant Atkinson did.

Q Now, you mentioned a few minutes ago that in connection with the goods you took away from the home of the accused, that they were goods you had recovered from his premises. Now, what did you mean by the word "recovered" ?

A Recovered, or obtained, or seized, or whatever you want.

Q Do you not think there is some difference in meaning between "recovered","obtained", or"seized" ? Do you mean then, that you just seized the goods, or took the goods away ?

A We took the goods away. That is what we did.

Q That is what you meant to say in that statement, that you took the goods away ?

A Yes, sir.

---THE PROSECUTOR DECLINES TO RE EXAMINE

Q ---QUESTIONED BY THE PRESIDENT: Corporal Campbell, as I recall your previous evidence, you stated that a quantity of goods were taken from the home of the accused in Sutton West, to Aurora, to George Street, and ultimately turned over to the R.C.O.C., is that correct ?

A That is correct, sir.

Q Did the goods taken consist of the goods already filed as Exhibits here, 1 to 63, or were there additional goods ?

A There were additional goods.

Q Is the accused charged with any of these additional goods ?

A Not to my knowledge, sir.

Q Do you recall if after this statement was taken, there was any discussion with the accused, regarding the situation at Aurora, either the same day or at any later day ?

A Yes, sir, there was.

Q Do you remember approximately when ? The statement is dated the 11th of August, I may say.

A I recall it took place at Bay and Fleet Streets, but I wouldn't be sure of the date.

Q Was it within a reasonable time after, or what would you say regarding that ?

A Possibly five or six days later.

Q Who initiated the discussion, the accused? yourself? or whom ?

A I believe it was initiated by ourselves with a view to further investigation.

Q By ourselves ?

A By Sergeant Atkinson and myself, with a view to continuing a further investigation at the Returned Stores Depot.

Q Was the accused warned before this discussion was initiated ?

A No, sir he wasn't.

Q Was any information obtained - any additional information, obtained which was not covered by the statement, Exhibit "G" ?

A No, there was no additional information.

Q What was the purpose of your discussing the matter further with the accused ?

A It was in view of a further investigation at Returned Stores Depot.

Q I take it then, it was for the purpose of going into the matter further with regard to the Depot at Aurora ?

A Yes, sir.

Q Do you remember what the accused said at that time ?

A I can't just recollect his conversation word for word, but it was to the effect that it was a common practice for personnel at the Returned Stores Depot to take these articles.

Q Was anything further said that you remember ?

A I don't believe there was, sir.

---THE WITNESS WITHDRAWS.

7th Witness for THE PROSECUTION — B-2832 Sgt A.R. DUNNETT, R.C.O.C., Special Distributing Depot, R.C.O.C. CA, being duly sworn is examined by the Prosecutor:

Q Where are you employed ?

A I am employed at the R.C.O.C. Depot at Bay and Fleet Streets, Toronto, and one of my duties is to identify stores, and on the 14th, 16th, and 17th of August, I was asked to identify those stores which were said to have been found in the possession of Private Bones, who is present here, and I made an identification. I divided them into groups, those stores which were definitely public property, and those stores which we felt quite certain , but were not stamped with the government stamp

and were therefore not public property. We obtained at this time the M.F.C. 800, and took a number of articles from the stores which were public property to fill his 800. When that job was completed, we listed the items that remained and they seem to be the ones in front of me at the moment.

Q What is the name of the Ordnance place ? What is the name of your Unit ?

A Special Distributing Depot.

Q And what street is it on ?

A Bay and Fleet Streets, Toronto.

Q You mentioned Private Bones, here present. Who is he in the Court room here ?

A He is the chap on my right.

Q You are indicating the accused ?

A That is right.

Q Did anyone assist you in making up this list and sorting out these stores ?

A I can't possibly be familiar with all types of stores. We have a few technical stores and Corporal Adlum of our Stores, has a good knowledge of technical stores, and he assisted me. Mr. Bendall, he also assisted with the identification of the remaining general stores. That was a means of total check to make sure we had the correct identification.

Q At the time were there any other Ordnance personnel there, for pricing purposes ?

A Yes, sir. There was S.Q.M.S. Melvin.

Q Were there any other military personnel present at the time assisting in sorting these out ?

A Not throughout. Two members of the Provost were there throughout the procedure. Captain Chick assisted us periodically to make sure everything was going on alright, but he wasn't there throughout.

Q What is the name of the Provost member ?

A Sergeant Atkinson, and Corporal Campbell.

Q Where was the accused when this check was being made ? At least part of the time.

A Part of the time he was in the ante-room adjacent to where the stores were held. He was there when we filled his 800. He assisted us in every way in order to make sure he was given every article he was entitled to.

Q Do you remember myself signing the articles ?

A We laid these things out and read off the identification number, the catalogue number, and then they were signed by Captain Downey.

Q Where was the accused when these were being signed by myself ?

A I wouldn't know all the time, but part of the time he was in the room adjacent to where I mentioned before.

Q You don't know where he was when they were being signed by myself ?

A I couldn't be sure.

Q I think you told us you make two piles out of the articles?

A That's right, sir.

Q Out of the one pile you completed his 800 ?

A That is from the stores which we were certain were public property.

Q What was done with the other stores ?

A The other stores we listed and they were subsequently packed away by the men in the Provost. They were packed away by the Provost. They were listed - both Government stores, and those we were not certain were government stores - they were listed and I saw them no further after that.

Q I am showing you a document, Exhibit "G". Tell us what it is ?

A This is the list I was responsible for drawing up, and are the stores that were known to be government property, both in current issue, and obsolete stores, signed by myself for the identification; S.Q.M.S. Melvin, who was responsible for pricing them; and Sergeant Atkinson; and Corporal Campbell; who were at all times present. They were the members of the Provost.

Q What is the total amount shown on that list ?

A $124.87. That is not the total value, but fifty percent of the catal ogue value of the stores involved.

Q How did you arrive at fifty percent ?

A I didn't arrive at that, sir. S.Q.M.S. Melvin can best describe that. He has the authority on that.

Q The list of things as set out in that list you have just returned to the President of the Court, Exhibit"G" - what relation have the articles in that list with the articles you see on the floor of this room ?

A As far as my memory serves me...

---PRESIDENT: You may check them if you desire.

---WITNESS: I am satisfied they are the same articles that I checked.

Q To whom do these articles belong ?

A They all either have the government stamp of the Dominion of Canada, or by frequent handling we know them to be government property. Therefore, we know them to be government property.

Q In other words, you are telling us these exhibits, from 1 to 63, you are telling us they are government property, is that right ?

A That's right, sir.

Q Were you present when the M.F.C. 800 was prepared and everything he was deficient was given to him ?

A Yes, sir.

Q I want you to look at Exhibit 43, one pair of overalls. Open them up and look at the regimental number inside. What is it ?

A R-75591.

Q Do you know whose regimental number that is ?

A No idea, sir.

Q I think it is only fair to tell him. Put it this way. If the accused was short a pair of coveralls, would he receive a pair of coveralls ?

A Absolutely, sir. We made no attempt to fill the 800 with the actual stores that Private Bones was issued with originally. We had no means of knowing which they were. As long as he had the actual count of items called for on his 800, that is all we were concerned with.

Q How long have you been in this type of work ?

A My experience in Ordnance ? I have been in Ordnance for three years and two months; with the exception of nine months, I have been doing this type of work. Nine months I was in the Infantry Corps.

Q Can you explain to the Court the reason why some of these articles bear on them the government mark, and some do not ?

A Yes, I can, sir. Certain items, - textile items are stamped with a stamp that is not indelible. With frequent washing it is no longer any value as a means of identification. Metal items which can only be stamped with an electric arc are sometimes not stamped. Up until recently items were turned over to Ordnance by the manufacturers not stamped. They were in a hurry, and they were not stamped. We are at present carrying out a program of stamping these articles, but it is not completed. These were no doubt issued before that stamping job had been done.

Q Are you in a position to tell us anything about the value of these articles ?

A No, sir. In Ordnance I am not concerned with their value. That is looked after by our General Office. They have a means of telling the value.

Q Are you in a position to tell us whether they have any value as articles or whether they have a value as rubbish, scrap, or poundage ?

A Yes, sir. Experience tells me they have a definite value. Aurora Depot is set up - their peculiar function is to place them in the categories you mention, but I know from experience an article has value. As far as giving it value in a certain lot of produce, I can't do that. These stores are placed before the Army Disposal Board. They put a value on them. I have no idea of that. I know these stores that are at present here have value as articles to be later issued, with the exception of these articles that are obsolete, and they have a value only as salvage.

Q Can you tell them by looking at Exhibit "G", the last document ? I will show you Exhibit "G" again. Can you tell us what you mean when you refer to the obsolete stores?

A These belts, sir. I can't quote the Routine Order, but they have been declared from time to time obsolete. They are belts which were in use in the last War, and these all have been in Ordnance Stores, and have been declared obsolete, turned over by them, and sold as salvage; or used in the workshop, if they were of value. Insofar as the bags and dress trousers are concerned, we are unable to find anything definite on them. We know they are Government stores, because they have the government stamp on them, but further than that, we cannot go. We know they are not a current issue.

Q Give us the Exhibit numbers of the belts and the trousers , and the bags you just referred to ? You will have to look on the articles themselves. It is written in lead pencil.

A Exhibit number 60, Exhibit number 61, and Exhibit 59 are the belts in question. Exhibit number 62 are the trousers; and the bags are 63.

Q What about Exhibit number 58 ?

A That is 1908 equipment and has been obsolete for about three years.

Q So, briefly, 58, 59, 61, 62, and 63, are obsolete stores, and have no value as articles, is that what you are telling us ?

A No value as articles, only salvage.

Q The rest of the articles you see, have they an article value, or not ?

A In order to do that, I would have to go through each article individually. That is the duty of the Aurora Depot. When I listed these things, I listed them according to their being government issue.

Q Have or have they not any value other than salvage value ?

A Generally speaking, yes, sir.

Q CROSS EXAMINED BY THE DEFENDING OFFICER: Sergeant, you did mention that by frequent handling you know these articles to be public property.

A That's right, sir.

Q Do you mean by that you know them only to be public property ?

A There are certain articles if not public property, they are of a like kind. I know the drawers and shirts, - that is the only thing I can think of at the time - they are sold to the public. They are a common article sold for use in retail stores, and they are also Army issue. Whereas, I didn't go over every article to find the stamp, from common usage we know that kind as being Army issue.

Q Other articles I recall as having no mark, being the two flashlights, and I think that grease gun. Do you know if they are a regular item on sale in retail stores ?

A I think so. I think it is possible those items could have been obtained. I think a great many stores in Ordnance are at the present time not marked.

Q So, there are certain items that are not exclusively property of the government but can be obtained by anybody in retail stores ?

A There are certain articles, that is right, sir.

Q Can you tell the Court about articles that a soldier buys on repayment? Do these articles become listed on his M.F.C. 800 ?

A They do not, sir. They go on his M.F.C. 512. No, they are not on his 800.

Q Is there any other manner that you know of, Sergeant, in which a soldier can obtain stores or equipment through his Quartermaster stores ?

A There is no other way, sir.

Q Is it possible to obtain a loan of stores or equipment ?

A As a general procedure, no. There might be exceptional circumstances. I am not prepared to say that. As far as I know personally, there is no other way.

Q Have you ever heard of stores being loaned by a Quartermaster on a packing slip signature ?

A No, sir.

Q You have told us that it is not your job to evaluate articles, is that right ?

A That is correct, sir.

Q So then, in view of that you can give only an opinion of the value, or that these articles are of value, is that not so ?

A That is rather difficult, sir. I receive stores every day. You might say all such stores I receive it is only my opinion they are of value, even when they are brand new, in most cases. Yes, it is my opinion from practice in Ordnance that they are of value. I didn't check the value of every one of these articles. That is not my job.

Q It is a question of theory, if you like, but it still remains just your opinion, is that not so ?

A I don't know just exactly what you mean .

Q I appreciate it that you are looking at the thing from a common sense view. But you have told us you do not evaluate articles, but you are of the opinion...

A My experience in Ordnance has told me they are of value. Those articles which I had some idea in my mind they were of value, I had two people to corroborate my opinion, just to be certain, I had two people to back me up in the claim that I made.

Q You have told the Court that some of the equipment here has been, shall we say, out of issue, and therefore consigned to the Aurora Depot to be disposed of as salvage, or otherwise, is that correct ?

A That is right, sir.

Q And are there any other articles here in front of you that you can so distinguish ?

A Just the items mentioned. All the others are, to the best of my knowledge in current issue, right up to the moment. Certain articles that are superceded by later models become of little value and are likely to find their way to some salvage pile. This is only valued as scrap; whereupon metal is only valued as pounds, that is, no article value.

---THE PROSECUTOR DECLINES TO RE-EXAMINE

Q ---QUESTIONED BY THE PRESIDENT: When referring to these various Exhibits I noticed, or rather I noted, that when you were being examined by the Prosecutor, you said that all these articles either have a stamp or by frequent handling I know them to be public property; then later on in cross-examination, I noted breifly: drawers and shirts are sold to the public and are also Army issue, and flashlights, and grease guns, could be obtained in retail stores. You are, I believe, somewhat of an expert in Ordnance stores ?

A In the identification of Ordnance stores.

Q What I will get you to do here is go through these Exhibits and say what is public property, what is apparently public property, and what is not. I think that is the only way we can arrive at the true situation. Have you anything to say ?

A I gather I am asked to prove all these articles are public property.

Q That is what I have in mind, by one means or another.

A That to be done a hundred percent I would have to pick up every article and search it to see if it has a stamp. That would be a start. That is the only way it could be done.

Q Then, let's go.

A It took three days to identify these things.

Q I want you to tell me, I am not anxious to do this any more than you are, but the accused is charged with theft and in the alternative improper possession of public property. Can you definitely say that all these things are public property without having to check the various...

A For reasons that I have already given, I am prepared to say they are public property.

Q Then, alright. How do you explain what you said to me that certain drawers and shirts are sold to the public and are also Army issue ?

A That is right, sir.

Q Then, how can you tell me that any shirts held as exhibits in this case are actually Army issue ?

A May we then take those items in question and go over those ? May I do that and settle those items you have specifically mentioned, those articles known to be on sale to the public, and Army issue ?

Q Wouldn't you be able to go through the Exhibits and tell me without too much trouble ?

A If it is your wish, sir, I will go through them all. I am trying to make it simple.

Q How are we going to get at it any other way, Sergeant ?

A Alright, sir.

Q Alright, start at one.

A One has the government stamp.

Q Exhibit 1. Can you tell me whether it is public property or not, and why you say so.

A I know it to be government property, because it has the stamp of the Dominion of Canada. (Exhibit 2) If this was ever stamped, it is ground off. There is no identification.

Q How can you tell whether it is public property or not ?

A It is of a like kind to that in our stores at 636 Bay. Other than that I can't tell. It is similar to Army issue, identical, I will say that.

---DEFENDING OFFICER: You wouldn't like to ask if it is similar to that Mr. Eaton sells, sir ?

---PRESIDENT: You will have an opportunity later. (To witness) You say similar to that in issue, where ?

A ---WITNESS: In our sub-depot at 636 Bay Street.

Q That is Exhibit 2 ?

A Yes, sir. These, sir, I know are not stamped because...

Q State the Exhibit number .

A It is Exhibit 3. There was a lot of correspondence between the Depot and Ottawa. They were trying to find a dye that would stick to these blankets and it has not yet been discovered. The result is none of the blankets in Ordnance, to my knowledge, is stamped. The colour, the finish of them, the fact that they have a stripe down the centre, I am satisfied in my mind they are Government issue. I cannot prove it beyond that.

Q You are now referring to Exhibit 4, five sheets ?

A Yes, sir. If these ever had a mark, sir, it is washed out. I see no identification on any of the sheets.

Q The sheets have no mark.

A This is not a government stamp, but it is some proof of ownership. One of the sheets contains the words "Chorley Park Military Hospital".

Q That is Exhibit 4.

A This was processed, one serviced in R.C.O.C., Kingston, at the Returned Stores Depot there.

Q As I have it: one sheet contains the words "Chorley Park Military Hospital" and one sheets contains the words, "R.C.O.C. Kingston".

A There are no other marks, sir. The other three sheets bear no marking.

Q What have you to say with reference to the other three sheets ?

A I am satisfied, sir, they are similar to the ones which are marked, and are government issue, sir. (Exhibit 5), There is no mark shown. Oh, yes, there is a government stamp.

---PROSECUTOR: Exhibit 5, public property.

---WITNESS: Drawknife. There is a stamp on the handle. (Exhibit 6)

Q ---PRESIDENT: Exhibit 7. Nineteen towels.

A ---WITNESS: Nothing, other than the fact it bears a man's regimental number.

Q ---PRESIDENT: One regimental number. Public property.

A ---WITNESS: Second, nothing on that one, sir. Third, no marks, sir. Fourth, I believe that was once a government stamp, but it is washed out. I can't prove it one way or another. Four, bears the general outline, but it is very indistinct. Five, that one is very plainly marked with a government stamp. Six, no markings. Seven, no markings. Eight, this one has - I can't swear to that, it doesn't mean anything. Nine, a regimental number, sir. Ten, the remains of a government stamp, sir. Eleven, regimental number, sir. Twelve, no markings, sir. Thirteen, Government stamp on it. Fourteen, no markings. Fifteen, "C.T.C." are some of the letters, I can't see what the rest of it is. Sixteen, no markings. Seventeen, no markings. Eighteen, regimental number. Nineteen, no mark that means anything on it.

Q ---PRESIDENT: With reference to the various towels in Exhibit number 7, is there anything about them - anything else about them which leads you to state that they are public property ?

A No, sir, just the fact that some have the stamp. That is the only kind issued to the Army. I am not prepared to say whether they are sold outside. I don't know.

Q Are they all of a similar design, and so on ?

A Yes, they are, sir.

Q Of a similar length, are they ?

A Yes, sir.

Q Any other similarities ?

A No, sir, they are all the same size, same pattern.

Q Exhibit 8 ?

A They are all brand new and have the government stamp. Exhibit 9: one has the name of the Manufacturer, date of manufacture, September, 1943. The next one, sir, has a regimental number; and this has a regimental number, the regimental number of Private Bones. This is in the same category as the coveralls. We filled his 800, without making any attempt to include the original issue. We didn't check for the original issue. The next one has a regimental number and name. This one is marked "Basic Training Centre," sir, it also has the government stamp

Q Exhibit 10 ?

A There is a government stamp. No identification, sir. No identification, sir. No mark. No mark, sir, oh, I beg your pardon, Government stamped.

Q About these various items in Exhibit number 10. Is there anything similar about them or anything else to lead you to believe they are public property ?

A Various colours have been issued from time to time. They are all of the same weight practically, but not of the same pattern.

Q Is there anything else you would like to say about that exhibit, Sergeant?

A Nothing, sir.

Q Exhibit 11 ?

A It has a British stamp.

Q What does tht indicate ?

A It indicates that it was issued in Great Britain, but British stores were issued to Canadian troops.

Q What have you to say as to whether or not it is public property ?

A I know of nothing other than it has a stamp on it. I have never seen the article before.

Q Exhibit 12, two pair of trousers ?

A They both have the government stamp.

Q Exhibit 13.

A The next pair of trousers also has the government stamp.

Q Exhibit 14 ?

A Government stamped.

Q Exhibit 15 ?

A No marking on this.

Q What colour is that ?

A Khaki, sir.

Q Anything else about it ?

A Other than it is similar to what was issued to soldiers about years ago. This was the standard issue.

Q Exhibit 16 ?

A Government stamped, sir.

Q Exhibit 17 ?

A One not marked. Two not marked. Three not marked, sir, yes, sir, there is I believe that is the government stamp. Four, this one has a regimental number. Five, the next one has a regimental number. Six, the next one has a regimental.number. Seven, the next one has a regimental number. Eight, government stamped, sir.

Q In connection with the various articles made up in that Exhibit, what would you say with reference to them generally ?

A They are, to the best of my knowledge, the only type of summer underwear, shorts, issued to men.

Q ---PRESIDENT: In the Army ?

A In the Army. I don't know about the other services.

Q Are they all similar to one another ?

A Yes, sir, various sizes, but all the same otherwise. Same style and type.

Q Number 18.

A One not marked. Two, this one sir, has the government stamp and a regimental number. Three, no markings, sir Four, government stamped, sir. Five, government stamped, sir. Six, Regimental number, sir. Seven, Government stamped, sir. Eight, no markings, just the firm name. Nine, Government stamped, sir. Ten, government stamped and regimental number.

Q Anything you wish to tell the Court about the various articles making up Exhibit 1 8 ?

A They are all of a like pattern, that is all, sir.

Q Anything further about them ?

A No, sir. I might add, similar to the drawers, they are the only type of undershirts issued to Canadian soldiers in this country.

Q Exhibit 19 ?

A These both have the government stamp.

Q Exhibit 20 ?

A Government stamped, sir.

Q Exhibit 21, there is eight.

A One not marked. Two not marked. Three government stamped. Four, government stamped. Five, government stamped. Six government stamped. Seven government stamped. Eight, government stamped.

Q Is there anything else about these shirts you would like to add on the record, Sergeant ? What colour are they ?

A They are khaki shirts, we issue to Canadian troops. They are made according to the definite Army pattern , insofar as the pockets and this particular style is concerned. It is not open completely down the front. They have epaulets.

Q Exhibit 22 ? One pair of shoes.

A The mark is usually there, but they are so badly worn.

Q Can you tell if they are Army issue or not ?

A They are similar to Army issue. They have plain toe caps, beyond that I cannot go. The same style. They are finished in front the same as an Army issue.

Q Shirts, one, Exhibit 23.

A It was definitely processed in an Ordnance Depot. There is an Ordnance sizing stamp on it. I am satisfied it is Army issue. I identify it as being Army issue.

Q Exhibit 24. Two shirts.

Q That one is Army stamped, but I cannot see it on this one. Not on that one, sir.

Q Can you tell us what you find in connection with these two shirts ?

A They are both of the same cut as made for the Army. The collars are identical. Ties cannot be worn with them. They are less collars.

Q What colour are they ?

A Khaki.

Q What about texture ?

A They are both made of the same material. The colours vary slightly. They are of different ages. One has been washed more often.

Q Exhibit 25.

A One has a regimental number, sir. Two has a government stamp, sir. Three a government stamp.

Q Colour ?

A Khaki, sir.

Q Exhibit 26. Caps, three.

A Government stamp. Government stamp. Government stamp.

Q Exhibit 27. Drawers.

A Regimental number.

Q Exhibit 28. Gloves, one pair.

Q There is a regimental number and name of a C.W.A.C.

Q Exhibit 29. Skirts 2 .

A The word "C.W.A.C."and"4 Company", I think is what it is. I am not certain about the Company. It is four and a letter. This has the government stamp.

Q Exhibit 30, 1 coat.

A It has the government stamp and the regimental number of a C.W.A.C.

Q Exhibit 31, Mitts.

A One has a C.W.A.C. regimental number. Two, government stamp. Three, name and number of a C.W.A.C. Four, government stamped. Five, regimental number of a C.W.A.C. Six, regimental number of a C.W.A.C. Seven, regimental number of a C.W.A.C. Eight, regimental number and name.

Q Exhibit 32. Apron one.

A Not marked, sir.

Q Can you tell us anything about that particular type of apron ?

A Other than the fact that it is identical to those which we have on charge for issue to the C.W.A.C.

Q Exhibit 33 ? Caps winter melton.

A No distinguishing mark on that. Both made by the Buffalo Cap Company, similar to those we have in stock, but there is no name, no government stamp on them.

Q What type of caps are they ?

A Caps winter melton.

Q Exhibit 34 ?

A No distinguishing marks on these gloves woollen.

Q What colour are they ?

A Khaki, sir.

Q anything further you wish to say about them ?

A They are identical with those which are issued by Ordnance.

Q Exhibit 35. Gloves 2 pair.

A Both pairs have the government stamp.

Q Exhibit 36. Mitts two pair.

A Both pairs have the regimental numbers.

Q Exhibit 37. Gauntlets two pair.

A That pair has the government stamp and so has that pair, and also there is a regimental number on one pair.

Q Exhibit 38 ? Pantaloons.

A Government stamped, sir.

Q Exhibit 39 ? Tapsoles, nine pairs.

A They all have the government stamp.

Q Exhibit 40, top lifts ?

A They all have the government stamp .

Q Exhibit 41, gloves one and a half pairs .

A No distinguishing marks.

Q Have you anything to say about them ?

A Nothing, other than the fact they are identical to those we have on charge at our Depot.

Q Exhibit 42, One coat.

A Government stamp, sir.

Q Exhibit 43. Overalls.

A They have a regimental number. I think this was the one in question. It had the regimental number of Private Bones, B-75591. Private Bones.

Q Anything you wish to say about that ?

A Should I repeat what I have already said about the reason for that being there ?

Q Perhaps you might as well as we go along.

A When these stores were identified as government issue, regardless of whether or not, they belonged to Private Bones, they were put in one group, and then we filled, we took the necessary number of items to complete his M.F.C. 800, and we did that regardless of the number, the regimental number, written on the article.

Q Exhibit 44. Two coats ?

A One has the government stamp and the other has no identification.

Q Have you anything to say about these ?

A The one without the marking is identical to the one which has the government stamp on it, and similar to those we hold ready for issue, in our Depot.

Q Exhibit 45, One blouse.

A It has a government stamp.

Q Exhibit 46. Coats 2 .

A "R.C.O.C. Aurora" and it has a regimental number. This one is marked "Edmonton Fusiliers" and it also has a government stamp.

Q Exhibit 47, Coats one ?

A It has a government stamp, sir.

Q Exhibit 48. Spokeshave, one.

A There is no government stamp on it.

Q Anything you wish to say about it ?

A Identical to those we hold on charge for the purpose of issue.

Q Exhibit 49, tapsoles ?

A Both pair have the government stamp.

Q Exhibit 50. Bags ration one .

A It has the government stamp.

Q Exhibit 51. Covers one.

A Regimental number, sir. Nothing further that I can say.

Q Exhibit 52. Gloves one pair.

A Both have the government stamp.

Q What type of glove is that.

A Used in gas decontamination.

Q What material are they ?

A Rubberized cotton, I should imagine.

Q Exhibit 53. Two cell handtorch.

A There is no markings, sir.

Q What colour is it ?

A It is khaki, and identical with those we have on charge in our Depot.

Q Exhibit 54. Three cell hand torch.

A No marking sir.

Q Anything else you wish to say about it ? The Colour ?

A Khaki.

Q Anything else ?

A Similar to those around the Depot.

Q Exhibit 55, grease gun ?

A No markings, sir.

Q Anything you wish to say about it ?

A The man who is an expert on these things, identified it as being...

Q I am asking you.

A I stated in the evidence there were men specially qualified to identify technical stores. Through him I would say this is an Ordnance Issue.

Q Through yourself, what would you say ?

A I would say it is Ordnance stores.

Q Reason ?

A The reason given. It is identical to those in our stores at Depot.

Q Exhibit 56.

A This is not an Ordnance Issue. There is reason to believe it was bought on local purchase for use in Aurora, beyond that I can't go.

Q What colour is it ?

A Khaki. It has not got a government stamp on it.

Q What type of duster would you call it ?

A It is a duster for spraying powder to kill insects.

Q Exhibit 57 ? Cooker portable.

A It is identical with those which we have on charge at our sub-depot at 636 Bay Street.

Q Its colour ?

A Colour, khaki, sir. I can't see any marking on it, sir.

Q Belts waist one, Exhibit 58 ?

A This has a regimental number, sir, but this is one of the obsolete articles that was mentioned.

Q Exhibit 59 ? Belts four.

A They no longer have any mark, sir. None of them are marked, sir.

Q Have you anything you wish to say about these ?

A They are identical with those which have been used in the Aurora boot shops, used to repair boots in Aurora. These are obsolete. They are used for the leather content only.

Q Exhibit 60, Belts, one.

A Government stamp.

Q Exhibit 61 ? Belts two.

A Both have the Government stamp.

Q Exhibit 62. Dress trousers, blue with red stripe, two pairs.

A Both the trousers have the government stamp. All have the government stamp.

Q Exhibit 63 ? Bags two with zipper.

A Both have the government stamp.

Q Sergeant, I take it that for the reasons given you say these goods are public property, am I correct in that ?

A Yes, sir.

---THE WITNESS WITHDRAWS.

---On the 12th day of September 1600 hours the Court adjourns until 1000 hours on the 13th day of September, 1945.

---At 1000 hours on the 13th day of September, 1945, the Court reassembles pursuant to adjournment.

8th Witness for THE PROSECUTION

B-3936 S.Q.M.S. J.P. MELVIN, R.C.O.C., Special Distributing Depot, Toronto, Being duly sworn, is examined by the Prosecutor:

Q Will you tell the Court where you are stationed ?

A I am stationed at Bay and Fleet Streets.

Q What is the name of your Unit ?

A R.C.O.C.

Q What is the name of the Depot ?

A Sepcial Distributing Depot.

Q And how are you employed there ?

A Chief stocktaker. Supervisor of stocktaking.

Q Do you know the accused ?

A Yes, sir.

Q What is his name ?

A Bones. Private Bones.

Q Do you recall the dates of the 14th, 16th, and 17th of August, 1945 ?

A I do.

Q Did you do anything on these three days that might be relevant to this case ?

A One of these days I do recall identifying and pricing stores presumed to be in the custody of the accused.

Q Was anybody else present when you did that ?

A Yes, sir.

Q Who were they ?

A Yourself, Sergeant Dunnett, and the Corporal from the Incoming Clearing Area, and a civilian from the Incoming Clearing Area, and Private Bones.

Q Anybody there from the Provost Corps ?

A A Provost Sergeant and Corporal Campbell, and I forget the other chap's name.

Q Where was the accused ?

A Part of the time he was in the room where these stores were located, an ante-room, and part of the time he was in an adjacent room to the Chief Ordnance Officer.

Q Was he in the room at any time where these goods were while you were pricing these goods, do you remember ?

A I don't recall that.

Q Will you tell the Court the procedure that was followed in pricing these goods ?

A Thefact of the matter is these stores were not priced in the room while anyone was there. We didn't price these stores in the room at the time. They are priced in accordance with the Canadian Ordnance catalogue, the V.A.O.S., the catalogue of Ordnance stores, which was done in my own particular department.

Q Was the accused given credit for anything, do you know ?

A He was given credit for anything that was on his 800.

Q After he was given credit for anything that was on his M.F.C. 800, how were the other articles looked after ?

A They were enumerated, listed, and priced, in accordance, as I previously stated, with the catalogue of Ordnance Stores.

Q Did you price all the articles, or were there other articles not priced ?

A A number of articles could not be identified as ordnance stores, and were not priced.

Q I am showing you a document that has already been produced in this case, and marked Exhibit "G". Would you look at that please, and tell us what it is ?

A Yes, sir, that is the list of stores which we priced.

Q Will you look at the last page, please, by whom is that document signed

A By myself, Sergeant Dunnett, Sergeant Atkinson, Corporal Campbell.

Q What is the total valuation of all the articles ?

A $124.87.

Q Are there any articles shown on there that have no value as articles ?

A Yes, sir, there are salvage items, or obsolete items, which are known to have salvage value only, which could only be established by the sale of the said goods.

Q What would call that ? Scrap value, rubbish value, or poundage value ?

A Poundage value.

Q What are the articles you say have only poundage value ?

A Belts waist 1908 pattern; also dress trousers, which I have no idea of those at all. That is a permanent force issue. The bags for anti-gas stores, with the zipper, have no vocabulary heading.

Q Referring to all the other articles mentioned therein, you have given them a value, is that correct ?

A That is correct.

Q What value did you place on them ?

A We took the Unit value and reduced it to fifty percent of the original, owing to the fact they were considered to be non-serviceable stores, until such time as they were processed at A urora , at which time they would be returned to the Special Distributing Depot for re-issue to Units.

Q Do you consider that a fair valuation ?

A Very fair. The charge placed on stores to be purchased if lost by Army personnel is seventy-five percent.

Q You mean losing by neglect ?

A Losing by neglect

Q Is there any possible chance these articles you have just referred to have only a valuation for scrap,rubbish or poundage value ?

A No, sir, I think everything here is fit for re-issue.

Q You have told us the only poundage value articles are the ones that are obsolete ?

A That is correct, sir.

Q The others are article value ?

A I make it one exception in this. It is possible these trousers, I wouldn't go so far as to say that they could be used again in peacetime. I don't know.

Q You are referring to Exhibit 62, is that right ?

A Yes, sir.

Q You tell us the total value was $124.87, is that correct ?

A Yes, sir.

Q. Is or is not that, in your opinion, a fair valuation ?

A It is, sir, yes.

Q You will see before you on the floor certain articles which have been produced before this Court as Exhibits, and are marked as Exhibit numbers 1 to 63 inclusive, can you tell us to whom these articles belong ?

A They belong to the Government of the Dominion of Canada, sir.

Q Do you know whether or not these articles all bear the Government Ordnance stamp ?

A Well, I am sure they do not all bear it, because the markings become obliterated after frequent washing or laundering, and they are not always put back on by the laundry. The original order, or Routine Order was to put them back on. The metal articles are to be marked by an arcograph pen, but it has not been adhered to.

Q How long have you been employed at this Depot as supervisor of stocktaking ?

A Two years.

Q And is there anything in this bunch of articles that you see before you, that appears to be not a general issue in the Army; or does everything you see before you appear to be what is on for general issue ?

A Everything that is here is very similar or a like item to all issues that are made by the Canadian Ordnance Corps.

Q So, what would you say if any of the articles that is in this bunch before you do not bear the Ordnance stamp ? Would or would not they still be public property ?

A I would say there would be a doubt. With no mark on it, you can't definitely classify it as Ordnance Stores.

Q Only that it is similar to Ordnance Stores ?

A That is correct, sir.

Q Is there anything else you would like to tell the Court yourself ? Anything that I have failed to ask you that might be important ?

A No, sir, I can't think of anything. My testimony is really relevant to the pricing of the stores only.

Q Would you know anything about the accused's repayment sheet or M.F.C. 512 if he had one ?

A No, I know the circumstances under which they are created and the method in which they are used at Headquarters.

Q Would he have one?

A He would have numerous ones.

Q Do you know how one might find out whether or not there were any M.F.C. 512s for the accused ? And where would one find the M.F.C. 512 ?

A By applying to Treasury at Headquarters M.D. 2.

Q They would have one would they ?

A It is transferred from the original to all soldiers' personal documents.

Q I think you told us you assisted in making up the deficiencies on the accused's M.F.C. 300 ?

A No, sir, I didn't assist in that. I know that that was done, but I had no hand in it personally.

Q ---THE DEFENDING OFFICER CROSS EXAMINES: I would ask the witness to look at Exhibit 38, which is described as one pair of pantaloons. In your evaluation you have val ued them at fifty percent Unit value and their total value at $3.50. You stated just now that all articles you put a value on you deemed to be of further use and could be issued, is that correct ?

A That is correct.

Q After examining these pantaloons, are you still of the opinion they could be of further use and further issued ?

A Sure, they haven't been serviced yet. That is what our Depot consists of, servicing stores. These trousers have not been through our re-conditioning part of the Aurora Stores. I don't say they will repair these but they have been known to repair worse things than this.

Q Are you of the opinion that these pantaloons, if they were re-conditioned, would be issued again ?

A That is hard to say. They probably would be put up for sale, but one can't say. I don't know whether they would be issued again in peacetime

At the present time they are not issued.

---THE PROSECUTOR DECLINES TO RE-EXAMINE

Q ---QUESTIONED BY THE PRESIDENT: Previous evidence has shown that certain of these articles bear the government stamp; and that certain of them bear marks, such as regimental numbers, and names. As far as your Special Distributing Depot is concerned, I presume it takes any articles of clothing, and so on, for the purpose of processing ?

A That's right, sir.

Q If articles bear regimental numbers or names or marks of a similar nature, at your particular depot, would they be presumed, or would they be, government property ?

A They would be public property. The name and number should have been obliterated at the Returned Stores Depot, but sometime they fail to do that. We have seen stores, battle-dress and various pieces of web equipment, and so on.

Q That is the sort of thing you handle there ?

A Yes, sir, we handle everything that is issued to a soldier.

Q Am I right in saying that all goods at the Depot either have the Government markings, or else a regimental number or name on them ?

A It would be an exception to have regimental numbers or marks on them, but the Government stamp should be on all those stores, clothing and equipment. Just the Government mark, an arrow within the "C".

Q When would that be put on at your Depot ?

A It is usually done in a subdivision of the Inspection branch at our source of supply, or possibly in the Depot itself. In the case of small articles, it is done in our own Depot.

Q Is that done when they first come in or after they are processed ?

A Speaking of Returned Stores Depot, the stores are usually those returned from Units that will in nearly every case, have the markings on, but in the case of stores that have been laundered the markings would be obliterated.

Q If some of these articles bear neither the Government stamp, nor regimental numbers or names, or something of that nature, would it be safe to assume that they would be government property ?

A No, sir, I think there is a reasonable doubt that they might not be.

---PROSECUTOR: Would the Court please ask the witness this question: that if goods that are processed at Returned Stores Depot, and after they are subsequently re-issued to Units, would they before re-issue, be stamped with the government mark .

---PRESIDENT: Just answer the question ?

---WITNESS: Yes, sir, the stores are, or should be, marked prior to being re-issued.

---PRESIDENT: Any questions, Mr. LeBer ?

---DEFENDING OFFICER: No, sir.

---THE WITNESS WITHDRAWS.

---PROSECUTOR: The prosecution has no further witnesses, and is therefore closed.

The Defence submits that a prima facie case has not been established by the Prosecution with respect to both the charges.

(See document marked "H" attached)

The Prosecutor answers

(See document marked "I" attached)

The Defending Officer replies.

(See document marked "J")

The Court disallows the motion of the Defence on both the charges.

The Court proceeds with the trial.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath.

Question to the accused. Do you intend to call any witness in your defence?

Answer. Yes, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. Yes, sir.

1st Witness FOR DEFENCE

The accused, B-75591 Private Horace Granville HOMES, H.W.E. Special Distributing Depot, Toronto, R.C.O.C., being duly sworn is examined by the Defending Officer:-

Q Will you tell the Court where you were employed from the 9th of January, 1944, to the 11th of August, 1945 ?

A Returned Stores Depot, Aurora.

Q What were your duties there ?

A Security guard, sir.

Q Can you tell us a little more of what security guard does, or what you did in these duties ?

A Checking personnel and fire equipment.

Q What do you mean by checking personnel ?

A Watch them when they come in or out; see that they have a proper pass to get in or out.

Q Now, have you observed the receipt of stores at that Depot ?

A I have seen them come in and go out.

Q Do you know what happened to them at the Depot ?

A They come from various places. The Receiver gets them. Then, they are checked and go from one department to another; and what is new is put aside as new stuff; and what is considered scrap is put in the bins to be turned into produce or burned.

Q Is there, to your observation, much of this scrap put aside ?

A Yes, sir.

Q And what again, did you say happens to it?

A It is destroyed or turned into produce.

Q Have you observed this destroying ?

A Yes, sir.

Q Have you observed anything else happening to it ?

A Yes, sir.

Q What ?

A I have seen people put it away ready to take out.

Q Now, this material you say was to be made into produce or burned, is that correct ?

A Some of it, sir, yes.

Q Well is there any segregation between these two classifications, those to be made into produce, and those to be burned ?

A Just what do you mean ?

A For example, is the material to be burned put aside ?

A Yes, sir.

Q And is it always burned ?

A No, sir, not always.

Q What else would happen to it ?

A It is used for cleaners and rags, and somebody will, if they see something they could wash and use, that's why they take it, sir.

Q On the 11th of August, 1945, what happened at your home ?

A I was working in the backyard, and two plain clothesmen, who said they were from the 31 Provost Company, came and asked me if I had any property belonging to the Government in my possession improperly.

Q Did they use the word "improperly" ?

A Yes, sir.

Q Did you answer their query ?

A Yes, sir.

Q How did you answer their query ?

A I said I had, sir.

Q What happened then ?

A They asked to search the house and I gave them my permission.

Q How did you feel towards them ?

A Well, I helped them all I could, sir.

Q Was anything found ?

A Yes, sir.

Q Did they ask questions about that ?

A They asked where it had come from.

Q Yes ?

A And I told them.

Q What did you tell them ?

A I told them it came from Returned Stores, Aurora, some of it.

Q Did you tell them anything else about it ?

A I told them that it was a common practice for personnel at Aurora to help themselves to what they wanted.

Q Now, in view of what you have previously told us, re the sorting out etcetera, at the Depot, can you tell us where the goods, or some of it, as you say, that was found, came from ?

A Yes, sir.

Q Where ?

A The two flashlights were taken from the scrap pile in pieces and put together. The were considered as scrap. They were in pieces. I assembled them out of broken pieces myself. The gasoline stove there was the same. The shoes, I had a gate pass to take them out. The handcuffs there were found in the scrap pile, and the knife. The trousers and battle-dress tunic were used just to keep clean, with no intention of keeping them or anything else. Some of the towels and shirts, coveralls, and socks, I had bought on my repayment sheet. The braces there were to be burned, and I used to use them to sew across the back of my trousers. The raincoats were the same, sir. There was no intention of taking them to keep at all. It was just if you needed a raincoat you took one, and you brought it back and left it there. The grease gun was from the scrap pile too, sir. This belt here, this wide web belt, Exhibit 58, that was worn when I was in the Militia, prior to the starting of the War. That's about all I remember, outside of most of the rest of the stuff was considered scrap and taken from lost and found with no - when it was taken there there was no identification, and it was considered not fit for service and it was to be destroyed.

Q Are you a married man ,

A Yes, sir.

Q Have you any family ?

A Four children, sir.

Q Where do you and your family reside ?

A Sutton West, Ontario.

Q Is that nearby the Depot where you work ?

A About thirty miles away.

Q What type of residence has your family ?

A A Five room house, sir.

Q It is a village residence, is it ? Not a farm ?

A No. No.

Q And did you make use of the material you took ?

A Yes, we were going to - after the wife had washed it, we were going to cut it down for things for the children, because you couldn't get underwear for them last winter and we weren't going to be caught short this winter.

Q Did you steal any of the material ?

A No, sir.

Q What happened after the Provost completed their search ?

A The stuff was loaded into the vehicle and I accompanied them to Aurora and couldn't find anyone in charge at Aurora so they took me to 339 George Street to their Headquarters.

Q What happened to you there ?

A They took an inventory of the stuff and then we went into the Orderly Room and they charged me with improper possession of public property.

Q Did you ask if you might explain ?

A No, sir, they asked me how I explained having this stuff .

Q What form did youfexplanation take ?

A Question and answer form.

Q And is it a true record of that statement of questions and answers that has been filed as an Exhibit with this Court ?

A Yes, sir.

Q You were asked to make this statement, were you ?

A I believe I was, sir. Yes, sir.

Q ---THE PROSECUTOR CROSS EXAMINES: Private Bones, you heard the statement that has been put in evidence against you, Exhibit "F", is that right ?

A Yes, sir.

Q You remember that statement ? You remember making it ?

A Yes, sir.

Q Was it a voluntary statement, or was it not ?

A I believe it was voluntary.

Q And did you sign It ?

A Yes, sir.

Q Are the answers to the questions contained in the statement true ?

A Yes, sir.

Q You also heard the evidence given by the witnesses up to the present time ?

A Yes, sir.

Q And you know that certain Exhibits have been tendered to the Court numbered 1 to 63, inclusive, is that right ?

A Yes, sir.

Q Do you know what these Exhibits are ?

A Yes, sir, very well, sir.

Q Has all of the goods, numbered as Exhibits 1 to 63, has it all been taken from the Returned Stores Depot at A urora ?

A No, sir, not all of it.

Q What part of it has not been taken ?

A I have bought shirts and towels, socks, and coveralls, on my repayment sheet, and underwear too, sir.

Q Will you just indicate clearly to the President of the Court those articles that you have bought and that were not obtained from the Returned Stores Depot at Aurora by telling us the Exhibit number ?

A I would have to go up and look at them.

---PRESIDENT: That is your privilege.

Q ---PROSECUTOR: In your examination-in-chief, you told the Defending Officer that all the articles in this case came from Returned Stores Depot at Aurora with certain exceptions, is that right ?

A That's right, sir.

Q Now, were the exceptions as follows: Two flashlights ?

A They were repaired. I repaired them myself from parts.

Q Did the flashlights come from Aurora ?

A Part of them, yes, sir.

Q Gasoline stove ?

A Yes, sir.

Q Did the gasoline stove come from Aurora ?

A Yes, sir.

Q Will you please tell me now just what articles you bought on repayment ?

A Towels.

Q How many towels ?

A I can't tell you, sir, it goes back a long way.

Q Can you give us any idea ?

A I have bought at least a dozen, I am pretty sure.

Q These are the articles you bought on repayment ?

A Yes, sir.

Q What else ?

A At least six or seven shirts. And I don't know how many socks. They have been numerous because they don't last very long.

Q Give us some idea of the number of socks.

A That is pretty hard to do, sir.

Q Exhibit 8. All of these socks appear to be new, is that right ?

A Yes, sir.

Q Are you telling the Court you bought all these socks on repayment ?

A I have bought more than that on repayment.

Q I am asking you about these socks. Did you or did you not buy these on repayment ?

A I did buy some.

Q How many ?

A Three or four pair at least.

Q Alright. Would you be satisfied to be given credit for four pair ?

A Yes, sir.

Q Did you buy anything else on repayment ?

A Coveralls.

Q Are these the ones with your regimental number ?

A Yes, sir.

Q Anything else ?

A I bought at least seven shirts.

Q You have told us that before. Anything else ?

A And underwear.

Q How much underwear ?

A Three or four suits, I imagine sir.

Q Anything else ?

A No, sir.

Q Alright. With the exception of these articles you have just told us you bought on repayment did the rest of all this stuff or articles that are laid out on the floor, did all of that stuff come from Returned Stores Depot at Aurora ?

A Yes, sir.

Q Were you stationed at Aurora between the 19th of January, 1944, and the 11th of August, 1945 ?

A Yes, sir.

Q Do you agree that all the rest of these articles, with the exception of what you bought on repayment is the property of the public ?

A Yes, sir.

Q There is no question about that then, is there ?

A No, I don't think so, sir.

Q Do you admit that these artides, even if they do not bear a stamp of the Government, indicating public property, they are still government property ?

A If Quarters Melvin and Sergeant Dunnett are not sure, I am quite sure I can't be sure of that.

Q But you did obtain them from Returned Stores Depot ?

A Yes, sir.

Q You did not obtain them from any other place ?

A No, sir.

Q You didn't buy them from any store ?

A No, sir.

Q In other words, the source at which you obtained them was public property stores, is that right ?

A Yes, sir.

Q Do you admit that all these articles that are put out here, Exhibits 1 to 63, were found in your possession at your home in Sutton West on the 11th of August, 1945 ?

A Yes, sir.

Q When you took these articles to your home, what did you intend to do with them ?

A To use them in the house, sir.

Q How did you take them to your home, by your car ?

A No, sir.

Q How did you take them ?

A I didn't have the car down there very often. Most of them were just carried out.

Q How would you carry them from Aurora to Sutton West ?

A Just in my hand.

Q Did you go on a bus, or how did you get there ?

A I used to thumb most of the way.

Q You mean to say you carried these articles in your arm and thumbed your way all the way from Aurora to Sutton West ?

A They were wrapped up.

Q I suppose you made a good many trips ?

A I did.

Q How many trips would it take you to take all these goods that are on the floor from Aurora to your house ?

A I don't know, sir. I used to go home two or three times a week, sir.

Q Did you have any of these articles hidden at your house ?

A No, sir, there was none hidden.

Q Where was it kept ?

A Just all through the house. There was no attempt to hide anything. It was in a cedar chest and in cupboards.

Q Did you have any of it hidden in your attic ?

A No, sir, there is no attic.

Q Do you remember you stated to the Provost when they came, you admitted to them that you had Government property improperly in your possession ?

A Yes, sir.

Q What do you say now speaking only of the property which you admit is Government property, and which is exhibited here. I don't mean the property you bought on repayment. The property that you admit is public property. What do you say now about having it . Did you have it properly or improperly ?

A I would say I had it improperly.

Q As far as the second charge is concerned, you admit you had the goods at your home in Sutton West ?

A Yes, sir.

Q You admit it happened on the 11th of August, 1945, that the Provost were there ?

A Yes, sir.

Q You admitted now to me you were improperly in possession of these articles ?

A Yes, sir.

Q And you admit these articles were public property ?

A Yes, sir.

Q And you admit that these articles that we are speaking about, that you say are public property, were taken from the Returned Stores at Aurora ?

A Yes, sir.

Q Taken between the 19th of January, 1944, and the 11th of August 1945 ?

A Yes, sir.

Q And you admit you took this property, do you ?

A Yes, sir.

Q And you admit it is public property ?

A Yes, sir.

Q And you admit that you took these articles with the intention of keeping them ?

A Some of them.

Q Did you have the consent of the Government or the Department of National Defence to take these articles ?

A No, sir.

Q Did you have any claim of right to them ?

A No claim of right, no, sir.

Q And was it your intention at the time of the taking to deprive the government of them ?

A Not all of them, sir.

Q Well, on some ofthem ?

A On some of them.

Q What are the exceptions to that ?

A The battle-dress trousers, and the other trousers, sir, and the battle-dress blouse.

Q Are those the only things you intended to return ?

A And the raincoat.

Q Are these the only things you intended to return ?

A May we take it then that insofar as the government - public property is concerned, that you intended not to return the remainder of them ?

A Yes, sir.

Q Do you agree or do you not agree with the evidence of S.Q.M.S. Melvin when he says these articles have a value other than the poundage or the salvage value ? Do you agree they are worth something in money ?

A Yes, they are possibly worth something in money.

Q Outside of the certain articles that are obsolete, would these articles have a value other than scrap, rubbish or poundage ?

A Some would right now, but at the time I took them, no.

Q What has happened between the time you took them and now ?

A Most of them were in a filthy condition and they didn't bother to go to the expense of having them cleaned.

Q Did you wash these things yourself ?

A Yes, sir.

Q You and your wife ?

A Yes, sir.

Q What did you intend to do with these things ?

A Use them in the house, sir.

Q What were you going to do with these, the shoe soles, or whatever they call them, Exhibit 39 ?

A Sole the childrens' shoes.

Q They are large soles, aren't they ? Were you going to cut them down?

A With careful cutting you can get a sole and heel out of that.

Q What were you going to do with these two hats of the Irish Regiment ?

A Make hats for the girls, sir.

Q What were you going to do with those trousers, Exhibit 62 ?

A Cut them down for the boys, sir.

Q What were you going to do with these gloves, gloves anti-gas, Exhibit 52 ?

A Well I do refinishing of furniture in the house. That's what I used to use them for.

Q What were you going to do with Exhibit 5, one billie ?

A That was given to me to take home.

Q What were you going to do with Exhibit 1 ? Two pair of handcuffs.

A That was found in the scrap pile and I was going to let the boy play with them.

Q I guess you realize now you shouldn't have done this ?

A Very well, sir.

Q You tell us you did this because it was a common practice for personnel there to do it. Other people did the same thing, did they ?

A Yes, sir.

Q Are we to take from that last statement that you were just the unfortunate one that was caught ?

A That's just about what it amounts to, sir.

Q When would you take these articles out - for the rest of your cross-examination, when I say articles I am only referring to the articles you admit are public property, and which you have not signed for. The articles that are public property, when did you take them out of Returned Stores Depot? What time of the night was It ?

A Pretty near any time you want to.

Q Are you telling us the security there was not good ?

A. It was definitely not good.

Q Any person in your capacity or employment, could have taken these articles out of the Depot any time during the day or night ?

A Pretty near anyone in the whole Depot could.

Q Your position was security guard. Wasn't it your duty to prevent people from taking the articles out ?

A We did, several people, but the Administrative part wouldn't back us up.

Q Did you think, seeing other people were getting away with it, you might as well do it yourself ?

A Yes, sir.

Q Now, I will have to ask you a plain question. I think it is only fair. You are charged with stealing public property. You admit the property was public. Referring only to the articles you say are public property, do you or do you not admit you stole it ?

A I took it from Aurora.

Q Do you admit you stole it?

A I didn't consider it stealing at that time.

Q What do you consider it now ? Stealing or not ?

A I would say it was stealing, yes, sir.

Q But, you are not the only one that stole ?

A Definitely not, sir.

Q Now, were these articles, I am looking at your evidence you gave in answer to questions, you gave to your Defending Officer. "The new stuff was put aside and the scrap was to be turned into produce or burned. Much scrap put aside ? Yes, sir." Were any of these articles taken from what you may term the scrap pile ?

A Yes, sir.

Q What for instance ?

A All of it.

Q In other words, you are telling us that all these articles had been put into a pile...

A Or bins.

Q That was ultimately destined to be scrapped or burned ?

A Destroyed, or else found out in the yard.

Q Were there not any of these articles that were more or less designated to be refinished, repaired, and subsequently re-issued to Units ?

A Not that I know of, sir.

Q I understand that you were very helpful with the Provost and co-operated in every way in order to return these artides, is that right ?

A That's right, sir.

Q I suppose you felt once you had been caught, or found out, you thought the best thing to do was to come clean ?

A I was glad to get it off my chest.

Q You had been worrying about it ?

A Yes, sir.

Q How long has this common practice of people helping themselves at Aurora been in vogue, or practice ?

A Ever since I got there. It was going on when I got there, sir.

Q Now, I am going to ask you about these certain articles, for instance, you told us the two flashlights were taken from the scrap pile in pieces and put together, is that right ?

A That's right, sir. You can see that this one, Exhibit 54, is not a matched one. The nickel plated is altogether different from the rest of it.

Q Does that flashlight work ?

A Yes, sir.

Q But every piece of that flashlight then, every piece assembled by you is originally public property ?

A I don't think so. I think the frontpiece wasn't.

Q Where did you get that ?

A I think I had it at home.

Q What about the other flashlight, Exhibit 53? That is the two cell one. Is that made up of government parts too ?

A Yes, sir.

Q Does it now operate alright.

A It has been, sir.

Q But, in any event, even if you did make that up yourself, outside of the one part on the first flashlight, they are government property ?

A Yes, sir.

Q Where did you find the gasoline stove, Exhibit 57 ?

A In the scrap pile

Q Did you fix it up ?

A I fixed it up.

Q It actually is government property, is it ?

A Yes, sir.

Q Does it work ?

A Yes, sir.

Q You say the shoes, I had a gate pass to take them out, is that right ?

A That's right sir.

Q Exhibit 22, I believe. Whose shoes were those ?

A They belong to the Government.

Q Do they still belong to the Government ?

A Yes, sir.

Q You found the handcuffs and the knife in the scrap pile, is that right ?

A Yes, sir.

Q And do they belong to the Government, too ?

A Yes, sir.

Q Now the trousers and battle-dress tunic that you speak of...

---PRESIDENT: Just a minute, Captain Downey, are we not going over this for the second or third time? Has the accused not said that with the exception of certain articles which he bought on repayment, that all the other stuff here is government property ?

---PROSECUTOR: Quite right. I think it is sufficient.

---PRESIDENT: I don't wish to hold you up Captain Downey, but I think that is too much repetition.

Q ---PROSECUTOR: I will end my cross-examination now, Private Bones by putting it very briefly. You do admit do you that you did steal public property at Aurora Ontario, between the 19th of January, 1944, and the 11th of August, 1945, being the public property that you admit was public property, is that right ?

A Yes, sir.

Q ---THE DEFENDING OFFICER RE-EXAMINES: You have said that all the articles here, except those procured on repayment, were obtained by you from Aurora ?

A Yes, sir.

Q And did you also say they were from the rubbish bins at Aurora ?

A Yes, sir, except the battle-dress and the other trousers.

Q And therefore you cannot be improperly in possession of these articles as such, and as are listed on the charge-sheet, but rather as so much rubbish ?

A That is what I understand.

---PROSECUTOR: That is rather a leading question.

---PRESIDENT: Yes, it is a leading question. I am trying to give you every latitude. It has been stated in evidence and you may ask him anything you like, providing you don't ask any leading questions.

Q ---DEFENDING OFFICER: In view of the fact that you have stated that all the articles here, less those procured on repayment and those loaned to you, were obtained from the rubbish bins, how do you feel towards them?

A I felt it was a shame to see them destroyed.

Q Are you sure therefore that you felt you stole them ?

A I didn't think it was stealing, sir.

Q And how do you now feel ?

A I still don't sir.

Q ---QUESTIONED BY THE PRESIDENT: Would I be fair to you if I said that you have admitted that all the goods shown in the charge-sheet are public property with the exception of the following, obtained by you on repayment: One dozen towels; six or seven shirts; three or four pairs of socks; the coveralls covered by your regimental number; and four suits of underwear. Would you consider that all the other items were public property ?

A Yes, sir.

Q And that they were taken from Special Distributing Depot at Aurora ?

A Yes, sir.

Q Did you ever consider that being a security guard there meant that you should protect this stuff rather than try to take it out of there?

A It did when I first got there.

Q Why did it not continue ?

A We had stopped various people and nothing was ever done about it, sir Outside of in one case.

Q Well, did you feel that that entitled you to help yourself ?

A I didn't think very much about it. When you see stuff destroyed that you can use yourself and in such a quantity, well, it goes against your grain, sir.

Q That may be very true, but do you think that entitles anyone to take these things ?

A No, sir.

Q Were the two Provost chaps quite fair with you in the way they approached you and in the way they handled the whole situation including the taking of your statement ?

A I think so, sir.

Q Did they give their evidence fairly in this Court ?

A I think so, sir.

Q Did your wife know where you had got this stuff ?

A No, sir.

Q What did you tell her, if you wish to tell me ?

A I didn't tell her anything. She never questioned me.

Q How old are you ?

A 38 a week ago Tuesday.

Q And how old is your wife ?

A 32.

Q And the ages of the children ?

A The oldest one is thirteen; the next one - no, she won't be thirteen until November - the next one is ten, and eight, and the other one was born on the 21st of January of this year.

Q There are the four children then, your wife and yourself ?

A Yes, sir.

Q Have you any special address in Sutton West, or is that sufficient ?

A Just Sutton West, Ontario.

Q And do you feel that these prices that were shown in the list, Exhibit "G", are reasonable and fair, Private Bones ? That is the list that totals $124.37 ?

A No, I do not, sir.

Q What would you consider to be a fairer price ?

A I wouldn't know that, sir.

Q Would you say a hundred dollars would be about right ?

A I wouldn't like to say anything about the price of it. It is beyond my capabilities, sir.

---THE ACCUSED RESUMES HIS SEAT.

2nd Witness FOR DEFENCE

B-963 RSM (WOII) Frederick GLEDHILL, Special Distributing Depot, Toronto, R.C.O.C., being duly sworn is examined by the Defending Officer:-

Q Do you know the accused ?

A Yes, sir.

Q Do you know of his character ?

A I do.

Q Can you tell the Court of your experience with him ?

A I have known Bones on the second occasion since the 1st of May. Previous to that I have had dealings with him in the nature of his work as Security Guard and in other matters; and I found him an excellent soldier and a straightforward type of individual. Further, I found him very co-operative in whatever work or assignment that I have given him.

Q Do you know of his family ?

A Not personally. I know that he has a wife and four children.

Q Then you don't know of his relationship with his family ?

A Personally, no, sir.

---THE PROSECUTOR DECLINES TO CROSS EXAMINE

THE WITNESS WITHDRAWS.

3rd Witness FOR DEFENCE

B-6720 CSM (WOII) J. MONTEITH, Special Distributing Depot, Toronto, R.C.O.C., being duly sworn is examined by the Defending Officer:-

Q Sergeant-Major Monteith, do you know the accused ?

A I do, sir.

Q Do you know of his character ?

A I do, sir.

Q Can you tell the Court what you know ?

A I first met Private Bones in the summer of 1943, when taking security convoys to the coast for shipment overseas. A special security guard was formed at M.D. 2 to take over this work from us and Private Bones was one of the detachment. He spent about six or seven weeks in training with us; and at all times I found

him to be a good worker and very honest and well in his judgment . We were on subsistence - command pay, I should say command pay, all this time, and everybody clubbed in a bit for the purpose of our food. This money was kept in a glass jar in the train and Private Bones with others had access to this at all times; and at no time were we short in our money. I next met Private Bones on May 1st, this year, when the Special Distributing Depot took over the Salvage Depot with the D.O.D. The N.C.O. in charge at that time highly recommended Private Bones to me and from my observation I had decided to recommend him for Corporal stripes for the good work he was doing.

Q Do you know Private Bones' family at all ?

A No, sir, I'm sorry, I don't.

Q Then that is all.

A Thank you, s ir.

---THE PROSECUTOR DECLINES TO CROSS EXAMINE

THE WITNESS WITHDRAWS.

---PROSECUTOR: Sir, before the adresses, I wish to refer to Rule of Procedure 86 and under Rule of Procedure 86, I ask permission of the Court to recall a witness, in more or less rebuttal in reply to something said by a witness for the Defence, the witness being Major Campbell.

Q ---PRESIDENT: Have you anything to say to that ?

A ---DEFENDING OFFICER: I have no objection, sir.

3rd Witness for THE PROSECUTION (RECALLED)

Major Leslie CAMPBELL, H.W.E. Special Distributing Depot, Toronto, R.C.O.C., is recalled by the Prosecutor with leave of the Court for the purpose of rebutting a material statement made by the accused. The witness on his former oath being examined by the prosecutor states as follows:-

Q Major Campbell, you are being recalled at the request of the Prosecutor to give evidence more or less of a rebuttal nature to rebut certain statements made by the accused in his evidence

which you did not hear. As I understand, you were the Officer Commanding the Unit at the time, a certain part of the time, this offence took place, is that right ?

A That is right.

Q Was it a common practice for personnel at Returned Stores Depot at Aurora to put stores away ready to take them out themselves ?

A To my knowledge it was not a common practice.

Q To your knowledge, Major, was it a common practice for the personnel at Returned Stores Depot to take stuff that was going to be destroyed for the purpose of putting it to what they considered some beneficial use ?

A To my knowledge, no; and if personnel were taking or putting stuff aside for the express purpose of taking it out or putting it aside for their own use, then they were doing something that they knew or should have known, was against the rules and regulations. I would like to add further to that. That was one of the reasons for having security guard, was to watch for that sort of thing.

Q Major, the accused has stated in evidence, in examination-in-chief, that he obtained two flashlights from the scrap pile in pieces and assembled them out of broken pieces. Would that be possible.

A May I see the flashlight ?

Q ---PRESIDENT: You are now looking at which exhibit ?

A ---WITNESS: 53. It would be quite possible for a man to get sufficient parts from the scrap pile to make a non-serviceable flashlight into a serviceable flashlight. On the other hand, it seems hardly feasible, because if that could be done, then it would not be on the scrap pile, because we had a man in charge of barrack-room stores, whose job it was to make non-serviceable - to make serviceable flashlights out of non-serviceable ones, by taking the parts that could be used and making a serviceable flashlight. So, the only thing that would be found on the scrap pile from my experience would be parts of flashlights that could not be used again.

Q ---PROSECUTOR Look at Exhibit 54 ?

A ---WITNESS: It is quite possible that that flashlight could have been made serviceable from parts, but I repeat my previous statement: It seems hardly feasible.

Q ---PROSECUTOR Would you look at Exhibit 57, one cookers portable stove. Is it possible that that stuff could have been taken from the scrap pile and then assembled to make it serviceable ?

A I could answer that question, Mr. President, by two answers: one is yes, it is possible; and the other explanation is, if it were possible, or if it had been done, then personnel in charge of barrackroom stores conditioning were not doing their jobs in allowing parts to get onto the scrap pile that could possibly be used in reconditiong stoves, and that was being urged all the time, by both officers and N.C.O.'s in charge.

Q ---PROSECUTOR Major, would you look at Exhibits number 1 and five. The accused in his evidences stated, I am referring to Exhibits 1 and 2, handcuffs and a knife, the accused in his evidence has stated that they were found in the scrap pile. Have you any comment to make on that ?

A This exhibit 1, handcuffs. This could be found in the scrap pile for one or two reasons. One: if there is no key and we cannot possibly cut a key to fit, which hasbeen the case, then they become scrap, and are just put in as scrap steel.

Q ---PROSECUTOR Now, referring to Exhibit 2 ?

A ---WITNESS: Exhibit 2 would have been found, in my estimation,, in the scrap pile.

Q ---PROSECUTOR Would it be possible for any person to take a raincoat from the Depot for the purpose of borrowing it and then bring it back ?

A The answer to that is yes, sir. It was very difficult to control personnel taking out raincoats, becsuse at that time we didn't have proper cloak rooms. Just recently one main cloak room was installed in Aurora where all, both military and civilian, personnel

have to hang their clothes coming in and going out, and the room was kept locked by the Regimental Police until noon hour, and again at five o'clock when the door was opened.

Q ---PROSECUTOR: Would you look at Exhibit, the grease-gun, Exhibit 55. The accused in his evidence has stated that he obtained the grease-gun from the scrap pile. Have you any comments to make on that ?

A If the accused got this from the scrap pile it should not have been on the scrap pile, as it is serviceable.

Q ---PROSECUTOR: The accused has stated in evidence that he obtained, - that he purchased on repayment one dozen towels, six or seven shirts, three or four, three or four pair of sox, one pair of coveralls, and three or four suits of underwear. He has also explained how he obtained certain articles from the scrap pile and you have been questioned as to them. All that remains, is that scrap or has it a value ? the remainder of the exhibits.

---PRESIDENT: With the exception of the articles taken out on repayment.

A ---WITNESS: I understand what he is getting at. He means are the items exhibited here apart from those bought on repayment and found on the scrap pile are they fit to be re-issued, or are they articles to be scrapped . What are the exhibits that he bought on repayment ?

---PRESIDENT: He states he bought on repayment one dozen towels...

---WITNESS: My answer to that is he could have bought them on repayment if he can prove that he bought them on repayment. On the other hand they are towels that came from the Depot, of a similar nature.

Q ---PRESIDENT: What Exhibit is that ?

A ---WITNESS: That is Exhibit 7.

Q ---PROSECUTOR: And are they scrap?

A ---WITNESS: These towels wouldn't go into the scrap pile. They come under the V.N., that is the catalogue number, coming under items of clothing that are to be sent to Valleyfield.

Q ---PRESIDENT: That would be the towels shown in Exhibit 7 ?

A ---WITNESS They could have been bought on repayment, on the other hand they could have been taken from the Depot.

Q ---PROSECUTOR: These are very new. Are they scrap or not ?

A No, they are definitely not scrap. Are those the answers you want ?

Q I want you to indicate whether they are scrap value or article value.

Q Exhibit 18, six or seven shirts.

A ---WITNESS: They are definitely not scrap.

Q ---PROSECUTOR: One pair of coveralls, Exhibit 43 ?

A ---WITNESS: Coveralls could have been issued to the accused.

Q ---PROSECUTOR: They could have been, but at the present time the question is what is their present value ? Are they scrap value, or article value ?

A Article value.

Q ---PROSECUTOR: Exhibit 21 ?

A ---WITNESS: Article value.

Q ---PROSECUTOR: Three or four suits of underwear, Exhibit 17 ?

A Article value. They definitely would not have been cut up as rags wipers. They would have been included in the clothing to be sent to Valleyfield.

Q The other items, with the exception of any obsolete stores. What value would they have ? Scrap value or article value ?

A They are all the same value. They are all article value. They have to be turned in under their V.N. article number and sent to War Assets at Valleyfield.

Q Have you anything you wish to add ?

A Could I ask the Prosecutor to read out of the statement again, and I think where the accused has made a statement that all personnel of the Depot...

Q ---PRESIDENT: Are you referring to the Exhibit that was filed ? There was an Exhibit filed Exhibit "F".

A ---WITNESS: No, I am referring to the questions asked by the Prosecutor where the accused had stated that personnel in the Depot were in the habit of taking goods out of the scrap pile for their own personal use.

Q ---PRESIDENT: I think that was briefly the way the question was asked. Is there anything you wish to say in that connection ?

A ---WITNESS: Yes, there is, definitely. We took all precautions that we could think of to try and stop any pilfering large or small. The Regimental Police are there for security reasons, not for other duties. If they knew of any pilfering, any thieving, it was their duty to report it either to the N.C.O. in charge, or the officer in charge of the Depot. We put on an Orderly Sergeant whose duty it was to visit the Returned Stores Depot at any time of the night to check on both the R.P.'s, and to make sure that everything was in order; and he made out a daily report which was submitted to the officer in charge of the Depot. We checked civilians and military personnel leaving the Depot at different times and tried to catch any pilfering. That's all I have to say.

Q ---PRESIDENT: Did these people carry out their duties as they should have, Major ?

A ---WITNESS: To my knowledge, yes. If you can't rely on the security police, then who else are you going to rely on .

Q ---PRESIDENT: Were any complaints received that were not followed up by you about pilfering ?

A No, every complaint received was followed up. So much so that I was responsible for contacting the D.O.O. at the time and suggested to him that an investigation be made by the Royal Canadian Mounted Police. This was done, sir. This was carried out. We caught at one time, a civilian taking some leather soles and a few rubber heels and he was dismissed immediately and prosecuted.

Q ---PRESIDENT: Would you like to ask questions, Mr. LeBer ?

A ---DEFENDING OFFICER: I have just one question to ask. The Major here has looked over these articles from a theoretical basis only, I gather, when he has declared whether they were article value or rubbish, but surely, the Major did not do the actual sorting at the Depot ?

Q ---PRESIDENT: You did not do the actual sorting at the Depot, Major Campbell ?

A ---WITNESS: No, but the Salvage Officer, and I wasthe Salvage Officer, is the sole authority for stating whether the item is to be scrapped or whether it is to be turned into items for War Assets, or whether it is to be burned, or whether it is to be re-conditioned and turned back to Ordnance; and I have given you my expert opinion regarding these Exhibits. Sorting is carried out under the jurisdiction of the N.C.O.'s. They are fully qualified in their work and inspected at different times by the Salvage Officer. In my opinion, I don't think that the number of items such as exhibited here would ever have got as far as produce to be burned. Does that answer your question.

Q ---PRESIDENT: Is it possible, Major, that underwear of the type shown in Exhibit 18, would be burned ?

A ---WITNESS: Could I, off the record...

Q ---PRESIDENT: No, I think it should go in the record.

A ---WITNESS: My answer to that is, no.

Q ---PRESIDENT: Did you say whether it was possible ?

A ---WITNESS: Yes, everything is possible.

Q ---PRESIDENT: Is it the practice that underwear of that quality is burned ?

A ---WITNESS: Definitely not.

Q ---PRESIDENT: Well, I hope not. Is it possible that shirts, such as appear in Exhibit 21, would go on the scrap pile and be burned ?

A ---WITNESS: Definitely not. For the simple reason it is almost

impossible, - if, and they do sometimes, an odd shirt will go through that should not have gone through. It only goes as far as the produce area, where all shirts and underwear not fit for War Assets at Valleyfield, are turned into rags wipers and baled as such for issue to Ordnance. There is no such thing as underwear or shirts or any items of that nature getting through to be burned, because there is no reason for it. The only items that are burned would be oil rags which cannot be reclaimed.

Q Would staff such as shown in Exhibit 14, be put on the scrap pile ?

A Definitely not. I would like to add to that. My idea - that is Mr. President, if you want a further explanation.

Q ---PRESIDENT: That is alright, Major Campbell .

A ---WITNESS: The Salvage Officer in Aurora is responible for the running of the Depot; for the conditioning of the Stores; to make sure that the items of a various nature are put under their proper categories, but, what I am getting at is ...I am not finished, this is an important statment - that all items coming into the Depot, once received, they are not the responsibility of the Salvage Officer. They are the responsibility of the Ordnance Stores Officer. Therefore, there is no item that could be burned unless the Ordnance Stores Officer has knowledge at the same time.

Q ---PRESIDENT: Supposing the Ordnance Stores Officer has knowledge. Is it possible that good articles of clothing, such as I see here, could be put in the scrap pile and be burned. I am quite concerned about this thing.

A No, because I think if this is the main question, then you should have as another witness, the Ordnance Stores Officer.

Q ---PRESIDENT: I was just asking you the question as you were in charge there formerly. I would just hate to think that goods of the quality I see here to-day, would be put on the scrap heap.

A No, they are not.

---THE WITNESS WITHDRAWS.

THE PROSECUTOR AND DEFENDING OFFICER MAKE CLOSING ADDRESSES WHICH ARE RECORDED BUT ARE NOT TRANSCRIBED.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. I wish my Defending Officer to speak for me.

(See following page)

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

STATEMENT BY THE DEFENDING OFFICER IN MITIGATION OF PUNISHMENT:

Just a few words, because this man's record is such that few around here can attempt to say much. But, as well as what has been said to this Court by the witnesses called before it, we have in Private Bones, a man with six years active service; and considerable militia service before that; two good conduct stripes; and a man who held the Beach at Dunkirk with Alexander; and never a crime or misconduct.

The defence pleads all due leniency and wishes to point out that already the accused has been held in custody awaiting this trial for over a month .

EXHIBIT "A"

F. [illegible] Major.
President, S.C.M.

Headquarters #31 Coy,
Canadian Provost Corps.
339 George st. Toronto
1830 hrs 11AUG.45

"A"

Statement of B75591 Pte. BONES. Horace Granville
RCOC. Returned Stores Depot, Aurora Ont.

Before you say anything relating to the charge preffered against you; I wish to read you the following warning-
You are charged with being in posession improperly of stores the property of the Public.
Do you wish to say anything ia answer to the charge? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.

I make the following statement voluntarily:

Q When did you enlist in the Army?
A 4th September 1939.
Q Did you have any training prior to joining the army ie. military?
A Yes. 8 months in the Toronto Scottish Militia.
Q Have you any overseas service in this war?
A Yes. I landed in England 17th December 39 & saw action at Dunkirk.
Q When did you return from overseas?
A 29th December 1942
Q How long have you been stationed at retourned stores Depot Aurora?
A Since Jan. or Feb. of 1944. 1944.
Q What are your duties there?
A Security Guard- Supervision of premesis
Q Where did the goods recovered at your home in Sutton West this date 11th Aug. 1945 come from?
A Returned Stores Depot Aurora.
Q Have you any explanation for the goods recovered at your home this date 11th Aug 45 being there?
A It was a common practice for personnel of returned Stores Depot to take stuff that was going to be destroyed and put it to some benificial use, rather than see it wasted. I am a married man with a wife and four children to support and could see no harm in taking this condemned stuff and putting it to some valuable use at home.
Q What is your conduct while serving in the Army up until this date 11th Aug 45?
A My conduct is good. I have never been on charge. And I have 2 good conduct stripes.

I have read the above statement and it is correct.

Witnessed: B97712 Sgt Atkinson J.
(B97712 Sgt Atkinson, J.)
#31 Coy Provost
B97703 L/Cpl Campbell
(B97703 L/Cpl Campbell P)
#31 Coy Provost.

Signed B75591 Pte Bones H.G.
B75591 Pte Bones H.G.

THIS IS EXHIBIT "A" REFERRED TO IN SUMMARY OF EVIDENCE IN THE CASE OF B-75591 PRIVATE HORACE GRANVILLE BONES, SPECIAL DISTRIBUTING DEPOT TORONTO R.C.O.C.

J. L. Downey Capt
J. L. DOWNEY, CAPTAIN
Prosecutor, Courts-Martial
Headquarters Military District No. 2
Att. S.-B. C.A.T.S., C.A.
Toronto, Ont.

E. G. [illegible] EXHIBIT "B"
prices SCM

SUMMARY OF EVIDENCE IN THE CASE OF

B-75591 Pte. Bones, H. G.
Special Distributing Depot, Toronto, RCOC

LIST OF ITEMS FOUND IN POSSESSION OF THE ACCUSED

Catalogue Number	Item	Quantity	Unit Value	Total Value	Exhibit
	Sec. "K"				
K-46350	Handcuffs	1	$11.25	$ 5.63	d
K-51550	Knives	1	.72	.36	E
K-7850	Blankets	2	4.07	4.07	F
K-80650	Sheets	5	1.33	3.33	G
K-6150	Billy	1	1.03	.52	H
	Sec. "1-F"				
1F-85200	Drawknife	1	1.59	.80	I
	Sec. "C"				
C-2400	Towels	19	.31	2.95	J
C-2100	Socks	9	.28	1.26	K
C-100	Bags	4	1.27	2.54	L
C-650	Braces	5	.28	.70	M
C-1470	Knives	1	(App) .99	.50	N
	Sec. "B"				
B-10200B	Trousers	2	6.55	6.55	O
B-10650B	Trousers	1	4.33	2.16	P
B-10350A	Trousers	1	1.80	.90	Q
B-6150	Jackets	1	1.37	.69	R
B-10350B	Trousers	1	1.80	.90	S
B-3300B	Drawers	8	.42	1.68	T
B-8350B	Shirts	10	.43	2.15	U
B-600	Bonnets	2	2.08	2.08	V
B-450B	Blouses	1	6.50	3.25	W
B-7950B	Shirts	8	1.54	6.16	X
B-8750B	Shoes	1	4.84	2.42	Y
B-8020	Shirts	1	(App) 1.63	.82	Z
B-8000B	Shirts	2	1.63	1.63	A1
B-10500B	Trousers	3	1.31	1.97	A2
B-1800B	Caps	3	.70	1.05	A3
B-3550B	Drawers	1	1.40	.70	A4
	Sec. "E"				
E-2400	Gloves	1	3.59	1.80	A5
E-4100	Skirts	2	2.55	2.55	A6
E-2100	Coats	1	7.04	3.52	A7
E-3000	Mitts	8	1.05	4.20	A8
E-50	Aprons	1	1.00	.50	A9

(Cont'd. Page 2)

THIS IS EXHIBIT "B" REFERRED TO IN SUMMARY OF EVIDENCE IN THE CASE OF B-75591 PRIVATE HORACE GRANVILLE BONES, SPECIAL DISTRIBUTING DEPOT TORONTO R.C.O.C.

J. L. Downey capt

(J. L. Downey) Captain
Prosecutor, Courts-Martial,
Headquarters, Military District
Att. S-8 C.A.T.S. C.A.
Hamilton, Ont.

Catalogue Number	Item	Quantity		Unit Value	Total Value	Exhibit
	Sec. "A"					
A-4800B	Caps	2		$ 1.05	$ 1.05	A10
A-13000	Gloves	1		.66	.33	A11
A-12750	Gloves, Prs.	2		.95	.95	A12
A-21450	Mitts, Prs.	2		.93	.93	A13
A-12300	Gauntlets	2		1.64	1.64	A14
A-24850	Pantaloon	1		6.99	3.50	A15
A-33150	Tapsoles, Prs.	9		.59	2.66	A16
A-42060	Toplifts	13	(App)	.10	.65	A17
A-12650	Gloves, Prs.	1½		1.54	1.16	A18
A-7750	Coats	1		9.29	4.65	A19
A-24000B	Overalls	1		2.52	1.26	A20
A-6750	Coats	2		18.53	18.53	A21
A-1700	Blouses	1		2.59	1.30	A22
A-7700	Coats	2		6.91	6.91	A23
A-7800	Coats	1		4.73	2.37	A24
A-30250	Spokeshaves	1		.79	.40	A25
A-33250	Tapsoles	2		.40	.40	A26
	Sec. "1-A"					
1A-1400	Bags	1	(App)	.08	.04	A27
1A-11500	Covers	1		.08	.04	A28
	Sec. "2-A"					
2A-4750	Gloves	1		1.03	.52	A29
	Sec. "W-2"					
	Torches Hand 2-Cell	1		1.75	.88	A30
	Torches Hand 3-Cell	1		1.47	.74	A31
	Sec. "LV-6 MT-1"					
	Guns Grease 9-oz. Capacity, Push-type.	1		2.90	1.45	A32
	Miscellaneous Stores					
	Duster	1	(App)	.50	.25	A33
	Sec. "2-J"					
2J-5550	Cookers Portable No. 2, Stoves	1		3.83	1.92	A34
	Obsolete Stores					
	Belts Waist Patt. '08	1	Salvage Value Only			A35
	Belts	4	"	"	"	A36
	Belts	1	"	"	"	A37
	Belts, P.F.	2	"	"	"	A38

Catalogue Number	Item	Quantity	Unit Value	Total Value	Exhibit
	Obsolete Stores (Cont'd.)				
	Dress Trousers, Prs. Blue with red stripe	4	Salvage Value Only		A39
	Bags for A.G. Stores with Zipper	2	" " "		A40
	Total Value				$124.87

.....
B-3936 S.Q.M.S. Melvin, J. P.
Special Distributing Depot, Toronto, R.C.O.C.

.....
B-2832 Sgt. Dunnett, A.R.
Special Distributing Depot, Toronto, R.C.O.C.

.....
B-97718 Sgt. Atkinson, J.
No. 31 Coy. Canadian Provost Corps.

.....
B-97703 L/Cpl. Campbell, P.
No. 31 Coy. Canadian Provost Corps.

"H"

Major,
President, S.C.M.,

ADDRESS BY THE DEFENDING OFFICER RE SUBMISSION OF "NO CASE"

The Defence has two motions to make at this time: The Defence moves for dismissal on the first charge, that of stealing public property, on the ground that insufficient evidence has been adduced by the prosecution; and therefore no prima facie case has been established.

The second motion: The Defence moves for dismissal on the second or alternative charge, that of conduct to the prejudice of good order and military discipline, in that he was improperly in possession of certain public property, on the ground that insufficient evidence has been adduced by the prosecution; and therefore no prima facie case has been established.

Thirdly, sir, the evidence is of a circumstantial nature only, in that the accused person is found in possession of the goods which it is alleged are improperly there, but no one observed the accused taking these goods. To substantiate a charge being laid under circumstantial evidence, it is necessary to show that the goods are missing from their usual place of holding.

In explanation then, dealing with the first charge, that of stealing public property, the Defence wishes to point out, firstly: no ledger, ledger entries, or vouchers have been presented to show these articles on charge to the public account. Secondly, the Officer Commanding the Depot at the time has reported no losses were apparent in stock-takings. That is, there is no evidence of these articles missing from stores. Thirdly, no witness has been produced, nor is there any evidence of any person observing the accused taking any of these articles from the Returned Stores Depot, or any other place. Therefore, it cannot be argued that certain articles found on the

premises of the accused were stolen.

As regards then, the second or alternative charge, that of conduct to the prejudice of good order and military discipline, in that he was improperly in possession of certain public property. The Defence wishes to point out, firstly: that all the goods exhibited, none of them are new, because and it has been given in evidence by witnesses before this Court they could be classed as rubbish, and certainly are so, to our lay eyes. Therefore there is at least real doubt that this charge reading as it does a lot of items, should have been so much poundage of produce or rubbish. Secondly: there is real doubt that the inanimate goods are not public property at all. Thirdly: some of the goods have been superceded by later models, and therefore go to scrap. Also, some of the goods could have been bought on repayment.

Therefore, the Defence contends there is real doubt that these goods were improperly in possession of the accused.

"I"

Major,
President, S.C.M.

ADDRESS BY THE PROSECUTOR RE SUBMISSION OF "NO CASE" BY THE DEFENCE

In answering the motion of the Defending Officer, under Rule of Procedure 40, that is the rule under which this motion is made, Note 1 to Rule of Procedure 40: "It is open to the accused, his counsel or defending officer, at the close of the case for the prosecution, to submit that the evidence given for the prosecution has not established a prima facie case against him, and that he should not therefore, be called upon for his defence. The Court will consider this submission in closed court and if they are satisfied that it is well founded, must acquit the accused. This submission may be made in respect of any one or more charges in a charge-sheet. I am now referring to official publications, Notes on Procedure,etcetera, in connection with trials by Court-Martial, 1936. On page 27: - Dealing with duties of the Defending Officer, reads as follows: "At the close of the case for the prosecution he may submit that the accused has no case to answer, and therefore should not be called upon for his defence, because the prosecution have not produced evidence in support of one or more essentials in the charge." Note one, to Rule of Procedure 40, and Rule of Procedure 70."N.B. This submission must be to the effect that there is no evidence at all on the point or points; and not that the evidence is untrustworthy." I wish to quote - Dealing with prima facie evidence, I wish to quote from Phipson on Evidence, Page 29, and Phipson is an English text-book, and as the Court well knows, the laws of England. "There are commonly said to be two cases in which the burden of proof does not rest upon the party substantially asserting the affirmative; or which if they occur during the trial, will operate to shift such burden to his opponent. Where a disputable presumption of law exists, or a prima facie case has been proved, in favour of a party, it lies upon his adversary to rebut it."

Prima facie - the definition of prima facie, which is obtained from the dictionary, the American Pocket Medical Dictionary, the definition of prima facie:"at first view" or, "so far as it first appears".

I feel it unnecessary at this time to review the evidence. It would take too long to review all the evidence; but I feel I wish to take the argument of the Defending Officer, and try to answer each point that he has endeavoured to make.

The first charge, that no ledger or ledger entries have been produced to the Court to show that these goods have been stolen. Well, that is true. There have been no ledger entries; but I submit that the answer to that is this: That the accused made a confession which has been produced and accepted by the Court as admissible evidence in this Court, in which it is stated as follows: "Question: Where did the goods recovered at your home in Sutton West this date, 11th of August, 1945, come from ? Answer: Returned Stores Depot, Aurora. Question: Have you any explanation for the goods recovered at your home this date 11th of August, 1945, being there ? Answer: It was a common practice for personnel of Returned Stores Depot to take stuff that was going to be destroyed and put it to some beneficial use, rather than see it wasted. I am a married man with a wife and four children to support, and could see no harm in taking this condemned stuff and putting it to some valuable use at home." That supplies the motive. We have evidence from the Provost that the accused said in effect the same thing; and admitted taking these stores, and the reasons for that.

The Defending Officer said there were no losses apparent in stock-taking. That is true. I, on the other hand, I submit it is not necessary for the prosecution to prove that. Further, the Defending Officer states nobody saw the accused take the stores. I agree with him. On the other hand, we can use circumstantial evidence. Circumstantial evidence is good evidence. Circumstantial evidence discloses, from his confession, from the fact that the stores were discovered in his home,

that he in fact did take the stores.

We have evidence, plenty of evidence, that these stores in front of us were taken from his home, and subsequently found their way to this court-room. It is true that these articles, some of them, might not be proved to the satisfaction of the Court that these are public property; in that connection, there is Rule of Procedure 44 (D) which makes it possible for the Court to make a special finding and find the accused guilty of taking these articles, and the rest may be ignored.

Then dealing with theft. We will deal first with the definition of stealing. In the manual of Military Law, Stealing Public Property, at Page 22, Paragraph 33: "The elements necessary to constitute an offence of stealing under either of these sections" - that means Section 16 (4) and Section 17, and the accused is charged under 16 (4) "are the same as in the case of the civil offence of stealing, that is to say, the property stolen must have been taken and carried away by the offender without the consent of the owner, fraudulently and without a claim of right made in good faith, with intent, at the time of such taking permanently to deprive the owner thereof. But a person may be guilty of stealing notwithstanding that he has lawful possession of the thing stolen, if, being a bailee or part owner thereof, he fraudulently converts it to his own use or to the use of any person other than the owner."

I submit that the property stolen was taken away by the accused, possibly in his own automobile, without the consent of the public. Further, the intention of the accused at the time of taking. I submit it has been proved, to permanently deprive the public thereof. It is explained in his confession that he was going to put it to some beneficial use, and other words used in the confession.

Then on page 118 and 119, para 50: "A person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent at the time of such taking permanently to deprive the owner thereof." My same argument applies there. The owner did not give consent. The accused had no right whatever. He must have, by circumstantial evidence taken, he admits by his confession, he took it and carried it away to his home, anything capable of being stolen. The Court knows whether or not these are capable of being stolen. With the intent to permanently deprive the owner thereof. I submit the same applies. He intended to put it to some beneficial use. Paragraph 50 goes on, but I do not think it is necessary to go on.

There is something on page 23 of the Manual, that is the last part of Paragraph 37, the last sentence: "The improper possession by one soldier of a comrade's necessaries where there is no evidence of theft is a different question. It is not an offence against the comrade, but is an offence against military rules, and may, irrespectively of any fraudulent intent, be punished under section 40." That more or less deals with the second charge.

In that connection, the Court will look at Note 8, to section 18, Page 444. The reason I quote it is if it should be considered by the Court that some of these articles belong to a soldier, in the case of some of these articles which do not bear the government mark, but bear a soldier's name or regimental number, if the Court should consider these articles might belong to the soldier, and not be public property: "if a soldier steals the greatcoat of his comrade, he can be charged with stealing it either as being public property or as being the property of a person subject to military law; for although, the greatcoat is owned by the public, the comrade has a special property in it by reason of his lawful possession.

It was stated that the civil test of stealing was applicable. I have here the Manual of Criminal Procedure, 1943, by A.E. Pottell, LLB, at Page 79 it is set out what is the definition of theft. It is so long that I think rather than read it I shall hand it to the Court. At Page 79 and 120.

I submit that the prosecution has produced to the Court an abundance of evidence to show that the accused actually did steal these articles.

Now, dealing with the second charge. I may say before that, it is necessary in fact for the prosecution to prove a prima facie case, and that is all that is necessary. In dealing with the second charge, which the prosecution does not have to prove nearly as much, the Defending Officer says that the goods exhibited, none of them are new, and could be classed as rubbish. I was very careful to bring the witness, S.Q.M.S. Melvin, to say that outside of certain articles which he claimed might be poundage, the rest of the articles each have a definite value in themselves, and were not rubbish, poundage or scrap. He values them at $124.87. Definitely not scrap or rubbish. The Defending Officer said there is real doubt that the unmarked goods are not public property. Supposing the court found that some of them were not public property. That's alright. There is certainly a good percentage of them that have been proved conclusively that they are definitely public property. Therefore, under Rule of Procedure 44 (D) the Court can make a special finding and find that these are public property. I could go further and make the statement that the Court could find all the goods are public property. While the two witnesses say there is a doubt, they say these goods are similar to Army issue, and it is possible for the Court to say that they are all public property.

The Defence says that some of the goods have been superceded by later models. That is true, but it does not give the accused any right to have them in his possession or take them away from being government property.

The Defending Officer said some of them may be obtained on repayment. That has not been brought out in evidence. There is no evidence that any of these goods were bought on repayment before the Court at this time.

I submit it has been proved to the Court that the accused had access to these goods. He was employed as a guard, and the first witness stated that during the night shift the two guards that were on duty had an opportunity of helping themselves.

It has been proved in evidence that the accused has a motor car.

---PRESIDENT: No, Captain Downey, I am not going to let you say that. That was not proved in evidence.

---PROSECUTOR: I submit the Court can observe from the evidence of a circumstantial nature that the accused did obtain these goods from Returned Stores Depot at Aurora and take them to his home.

"J"

Major.
President, S.C.M.

REPLY BY THE DEFENDING OFFICER TO THE PROSECUTOR RE SUBMISSION OF "NO CASE"

The Defence contends, sir, that on checking this statement, the questions and answers, and mind you, the Defence does not at this moment make any criticizm of the Court for taking this document, although we are mindful of the way it was taken, by plain clothesmen, but checking the answer to the question, "Have you any explanation..." "It was a common practice for personnel of Returned Stores Depot to take stuff that was going to be destroyed and put it to some beneficial use, rather than see it wasted. I am a married man with a wife and four children to support and could see no harm in taking this condemned stuff and putting it to some valuable use at home." Certainly, there is nothing in there to say the accused took these goods. There is no admission in that statement whatsoever.

I would like to point out re the Prosecutor's quotation from the Manual of Military Law, that you cannot say that which can be classified as rubbish that could be considered to be a comrade's necessaries.

Ken.

Y. [illegible] Major
President, S.C.M.

M.F.B. 358
30M—11-41 (3273)
H.Q. 1772-39-67
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-75591	Pte.	BONES, Horace Granville,	Special Distributing Depot, Toronto, RCOC

1. The following is a fair and true summary of the entries in the field ~~Service and General~~ O.L.L. ~~Regimental and Squadron, Battery~~ O.L.L. Conduct sheets ~~or Company Conduct sheets~~ O.L.L. of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ O.L.L. of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	~~times~~	~~times~~
For	times	times
For	times	times
For	times	times

O.L.L. O.L.L.

~~Number of instances of gallantry or distinguished conduct~~ O.L.L.

~~or~~ O.L.L.

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~ O.L.L.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ O.L.L. ~~Air Force Act~~ O.L.L ~~A.F.A. 73~~ O.L.L. ~~Section 47 of the Army Act, and dispensations with trial under A.A. 73 are set out in the Schedule~~ O.L.L. ~~annexed to this statement.~~ O.L.L.

3. The accused is not under sentence at the present time.

~~or~~ O.L.L.

~~The accused at the present time is under sentence for~~ O.L.L. ~~beginning on the~~ O.L.L. ~~day of~~ O.L.L.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and ~~31~~ 34 O.L.L. ~~Air Force~~ O.L.L. days in military custody, making a total of ~~31~~ 34 O.L.L. days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ O.L.L. attestation paper is 38 yrs. 6 days

6. The date of his ~~commission~~ O.L.L. specified in his ~~record of service~~ O.L.L. attestation paper is 5 Sep 39.

7. The service which the accused is allowed to reckon towards discharge is 2,030 days.

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~ O.L.L.

9. The accused is in possession of or entitled to ~~no air force~~ O.L.L. military decoration, or ~~air force~~ O.L.L. military reward ~~(or is in possession of or entitled to)~~ O.L.L. State any ~~air force~~ O.L.L. military decoration or reward. Canadian Volunteer Service Medal with clasp, 1939-45 Star, Defence Medal

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ O.L.L. ~~Air Force~~ O.L.L. ~~the regimental rank of~~ O.L.L.

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		O.L.R.		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. O.L.R.

Signed this ~~10th~~ 13th day of Sep 45. O.L.Rosell Capt.
Regimental Officer, SDDT, RCOC.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

(Sd.) Lewis (?) Capt.
Regimental Officer,
Special Detachment Depot, Corsair, RCOC.

No. B-70591 Name BONES, Horace Granville Rgt., Battery, or Company No.2 Ordnance Depot

Corps RCOC Date of enlistment 5-9-39 G.C. Badges 2 Tradesmen's Rates of Pay

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. (Sgd) E.M. MacLaggan Capt. Character

M.F.M. 6 (A.F.B. 123) 500M—11-41 (2496) H.Q. 1773-39-1852

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed completion 2 years service.					
				Two years completed without entries 5-3-44. (Sgd) A.E.F. WRIGHT Capt.)					
				CERTIFIED TRUE COPY:					
				O.L. Lovell					
				(O.L. Lovell) Capt.					
				Regimental Officer					
				Special Distributing Depot, Toronto, RCOC.					

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. B.75591 Pte, Horace Granville BONES

of No.2 D.D. is in a good state of health,

and is fit to undergo Trial by Court martial.

R. Stubbs Capt.
Medical Officer RCAMC
Attached to No.2 District Depot, CA(A)
Toronto, Ontario.

Station Exhibition Barracks,
Toronto, Ontario.

Date 12 Sep 45

M. F. B. 246
25M—10-42 (6503)
H.Q. 1772-39-480

Paterson Major.
Friedman, S.C.M.

MEDICAL OFFICER'S REPORT

I certify that No. Pte. B.75591 Horace Grenville BONES

of No. 2 D.D., Toronto is in a good state of health,

and is fit to undergo Trial by Court martial.

R. H. Stubbings Capt.
Medical Officer RCAMC
Att. to No. 2 District Depot CA(A)
Toronto, Ont.

Station Exhibition Barracks,
Toronto, Ont.

Date 13 Sep 45.

R. A. Eaton Major.
Presided. S.C.M.

M. F. B. 246
25M—10-42 (6503)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. B.75591 Horace Granville BONES,

of No. 2 District Depot is in a good state of health,

and as fit to undergo Trial by Court martial.

R. Stubbings Capt.
Medical Officer RCAMC
Att. to No. 2 District Depot CA(A)
Toronto, Ont.

Station Exhibition Barracks,
Toronto, Ont.

Date 11th Sep 45.

M. F. B. 246

25M—10-42 (5503)
H.Q. 1772-39-480

[illegible] Major
President, S.C.M.

HQC 55-B-1932 (JAG/D-9)
Your T.20-B-15393 (AJAG)

22 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

Standing Court-Martial
B.75591 Pte. Horace Granville BONES,
(HWE) Special Distributing Depot, RCOC., CA.

Reference your T.20-B-15393 (AJAG) dated 15th October 1945.

2. The original proceedings of the m/s Standing Court-Martial have not been returned to this Headquarters and our records do not indicate the nature of the exhibits filed therein.

3. If you will advise the nature of the exhibits, the disposition thereof can be directed by this Branch.

WMWS

(R.J.Orde) Brigadier
Judge Advocate-General.

WMWS/MM

AR

IN REPLY PLEASE QUOTE No. T-20-B-15393 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
15th October, 1945.

3183
OCT 16 1945
File 055-B-1932
Chgd. to JAG 1210
Referred to RAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-75591, Pte. Horace Granville BONES,
(HWE) Special Distributing Depot, R.C.O.C.

Reference H.Q.C. 55-B-1932 (JAG/D-7) dated 1 Sep 45 and further to this Headquarters' T-20-B-15393 (AJAG) dated 11 Oct 1945.

2. Pursuant to C.A.R.O. 1629 para 4, may advice be now received, please, as to the disposition of the exhibits in the marginally-noted Standing Court-Martial.

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 440
230M 1 44 4320
H.Q. 1172 39-767

H.Q.C.55-B-1932 (JAG/D-9)
Your T. 20-B-15393

17 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B.75591 Pte. Horace Granville Bones,
H.W.E., Special Distributing Depot, R.C.O.C., CA

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 34 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

Judge Advocate General.

RMM/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-1932
M.D.T. 20-B-15393

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B-75591 Name Horace Granville BONES

Rank Pte. Unit H.W.E. Special Dist. Dep. R.C.O.C. C.A.

Charges AA 18 (4) Stealing public property

(2) AA 40 Conduct to the prejudice.....

Date of Crime Between ~~18-1-44~~ + 11-8-45

Date of Arrest Charge Signed 18-8-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks, 11,12 & 13, 9-45

Sentence Detention 140 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40292

Date 12-10-45

MEMO Balance of sentence remitted by Conf. Auth. 4-3-46 (2) Not Guilty

M.D. 2 HWE Special Dist. Dep. R.C.O.C. C.A.

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. T-20-[illegible] (AG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
11th October 1945

Army
2453
OCT 12 1945
Chgd. to
Referred to JAG

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.F.B.-1932

STANDING COURT-MARTIAL

B-75591, Pte. Horace Granville BONES,
(HWE) Special Distributing Depot, R.C.O.C.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

(R.D. Evans) Major
Permanent President
Standing Courts-Martial.

41298

NAT. DEF. B. 440
250M-4-44 (4320)
H.Q. 1732-39-167

H.Q.C.55-B-1932 (JAG/D-

1 Sept 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

Application for Standing Court-Martial
B-75591 Pte. Horace Granville Bones,
Special Distributing Depot, RCOC.

Receipt is acknowledged of your T.20-B-15393 (AJAG) dated 28th August 1945, under cover of which you forwarded Charge Sheet and Summary of Evidence in the m/n application for Standing Court-Martial.

2. The statement in para. 2 of your letter has been noted.

3. As to the admissibility of the confession, it is considered that this depends on whether the same was voluntary. It is assumed that before it is tendered to the Court, the provost N.C.Os. will testify that they neither threatened the accused nor held out to him the prospect of any favour. In this connection evidence of the warning should be given. On this "trial within a trial" the accused may cross-examine the witnesses for the Prosecution and offer evidence on his own behalf, if he so desires. It is important that the provost N.C.Os. should testify as to the facts within their knowledge and not as to their "opinion" (the expression used by Sgt. Atkinson at p. 8 of the Summary). The fact that the accused, before making the confession, was told that he was being charged with improper possession is not, in itself, reason against rendering the confession to the Court upon the trial of the accused for theft and, alternatively, improper possession. It would, of course, be open to the Court to investigate the possibility of the accused's being induced to speak through the prospect of his receiving a less severe punishment than that which a conviction of theft might entail.

4. In para. 4 of your letter it is stated that the accused will go before Standing Court-Martial on charges under A.A.18 (4) and 40 pursuant to his election to be so tried under the authority of C.A.R.O. 4563(9). It is considered that such election should be noted in red at the head of the Charge Sheet instead of the statement: "The accused soldier has been remanded for Court-Martial."

5. Subject to the foregoing, the Charge Sheet is in order and the Summary of Evidence discloses sufficient evidence to establish a prima facie case against the accused on the charges set out therein.

6. The Charge Sheet and Summary of Evidence are returned herewith for your further use.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/MM

IN REPLY PLEASE QUOTE No. T-20-B-15393 (AJ...)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
28th August, 1945.

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

C-55-B-1932

Application for Standing Court-Martial
B-75591, Pte. Horace Granville BONES,
Special Distributing Depot, Toronto, RCOC.

Herewith Charge Sheet and Summary of Evidence for submission to the Judge Advocate-General pursuant to K.R. (Can) 540.

2. The provisions of K.R. (Can) 540 and A.G. Circular Letter R-730 have been carefully considered and it is recommended by the District Officer Commanding, Military District No. 2 that the charges in this case be dealt with by military authorities rather than by the civil authorities.

3. It is appreciated that the admissibility of the statement in the nature of a confession (Exhibit "A") may be questioned on the grounds that it was induced by the assurance that the accused would be tried for "Improper Possession" and is now being charged with "Stealing Public Property" as well. It is felt, however, that this is a matter to be dealt with by the court.

4 The accused has elected trial by Standing Court-Martial in accordance with C.A.R.O. 4563(9).

Arthur Potts

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

NAT. DEF. B. 440
2500M 4 44 4320
H.Q. 1702 39 767

H.Q.C. 55-B-1933 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BOUCHER, THOMAS ATKINS H-9525 PTE-

CONFIDENTIAL
H.Q.C. 55-B-1933

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 5 - 1945				JAG	NEW FILE	CR	31-8-45
SEP 20 1945	19-9-45	P.A.	[illegible]	JAG			
NOV 23 1945	23/11/45	P.A.	[illegible]	CMBR	For Requisition C.R. NOV 1 1945		
DEC 6 - 1945	6/12/45	P.A.	Wam	CMBR	For Requisition C.R. DEC 4 1945		
DEC 10 1945	10/12/45	P.A.	Wam	CMBR	With Papers C.R. DEC 6 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
NDHQ10-H-9525 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba. 3 December, 1945

The Secretary,
Dept. of National Defence (Army),
OTTAWA, Ontario.

DEC 9 1945
File
Copy
Referred to

REMISSION OF SENTENCE
H-9525, Pte. BOUCHER, T.A.

Reference your HQC55-B-1933 CMBR-6 dated 22nd November, 1945.

May it be advised that form of remission of sentence in connection with the m/n SUS was forwarded to NDHQ under cover of this HQ W.44-B-7263 (J) dated 8th November, 1945, and receipt of same was acknowledged in your letter of the 21st November, 1945.

(H.P. Rocke) Lt.-Col.,
T/Commanding, M.D. #10

vep

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

JQC 55- B-1933 (CMBR- 6)/evj
21 Nov 45.
Case No----------

REVIEW OF CONVICTION
BY
COURTS-MARTIAL BOARD OF REVIEW.

1. No, Rank and Name: H.9525 Pte BOUCHER, T.A.

2. Unit at date of offence: 10 DD CA

3. Charge: AA Sec 8(2) Striking Superior Officer: At Winnipeg, Man, 28 Jul 45 struck with his fist in the face Major N.W, Snider, No 50 Coy Cdn Dental Corps.

A G.S. soldier who served 9 months in N.W.E. and was returned to Canada as a volunteer for the Pacific.

Plea: Not guilty

4. Place and Date of Trial: Ft Osborne Bks, Winnipeg, Man. - 14 Aug 45. (SCM)

5. Finding: Guilty

6. (a) Sentence: 6 months detention.
(b) Date of Sentence: 14 Aug 45.

7. Date of Confirmation: NA

8. Date of Promulgation: NA

9. Being served at: 73 M.D.B. in M.D. 10

(N.B. - Discharged under R.O. 1029 ( ) for wef).

Remitted 3 Nov 45
D.O.C. MD 10

CONDUCT

11. (a) Prior to conviction:

(i) Civil Convictions: NA

(ii) Courts-Martial: NA

(iii) Summary Convictions: NA

Excellent record in 27 mos service including 9 mos in N.W.E.

(b) After convictions: Good. DOC expects to release 14 Nov 45.

(c) Date of enlistment: 23 Apr 43 Present Age: 24

---

12. Remarks:

(a) Item 10 has been omitted.

(b) Accused arrived in Winnipeg 27 Jul 45 on his way home from Germany, having volunteered for the Pacific. Served from Aug 44 until V.E. day in France, Belgium, Holland and Germany. While awaiting a train to Ft William, his home town, accused and 2 companions purchased several bottles of bootleg whiskey, a case of beer and later three 26 oz. bottles from the vendors. Drank most of one night and during the day of 28 Jul 45. On arrival at station to take 8 o'clock train to Winnipeg, he apparently had an argument with the station master and later struck Major Snider a glancing blow which knocked his glasses off and broke the lens. Caused no bodily harm. Accused evidently was in such a state he did not realize his actions and stated on oath he remembered nothing of the incident. Was not accustomed to drinking and the first time he had ever been drunk. Has a strain of Indian blood in his viens, his mother being half French and half Indian.

(c) This is the first offence accused committed during his service in the Army and it is most unfortunate he has this mark against his good record. While the Offr had every reason to lay a charge against the accused, am of the opinion this matter could have been settled out of court.

13. Recommendations:

Rev Offr: Immediate release.

Reviewed by W.A. Moss

W.A. MOSS, Major.

Recommendation of the Board:

DOC remitted wef 3 Nov 45.

Date----------

Secretary
Courts-Martial Board of Review.

H.Q.C. 55-B-1933
(JAG/D-6)

Ottawa 21 November 5

District Officer Commanding,
Military District No. 10
Winnipeg, Manitoba.

H-9525 Pte. Boucher, T.A.

Receipt is acknowledged of your W.44-B-7263 (J) dated 8th Nov 45 under cover of which you forwarded to this Headquarters Form of Remission together with MFM 288 in connection with the m/n soldier.

E.L.M.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

ELM:jb

W.44-B-7263 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba.
8th November, 1945.

8438

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

NOV 10 1945
File G.S.-B-1933
Chgd. to C.M.B.R. 1-11
Referred to

REMISSION OF SENTENCE
H-9525, Pte. BOUCHER, T.A.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally-named, duly completed in accordance with C.A.R.O. 3974. MFM 288 is also enclosed herewith.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

vep
enc.

HD

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC55-B-1933(JAG/D)
District File No.W.44-B-7263 (J)

PART 1

No.H-9525 Rank Private Name Thomas Atkins BOUCHER

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial .....14th August 1945.
Charge(x)When on active service, deserting His Majesty's Service,
Sentence .....6 months detention
Date of Sentence...14th August 1945.
Confirmation - (a) Authority N/A SCM
(b) Date .....

PART 111

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit (xxxxxxxxxxxxxxxx) (xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx) the balance of the sentence of detention as of the 3rd day of November, 1945.

Signed at Winnipeg, Man. this 3 day of November, 1945.

R.O.G. Morton

(R.O.G.Morton)Brigadier,District Officer Commanding,
(Appointment) Military District No. 10.
To be signed by the Competent Authority
or Superior Military Authority personally.

PART 1V

PROMULGATION

Remission(xxxxxxxxxxxxxxxxxxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of H-9525 Private Thomas Atkins BOUCHER,
(Number, Rank, Name in full)

No.10 District Depot, C.A.
(Unit, Attachment (if any))

Sentenced to undergo detention for nine months

on 14th August, 1945 at Winnipeg, Manitoba,

being served at #73 Military Detention Barracks,
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years 23rd April, 1943

YOB P U L H E M S

Medical grade or category 21 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

..... Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... Confirming Authority

Date .....

M.F.M. 288
(Army Form A-3104)
10M—9-43 (1869)
H.Q. 1772-39-2018

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
3 Nov ~~1 Oct~~. 45	Remission effective 3 November, 1945.	R.O.G. Morton (R.O.G.Morton)Brig D.O.C. ,M.D. No. 10	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge Sec,(8)(2) Army Act.	WHEN ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER: in that he, at Winnipeg, Manitoba, on the 28th day of July, 1945, struck with his fist in the face Major N. W. Snider, No. 50 Company, Canadian Dental Corps, C.A.	28 Jul 1945	14 Aug.45.

A Thomson
(A. Thomson) Signature of Officer making entry Lt. Col.
Commanding Officer,
No.10 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
17 Aug 45	There has been no opportunity to assess this soldier as to his ability, character or usefulness as a soldier.	A Thomson (A.Thomson) Lieut.-Colonel Commanding Officer, No.10 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

H.Q.C. 55-B-1933 (JAG)/D)

glo

19 September 45

District Officer Commanding,
Military District No. 10,
Winnipeg, Man.

Standin g
~~H.9525 - Pte.~~ Court-Martial, ~~Kutchar,~~ Thomas Atkins
No. 10 District Depot, C.A.

Receipt is acknowledged of your W.44-B-7263 (J) dated 13th September, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.M.
for (R.J. Orde) Brigadier,
Judge Advocate-General.

37

IN REPLY PLEASE QUOTE
No. W.44-B-7263(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba,
13th September 1945

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
SEP 15 1945
File CJS-B-1933
Chgd. to
Referred to JAG

Standing Court-Martial
H.9525 Pte. Boucher, T.A.

341863

Reference your H.Q. ~~6-55-B-1933~~ (JAG/D-7) dated 5th September 1945.

Returned herewith for Custody are the proceedings of the marginally named Standing Court-Martial.

(E. A. Fletcher) Major,
Assistant Judge Advocate-General
Military District No. 10.

CHJ/WRF

N.D. 23
1000M—10-44 (5769)
H.Q. 1772-101-23

36

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Fort Osborne Barracks, Winnipeg, Manitoba.

on the 14th day of AUGUST 19 45 at 1400 hours,

for the trial of: No. H-9525, Private Thomas Atkins BOUCHER,
Number Rank Full Name

No. 10 District Depot, C.A.,
Unit Attachment, if any

PRESIDENT: Major W. H. August, District Headquarters, M.D. No. 10.

PROSECUTOR: Captain F. W. Christie, District Headquarters, M.D. No. 10.
Rank Full Name Unit Attachment, if any

~~CONSEL~~ ~~XXXX~~ DEFENDING OFFICER: Lieutenant F. J. Whitehead, No. 10 District Depot, C.A.,
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, No. H-9525, Private Thomas Atkins BOUCHER, No. 10 District Depot, C.A., is Guilty of the charge.

WWB

SENTENCE: The Court sentence the accused, No. H-9525, Private Thomas Atkins BOUCHER, No. 10 District Depot, C.A., to undergo detention for six (6) months.

WWB

Signed at Winnipeg, Manitoba, this 14th day of August 1945.

(W. H. August) Major
President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 39434 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 31 day of Aug 1945

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~Do you object to~~ ~~interpreter~~

No. H-35618 S.M. (A/W.O.I) A. C. Bryant, District Headquarters, M.D. No. 10, acting

Question to the accused. Do you object to as shorthand writer?

Answer: No, Sir.

The shorthand writer is ~~and interpreter will be~~ duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial?

Answer: No, Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2" Withdrawn with Prej. sch.

5

CHARGE SHEET

The accused, No. H-9525, Private Thomas Atkins BOUCHER, No. 10 District Depot, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:-

CHARGE:
Section 8(2)
Army Act

WHEN ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER

- in that he -

at Winnipeg, Manitoba, on the 28th day of July, 1945, struck with his fist in the face Major N. W. Snider, No. 50 Company, Canadian Dental Corps, C.A.

F. W. Christie

(F. W. Christie) Captain,
Prosecutor,
Courts-Martial,
Military District No. 10.

Winnipeg, Manitoba,
13th August, 1945.

W.M.G.

33

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. By Defending Officer: No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Major N. W. SNIDER, No. 50 Company, Canadian Dental Corps, C.A.,

being duly sworn, is examined by the Prosecutor.

Question Are you Major N. W. Snider, No. 50 Company, Canadian Dental Corps?

A I am.

Q You are, in fact, a Major in the Canadian Army, Active, are you?

A I am.

Q Do you recall the evening of the 28th July, 1945?

A I do.

Q What were you doing that evening?

A I was on my way to report in Halifax, at Headquarters, No. 50 Company, Canadian Dental Corps.

Q And from what point were you leaving?

A C.P.R. Station.

Q In Winnipeg, Manitoba?

A In Winnipeg, Yes.

Q And what time did you go to the Station?

A Shortly before eight o'clock.

Q That would be 0800 hours or 2000 hours?

A No, 2000 hours.

Q At the time that you were in the Station how were you dressed?

A Similarly to what I am now. I had the same uniform on that I have now, that is, the Tropical Summer uniform and my Service hat that I have got on, and my rank badges on.

Q And those rank badges are the crowns for a Major?

A That is right.

Q Do you know H-9525 Private Thomas Atkins Boucher?

A No.

Q Just whereabouts were were you at the Station at approximately 2000 hours?

A At the far end of the Concourse near where you take the train, I believe. I think it is No. 8 track -- 7 or 8.

Q Were you there for any particular purpose?

A Yes; I was waiting to get my Berth Reservation confirmed by the Sleeping Car Conductor.

Q And he has a special wicket right near the entrance to that track?

A Yes, there is a space for three or four of them behind a desk.

Q And how far from the desk would be standing?

A Oh, approximately as far from here to the wall.

Q That would be about ten to fifteen feet?

A I would say that.

Q When you were in that position did you notice anything of a disturbance in the Concourse?

A Not what you would actually call a disturbance. At the base of the steps there were three or four soldiers preparing to take the train and there seemed to be some discussion amongst them with the Constable in charge there. As to what the nature of the discussion was, I couldn't say.

Q And how far from you would this be?

A Oh, thirty or forty feet.

Q Well now, did you notice or was there anything in particular happened after you had noticed this discussion?

A Well, there was one soldier who detached himself from the group and he was talking to, I believe it was the Station Master. He was standing slightly to my left and behind me.

Q How far?

A Oh, possibly eight or ten feet, or twelve feet.

Q And then what did you notice?

A Nothing in particular. I could hear the talking, and I gathered that this soldier had lost his ticket or couldn't locate it; and just at that time this soldier said, 'there is a Major' or words to that effect, and just as I turned around -- I felt possibly that I would be called on for some assistance or something -- an this soldier attacked me.

Q You say he attacked you. Just what did he do?

A Well, to my mind I started to turn towards him and he came at me with arms flailing and struck me a glancing blow on the left cheek which knocked my glasses off and my hat off.

Q You say he struck you. With what?

A With his fist or his hand.

Q Which fist or which hand?

A I don't know.

Q And where did he strike you?

A On the left side of the jaw, left-hand side of my face.

Q And you say he knocked your glasses off?

A Yes.

Q Did he knock them completely off?

A Yes; they fell on to the floor.

Q And were they damaged?

A The right lense was broken.

Q And where was your cap?

A Somebody picked that up and handed it to me.

Q You say you turned towards this soldier. In what direction did you turn?

A I turned slightly left; just started to turn left.

Q What is the effect in your vision, of losing your glasses?

A Well, it is pretty bad. I can't see any particular distance without them; that is, not clear.

Q Well now, Major Snider, could you identify the soldier who struck you?

A No, I could not.

Q Had you spoken to the soldier at all?

A No, I had not.

Q Had you done anything that might have provoked his striking?

A No.

Q After the striking, what happened?

A The soldier was immediately taken in charge by two men. Whether they were in uniform or not, I couldn't say.

Q And did you see anything of the soldier after that?

A No, I did not; they took him away.

Q Did you have sufficient opportunity to notice the soldier's condition?

A No, I can't say that I had. From his actions when he staggered, I would say that he might have been drinking.

Q Are you able to fix any degree of intoxication?

A No, I couldn't do that.

Q How long did all this take?

A It happened in a very short space of time. I would say not more than a couple of minutes, if that much.

Q You mentioned that the soldier used some expression before striking you. What was that expression, again?

A I am not too sure, but I believe he said - 'there is a dam Major'.

Cross-examined by the Defending Officer:

Q Major Snider, you say that this chap, this soldier, came towards you, flailing his arms. Have you any reason to believe that he struck you deliberately? Could it not have been a drunken brawl, or something like that, when he came towards you?

A I wasn't in a position to see him particularly, because he was in behind me, but I don't think it was a drunken brawl.

Q You were not in a position to see his arms flailing around?

A Yes, out of the corner of my eye.

Q It could be that the soldier was perhaps under the influence of liquor, and just struck up and happened to accidentally hit you?

A It could be, except that after when he was grabbed or taken in charge of the two men, he tried to break loose to apparently tear into me again.

Q That was perhaps only an opinion, Sir, and I can understand, and I think you can, that a man who is suddenly grabbed and held would try to get away. That is natural, isn't it? You would feel the same way if someone came up and grabbed you unexpectedly -- you would naturally try to break away, would you not?

A Yes.

Q And you say that you heard a statement come from somewhere behind you or to your left, and near, and you looked over and saw a soldier talking with what you thought was the Stationmaster?

A Yes.

Q And this soldier appeared to be in a little trouble, or he might have lost his ticket or couldn't find it just at the moment?

A Yes.

Q And than you state that a few minutes afterwards you heard someone say something about 'there is a Major', and you say that you turned around thinking that your assistance may have been required by the soldier?

A Yes.

Q If, as you say now, there was a statement which could have been, 'there is a dam Major', do you think that could have come from the same chap who was in difficulties with the Stationmaster?

A I believe it was.

Q Have you anything that makes you believe it was him?

A Nothing, except that there was no one between us at the time.

Q There were many people in the Station, and no doubt many soldiers?

A Right.

Re-examined by the Prosecutor:

Q Major Snider, did you notice the direction from which the accused struck the blow?

A No.

Q That is, whether it was from a height coming down, or a low left coming up, or a sideswing?

A I couldn't swear to that.

Q Did he touch you with more than one hand?

A I don't think so.

Q Did he fall to the ground, or lurch to either side?

A I don't think so.

Q Did you notice any other Major present in the vicinity?

A No, I didn't.

Questioned by the Court:

Q Did you see the man who struck you, at all?

A Yes, I saw him.

Q How was he dressed?

A He was dressed in Battle Dress, with a Beret.

Q A khaki Beret?

A A khaki Beret, and he had First Army flashes on his arm.

Q How big a man would he be?

A I would say he was as tall as I am, and a lot slimmer. The man would weigh, from the glance I took of him afterwards, I would say he would weigh in the neighborhood of 165 or 170 pounds.

Q What height are you, Major?

A Five feet, eleven.

Q Did you notice the complexion of the man, color?

A He was fairly dark complexioned, that is, as if he might, as a lot of chaps, have been out-doors in the sun a lot -- I would say quite swarthy, or dark.

Q Where did this blow land first, on the top of the head or on the jaw.

A On the jaw.

Q And how did your glasses get knocked off if the blow hit you on the jaw.

A It was a glancing blow, that came up and caught the rim of my glasses.

Q That is, the blow hit your jaw first and travelled upwards, and your hat fell off?

A Yes.

Q From what direction did it come from, down or up?

A I would imagine down.

Q That is, it came from below and then upward?

A Yes.

Q Was there any severe impact with your jaw?

A No.

Q What was your position when the blow hit you? How were you with respect to the man?

A I would be three-quarters facing him.

Q Did you see the blow coming at all?

A Just very vaguely, in time to dodge it.

Q Did you make any effort to dodge it?

A I did.

Q If you had stood still would the blow still have glanced off your jaw?

A I doubt it.

Q Would you say it was a deliberate blow or was it an accident?

A I am inclined to think it was a deliberate blow.

Q What was your impression at the time?

A Well, to say the least, I was flabbergasted, and I wasn't expecting it, and I couldn't see any reason why I should be attacked.

Q Were you attacked?

A I felt that I was.

Q Was there anyone near you at the time?

A Not to my knowledge.

Q How close would the nearest people be to you?

A I don't know how close anyone would be behind me; on either side and in front of me the closest person would be, possibly four to five feet away.

Q Was the soldier who struck this blow alone, or was someone with him?

A He was alone at the time.

Q How close was he to you when you first saw him?

A You mean, when he was talking to the Stationmaster?

A No. You say you turned around and got a glancing blow. Now, how close was he at the time you turned around?

A He couldn't have been more than two or three, or four feet away.

Q When you first saw him was he swinging his arm?

A I don't quite get what you mean by that question.

Q Well, you say you saw him three or four feet away when you started to turn around. Now, when you first saw him at that time was he swinging his arm?

A At that time he was lurching towards me.

Q That is, it was not a normal walk, I take it?

A No, a lurch.

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Q What do you mean by 'lurch'?

A I would say, slightly staggering.

Q What were his arms doing at that time?

A I am not too sure what they were doing.

Q When did you first become conscious of the arms moving?

A Just a split second before he struck me.

Q And were both arms moving or just one?

A I couldn't even say whether they were both moving, or not.

By the Court: Thanks very much; that is all.

The Witness withdraws.

Second Witness for the Prosecution) No.R-140402, Corporal F. L. HAINES, No. 2 Air Command, Service Police, Winnipeg, Manitoba, having been duly sworn, is examined by the Prosecutor:

Q Are you R-140402 Corporal F. L. Haines, No. 2 Air Command, Service Police?

A Yes, Sir.

Q And where are you normally stationed?

A At No. 2 Air Command.

Q That is at Winnipeg?

A Yes, Sir.

Q And how are you ordinarily employed?

A Service Policeman; they tell us what duties we have to do.

Q That is, you are normally employed as a Service Policeman?

A That is right.

Q In any particular area or any particular job?

A We are detailed each night to go on duty, and where.

Q Do you recall the evening of the 28th July, 1945?

A Yes, Sir.

Q Were you on duty that evening?

A Yes, Sir.

Q What duty and where?

A I was on Station duty at the C.P.R. Station.

Q In Winnipeg, Manitoba?

A Yes, Sir.

Q Do you know No. H-9525, Private Thomas Atkins BOUCHER?

A Yes, Sir.

Q Is he present?

A Yes, Sir.

Q Can you indicate him?

A The man in the middle of those two men (indicating the accused).

Q Now, did you see Private Boucher on that particular evening?

A Yes, Sir.

Q When did you see him?

A There was a disturbance in the lower Concourse down near the entrance to tracks 7 and 8. I went down there and saw this bumping around.

Q Now, at what time was that?

A It was eight o'clock in the evening.

Q That is, 2000 hours?

A Yes, Sir.

Q And what was Private Boucher doing?

A Well, I had just went up to the C.P.R. Policeman there and he said, 'I think we are going to have some trouble with these two chaps', and when I turned around this Private Boucher struck this Officer.

Q Well now, how far away was the Officer from you at the time you turned around?

A I would say approximately between seven and ten feet away from me.

Q And how far away was Private Boucher?

A Approximately the same distance, Sir.

Q And you say that he struck the Officer?

A Yes, Sir.

Q What did he strike him with?

A He struck him with his right fist.

Q And where did he strike him?

A On the left side of his face, Sir.

Q Was there any damage done?

A The glasses of the Officer were broken.

Q What kind of an Officer was it?

A It was a Major, Sir.

Q An Army Major?

A Yes, Sir.

Q And how didyou know that?

A I knew it was a Major by the crown on his shoulder.

Q Was the crown visible to you at the time?

A Not at the instant the Private struck the Major.

Q Well, when did you see the crown?

A The Private seemed to me as if he was going to strike the Officer again, so I grabbed this Private and I was closed enough then to the Officer to see he was a Major.

Q You say you grabbed the Private. Who was the Private that you grabbed?

A Private Boucher.

Q Was that the Private who struck the blow?

A Yes, Sir.

Q Did you hear any remarks made by either the accused or the Major?

A When I got this Private I asked the Major then if he was going to lay a charge and he said, 'Yes, I certainly am'.

Q Did you see the Major make any move before he was struck?

A No, Sir.

Q What was the Major's re-action to the accused's conduct?

A He seemed very surprised.

Q What would you say as to the accused's conduct at the time?

A I would say that he had been drinking; he appeared to be under the influence of liquor; when myself and the C.P.R. Corporal were leading him away he was very unsteady.

Q From what direction did the accused strike the Major?

A (No answer).

Q Perhaps I could put the question another way. Was the blow a swinging blow, or an upward one, or a downward one, or what?

A It seemed to be an upward blow, Sir.

Q Did you notice whether the accused stumbled either before or after the blow?

A No, Sir.

Q If he had stumbled would you have seen it?

A Yes, Sir.

Q Was the accused alone?

A There was another soldier, a small fellow, that appeared to be with him at the time.

Q And how far away was he?

A I would say, roughly, it was a couple of feet -- two feet.

Q How was the accused dressed?

A In his Battle Dress, Sir.

Q Any sort of Headdress?

A Yes; he had on a Beret.

Q What color?

A It was a mauve, I would say, or crimson, reddish color.

Q Any flashes at all?

A I didn't notice them, Sir.

Q How about the Major?

A I didn't notice any flashes either, just his rank.

Q How was he dressed?

A I believe he had on his Tropical.

Q Did you notice the Corps to which either the Major or the soldier belonged.

A No, Sir.

Q After you seized the accused what happened?

A He was very quiet, Sir. There was no trouble at all escorting him out of the Station.

Q Who escorted him out?

A Myself, and the C.P.R. Policeman.

Q And when did you last see the accused?

A When I handed him over to a Provost.

Q What kind of a Provost?

A Army Provost.

Q And how long was that after you seized him?

A I would say, roughly, it would be about five minutes, Sir.

Cross-examined by the Defending Officer:

Q Corporal Haines, you say that you know No. H-9525, Private Thomas Atkins Boucher, and you pointed to a chap sitting there in the centre as being him. You also said that he is the chap that you saw at the C.P.R. Station that night; is that correct?

A Yes, Sir.

Q How do you recognize this chap as being the same one?

A Just by his appearance.

Q Just what is particular about his appearance that you recall to mind?

A He was tall and dark, and well built.

Q Did you notice at the time you came into this Court that the chap sitting in the seat there was tall, dark and well built?

A Yes, Sir.

Q And you were asked if you knew the accused you turned around and pointed to the chap sitting in the centre?

A Yes, Sir.

Q And actually that chap that you refer to is tall, dark, well-built, and if you hadn't seen this chap you just turn around and point to him?

A I would know him by his appearance.

Q Just what about his appearance would you know him? There are dozens of tall, dark, well-built fellows. Is there something in particular that you can identify him by?

A By his face -- I remember his face.

Q Any particular distinguishing feature about his face?

A Well, I just remember his face.

Q Do you think you would be able to pick him out of a line-up of five dark well-built chaps of that height?

A Definitely, Sir.

Q You definitely could?

A Yes, Sir.

Q You can't lay your finger just on any particular thing that you could identify him by?

A No, Sir.

The Prosecutor declines to re-examine this Witness.

Questioned by the Court:

Q Corporal, you say you saw the blow struck?

A Yes, Sir.

Q Would you say it was an intentional blow or an accidental blow?

A It happened so fast, Sir.

Q Did it look as if the accused was endeavouring to strike somebody, or was he falling down, or what was he doing?

A When I was looking he was just striking the Officer, Sir.

Q What was the accused's attitude at that time? Can you say as to that?

A No answer.

Q You stated that it looked as if the accused was going to strike the Officer another blow. What made you come to that conclusion?

A He had his right hand behind his back ready to swing again.

Q And where was he going to swing?

A To hit the Officer in the face again.

Q At this Officer he had already hit?

A Right, Sir.

Q Were you near to him at that particular instant?

A Yes, Sir; I was on my way over then.

Q Did you reach him before he could make the second swing?

A Yes, Sir.

Q Did you have any conversation with the accused?

A No, Sir.

Q After you took him into custody?

A No, Sir.

Q Did you not talk to him at all?

A No, Sir.

Q Did he talk to you -- did he say anything?

A He said he didn't want to go with me, but he would go with the Corporal Policeman.

Q From what the accused said and how he said it, could you form an opinion as to his mental condition?

A His words were not thick at all.

Q Did he appear to know what was going on?

A No, Sir.

Q He didn't know?

A He didn't appear to know, Sir.

Q He didn't appear to know what?

A He didn't appear to realize he had struck this Officer.

Q Did he object to being taken into custody?

A Not enough that you would call an objection, Sir. He made two or three moves to shake me off, but I wouldn't call it an objection at all.

Q Do you remember anything else he said?

A No, Sir.

Q You say you turned him over to the Army Provost in about five minutes, did you?

A Yes, Sir.

Q Did you leave immediately?

A Yes, Sir.

Q You left immediately?

A Yes, Sir.

By the Court: That is all.

The Witness withdraws.

By the Prosecutor: That is the case for the Prosecution, Sir.

The Defence submits that a prima facie case has not been established by the Prosecution with respect to the charge.

The Prosecutor declines to reply.

The Court disallows the submission of the Defence and its decision is announced to the accused.

The Court proceeds with the trial.

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Withwood Mrs
Pres Sec

DEFENDING OFFICER'S MOTION OF 'NO CASE'

Sir, I wish to make a motion of 'No case' on the grounds that the Officer who claims to have been struck could not identify the accused as being the person who did it, but he did recognize the fact that the person who did strike him was wearing a khaki Beret. Corporal Haines, the second witness, states that he identifies the accused as the man, but claims he was wearing a red Beret. Therefore, I think there has not been positive identification, Sir.

~~The Prosecutor has no further witness to call.~~
~~The Prosecution is closed.~~

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I'll take it under oath, Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. .....

First Witness for the Defence:) No. H.9525, Private Thomas Atkins BOUCHER, No. 10 District Depot, C.A., having been first duly sworn, is examined by the Defending Officer:

Q Will you tell your story to the Court; something about yourself and service in the Army?

A I was born in Fort William in 1921, 21st March, and I went to a separate School there. I passed High School Medical examinations around '36 or '37, and then I went out to make a living on my own. I worked for the Great Lakes Paper Company for three years. After that I thought I would join the Army, I guess, so I joined the Army 21st April '43, took Basic training at the 102nd Basic Training Centre at Fort William. I went Overseas in the Armoured Corps in the first part of November '43, was with the Armoured Corps with the No. 2 C.A.C. R.U. for about a month and a half. Then I got transferred to the Army Service Corps, 65 Tank Transport Company, went Overseas with them 4th August '44, over to France. I was over there until I was ready to come home here sometime in July. When I got off the train at the C.N.R. Station I went out to look for a room and got one at the Club Hotel in the City. I went out and seen a couple of my friends out there and I figured we were going to have a couple of drinks, and they went out and got some -- it was bootleg whiskey. We had a bottle of that -- two 26's it was we got -- and we went to bed; that was three o'clock in the morning, I guess; got up early the next morning, around seven o'clock, drank the other bottle of whiskey and was feeling pretty good, and went down for something to eat. I wandered around town after I had breakfast, and waited until the Beer Parlors were open and then I drank for an hour or an hour and a half, and we then got across to the Liquor Store and got our liquor issue, went back to our room and drank another bottle -- the stuff we just got from the Liquor Store -- and then we went over to check our baggage at the C.P.R. Baggage Room, in order to catch the train to go home, and I went back for some other drink. The boys thought we would go for something to eat, so we went out and went over to the Cafe which was near the Station, went in the Cafe. I don't remember coming out of the Cafe, and I don't know anything about whether I ate or not. I didn't remember going down to the Station at all, and when coming to I was in the Guard House.

Q In your statement, Private Boucher, in regard to your service, you say you proceeded with your Unit overseas to France. Did you get any further than France?

A Yes; I was in Belgium and Holland, and Germany.

Q Did you sign up for the Pacific Force?

A Yes, Sir.

Q You did?

A Yes, Sir; sometime in June.

Q Now then, with regard to your drinking on this particular evening in question. You made a statement to the effect that you went to the Liquor Store and made a further purchase?

A Yes, Sir.

Q How much liquor did you buy on this occasion?

A All I got was a 26 ounce bottle.

Q Were your friends with you?

A Yes, there were three of us -- we had three 26's, and we bought a case of beer.

Q Just one case of beer between the three of you?

A Yes, Sir.

Q Now then, you stated that on the night you arrived in Winnipeg your friends brought up two bottles of liquor?

A Yes, Sir.

Q You drank one bottle when they came back with the liquor?

A Yes, Sir.

Q That would be at what time, approximately?

A About three o'clock in the morning.

Q Then you went to bed, and you drank in the morning before you had breakfast?

A Yes, Sir.

Q The next liquor you had to drink was in the afternoon of the 28th July?

A Yes, Sir.

Q You said you spent an hour or an hour and a half in the Beer Parlor?

A Yes, Sir.

Q Then after purchasing your liquor you went back to the Hotel and you drank all that liquor there, did you?

A We drank a bottle.

Q You drank one bottle?

A Yes, Sir.

Q And then what happened?

A We went to the Station to check the baggage.

Q And then what happened? Then what did you drink?

A We drank one more bottle, I think.

Q Have you ever been under the influence of liquor to such an extent that you were never able to carry out your job?

A No, Sir, not that I know of.

Q Not that you are aware of?

A No, Sir.

Q Did you drink regularly while you were Overseas?

A No, I didn't drink very much. I had the odd beer in England, and I had a little bit of cogniac in Belgium; not enough to get drunk on.

Q And you stated at one stage that you left the Hotel to go to the Cafe. What were you going to the Cafe for?

A For something to eat.

Q Were you going for a regular meal? Have you any idea of the time of day it would be?

A Late in the afternoon, around 5.30 or so.

Q And after you left the Cafe where did you go?

A Well, I don't know -- I don't remember going out of the Cafe. I just remember going in, that is all.

Cross-examined by the Prosecutor:

Q You heard Corporal Haines in his evidence say there was a small soldier with you in the Station. Who was he?

A It was Leslie Kontuen.

Q Is he a friend of yours?

A Yes, Sir.

Q Belonging to the same Unit?

A No; he belonged to the Saskatchewan Light Infantry.

Q Where does he come from?

A He is from Fort William.

Q Are you from Fort William?

A Yes, Sir.

Q What was he doing at the Station?

A He was going home too, the same as I was.

Q Did he have his ticket?

A I don't know.

Q And who was it who was having the argument about the ticket, you or Kontuen?

A I don't remember.

Q Well, did you have your ticket with you?

A I had my ticket, Yes, Sir.

Q Where did you have it?

A I had it in my pay book.

Q Well, why didn't you produce your ticket to the Stationmaster?

A I don't know.

Q Did you have your equipment on?

A I don't know that either.

Q Well, did you have your equipment with you when you got to the Guard Room?

A No, Sir, I didn't. They told me they would get it.

Q Did you ever meet Major Snider before?

A No, Sir.

Q He was Overseas with the First Division -- did you notice that?

A I noticed that, Sir.

Q You never had him do any Dental work for you or anything like that?

A No, Sir.

Q When you were with the Tank Transport Company what was your general job?

A I was delivering tanks.

Q A Driver?

A Yes, Sir.

Q Those Tank Transports are Diesel engines, aren't they?

A Yes, Sir.

Q And you are specially trained, are you, in Diesel engines?

A No, I am not specially trained, Sir.

Q Where were you going that ~~ev~~ evening?

A I was going home.

Q On the C.P.R. train to Fort William?

A Yes, Sir.

Q And what times does the train leave the Station?

A It was going to leave at eight o'clock.

Q 2000 hours?

A That is right.

Q Did your friend, Kontuen, take the train?

A I don't know.

Q You haven't seen him since?

A No, Sir.

Q Do you know where he is now?

A He is probably home in Fort William.

Q But you don't know?

A I don't know, Sir.

Q Have you ever been drunk before, so that you don't remember what happened?

A I have never been drunk before.

Q How many of you were in on this drinking of yours?

A There were three of us.

Q Was Kontuen one of them?

A Yes, Sir.

Q And he is the small soldier referred to?

A Yes, Sir, just a young chap.

Q How tall would he be?

A Oh, 5 foot 7.

Q And how much would he weigh?

A About 135 or 140 pounds.

Q And you are six feet?

A Yes, Sir.

Q And you weigh about 200 pounds?

A 195, Sir.

Q How old are you?

A Twenty-four.

Q Single?

A Yes, Sir.

Q When did you say that you enlisted?

A 21st April, 1943.

Q And you went Overseas when?

A Sometime in November the same year.

Q In November, 1943

A Yes, Sir.

Q You went in August, 1944, you said?

A Yes, Sir.

Q And you served in Europe until you returned in June or July?

A I believe it was the end of June, Sir.

Q What is your first recollection after this incident in the Station? What is the first thing you remember after the incident at the Station?

A The first thing I remember, I was in a cell.

Q At Fort Osborne?

A Yes.

Q At what time was that?

A I don't remember what time it was, Sir; it was dark.

Q Don't you remember saying to Corporal Haines that you didn't want to go with him?

A No, Sir, I don't.

Q Did you object to going with the Air Force Provost?

A No, Sir, I never object to anything like that.

Q What about the C.P.R. Policeman?

A I don't remember him at all.

Q What time was it when you were in the Cafe?

A I would say it would be around 5.30, somewhere around there; I don't know exactly.

Q What time was it you were in the Guard Room at Fort Osborne?

A I don't know the time.

Q No idea? Was it after 'Lights Out'?

A Yes, Sir, it was after 'Lights Out'.

Q Well then, you reached Fort Osborne Barracks by way of Stanely Street Barracks?

A I don't know, Sir.

Q Where is your pay book now?

A It is probably down at the Guard House.

Q Don't you know?

A No, Sir.

Q What about your Liquor permit?

A They have got everything there.

Re-examined by the Defending Officer:

Q Private Boucher, how do you know who was with you at the Station?

A Well, I was out with him all afternoon; I figured we would all go home together.

Q Do you remember him being there?

A No, I don't remember him being there?

Q You stated you had your ticket with you?

A Yes, Sir.

Q Did you have it in your hand when you were at the Station?

A I don't remember whether I had it in my hand or not.

Q How do you know you had your ticket?

A I got it in the morning and I had it in my pay book.

Q And you are absolutely sure that you don't recall anything at all at the Station, of your friend, Private Kontuen?

A I don't remember being around the Station at all.

The Witness resumes his seat.

By the Defending Officer to the Court: Sir, I would like to ask permission of the Court to have the Prosecutor produce at this time the M.F.M. 6 of the accused, to show that from his previous character it would be impossible for this accused to have committed the offence with which he is charged.

By the Court to the Prosecutor: Have you any objection to putting in the M.F.M. 6 at this time?

By the Prosecutor: No, Sir.

By the Court: This is an unusual request, but if it is the wish of the Defence to have the M.F.M. 6 submitted at this time the Court will admit it.

M.F.M. 6 is read to the Court by the President, marked "Z", signed by the President, and attached to the proceedings.

The Prosecutor makes a closing address.

The Defending Officer makes a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, ~~together when practicable, with an~~ ~~M.F.B. 356~~.

This ~~These~~ document ~~are~~ is read to the Court by the President, ~~are~~ marked "Y" ~~and "Z"~~, signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(Defending Officer makes a statement in mitigation of sentence (See Page "7" attached).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

52

"Y" Wooldridge Major
President, S C M

M.F.B. 555
MM—9-43 (5992)
H.Q. 1772-30-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-9525	Private	Thomas Atkins BOUCHER	No. 10 District Depot, CA

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	nil times	nil times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ ~~nil~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~nil~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ ~~Air Force Act~~ ~~Section 47 of the Army Act and dispensations with trial under A.A. 73~~ A.F.A. 73 ~~are set out in the Schedule annexed to this statement.~~ ~~no~~

3. The accused is not under sentence at the present time.

~~nil~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... ~~no~~ .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 17 days in ~~Air Force~~ military custody, making a total of 17 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 years 4 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 23rd April, 1943

7. ~~The service which the accused is allowed to reckon towards discharge is~~ ~~no~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused ~~is in possession of or entitled to no air force decoration, or air force reward~~ (or is in ~~military~~ ~~military~~ possession of or entitled to). State any ~~air force~~ military decoration or reward. Canadian Volunteer Service Medal and Clasp.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ ~~Air Force~~ ~~the regimental rank of ..... ~~no~~ .....~~

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~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....Permanent Force unit dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	NO			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

M Throp Capt. & Adj.
(M. Throp)
No. 10 District Depot, C.A.

Signed this 14th day of August, 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y signed by the president, and annexed to the proceedings.

D H Allgood Major
President. S. C. M.

M.F.M. 6

Date of Birth

Reg. No. H-9525 Name BOUCHER, Thomas Atkins Corps R.C.A.S.C. Date of enlistment or enrolment 15 Apr 43

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc.

Place	Date of Offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Donated Blood to the Canadian Red Cross Type A-2		30 Apr 43			Sgt. J.D. Morrison, Capt.
Fort William				Entries Nil 14 Jun 43					
Fort William				~~Improper entry deleted~~ 4 Nov 43		Sgd. illegible.			
				Awarded the C.V.S.M. and Clasp		15 Dec 44.			

CERTIFIED TRUE COPY

Capt. & Adj.
(W. Throp) Officer i/c Records
No. 10 District Depot. C.A.

(P.T.O.)

M.F.M. 6—500M—8-44 (5380)

"7" 59

President, S C M. Major

DEFENDING OFFICER'S STATEMENT IN MITIGATION OF SENTENCE

I wish to bring these facts before the Court, Sir, in mitigation of sentence. First of all, the past very good record of the accused in two years' service in the Army, with no convictions and no charges being laid against him.

I also wish the Court to consider the fact that Private Boucher has served Overseas and that he was over there for approximately nine months of fighting.

Another point I would ask the Court to consider, is the fact that Private Boucher volunteered to serve in the War in the Pacific; and as far as the drinking is concerned there is a very important point here that I would like to bring to your attention, Sir, and that is the fact that Private Boucher's mother is half Indian and half French, and I think that it is quite commonly known how liquor affects anyone with Indian blood in their veins, which may possibly have provoked the attack that has been charged.

And one other thing, Sir, is the amount of liquor that he drank, and the fact that Private Boucher is not an experienced drinker, as he has testified under oath.

I think that is all, Sir.

7

PRECIS OF EVIDENCE

No. H-9525, Private Thomas Atkins BOUCHER, No. 10 District Depot, C.A., a G.S. soldier of the Canadian Army placed on Active Service.

CHARGE: Striking His Superior Officer.

To prove the charge the following evidence is available:

Major N.W. Snider, No. 50 Company, Canadian Dental Corps, C.A., will give evidence that at about 2000 hours, 28th July, 1945, at the C.P.R. Railway Station, Winnipeg, Manitoba, he was standing in a crowd of people. The accused, who appeared to be under the influence of liquor, was arguing with the station-master. Suddenly with no apparent reason, the accused struck Major Snider with his fist in the jaw. The first glanced upwards, hitting Major Snider's glasses and breaking one of the lenses. Railway Police and Provost grabbed the soldier and took him away.

A member of the C.P.R. Police will also give corroborative evidence.

R-140402, Cpl. Haines, F.L., No. 2 Air Command, Service Police Pool will give evidence that he saw the accused strike Major Snider.

NOTICE

TAKE NOTICE THAT I propose to present H-9525, Private Thomas Atkins BOUCHER, No. 10 District Depot, C.A., for trial by the Standing Court-Martial at 1400 hours on Tuesday, the 14th day of August, 1945, at Winnipeg, Manitoba.

13 August, 1945
Winnipeg, Manitoba.

(A. Thomson) Lieut. Colonel
Commanding Officer
No. 10 District Depot, C.A.

TRIAL OF: **H-9525 Pte. Boucher, T.A.**

No. 10 District Depot (CA)

I, **H-9525 Private T.A. Boucher**
No. 10 District Depot (CA), desire ~~do not desire,~~
an officer assigned to defend me at my trial by
Court-Martial.

T A Boucher

Winnipeg, Manitoba,
1 August, 1945. 194

5

MEDICAL OFFICER'S REPORT

I certify that No. H-9525 Pte. BOUCHER, T.A.

of #10 District Depot, C.A. is in a fit state of health,

and able to undergo Trial by Court martial.

W. D. Skinner Lt.
Medical Officer R.C.A.M.C.
No. 10 District Depot, C.A.

Station Winnipeg, Manitoba.

Date 14th August, 1945

M. F. B. 246

35M—2-43 (8525)
H.Q. 1772-39-480

H.Q.C. 55-B-1933 (JAG/D-7)
Your File - W.44-B-7263

5 Sept 45.

District Officer Commanding,
Military District No. 10,
Winnipeg, Man.

STANDING COURT-MARTIAL

H-9525, Pte. BOUCHER, T.A.,
No. 10 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/ET

SM-7-45(M-188)

3

THIS COPY FOR: H.Q. C.55-B-1933
M.D. " .44-B-7233

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. H-9525 Name ROUCHER, Thomas Atkins

Rank Pte Unit No 10 DD CA

Charge AA 8(2) WOAS Striking his superor...

Date of Crime 28-7-45.

Date of Arrest Charge Signed 13-8-45.

Orders for D.C.M.

Place and Date of Trial Ft Osborne Bks, Winn, Man; 14-8-45.

Sentence Dt 6 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39434

Date 31-8-45

MEMO

MD 10 - No 10 DD CA

L J Ryan Lt

for Judge Advocate-General

10M-8-45(M-189)

DEPARTMENT OF NATIONAL DEFENCE W.44-B-7263 (J)
- ARMY -

Winnipeg, Manitoba.
25th August, 1945.

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL

C-55-B. 1933

No. H-9525, Pte. BOUCHER, T.A.,
No. 10 District Depot, C.A.,

Herewith, for review, are the proceedings of the marginally-noted Standing Court-Martial.

ACB.
Enc.

Major,
President,
Standing Court-Martial.

39434

H.Q.C. 55-B-1934 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BRUNET, MARCEL D-638548 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1934

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 7 - 1945	6 9 45			JAG	NEW FILE	CR	4-9-45
SEP 25 1945	24 9 45			JAG	Which Papers C.R. SEP 21 1945		
	27			CMBR	For Requisition C.R. NOV - 9 1945		
DEC 11 1945	21 11 45			JAG	Per request [illegible]		21 Nov 45
NOV 22 1945	JAN 4 46			CMBR	returned, thanks		21 11 45
JAN 12 1946	29 1/46				For Requisition C.R. DEC 14 1945		
				JAG	For Requisition C.R. JAN 16 1946		
JAN 18 1946				CMBR	Remote pls		12/1/46
JAN 19 1946	19-1-46			Adm 3	Do note transition		15 Jan 46
JAN 28 1946	28 1/46			Admin	PER B.F. JAN 29 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M. 1-B-10137 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ A R M Y /

MONTREAL, Que.,
17th January 1946.

CENTRAL REGISTRY Army
3036
JAN 17 1946
File
Check to CMPR B1
Referred to admin

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM CARO 5913.
D-638548, Pte. BRUNET, Marcel

Reference HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Attached hereto WFM 288 duly completed with respect to the m/n soldier, submitted to NDHQ, in accordance with instructions containe in Para 4 of the above mentioned letter.

(E.J.REMAUD) Major-General,
DOC MD No. 4.

Encl.

Pa au file
1 annexe

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-638548 (Number) Private (Rank) BRUNET, Marcel (Name in full)

Longue Pointe Ordnance Depot RCOC(CA) (Unit) (Attachment (if any))

Sentenced to 10 months & Stop. of pay $17.37

on 27 Aug 45 at Montreal, Que.

being served at No. 65 Mil. Det. Barracks, M.D. No. 4 (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 yrs 16 Sep 42

Medical grade or category 22 1111121

FIRST TRIAL—PART II

To Adjutant-General, National Defence Headquarters, Ottawa, Ont. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (XX) committed to undergo his sentence, which I recommend should XXX be XXXXXXX (put into execution) (~~reviewed on~~ ..... date) for reasons given in paragraph X.

Place Montreal, Que.

Date 19th., September, 1945.

(E.J.RENAUD) Major-General,
D.O.C., M.D., No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... Superior Military Authority

For details of offences, see parts VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... Confirming Authority

Date .....

M.F.M. 288
(Army Form A-3104)
15M—4-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
5 Oct 45	No suspension to commence BF 27 Jan 46	D. Potter Capt for D.O.C. M.D. 4	
15 Jan 46	Sentence remitted w.e.f. 20 Dec 45	(E.J. Renaud) Major-General D.O.C., M.D. No. 4.	
16 JAN 46	"RELEASED" 20DEC45	(C.Potter) Major Commandant No.65 Mil.Det,Brks Montreal Sth,Que.	Marks earned 1028

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Sec.12(1)(a) When on Active Service, Deserting His Majesty's Service AWL fr 0830 hrs 20 Feb 45 to 0830hrs 21 Aug 45	20 Feb 45	27 Aug 45
Sec.24(2) Losing by Neglect etc. Stop. of pay $17.37	20 Feb 45	27 Aug 45

(M. JACK) Administrative Officer,
Signature of Officer making entry
Longue Pointe Ordnance Depot RCOC(CA)

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
13 Sep 45	I concur in the Findings and Sentence of this Standing Court Martial.	(A.E. Duncanson) Brigadier, OC Longue Pointe Ordnance Depot RCOC

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
19-9-45	Fair and Reasonable 1st Review 12 October,1945.	(E.J.RENAUD) Major-General, D.O.C.,M.D.,NO.4.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

M. 8-1-20 A(DLS)

DEPARTMENT OF NATIONAL DEFENCE

/ A R M Y /

MONTREAL, Quebec,
24th December, 1945.

DEC 27 1945
Chgd. to DADMIN 14-10-45
Referred to

1755

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SOLDIERS UNDER SENTENCE:

Attached hereto Forms for Remission [illegible] under-mentioned soldiers, duly completed.

D-655335 BLANCHARD, R.
D-480625 BOILEAU, P.
D-648678 BOUCHARD, H.
D-638548 BRUNET, M.
D-654518 CIRSON, L.
D-505368 D'ELISLE, J.H.
D-147937 FORTIER, L.
D-654848 FONTAINE, J.
D- 63547 GALARNEAU, J.C.
D-649758 JOSCELIN, G.
D-139063 GRENIER, J.H.
E-633199 JOLIVET, J.
[illegible] LASALLE, A.J.D.
D-118474 LEFEBVRE, D.
D-472966 LEFEBVRE, R.
D-643031 LEGER, C.E.
D-156668 MAHEU, A.
D-655400 OUELLETTE, R.
L-109265 OUELLETTE, R.
D-651726 PERRAULT, [illegible]
E- 5594 PICHETTE, L.P.
G-606918 QUEMPEUR, B.
D-616702 RAYMOND, L.
D-651533 RIVET, L.
D-637691 ROBIONNI, P.
D-662273 STRENI, S.
D-656504 TRASDALE, P.E.
D-652049 TRUDELAY, H.M.
D-642119 TREPPE, H.
B-165172 TWEEDIE, R.J.
D- 94127 VALLEE, A.

(E.J.RICHARD) Major-General,
District Officer Commanding,
Military District No. 4.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5-5-B-1934
District File No. M.1-B-1457

PART I

No. D-638548 Rank. Pte. Name. BRUNET, M.
Unit. No. 4 District Depot.

PART II

Date of Trial.....27th August, 1945
Charge (s).....
Sentence.....10 months detention
Date of Sentence..27th August, 1945
Confirmation -- (a) Authority:.....D.C.M.
(b) Date :.....27 Aug 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef., 20th., Dec.45.

Signed at Montreal 10th., December.....1945

(E.A. RENAUD), Major-General
D.O.C. M.D. No. 4

PART IV
PROMULGATION

Remission (~~commutation~~) (~~mitigation~~) promulgated and extracts taken at. Montreal South, Que...this day..20th.....of December, 194.5...
(1)

(L.R.HAMELIN) Lieut.,
Ass-Officer i/c Documents. C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-638458 Rank. Pte.... Name.....BRUNET, M.....Charge.....
The sentence of. 10 months detention.....awarded by District Court-Martial on the. 27th August,.....194.5.....has been. remitted....
.....on the..20th December,.....194.5.....by...D.O.C.....
UNIT..Military District No.4, Montreal, Que.....
Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A.
No...305.....Place Jacques Cartier Barracks..20th December, 1945.
Montreal South, Que.....
Adjutant

(J.M. CHALLEBOIS) Capt-Adjt.,
General List, C.A., att'd to
No.4 District Depot, C.A.

HQC 55-B-1934 Adm 3(b)1

Ottawa, Ontario.

12 Jan 46.

District Officer Commanding,
Military District No 4,
MONTREAL, Que.

D.638548 - Pte - BRUNET, M

Ref your telegram ADIS 460 dated 10 Dec 45.

2. Herewith MFM 288 for this soldier as requested.

(E.G. Weeks)
Major-General
Adjutant-General

SVL:mec

ARMY MESSAGE — ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE

ROYAL CANADIAN SIGNALS
Wood-Bldg.
OTTAWA
DEC 10 1945
Phone
Army Signal Office

55-B-1934

55935

VER V CIM NR 41

FROM COMMANDING FOUR MONTREAL 101540R

TO THE SECRETARY D N D OTTAWA

GR 104 BT

103

ATTENTION CMBR STOP MAY MFM 288 FOR

A(DIS) 460 UNCLASSIFIED

D638548	BRUNET	M
D63547	GALARNEAU	JC
D653212	FALARDEAU	L
D118474	LEFEBVRE	D
D643031	LEGER	E
D655480	OUELLETTE	R
D651726	PERREAULT	G
D656504	TEASDALE	P E

BE FORWARDED THIS DISTRICT STOP SENTENCE OF SOLDIERS

REMITTED WEF 20 DEC 45

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.D.C. TOGETHER WITH COPY

BRANCH	TIME	SIGNATURE

101616

BT 101600R HL B

C.....GR 103

55935

11 adm
for corpes.
ABC
CMBR 4
11 DEC 45

M.F.B. 1462B-70934-3-45(9000) H.Q. 1772-39-1934

ARMY MESSAGE — ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE

INCLUDE ORIGINATOR'S NO. AS THE FIRST GROUP IN THE TEXT OF THE MESSAGE.

M.F.M. 3368
(GOVN-3-44 (3568)
K.F. 17033 H.Q. 1772-30-2062

CLEAR

ARMY MESSAGE

(OUTGOING)

HQC 9039-1,
FILE: Adm 3(b)SC

TO:

District Officer Commanding,
Military District No 4,
MONTREAL, P.Q.

PLACE: OTTAWA, Ont

DATE: 12 Dec 45.

RANKS 5011 (UNCLASSIFIED)

RETELS ADIS 333, 463, 460, 461, 462 REQUESTING MFM 288 RESPECTING PERSONNEL THEREIN MENTIONED (.) IT IS UNDERSTOOD THAT IN ALL CASES SENTENCES HAVE BEEN REVIEWED AND REMISSION DIRECTED WEF A GIVEN DATE (.) MFM 288 THEREFORE REQUIRED ONLY FOR THE PURPOSE OF COMPLETION BY REMITTING AUTHORITY (.) IN VIEW OF THE LARGE NUMBER AND IN ORDER TO AVOID DELAY MFM 288 WILL BE COMPLETED AT THIS HQ WHEN FORM FOR REMISSION DULY COMPLETED HAS BEEN RECEIVED FROM YOUR HQ (.) ADVISE IF MFM 288 IS REQUIRED FOR PURPOSE OF REVIEWING (.) IF SO IT WILL BE FORWARDED EARLIEST

ADJUTANT GENERAL

GM:mw

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT, INCLUDING { WIRELESS

(E. L. Walford) Maj-Gen,
Adjutant-General.

DEGREE OF PRIORITY

TIME OF ORIGIN

SIGNED

SINGLE FORM FOR CLEAR MESSAGE

USE FOR ADDITIONAL DISTRIBUTION

H.Q.C. 55-B-1934
(JAG/D-6)

Ottawa 21 November 5

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

D-638548 Brunet, Marcel

Receipt is acknowledged of your M-1-B-10137 ADIS Dated 17 Nov 45 under cover of which you forwarded to this Headquarters MFM 288 in connection with the m/n soldier.

EJM

for (R.J. Orde), Brigadier,
Judge Advocate General.

EJM:jb

IN REPLY PLEASE QUOTE No. M-1-B-10137 ADIS

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que. 17 Nov 45.

CENTRAL REGISTRY
OTTAWA
9926
NOV 19 1945
Referred to

Secretary,
Department of National Defence,
OTTAWA, Ontario.

D-638548 BRUNET, Marcel.

Reference your letter HQC 55-B-1934 dated 14 Nov. 45.

2. Enclosed herewith MFB 288 and latest report on conduct with reference to the above m/n.

3. This Headquarters does NOT recommend suspension or remission prior to half of the sentence being completed.

(E.J. RENAUD), Major-General,
D.O.C., M.D. No. 4

encl.

NAT. DEF. B. 440
3000M—12-43 (3093)
H.Q. 1773-19-267

Request for AFA 3104 or MFM 288 sent out 14 Nov 45

24

HQC 55-B-1934 (CMBR-4)/JME
14 Nov 45

PAGE 1. Case No ----------

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: D-638548 Pte BRUNET M

2. Unit at date of offence: Longue Pointe Ordnance Depot RCOC (CA)

3. Charge: (1) AA 12(1)(a) DESERTION
(After having been warned that he would proceed on special duty, with intent to avoid so proceeding, absented himself from 20 Feb 45 until he surrendered on 21 Aug 45 - 6 mos.

(2) AA 24(2) LOSING BY NEGLECT HIS CLOTHING ETC.

PLEA: Guilty of both charges.

4. Place and Date of Trial: Longue Pointe Ordnance Depot RCOC (CA) Longue Pointe, Que. - 27 Aug 45.
~~(FSCM)~~ ~~(DSCM)~~ (SCM)

5. Finding: Guilty of both charges.

6. (a) Sentence: 10 mos detention

(b) Date of Sentence: 27 Aug 45

7. Date of Confirmation: N/A

8. Date of Promulgation: N/A

9. Being served at: #65 MDB in M.D. 4

(N.B. - Discharged under RO 1029( ) for)
w.e.f.

Doc 4.
A Beaudr
20 Dec 45

23.

 Case No ----------

CONDUCT

11. (a) Prior to conviction: Offence Date Sentence

(i) Civil Convictions: Nil

(ii) Courts-Martial: Nil

(iii) Summary Convictions: 2 minor AWL's

(b) After conviction: Good. Expected date of release: 27 Jan 46.

(c) Date of enrolment/~~enlistment~~: 16 Sep 42 Present Age: 23

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(1) This NRMA recruit was warned for Overseas service and granted embarkation leave from which he failed to return.

STATEMENT IN MITIGATION BY ACCUSED

Had spent 9 months in Valcartier on light duty because of his feet; then was sent to Ordnance where he worked as a "Machine Operator". When put on draft he became discouraged and left with a girl for the north. Was too discouraged and did not come back.

While absent worked with the farmers throughout the north country at St Donat and at St Bruno.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

REV OFFR: No remission is recommended other than that earned by good conduct.

Reviewed by A.B. GOLD Lieut

---

14. Recommendation of the Board:

Date _____

----------Maj

Secretary
Courts-Martial Board of Review.

22

H.Q.C. 55-B-1934 (JAG/D-5)

24 Sept 45

District Officer Commanding,
Military District No. 4,
Montreal, P.Q.

Standing
D-638548 Pte. ~~Court-Martial~~ BRUNET,
L.F.C.D., RCOC, CA.

M.1-B-10137(J)

Receipt is acknowledged of your 24th Sept 45 under cover of which you returned to this office for custody the proceedings dated 194 , of the marginally noted Standing Court-Martial.

E&M

for (R.J. Orde) Brigadier,

Judge Advocate-General.

70

IN REPLY PLEASE QUOTE No. M.1-B-10137(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

R 115

343060

Montreal, P.Q.,
20th September, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
SEP 21 1945
File 055-B-1934
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL
D-638548 Pte. Marcel BRUNET,
L.P.O.D., RCOC, CA.

Reference your HQC.55-B-1934 (JAG/D-4) dated 7 Sep 45.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, please.

J. Lessimoneau Capt
for (E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

19

NAT. DEF. B. 440
(500M-4-44 (432))
H.Q. 1772-39-747

MEDICAL OFFICER'S REPORT

I certify that No. D-638548 Pte. Brunet, M.

of LPOD.RCOC.CA. is in a good state of health,

and fit to undergo Trial by Court martial.

J W Lachance Capt

Medical Officer
(J.W. Lachance) Capt.,
(No.4 District Coy., R.C.A.M.C.)
Att'd L.P.O.D., R.C.O.C., C.A.

Station Longue Pointe, Que.

Date 27 August 1945.

J. C. G. Chubeau major
President SCM

M. F. B. 246

25M—2-45 (5525)
H.Q. 1772-26-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Longue Pointe Ordnance Depot, RCOC, CA, Longue Pointe, Qué.

le 27e jour de août, 1945 à 1405 heures,

pour le procès de D-638548 Pte. BRUNET, Marcel
Matricule Grade Nom et prénoms

Longue Pointe Ordnance Depot, RCOC, CA.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. DUBEAU, ED, Quartiers-Généraux, District Militaire 4

PROCUREUR: Capitaine J.E.R. LABELLE
Grade Nom et prénoms

Quartiers-Généraux, District Militaire 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. A.J. BELLIVEAU
J.C.A.L. OU AVOCAT Grade Nom et prénoms

RCOC, CA. attaché à Longue Pointe Ordnance Depot, RCOC, CA.
Unité Détachement, le cas échéant

La Cour déclare l'accusé D-638548 Pte. BRUNET, Marcel, Longue Pointe Ordnance Depot, R.C.O.C., C.A., coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La Cour condamne l'accusé, D-638548, Pte. BRUNET, Marcel, Longue Pointe Ordnance Depot, R.C.O.C , C.A., à la détention pendant dix (10) mois, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $17.37, coût des articles perdus.

Signé à Longue Pointe, Qué. ce 27e jour de août, 1945.

J.A.G. Dubeau
(J.A.G. DUBEAU) Major
Président de la cour martiale permanente.

18

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39466 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 23 day of Aug 19 45

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à comme interprète?~~

Réponse:

Question à l'accusé. Vous opposez-vous à D-136118 CSM (WOII) DeKONINCK, P., CMSC, CA, Quartiers-Généraux, D.M. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté~~s~~.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

17

(L'accusé s'étant avoué coupable sur le s deux chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. A. G. Chauvin major
President - SCM

B2 -5

CHARGE SHEET

The accused, No. D-638548 Pte. Marcel BRUNET, Longue Pointe Ordnance Depot, R.C.O.C., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Section 12(1)(a) Army Act.

"WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE"

in that he,

at Longue Pointe, Montreal, Quebec, after having been warned that he would proceed on Special Duty, with intent to avoid so proceeding, absented himself without leave from 0830 hours on the 20th day of February 1945 from the Longue Pointe Ordnance Depot, R.C.O.C., C.A., until he surrendered himself to the military authorities at Montreal, South, Quebec, at 0830 hours on the 21st day of August 1945, dressed in military uniform.

SECOND CHARGE: Section 24(2) Army Act.

"LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT & REGIMENTAL NECESSARIES"

in that he,

at Longue Pointe Ordnance Depot, R.C.O.C., C.A., Longue Pointe, Montreal, Quebec, on the 23rd day of August 1945, was deficient of the following articles of his clothing, equipment and regimental necessaries:

ARTICLES	ARTICLES DEFICIENT	TOTAL AMOUNT ARTICLE	AMOUNT CHARGED 75%
Catalogue Section "A"			
Gloves, Knitted Drab	1	$ .66	$ .50
Greatcoat, Drab	1	15.54	11.66
Overshoes, 4-Buckle prs.	1	2.04	1.53
Catalogue Section "B"			
Drawers, Woollen prs.	1	1.40	1.05
Shirts, Undercotton	1	.43	.32
Shirts, Woollen	1	1.20	.90
Catalogue Section "C"			
Braces, prs.	1	.28	.21
Belts, Waist	1	.25	.19
Fork, Table	1	.08	.06
Knife, Table	1	.18	.14
Knife, Clasp & Lanyard	1	1.01	.75
Spoon, Table	1	.08	.06
TOTALS		$ 23.15	$ 17.37

Herbert K. McLean

(H.K. McLean) Colonel, R.C.O.C., C.A.,
Acting Officer Commanding,
Longue Pointe Ordnance Depot, RCOC.CA.

Longue Pointe,
this 24th day of August 1945.

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CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au x premier et deuxième chefs d'accusation, il est déclaré coupable ~~de cette~~ desdites accusations. 9645 9645

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(Voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

M. le Président,

Quand j'ai rentré dans l'armée j'ai été "drafté" à Valleyfield. J'ai été là pendant à peu près six mois et après ils m'ont drafté de force à Farnham. A Farnham ils m'ont retourné à Valleyfield et puis à Valleyfield ils m'ont drafté à Valcartier. J'ai été neuf mois là en "light duty" pour mes pieds. Après ça ils m'ont envoyé à l'Ordonnance et là j'ai toujours travaillé comme "machine operator". Quand ils m'ont mis sur la draft j'étais découragé et je suis parti avec une fille dans le Nord. J'étais trop découragé et je ne suis pas revenu.

Avant d'entrer dans l'armée je travaillais chez Dupuis & Frères, comme chauffeur. J'ai travaillé là de quatre à cinq ans.

Je suis dans l'armee depuis le 4 Septembre, 1942.

J'ai 23 ans et je ne suis pas marié.

Durant mon absence sans permission j'ai été dans le Nord. J'ai travaillé chez des habitants un peu partout, à St-Donat, et à St-Bruno. A St-Donat j'ai travaillé pour M. Desève, je ne suis pas certain si c'est son nom, mais je crois que c'est ça. J'ai été a peu près cinq semaines là, dans le mois de mai. A St-Bruno j'ai travaillé pour un nommé Despaties pendant une semaine. C'est tout le temps que j'ai travaillé durant mon absence sans permission. J'avais un peu d'argent pour vivre. J'ai demeuré un peu partout, je changeais, j'avais de l'argent pour vivre. Je me suis décidé à me rapporter pour me régler pour mon avenir.

J.C.H.

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E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR AU NOM DE L'ACCUSE

Mr. President:

I have very little to say on behalf of the accused. Only I would like to draw to your attention the fact that he returned on his own free will to give himself up in order to get his final freedom and I ask you to keep that in mind when preparing sentence.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

13

J. C. G. Nelson major
Guide SCM

Exhibit "F"

LONGUE POINTE ORDNANCE DEPOT, R.C.O.C.(C.A.)

Location MONTREAL, Que.

DATE 10 Feb 45

WARNING ORDER

I, THE UNDERSIGNED, HEREBY ACKNOWLEDGE THAT I HAVE BEEN WARNED THIS _____ DAY OF FEBRUARY 19 45, THAT I WILL PROCEED ON SPECIAL DUTY ANY DATE AFTER 0830 HOURS ON THE _____ DAY OF FEBRUARY 19 45. I FURTHER ACKNOWLEDGE THAT I HAVE BEEN ORDERED TO REPORT UPON THE EXPIRATION OF MY LEAVE TO O.C. NO. 4 DISTRICT DEPOT, MONTREAL SOUTH MONTREAL, Que. BY 1000 HOURS, 19TH FEBRUARY 1945 AND I AM AWARE THAT IF I ABSENT MYSELF WITHOUT LEAVE OR IF I OVER STAY MY PASS OR FURLOUGH FOR ANY TIME OR IF I FAIL TO REPORT AS ORDERED, I SHALL BE LIABLE TO BE CHARGED WITH DESERTION UNDER A.A. SECTION 12.

RECT'L NO.	RANK	NAME	SIGNATURE	ADDRESS ON LEAVE

ORDRE D'AVERTISSEMENT

JE, SOUSSIGNE? RECONNAIS PAR LES PRESENTES QUE J'AI ETE AVERTI CE 10th JOUR DE FEVRIER 1945 QUE JE DOIS PARTIR EN MISSION SPECIALE EN AUCUN TEMPS APRES 0830 HEURES LE 10th JOUR DE FEVRIER 1945, DE PLUS JE RECONNAIS QUE J'AI RECU L'ORDRE DE ME RAPPORTER A LA FIN DE MON CONGE A O.C. NO. 4 DISTRICT DEPOT, MONTREAL, SOUTH, MONTREAL, P.Q. A 1000 HEURES 19 FEVRIER 1945, ET SI JE M'ABSENTE SANS PERMISSION OU SI JE PROLONGE MA PERMISSION OU MON CONGE POUR QUELQUE PERIODE DE TEMPS QUE CE SOIT OU SI JE NE ME RAPPORTE PAS SUIVANT L'ORDRE QUE J'AI RECU, JE COMPRENDS QUE JE SUIS PASSIBLE D'ETRE ACCUSE DE DESERTION AU SENS DE L'ARTICLE 12 DE L' "ARMY ACT".

MATRICULE	RANG	NOM	SIGNATURE	ADDRESSE
D 638548	Pt	Brunet M.	Marcel Brunet	2280 Iberville Mtl.

SIGNED BEFORE ME R. E. Kent Lt.

SIGNE DEVANT MOI _____

12

-13

"G"

DAILY ORDERS PART II

BY
BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT.

Order No. 48
24 Feb. 45
Montreal, Que.

(Last Order Issued No. 47 d/23 Feb 45)

12. ABSENT WITHOUT LEAVE

(c) A.W.L. from 0830 hours. 20 Feb. 45.

D-638548 Pte. BRUNET, M.

(Signed) A.H. Frame, Major,
for(L.Patrick) Brigadier,
Officer Commanding,
Longue Pointe Ordnance Depot.

----------CERTIFIED TRUE EXTRACT----------

(Wm.E.Lynes) Lieut.
Assistant Adjutant.
L.P.O.D.,R.C.O.C.,C.A.

J. A. F. Lehman major
Brunet 50m

Exhibit D

"H"

DAILY ORDERS PART II

BY
BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

Order No. 50
27 Feb. 45.
Montreal, Que.

(Last Order Issued No. 49 d/26 Feb. 45)

8. ABSENT WITHOUT LEAVE

(c) A.W.L. from 0830 hours 20 Feb. 45. Still Absent 0830 hours (8th day) 27 Feb. 45

D-638548 Pte. BRUNET, M.

(Signed) A.H.Frame, Major,
for(L.Patrick), Brigadier,
Officer Commanding,
Longue Pointe Ordnance Depot.

----------CERTIFIED TRUE EXTRACT/----------

Wm. E. Lynes

(Wm.E.Lynes) Lieut.
Assistant Adjutant.
L.P.O.D., R.C.O.C., C.A.

10

G.C.G. Nelson maj
Quinlan sgt

Exhibit "X"

I

DAILY ORDERS PART II

BY
BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

Order No. 62
13 Mar. 45.
Montreal, Que.

(Last Order Issued No. 61 d/12 Mar.45.)

11. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0830 hours, 20 Feb.45. Still Absent 0830 hours (22nd day) 13 Mar 45.

D-638548 Pte BRUNET, M.

(Signed) M.Jack, Major,
for (L.Patrick) Brigadier,
Officer Commanding,
Longue Pointe Ordnance Depot.

----------CERTIFIED TRUE EXTRACT----------

Wm. E. Lynes

(Wm.E.Lynes) Lieut.
Assistant Adjutant,
LPOD., R.C.O.C., C.A.

9

	ARTICLES	100%	VALUE 75%
1	Bottles Water	.62	.46
1	Braces, Left	.35	.26
1	Braces, Right	.33	.25
1	Carriers Waterbottle	.37	.28
1	Haversack	2.29	1.71
1	Helmets Steel Complete	2.39	1.79
1	Packs	2.26	1.69
2	Pouches, Basic	2.06	1.55
2	Straps, Shoulder Hav. Left	.62	.46
2	Straps, Web. Supporting	.28	.21
1	Tins Mess	.60	.45
1	Helmets Steel Cover Cam.	.26	.20

	ARTICLES	100%	VALUE 75%
1	Capes, Anti-Gas	4.45	3.32
2	Detectors Gas Sleeves	.56	.42
1	Respirators Anti-Gas	3.80	2.85
1	Outfit Anti Dimming	.03	.02
1	Eyeshields Anti-Gas	1.04	.78
2	Ointment Anti-Gas	.52	.40
1	Mugs, Enamel	.16	.12
1	Sheets, Ground.	2.38	1.78
	TOTAL	$119.67	$89.75

Wm E Lynes
Certified true copy
(Wm. E. Lynes) Lieut.
Ass't Adjutant L.P.O.D., R.C.O.C., C.A.

	ARTICLES	100%	VALUE 75%
1	Bootlaces, Black	.03	.02
1	Braces,	.28	.21
1	Braces, Button	.04	.03
1	Brushes, Boot Polishing	.21	.16
1	Brushes, Button	.11	.08
1	Brushes, Cloth	.17	.13
1	Brushes, Hair	.39	.29
1	Brushes, Shaving	.42	.32
1	Brushes, Tooth	.09	.07
1	Caps, Comforter	.41	.31
1	Combs, Hair	.04	.03
1	Forks, Table	.08	.06

	ARTICLES	100%	VALUE 75%
1	Holdalls	.22	.16
1	Housewives	.35	.26
1	Knives, Clasp & Lanyard	1.01	.75
1	Knives, Table	.18	.14
1	Neckties, Black	.19	.14
1	Pins, Collar, Safety	.06	.05
1	Razors Safety Sets	.42	.31
1	Spoons Table	.08	.06
2	Towels, Hand	.62	.46
1	Badges, Cap R.C.O.C.	.05	.04
1	Bags, Ration	.04	.03
1	Belts, Waist	.67	.50

Wm E Lynes
Certified true copy
(Wm. E. Lynes) Lieut.
Ass't Adjutant L.P.O.D., R.C.O.C., C.A.

J. C. G. Dubeau major
President SCM

Exhibit A

RECORD of the Declaration of a Court of Inquiry assembled at L.P.O.D. Montreal, Que. on the 14th day of March 1945 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-638548 Pte. Brunet, M. L.P.O.D. R.C.O.C., C.A.

DECLARATION

The Court declare that No. D-638548 (Regt'l No.) Pte. (Rank) Marcel BRUNET (Full Name) L.P.O.D. R.C.O.C., C.A. (Unit) illegally absented himself without leave from L.P.O.D. R.C.O.C., C.A. at Montreal, Que. (Place) at 0830 hours on the 20th day of February 1945, that he is still so absent, and that on the 14th March 1945. he was deficient, and that he is still deficient of the following articles:—

ARTICLES	100%	VALUE 75%
1 Anklets; Web, Prs.	$ .74	.56
1 Caps, Winter, Melton, Cloth	1.05	.79
1 Dressing First Field	.13	.10
1 Gloves, Woollen, Khaki	.66	.50
1 Greatcoats, Drab	15.54	11.66
1 Mitts, Pullover, Leather	.93	.70
1 Overalls, Combination	2.52	1.89
1 Overshoes,	2.04	1.53
2 Blouses, Battle Dress Serge	13.00	9.75
2 Boots, Ankle, Army	11.64	8.73
2 Caps, Field Service	1.40	1.05
2 Drawers, Cotton, Short	.84	.62
2 Drawers, Woollen	2.80	2.10

ARTICLES	100%	VALUE 75%
1 Jackets, Sweater	$ 1.37	1.03
1 Mufflers, Khaki	.93	.70
3 Shirts, Cotton, Khaki	4.62	3.46
2 Shirts, Flannel, Khaki	3.26	2.45
2 Shirts, Undercotton	.86	.65
2 Shirts, Woollen	2.40	1.80
2 Trousers, Battle Dress	13.10	9.82
1 Trousers, Khaki Drill Short	1.31	.98
2 Bags, Kit	2.54	1.90
1 Belts, Waist	.25	.19
1 Blacking Tins	.05	.04
1 Boot dressing Tin	.05	.04
4 Socks, Army.	1.84	1.38

Signed at Montreal, Que. this 14th day of March 1945

Capt. P.V. Salvaneschi) (Name) (Rank) L.P.O.D. (Unit) President
Lieut. R.E.A. Kerr. (Name) (Rank) L.P.O.D. R.C.O.C., C.A. (Unit) Member
Lieut. A.M. Fraser. (Name) (Rank) L.P.O.D. R.C.O.C., C.A. (Unit) Member

Signature of Commanding Officer Brig. L. Patrick, O.C., LPOD. RCOC., CA. (Name) (Rank) (Unit)

Certified true copy (Name) (Rank) (Unit) (Signature of Officer having custody of original record)

(Wm.E. Lynes) Lieut.
Ass't Adjutant L.P.O.D., R.C.O.C., C.A.

M.F.B. 375
A.F.B. 113
200M—1-44 (3576)
H.Q. 1772-19-257

Exhibit "K"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG, Commanding No. 4 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-638548 Pte. BRUNET, Marcel
(Number) (Rank) (Name in full)

of the R.C.O.C.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) D-126460 Sgt.
(Number) (Rank)

PATENAUDE, L. No. 4 District Depot, C.A.
(Name) (Unit or appointment)

at Montreal South, Que., at 0830
(Place) (Hour)

on the 21st day of August 19 45

Strike out words not applicable } ~~XXXXXXXX~~ as a deserter or absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military (~~air force~~) uniform ~~(XXXXXXXXXXXXXXX)~~.

Dated at Montreal South this 21st day of August 19 45

(S. ~~ECHENBERG~~) Colonel
(Rank) (Appointment)
Commanding No. 4 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—3-44 (3730)
H.Q. 1772-39-1936

-40

CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	
Battle Dress, trousers	
Cap or bonnet	
Boots, ankle	
Gloves	
Facepiece, respirator	
Greatcoat	
Helmet steel, lining	
Overalls, combination	
Jersey, pullover	
Shirts, Angola, drab	
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

CERTIFIED TRUE COPY:

OVERSEAS—Militia Book
40/P & S/1894 (2570)
CANADA —M.F.C. 600
750M—11-43 (2570)
H.Q. 1772-39-1643

-25

"L"

S/Sgt(S/Cpl.) R.Lavigne
A/Quartermaster
Longue Pointe Ordnance Depot.

23/8/45

D638548

CANADIAN ARMY
CLOTHING AND EQUIPMENT
STATEMENT

Regt'l. No. D 638548

Rank Pte

Name Brunet Marcel

Date of Attestation

Original Unit R.R.A.M.C. Station Montreal, South Que

Home Address (Reserve Unit Personnel Only)

BRUNET, M.

6

INSTRUCTIONS TO SOLDIER
(OVERSEAS ONLY)

1. You will always carry this book [illegible] your person and are responsible for its safe custody. (Officers need not carry this book on their person but will be responsible for its safe custody).

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS ONLY)

1. Unit equipment (e.g. compasses, binoculars, special clothing for cooks, m/cyclists, etc.) will not be recorded on this statement.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS AND CANADA)

1. This statement will be used to record articles of personal clothing and equipment issued to each soldier.

2. All entries will be made in ink. Blank spaces in columns will be ruled through. All columns used will be initialled in the space provided by soldier and by the QM, or his representative.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AT EACH KIT INSPECTION

Certifies that t[illegible]ecord detailed in this statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE	DATE	SIGNATURE	DATE
[illegible] Capt	[illegible]/45		

ARTICLE	QUANTITY					
Badges, shoulder, Canada, drill, prs.						
Blacking, tins	1					
Boot dressing, tins	1					
Bootlaces, prs.	1					
Protectors, ear						
Sponge, pipeclay						
Lanyard, pistol						
Coat duck canvas lined ok	2					
Initials of Soldier	[illegible]					
Initials of QM or Rep.	[illegible]					

3. Items withdrawn from soldier will be marked off by an "X" in ink over the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner.

ARTICLE	QUANTITY
Anklets, web, prs.	1
Blouses, Battle-dress	2
Bonnet, tam-o'shanter	2
Boots, ankle, prs.	2
Boots, rubber, high, prs.	
Boots, leather, high, prs.	
Bonnet, drab, Irish	
Cap, field service	2
Cap, mechanic	
Cap, tank battalion	
Drawers, Cellular (cotton) short, prs.	2
Drawers, Woollen, prs.	2
Gloves, knitted, drab, prs.	1
Greatcoat, drab	1
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

ARTICLE	QUANTITY
Mitts, pullover, leather, prs.	1
Muffler, khaki	1
Necktie, black	1
Pin, collar, safety	1
Puttees, prs.	
Rubbers, prs.	
overshoes 4 Rkls pr	1
Shirts, khaki, cotton	3
Shirts, undercotton	2
Shoes, leather, black, prs.	
Socks, black, prs.	
Trousers, khaki drill, prs.	
Trousers, khaki drill, short, prs.	1
Trousers, serge, drab, N.P. prs.	
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

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ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY					
Belts, waist, ~~leather, brown or~~ web 1½"	1					
Boots ankle, felt, prs.						
Boots, insoles, prs.						
Boots, lumberman's rubber prs.						
Buttons, G.S., large						
Buttons, G.S., small						
Cap, winter, melton cloth	1					
Coat waterproof						
Helmet, sun						
Jackets, Khaki drill						
Jackets, serge, drab, O.C.						
Initials of Soldier	W.B.					
Initials of QM or Rep.	A.B.					

-29

ARTICLE	QUANTITY					
Jacket sweater, or ~~jersey pullover~~	1					
Overalls, combination	1					
Overalls, blouses, denim						
Overalls, trousers, denim						
Shirts, Angola, drab or flannel khaki	2					
Shoes, canvas, prs.	1					
Socks, prs.	4					
Trousers, battle-dress, prs.	2					
SHIRTS ~~Vests~~, woollen	2					
Badges, cap	1					
Badges, arm, drab, crowns						
Badges, arm, drab, crown in wreath						
Badges, arm, Tank Bn.						
Badges, shoulder, "CANADA", prs.						
Initials of Soldier	W.B.					
Initials of QM or Rep.	A.B.					

ARTICLE	QUANTITY
Badges, arm, drab, Royal Arms	
Badges, arm, drab, Royal Arms in Wreath	
Bags, kit, universal. M.K.II.	2
Braces	1
Brass, ~~cleaning~~ BUTTON	1
Brush, button, ~~brass~~	1
Brush, clothes	1
Brush, hair	1
Brush, shaving	1
Brush, shoe, blacking	
Brush, shoe, polishing	1
Brush, tooth	1
Cap, comforter	1
Chevrons	
Initials of Soldier	A.B.
Initials of QM or Rep.	A.B.

ARTICLE	QUANTITY
Rifle No. 91 6670 (Regt'd No.) (.....)	1
Bayonet No. ..... w/scabbard	1
Bottles, oil	1
Pullthroughs, single	1
Rods, cleaning, pistol (Regt'd No.)	
Carbine, Mach. (.....)	
Magazines, Carbine	
Pistol Revolver (Regt'd No.) No. ..... (.....)	
Ctges, SA, revolver .380 in.	
Ctges, SA, .303 in Mk VII	
Initials of Soldier	A.B.
Initials of QM or Rep.	A.B.

-34

8

ARTICLE	QUANTITY					
Veil, face, camouflage						
Yoke						
Capes, A/G	1					
Respirators, A/G, complete with haversack	1					
Outfits, A/D	1					
Ointment, A/G	2					
Eyeshields, A/G, pk of 6	1					
Detectors, Individual prs.	2					
Wallet, A/G						
Blanket						
Mug, drinking	1					
Sheet, ground	1					
Initials of Soldier	[illegible]					
Initials of QM or Rep.	[illegible]					

8

-31

ARTICLE	QUANTITY					
Combs, hair	1					
Discs, identity, sets, with cord	1					
Dressing, field	1					
Fork, NS Table	1					
Holdall	1					
Housewife, complete	1					
Knife, clasp	1					
Knife, table	1					
Lanyard, knife	1					
Razor, safety, with blade	1					
Patches, distinguishing, prs.						
Shorts, gymnasium						
Spoons, NS dessert	1					
Vest, cotton, gym.						
Initials of Soldier	[illegible]					
Initials of QM or Rep.	[illegible]					

ARTICLE	QUANTITY					
Towels, hand	2					
Unit or Corps titles, prs.						
Attachments, brace						
Bag, ration	1					
Belts, waist	1					
Bottles, water	1					
Braces, WE (Right)	1					
(Left)	1					
Carriers, cartridge						
Carriers, waterbottle	1					
Cases, binoculars						
Cases, pistol						
Covers, breech, rifle	1					
Initials of Soldier	MA					
Initials of QM or Rep.	BB					

ARTICLE	QUANTITY					
Cover, mess tin						
Frogs, web, bayonet	1					
Haversack	1					
Helmet, steel	1					
Net camouflage helmet	1					
Packs	1					
Pockets Compass						
Pouches, amm, pistol						
Pouches, basic	2					
Pouches, utility { Front / Rear	1					
Slings, rifle, web	1					
Straps, shoulder, haversack { left / right	2					
Straps, web, supporting	2					
Tins, mess, TP	1					
Initials of Soldier	MA					
Initials of QM or Rep	BB					

A. A. G. Nelson Maj
President SCM

M.F.B. 356
30M—11-41 (2273)
H.Q. 1772-39-620
A.F.B. 296

Y

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-638548	Pte.	BRUNET, M.	LPOD.RCOC.CA.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery~~ WRL Conduct sheets ~~Company Conduct sheets~~ WRL of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ WRL of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	A.W.L.	Two (2) times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ WRL

~~or,~~ WRL

~~There are no entries in the conduct sheets of the accused.~~ WRL

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~ WRL

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ WRL ~~Air Force Act~~ WRL ~~A.F.A. 73~~ WRL

3. The accused is not under sentence at the present time.

~~or,~~ WRL

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~ WRL

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 6 days in ~~Air Force~~ WRL military custody, making a total of 6 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ WRL ~~attestation~~ WRL paper is enrollment — 23 years 5 months

6. The date of his ~~commission~~ WRL ~~attestation~~ WRL specified in his ~~record of service~~ WRL is ~~attestation~~ WRL paper enrollment — 16 September 1942

~~7. The service which the accused is allowed to reckon towards discharge is~~ WRL

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~ WRL

9. The accused is in possession of or entitled to no ~~air force~~ WRL military decoration, or ~~air force~~ WRL military reward ~~(or is in possession of or entitled to). State any air force decoration or reward,~~ WRL ~~military.~~ WRL

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ WRL ~~Air Force~~ WRL ~~the regimental rank of ..... WRL~~

5

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force, the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Air Force
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of August 1945. (Wm. E. Lynes) Lieut., Assistant Adjutant, I.P.O.R., R.C.O.C., C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

G. C. G. Hudson Major
President SCR

Reg. No. D-638548 Name BRUNET Marcel

LONGUE POINTE ORDNANCE DEPOT MONTREAL

Signature O.C. Company, etc. M. Jack Major

Corps RCOC CA. Date of enlistment or enrolment 16 Sep 1942

Date of Birth 10 March 1922

M.F.M. 6

Sheet destroyed 13 Feb. 45 Major Jack M

*Place check mark against number of sheets in use. Sheet No. 1 of *1, 2, 3, 4, 5

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Valleyfield Que	20Nov42	Pte.		AA15(1) AWL 2201 hrs 20 Nov. 42 to 2200 hrs. 23 Nov	Cpl. Noel	10 days C.B.	26 Nov 42	Capt Spenard	Forf 3 days pay under FR&R149(1)
Valleyfield Que	22Jan43	Pte.		AA15(1) AWL 2201 hrs 22 Jan 43 to 2300 hrs. 24 Jan 43	Documentary	7 days C.B.	25 Jan 43	O.C. TC 47	Forf 3 days pay under FR&R149(1)

CERTIFIED TRUE COPY

(Wm. E. Lynes) Lieut.,
Assistant-Adjutant,
L.P.O.D., R.C.O.C., C.A.

M.F.M. 6—500M—8-44 (3380)
H.Q. 1772-39-1652

(P.T.O.)

H.Q.C.55-B-1934 (JAG/D-4)
Your M. 1-B-10137 (J)

7 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D.638548 Pte. Marcel Brunet,
LPOD, RCOC, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

JOGR/MM

3

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-1934
M.D. M. 1-B-10137

NRMA

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. D-338548 Name BRUNET, Marcel

Rank Pte Unit LPOD, RCOC, CA

Charge (1) AA 12(1)(a) WOAS, Desertion

(2) AA 24(2) Losing by neglect....

Date of Crime (1) 20-2-45. (2) 23-8-45.

Date of Arrest (1) 21-8-45. Charge Signed 24-8-45.

Orders for D.C.M.

Place and Date of Trial LPOD, RCOC, CA: 27-8-45.

Sentence Det 10 mos; stoppages $17.37

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39466

Date 5-9-45

MEMO Balance of sentence remitted by Conf. Auth. 30-12-45

MD 4 - LPOD RCOC CA

Absent	Sentence
6 mos;	det 10 mos.

V

J.G. Foley, Capt.
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-10137 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que.,
31 Aug 45

CONFIDENTIAL

C.55-B-1934

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

STANDING COURT-MARTIAL
D-638548 Pte. BRUNET, M.
Longue Pointe Ordnance Depot, RCOC, CA.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report, dated 27 Aug 45.

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. DUBEAU) Major
Headquarters, Military District No. 4
President, Standing Court-Martial

Encl.

39466.

NAT. DEF. B. 440
2500M-4-44 (43211)
H.Q. 1772-39-767

H.Q.C. 55-B-1935 CONFIDENTIAL

N.F.B. 5070
35M—3-45 (8000)
H.Q. 961-1-60

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BLYTHE, HAROLD NORMAN A-111039 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1935

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
	Consolidated	Consolidated	Consolidated		(If purpose for which referred cannot be expressed on one line, add minute to file and mark "Refer With Minute")		
SEP 7 - 1945				JAG	NEW FILE	CR	4-9-45
SEP 25 1945	25/9/45	P.A.	E.L.M.		SEP 20 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-1935 (JAG/D-5)

District Officer Commanding,
Military District No. 1,
London, Ontario.

25 Sep 45

Standing
A.111039 Pte. Harold Norman BLYTHE
A.29 C.I.C.T.C., C.A.

Receipt is acknowledged of your L.28-B-1200 (JAG) dated 19th September 194 , under cover of which you returned to this office for Standing study the proceedings of the marginally noted Court-Martial.

EKM
for (R.J. Orde) Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE No. L.28-B-1200 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

H.Q. MD 1, London, Ont., 19 Sep 45

342809

CENTRAL REGISTRY Army
COMP. S.C.
SEP 20 1945
File 55-B-1935
Clerk
Referred to JAG

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

STANDING COURT-MARTIAL
A.111039 Pte. Harold Norman BLYTHE
A.29 C.I.C.T.C., C.A.

Reference H.Q.C. 55-B-1935 (JAG/D-3(, dated 7 Sep 45.

2. The proceedings of the m/n Standing Court-Martial are returned herewith for custody as directed.

3. It was noted from this soldier's statement and from the evidence of H/Major Essex that it would appear that family trouble has been the root of this soldiers offences. An investigation of his family circumstances has been ordered. No report has as yet been received.

for (P. Earnshaw), Brigadier
D.O.C. M.D. 1

NAT. DEF. B. 440
250M-4-44 (4320)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at A.29 C.I.C.T.C. (CA) Camp Ipperwash, Ontario

on the 29th day of August 19 45 at 1130 hours,

for the trial of: A.111039, Pte. Harold Norman BLYTHE
Number Rank Full Name

A.29 C.I.C.T.C. (CA)
Unit Attachment, if any

PRESIDENT: Lt-Col. H.C. Cameron M.C., Pres. Standing Court-Martial M.D.1

PROSECUTOR: Major D.R. Nairn, E.D., Permanent Prosecutor, M.D. 1
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut. J.R. Hilborn, A.29 C.I.C.T.C. (CA)
Rank Full Name Unit Attachment, if any

FINDING: Guilty

SENTENCE: To undergo detention for a period of 30 days.

Signed at Camp Ipperwash this 29th day of August 1945.

President,
Standing Court-Martial.

M.F.B. 1488
25M-6-44 (4828)
H.Q. 1772-39-2296

Extracts entered as No. 39485 in the Register of Courts-Martial kept in the Office of the Judge Advocate-General this 6 day of Dec 1945

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to xx interpreter x~~

Answer:

Question to the accused. Do you object to A.106902,Cpl.L.R.Easdown, CMSC HQ MD 1 as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter if any~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~xxxx~~ charge against you, which you have heard read ?

Answer: Guilty, Sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B2.

Pres. S.L.M.

CHARGE SHEET

The accused, No. A.111039, Private Harold Norman Blythe, A.29 C.I.C.T.C., C.A., Camp Ipperwash, Ontario, a General Service soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE:
Section 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

At Camp Ipperwash, Ontario, at 1330 hours on the 30th day of July, 1945, absented himself without leave from A.29 C.I.C.T.C., C.A., until surrendering himself to Military Authorities at the Guard House, A.29 C.I.C.T.C., Camp Ipperwash, Ontario, at 2215 hours on the 20th day of August, 1945.

(A. Farmer) Lieut.-Colonel
A/Commandant
A.29 Cdn. Inf. Corps Training Centre

Camp Ipperwash, Ontario,
21st August 1945.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[x].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, Sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. I have a written statement.

(Statement of the accused to be recorded on a separate page.)

(See Page C.C.3 etc.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, Sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. Yes, Sir.

(See 225).

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

C.C. 3

To the President of the Court.

The reason for my recent absence was that I had to get my wife moved to a new apartment. She had been living with her own family and I did not consider the surroundings suitable. Her mother is a widow and has several men calling on her. My wife's sister, whose husband is stationed in Goose Bay Newfoundland, has a man staying with her in the house.

I got our new apartment fixed up doing most of the decorating myself. I also put in a partition in one of the rooms. After getting the apartment ready and moving my wife I returned to camp.

I know that my record is against me, but nearly all my previous absences were due to the same reason. I have been trying to move my wife for some time. Twice I got apartments but she wouldnt move. This time I said she had to go.

For the past two months my wife has been ill under doctors care. I earned about $50.00 during my absence, in addition to fixing up the apartment. We needed the money badly.

H. N. Blythe
A111039.

M.F.B. 239
1000M—4-41 (135)
H.Q. 1773-39-194

COUNTER NUMBER 74116

HOUR 15.25

OPERATOR'S INITIALS GG

RELIEVING OPERATOR Aug.

QUESTIONED BY PRESIDENT:

Q. Have you any other documents in connection with the matter that you wish to hand to the Court?

A. I have a letter from my mother which I wish to present.

LETTER HEADED "TO WHOM IT MAY CONCERN" SIGNED MRS. A. BLYTHE 601 KING STREET, LONDON, ONTARIO, PRODUCED, READ, MARKED EXHIBIT "G" SIGNED BY THE COURT AND ATTACHED TO THE PROCEEDINGS

ACCUSED: I also have a letter from Dr. H.B. Grace.

LETTER FROM DR. H.B. GRACE DATED JULY 10/45 PRODUCED, READ, MARKED EXHIBIT "H" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS

Q. When you received this letter from Dr. Grace did you bring that to the attention of any of the authorities here at Camp?

A. No, Sir, I have a witness in my case, Major Essex. I was supposed to give the letter to him for a compassionate discharge.

Q. You were getting these letters for a compassionate discharge and this one was written on the 10th of July?

A. Yes, Sir.

Major Roy Essex, Chaplain, A.29 C.I.C.T.C., (CA) having been duly sworn, is examined by the Defending Officer?

Q. Major Essex, do you know the accused?

A. I do.

Q. Have you had any previous dealings with Pte. Blythe?

A. Yes, on many occasions.

Q. Did you make an investigation of his home circumstances?

A. I have on three occasions.

Q. And was that at his request?

A. At the request of the man and the Commanding Officer of this Unit.

Q. What was the purpose of the investigation?

A. Well the man complained of domestic troubles and gave that as his excuse for his conduct and in an effort to straighten out his domestic trouble so that he might not repeat his conduct I investigated his home affairs with a view suggesting certain lines of adjustment which might make things work out for him.

Q. Was there an attempt to persuade his wife to move?

A. The original purpose was first of all to find out exactly what was the nature of the trouble and when I discussed the matter with the lad's mother and with the lad himself, I attempted to get an accurate picture from the lad's wife, and felt that the remedy would be the girl leave her present abode and find some other accomodation, which he apparently tried to do and he made a successful effort to get her fresh accomodation but his wife wouldn't go there at that time and things went back to where they were before. Subsequently I believe she has moved to this accomodation that this lad obtained but at that time the wife refused to co-operate and as a consequence things remained as they were. We can only suggest certain lines and if they won't follow those lines or the wife makes it so they won't follow those lines there is nothing we can do.

Q. When was the first time you went to where Mrs. Blythe lives?

A. I couldn't give the date off-hand.

Q. Would it be several months ago?

A. Yes, when he first went A.W.L.

Q. Would you consider the place where she was living was not a suitable place?

A. No; the place she was living at the time was over-crowded and a large number of people were living in a very small house. An alternative accomodation was found for her and had she co-operated the situation would have been relieved.

Q. Were you able to get in the house?

A. No. One of the unfortunate things about the home is that I was never able to have a proper conversation with the wife for the simple reason that they live in crowded quarters and the only time I was with the wife has been on the stoop outside this house she was living in and usually surrounded by all sorts of children both relatives and neighbors, who listen with open mouths to such things and the wife was a very quiet sort of person and any conversation you have with her is almost in monosyallables. I found her most unco-operative. The boy's mother, on the other hand is most co-operative and she did everything in her power to aid the son and his wife and solve their problems so far as turning over part of their house for accomodation, and they are quite crowded too. I believe now, from what the lad tells me that arrangements have been made for the wife to live with this boy's mother, a much better accomodation, but undoubtedly the conditions she was living in prior to this last arrangement were anything but good in this boy's mind.

Q. Do you know that Pte. Blythe was attempting to get a compassionate discharge?

A. Yes, he came to see me several weeks ago about his problems and viewing the situation from every angle and knowing, at least assuming his inaptitude to soldiering, I feel the Country and Army would be served by his being out of the Army and I encouraged him to seek a compassionate discharge so far that I told him to get in touch with certain individuals asking them if they would care to co-operate for his discharge. I received no reply but I understand he received the replies. I personally feel that his discharge from the Army to be a desirable thing, from the point of view of his effectivness as a soldier and from the point of view of his wife's temperament and character and from the point of view of the Army, that it would be a good thing.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE

THE WITNESS WITHDRAWS

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court? A. My Defending Officer will speak for me.

Answer. DEFENDING OFFICER: Sir, I think Major Essex said practically everything that could be said about this case. Both Major Essex's evidence and the documents which the soldier presented bearing out his statement that he has been labouring under worry caused by family trouble for quite a period of time. That is, it isn't just an offence that was cooked up for this occasion. It seems apparent that all his trouble has its root at home. All I can do, Sir, is to ask you to take this into consideration and also the fact that he is still very young; less than 20 I believe.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" H. L. Cameron Capt.
Inc. 1

To whom this may concern.

This is to state that at any time during Private Blytt's any period of training has he gone on the loose through any fault of yours or with the thought of being a bad soldier. He married young & takes his responsibilities very serious & they set heavy on a young pair of shoulders. His wife is now pregnant & with it is very nervous & highly strung & ~~not~~ while he is with her can be controlled.

Her home is such that every

time he has stayed from camp
has been to get her away from
it. I dont want to write her
what its all about as I would
not like her to know I had told
you so but her feelings regarding
myself this time he found her a
place stayed her & worked clean-
ing painting & general fixing &
got her settled then he came back
& gave himself up. Please dont
be too hard on the lad for that
being away from his wife causes
him a lot of mental & bodily
suffering & hope you will see

your way clear to send him back to civilian life where he will be more fitted

Yours Respectively

Mrs A Blythe

601 King St

London Ont

PHONE FAIRMONT 688

493 ADELAIDE STREET
LONDON, ONT.

"H"

Claim on file
Chas SDM

H. B. Grace, M.D.

July 10/45

This is to certify that I have been attending Mrs. Blythe, wife of Pte Blythe, H.N. H 111039. During the past month she suffered from a missed abortion. Following this her nervous system has become extremely upset; she has been receiving treatment from me for this nervous ailment. I believe it would be of great help to her condition if her husband could be with her until she improves.

H. B. Grace

Y

Chas. SPM

M.F.D. 355
75M—5-43 (165)
H.Q. 1772-39-620
A.F.D. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A.111039	Private	HAROLD NORMAN BLYTHE	A.29 CICTC, CA

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	8 times	A.W.L.	8 times
For	Conduct to the Prej,etc.1	times	Conduct to the Prej., etc.1	times
For	N I L	times	N I L	times
For	N I L	times	N I L	times

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper 19 years, 7 months

6. The date of his attestation specified in his attestation paper 7th August 1944

9. The accused is in possession of or entitled to no military decoration, or military reward (

the military mark of

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29th day of Aug 45

(A.W. Legg) Lieut.
Legal Officer
Off'r. i/c Orig.Docs, A.29 CICTC

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

"Z" Bonnie 82 Bonnie 82 GRS DM

No. 1 D.D., C.A.
Corps C.A.C. C.I.C.

Date of enlistment 7 Aug.44 | O.C. Badges | Tradesmen's Rates of Pay

Sqn., Battery, or Company | Period not reckoning towards freedom from extra fine | No. and date of last drunk | Signature O.C. Company, etc. | Character

No. A-111039 Name BLYTHE Harold Norman

Sheet No. One "F.E. Renn, Lt."

C.A.F.B. 1229
500M—11-41 (3498)
H.Q. 1772-38-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Newmarket, Ont.	9Oct 44	Tpr		AA 15(1) AWL from 0100 hrs 9 Oct 44 to 0210 hrs 12 Oct 44 (Total absence: 3 days, 1 hr, 10 mins.)	L/Sgt Browne, H.G. L/Cpl. Lefler, F.A. Documentary	14 days C.B.	13 Oct44	Lt.Col. N.M.Young	Forf. 4 days pay FR&I. "NMY"
Camp Ipperwash	1945 1Jan	Pte		A A 15(1) AWL from 0200 hrs 1 Jan 45 until 1400 hrs 8 Jan 45 (Absence: 7 dys 12 hrs)	Cpl.Caughlin (doctry)	FOP 28 dys 46(2)(d) A A	9 Jan 45	A.Garrod Lt.-Col.	FOP 8 dys 149(1a)FR&I "AG"
C.Ipperwash	14Jan 45	Pte		A A 15(1) AWL from 2200 hrs 14 Jan 45 until apprehend at 1220 hrs 2 Feb 45 (18 Dys, 14 hrs, 20mins)	Doctr'y	28 Days Detention Cost of apprehn $.60¢	3-2-45	A.Garrod Lt.Col.	FOP 19 Dys."AG" FR&I 149(1)A
				GRANTED 4 days REMISSION FROM SENTENCE OF 28 days Detention awarded 27 Feb 45. DO PT II #56 27 Feb 45					
Ipperwash Ontario	4 Mar	Pte		A.A.Sec 40 Conduct to prejudice at 1920 hrs 4Mar45 was not wearing a greatcoat in London, Ontario (doc'ty)	Pte. Martin, E.G.	8 days C.B.	6 Mar 45	Captain F.Watson	"F.W."

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
C.Ipperwash	19Mar 45	Pte		A A 15(1) A W L from 1330 hrs 19 Mar 45 until appreh at 0830 hrs 2 Apr 45. (13 days, 19 hrs.)	Doctr'y	14 Days Pay 46 (2)(d)	4-4-45	A.Garrod Lt.Col.	FOP 14 Dys. "AG" FR&I 149 (1)A Cost appreh. $3.00
C.Ipperwash	16Apr 45	Pte		A A 15(1) AWL from 2359 hrs 16 Apr 45 until 0115 hrs 7 May 45 (20 dys, 1 hr, 16 mins.)	Doctr'y	28 Days Pay 46 (2) (d)	8 May45	A.Garrod Lt Col.	FOP. 21 Dys. "AG" FR&I 149 (1)(a)
Camp Ipperwash	15May	Pte		A A 15(1) A W L from 2200 hrs 15 May 45 until 1315 hrs 25 May 45 (Absence: 9 dys 15 hrs 15 min)	L/C MacKey (doctry)	14 dys DETENTION Cost of apprehension $1.00	29May45	A.Garrod Lt-Col.	FOP 10 dys "AG" 149 (1a) FR&I
Camp Ipperwash	1945 18Jun	Pte		A A 15(1) A W L from 0200 hrs 18 Jun 45 until 1715 hrs 20 Jun 45 (absence - 2 dys 15 hrs 15 min)	L/C Decker (doctry)	Admonished	21Jun45	Major F.Watson	FOP 3 dys "F.W." 149(1a) FR&I

No. A-111039 Name BLYTHE Harold Norman | Sqn., Battery, or Company | No. and date of last drunk | Corps | Period not reckoning towards freedom from extra fine | Date of enlistment 7 Aug 44 | G.C. Badges | Sheet No. TWO | Signature O.C. Company, etc. | Tradesmen's Rates of Pay $1.30 | Character

M.F.M. 6 (A.F.B. 122) 500M—11-41 (3498) H.Q. 1772-39-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
C.Ipperwash	25 Jun 45	Pte		A A 15(1) AWL from 2200 hrs. 25 Jun 45 until appreh at 0940 hrs 28 Jun 45. (2 Dys. 11 hrs. 40 mins.) CERTIFIED TRUE COPY: (A. W. Legge) Lieut. Legal Officer Officer i/c Original Documents A.29 C.I.CIT.C., C.A.	Doctr'y	10 Days Pay 46 (2) (d)	5 Jul45	A.Garrod Lt.Col.	FOP. 3 Dys. FR&I 149(1)A Cost appreh. $3.00 "AG"

(P.T.O.)

MEDICAL OFFICER'S REPORT

Pte. Blythe H.N.

I certify that No. A.111039 Pte. Harold Norman BLYTHE of A.29 C.I.C.T.C. is in a Good state of health, and fit to undergo Trial by Court martial.

C.O. Kilpatrick Maj.
Medical Officer
R.C.A.M.C. Attached A.29 C.I.C.T.C., C.A.

Station Camp Ippewash, Ontario

Date 29 August 1945.

M. F. B. 246
50M—5-43 (254)
H Q. 1772-39-480

PRECIS OF EVIDENCE

in the case of

No. A.111039, Private Harold Norman Blythe, A.29 C.I.C.T.C., C.A., Camp Ipperwash, Ontario, a General Service soldier of the Canadian Army, placed on Active Service.

CHARGE: ABSENTING HIMSELF WITHOUT LEAVE
Section 15 (1) Army Act

To prove this Charge, the following documentary evidence is available:-

(i) Certified true extract from A.29 C.I.C.T.C., C.A., Daily Orders, Part II, No. 200, Para. 11, dated 1st August, 1945.

(ii) M.F.M. 216

Arthur Lee

(A. W. LEE) Lieut.
Legal Officer
A.29 Cdn. Inf. Corps Trg. Centre

Camp Ipperwash, Ontario,
21st August 1945.

DAILY ORDERS PART II
by
COLONEL H. BALLANTYNE, O.B.E., E.D.
Commanding
A.29 CANADIAN INFANTRY CORPS TRAINING CENTRE

ORDER #200
1 AUG 45
Ipperwash
Ontario

(last order issued No. 199 d/31 Jul 45)

HOLDING ESTABLISHMENT

"B" - OTHER RANKS

11. ABSENT WITHOUT LEAVE

(a) AWL from hour and dates shown.

First Entry	AWL From	
A.111039 Pte BLYTHE, H.N.	1330 hrs 30 JUL 45	(1)

(Signed) R. E. Whitelaw

for Commandant
fra

(R.E. Whitelaw) Capt & A/Adjt.
A.29 Canadian Infantry Corps T.C.

CERTIFIED TRUE EXTRACT FROM A.29 C.I.C.T.C., C.A., DAILY ORDERS, PART II, NO. 200, PARA. 11, DATED 1ST AUGUST 1945.

A.W. Legg Lieut.
(A. W. Legg) Lieut.
Legal Officer
Officer i/c Original Documents
A.29 C.I.C.T.C., C. A.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, ----- (Number) Lt.-Colonel (Rank) A. FARMER (Name) A.29 CICTC (CA) (Unit)

hereby certify that A.111039 (Number) Private (Rank) HAROLD NORMAN BLYTHE (Name in full)

of ~~the~~ A.29 C.I.C.T.C., C.A. (Unit and attachment, if any)

Strike out words not applicable } ~~apprehended by~~ (surrendered to) A.117807 (Number) Pte. (L/Cpl.) (Rank)

BAUER, I. W. (Name) A.29 C.I.C.T.C. (Unit or appointment)

at Camp Ipperwash, Ontario (Place) at 2215 (Hour)

on the 20th day of August 1945.

Strike out words not applicable } ~~absent~~ absentee without leave), and that at the time of his arrest he was wearing military ~~clothing~~ uniform ~~dressed in civilian clothes~~

Dated at Camp Ipperwash, Ont this 20th day of August 1945.

(Signature, Number, Rank, Unit or appointment)
(A. Farmer) Lieut.-Colonel
A/Commandant A.29 C.I.C.T.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (8806)
H.Q. 1772-39-1936

H.Q.C.55-B-1935 (JAG/D-3)
Your L. 28-B-1200

7 Sep 45

The District Officer Commanding,
Military District No. 1, London, Ont.

STANDING COURT-MARTIAL

A.111039 Pte. Harold Norman Blythe,
A.29 C.I.C.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

for Judge Advocate General.

EL/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-1935
M.D. L.28-B-1200

GS

MEMORANDUM ~~DISTRICT~~ STANDING COURT-MARTIAL

No. A.111039 Name BLYTHE, Harold Norman

Rank Pte Unit A.29 CICTC CA

Charge AA 15(1) AWL

Date of Crime 30-7-45.

Date of Arrest 20-8-45. Charge Signed 21-8-45.

Orders for D.C.M.

Place and Date of Trial A.29-CICTC CA; 29-8-45.

Sentence Det 30 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39485

Date 6-9-45

MEMO

MD 1 - A.29 CICTC CA

Absent	Sentence
22 days;	det 30 days.

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No. L.28-B-1200 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ MD 1, London, Ont., 30 Aug 1945

C.55-B-1935

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

STANDING COURT-MARTIAL
A.111039 Pte. Harold Norman BLYTHE
A.29 C.I.C.T.C., C.A.

Enclosed herewith are the proceedings of the m/n Standing Court-Martial which took place at Camp Ipperwash, 29 Aug 45.

(H. C. Cameron), Lieut-Col.,
Pres. Standing Court-Martial
M.D. 1

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

39485

H.Q.C. 55-B-1936 CONFIDENTIAL

R.F.B. 1173
3334—3-45 (8000)
H.Q. 201-1-69

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BELROSE, ERIC EARL A-20680 SPR.

CONFIDENTIAL
H.Q.C. 55-B-1936

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 7-1945 SEP 13 1945	8 Sep 45			JAG	NEW FILE	CR	4-9-45
	12-9-45			J.A.G.	With Papers C.R. SEP 12 1945		

If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute".

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1936 (JAG/D)

12 September 45

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

Standing
A-20680, Court-Martial
Cdn. 2nd. Sch. CAPF BASE HQ.

Receipt is acknowledged of your K. 55-B-3386(JAG) dated 5 September 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

B.H:EJ

IN REPLY PLEASE QUOTE No. K. 55-B-3386 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 8th. Sept. 1945.

341091

CENTRAL REGISTRY Army
CONF. SEC.
SEP 11 1945
File C55-B-1936
Chgd. to
Referred to JAG.

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario

STANDING COURT-MARTIAL
A-20680 Spr. Eric Earl BELROSE
Cdn. 2nd. Ech. CAFF BASE HQ

Reference your H.Q.C. 55-B-1936 (JAG/D-4) dated 7th. Sept. 45 under cover of which was enclosed proceedings of the marginally-noted Standing Court-Martial.

2. The proceedings have been reviewed at this Headquarters and as no M.F.M. 288 has been received from the soldier's Commanding Officer under C.A.R.O. 4567, para 7B, the proceedings are returned herewith.

P. T. Armstrong, Brigadier,
District Officer Commanding,
Military District No. 3

ENCLS
WACH:D

NAT. DEF. B. 440
250CM-4-44 (43325)
H.Q. 1772-39-267

MEDICAL OFFICER'S REPORT

_____ H. Crowley Major
President, Standing Court-Martial

I certify that No. A-206[illegible]0 SPR. BELROSE, E.E.
of RAA. 2nd. Ech (PACIFIC) is in a GOOD state of health,
and IS FIT to undergo Trial by Court martial.

G. B. Leayton Capt.
Medical Officer
2nd Echelon

Station BROCKVILLE, ONTARIO.

Date Aug 30/45

M. F. B. 246
50M—9-44 (5437)
H.Q. 1773-39-480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Brockville, Ontario,

on the 30th day of August, 1945, at 1420 hours,

for the trial of: A.20680 Sapper Eric Earl BELROSE,
Number Rank Full Name

Canadian 2nd Echelon, C.A.P.E. Base Headquarters,
Unit Attachment, if any

PRESIDENT: Major J.E. Dowsley, E.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Captain J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Capt. J.A. Gorman, Cdn 2nd Echelon, CAPF Base H.Q.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty of the charge.

SENTENCE: To undergo detention for sixty days.

Signed at BROCKVILLE, Ontario, this 30th day of August, 1945.

J.E. Dowsley Major
President
Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2200

Extracts entered as No. 39491 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 6 day of Sep 1944

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as Interpreter?~~

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC, CA, as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

AUG 24 1945
Military District No. 3
Central Registry

B-2836

President, Standing Court-Martial

: CHARGE SHEET :

The Accused, A-20680 Sapper Eric Earl BELROSE, Canadian 2nd. Echelon, CAPF BASE HQ, a G.S. soldier of the Canadian Army placed on Active Service is charged with:-

Charge
Sec. 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

FD 4113

in that he

at Brockville, Ontario, on the 4th. day of August 1945, absented himself without leave from his quarters at 0800 hrs. on the said 4th. day of August 1945, and remained so absent, until surrendering himself to the military authorities at Brockville, Ontario, at 0830 hrs. on the 20th. day of August 1945, dressed in Military uniform.

Michael S. Dunn

Brockville, Ontario.
22 August 1945.

(Michael S. DUNN) Colonel,
OIC Cdn. 2nd. Echelon,
CAPF BASE HQ.

PRECIS OF EVIDENCE

The following evidence is available to prove the above charge:-

Verbal: 1. B-47857 Sgt. AIKMAN, B.R., Cdn. 2nd. Echelon, Central Canada, who will give evidence as to absence of the accused.

Documentary
2. ~~XXXX

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

The Prosecutor makes a statement regarding the circumstances connected with the offence. (not attached)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes I do, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. Yes, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

Statement by the Accused:-

On Thursday, sir, I received a letter from my wife saying that my baby and her weren't well. Friday night I went down to Brockville and stayed out all night and Saturday at noon I started hitch-hiking for home. I got as far as Belleville and stayed in Belleville Saturday night and then went on through to Toronto. I got there Sunday afternoon and stayed there at my aunt's place until Monday morning and then went through home.

When I got home my wife was all alone. My mother wasn't at home. She was at Collingwood and the doctor had ordered her to bed for two weeks. I stayed there and looked after my wife and child, sir, and then I returned. My wife had also sent a telegram and I brought back a doctor's certificate stating the condition of my wife and child. My wife is having her child in about two weeks time.

(Telegram and doctor's certificate are received for what they are worth, signed by the President and attached to the proceedings)

FIRST WITNESS)
FOR THE)
DEFENCE)

Major F.M. CASS,
Canadian 2nd Echelon, C.A.P.F. Base Headquarters,
being duly sworn, is examined by the Defending Officer,-

Q. Major Cass, will you state your relation with Sapper Belrose and make a statement to the Court as to his deportment and general ability as a soldier while employed under you?

Yes. I have known the accused for approximately three months. He came to 2nd Echelon early in June of this year while it was in the process of being organized at Connaught Ranges near Ottawa. At that time it was necessary we put into immediate operation a print shop as one of the prime functions of the 2nd Echelon is issuing Part II Orders. Belrose was placed in the print shop as 2 i/c and remained there for several weeks. At that time it was a very responsible job for a private and Belrose did a very good job for the first few weeks. He did not stint himself as far as actual work went during day-time hours or evening, and there was a great deal of evening work. I haven't any knowledge of Belrose as a soldier outside of his duties in the print shop, nor have I been in touch with him for the past several weeks. However, working directly under me in the print shop he did as good a job as one could ask. That is all.

The Prosecutor declines to cross-examine.

The witness withdraws.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. I wish my Defending Officer to say something for me, sir.

(for address by the Defending Officer, see document marked "G")

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

15
2

G. Bowsley-Major
President, Standing Court-Martial

Address by the Defending Officer,-

There are a number of facts that I would like the Court to consider, please, before making an award. First is the age and the service of the accused. He is actually twenty years of age. As a good many boys did he overstated his age to get into the Army. He has had three and a half, or three years and eight months service now. He was a Pacific volunteer and he was a G.S. soldier as shown on his documents. Though he didn't get overseas, through no fault of his own, he volunteered for everything going and volunteered for the Pacific Army of Occupation. He has been married three years and two months.

While he has a long conduct sheet, it is also true perhaps it is a case of mishandling or misplaced leniency in the early charges. He was married at the age of seventeen and his wife is twenty-one years of age and at the present time they have one child, which is eleven months of age, and there is another on expected very shortly. One child in indifferent health and his wife, naturally, in a very delicate condition. So I plead with the Court, they have a very grave responsibility in this case, considering the family circumstances and the tender years of the accused. Certainly this young man at the age of twenty has developed grave responsibilities. I believe if clemency is exercised it will help him become more acutely aware of his responsibility in the future. I believe, after the short time I have been with him, he could be a good soldier. Major Cass' shows he is a good worker. I believe, after all, he is not being tried for his past record, but being charged with absence now. I believe on this charge extenuating circumstances are such there was some justification for him absenting himself.

... 2

... 2

I believe if clemency is shown by the Court in this case it will spare his innocent wife and family from the loss of income which they sorely need and will also salvage for this country a potential good citizen.

Y

G. Lowsley, Major

President, Standing Court Martial

M.F.D. 355
H.Q. 1773-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-20680	Sapper	BELLOSE, E.E.	Cdn. 2nd. Echelon CAPF BASE HQ.

1. The following is a fair and true summary of the entries in the Field ~~Service and Conduct Regimental and Squadron Battery~~ Conduct sheets or ~~Company Conduct~~ sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~MILITARY~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA Sec 15(1) AWL	8 times	AA Sec. 15 (1) AWL 13 times
For AA Sec 40.	times	~~X~~ AA Sec 40 1 times
For	times	times
For	times	times

~~Nature of military or distinguished conduct~~

~~or,~~

~~There is no entry in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or civil court or summary ~~XXXXXXXX~~ ~~XXXXXXXX~~ ~~Section 47 of the Army Act~~ and dispensation with trial under ~~AXXXXX~~ ~~XXXXXXXX~~ ~~XXXXXXXX~~ ~~XXX

11. [redacted]

12. [redacted]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be strick through.

~~SCHEDULE~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~Twenty-second~~ thirteenth day of August 1945. ..... Major

Camp Commander.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Reg. No. A-206080 Name BELROSE, Eric Earl

Signature O.C. Company, etc. "Sig. not legible" Corps RCE Date of enlistment or enrolment 10 Dec 41 Date of Birth 2 Jan 23 M.F.M. 6

Sheet destroyed 12 Jun 44

*Place check mark against number of sheets in use. Sheet No. One of *1, 2, 3, 4, 5

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Petawawa, Ont.	9Oct45	Spr		AA15(1) AWL 0600 hrs 7 Oct 42 to 1430 hrs 12 Oct 42	Documentary	Admonished	20Oct 42	Maj.Pennock	Forfs 7 days pay FR&I 149 P.Maj.
Petawawa, Ont.	20Sep44	"		AA15(1) AWL 0600 hrs 20 Sep 44 to 1240 hrs 28 Sep 44	Assessed $20.56 escort charges. L/C Plouffe,F	14 days CB	28 Sep 44	Maj.H.R. Burton	Forfs 9 days pay FR&I 149 H.R.B.Maj.
Petawawa, Ont.	30Dec 42	"		AA15(1) AWL 0600 hrs 30 Dec 42 to 0700 hrs 6 Jan 43	Cpl. Spence	14 days CB	7 Jan 43	Capt. F.J. Bradley	Forfs 8 days pay FR&I 149 F.J.B. Capt.
St.Jo[illegible]	28 Dec 43	"		AA15(1) AWL 2359 hrs 28 Dec 43 to 0945 hrs 6 Jan 45	Sgt. Evans,J.H.	14 days det'n	6 Jan 44	Maj.H.Leeming	Forfs 9 days pay FR&I 149 H.L. Maj.

M.F.M. 6—500M—6-44 (5398)
H.Q. 1772-39-1652

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
Petawawa, Ont	12 Apr 44	Spr		AA15(1) AWL 0600 hrs 12 Apr 44 to 1235 hrs 14 Apr 44.	L/C. Vataman-iuk. Documen.	7 days CB	14 Apr 44	Maj. H.R. Burton	Forfs 3 days pay FR&I149 H.R.B. Maj.
Petawawa, Ont.	3 Sep 44	"		AA15(1) AWL 0600 hrs 3 Sep 44 to 0900 hrs 5 Sep 44	Cpl. St. Jean	7 days CB	5 Sep 44	Maj. H.R. Burton	Forfs 3 days pay FR&I 149 H.R.B. Maj
Petawawa, Ont.	28 Dec 44	"		AA15(1) AWL 0600 hrs 28 Dec 44 to 2040 hrs 4 Jan 45	Sgt. Spence Route Letter	8 days pay AA46	6 Jan 45	Lt. Col. J.A. Warburton	Forf 8 days pay FR&I 149. J.A.W. Lt. ol.
Petawawa, Ont.	21 Jan 45	"		AA15(1) AWL 0800 hrs 21 Jan 45 to 0600 hrs 22 Jan 45	Cpl. Durkee V.E.	7 days CB	22 Jan 45	Capt. V.A. Andrew	Forfs 1 days pay FR&I V.A.A. Capt.
Petawawa, Ont.	4 Feb 45	"		AA15(1) AWL 0600 hrs 4 Feb 45 to 0600 hrs 5 Feb 45	L/C. Robert-sone, J.B.	7 days CB	5 Feb 45	Maj. F.J. Bradley	Forfs 1 days pay FR&I F.J.B. Maj.

CERTIFIED TRUE COPY OF ORIGINAL HELD BY OFFICER HAVING CUSTODY OF DOCUMENTS.

(S. Chambers), Major
Camp Commandant,
CAPF Base HQ

M.F.M. 6

Reg. No. A-20680 Name BELROSE, Eric Earl Corps RCE Date of enlistment or enrolment 10 Dec 41 Date of Birth 2 Jan 23

Signature O.C. Company, etc. "Sign. not legible"

Shee destroyed 12 Jun 44

Sheet No. Two of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Petawawa, Ont.	1 Mar 45	Spr.		AA40 Conduct to the prej. etc. "causing disturbance during roll call"	Cpl.Cormier L/C. Champman	7 days CB	3 Mar 45	Lt.Col.R.J. Cassiday	R.J.C.Lt.Col.
Petawawa, Ont.	25 Mar 45	"		AA15(1) AWL 0630 hrs 25 Mar 45 to 0710 hrs 26 Mar 45	Documentary	14 days det'n	27 Mar 45	Lt.Col.R.J. Cassidy	Forfs 2 days pay FR&I 149 R.J.C.Lt.Col.
Petawawa, Ont.	9 Apr 45	"		AA15(1) AWL 2000 hrs 9 Apr 45 to 2359 hrs 9 Apr 45	Documentary	24 hrs det'n	11 Apr 45	Lt.Col.R.J. Cassidy	Forfs 2 days pay FR&I 149(c) (ii) R.J.C.Lt.Col.

M.F.M. 6—500M—8-44 (5386)
H.Q. 1773-39-1632

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Barriefield	28 May 45	Spr		AA15(1) AWL 0600 hrs 28 May 45 to 1530 hrs 29 May 45	Documentary	7 Days CB	30 May 45	Maj.S.L.C. Woodhouse	Forf 2 days pay FR&I 149.
Brockville,Ont	1 Jul 45	Spr		AA15(1) AWL from 2245 hrs 1 Jul 45 to 2155 hrs 9 Jul 45	Sgt.Aikman B.R.	14 days pay	11 Jul 45	Maj S. Chambers	Forf 8 days pay FR&I 149

CERTIFIED TRUE COPY OF ORIGINAL HELD BY OFFICER HAVING CUSTODY OF DOCUMENTS.

(S. Chambers), Major
Camp Commandant,
CAPF Base H

CANADIAN PACIFIC TELEGRAPHS
World Wide Communications

rn 8 46 NL

Kitchener Ont aug 5-45

Spr E E Belrose

A20680 Cdn 2nd Echelon Pacioif force Brockville Ont.

Baby sick and I am not well and all alone mother not well and is in collinwood doris with her doctor says you should be here expecting baby in four to six weeks apply for compassionate leave doctor will verify to your commanding officer if necessary.

Ruth.

825am

President, Standing Court-Martial

4

27

DR. DAVID W. WHALEY
16 ROY STREET
KITCHENER

J. Rowley Major
President, Standing Court-Martial

To whom it may concern:

Baby Laurence Belrose has a respiratory infection. Mrs Belrose is 8 mos. pregnant.

D.W. Whaley

H.Q.C.55-B-1936 (JAG/D-4)
Your K. 55-B-3286

7 Sep 45

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

STANDING COURT-MARTIAL

A-20680 Spr. Eric Earl Belrose,
Cdn 2nd Ech CAPF BASE HQ

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde) Brigadier
Judge Advocate-General.

JOGR/MM

THIS COPY FOR: H.Q. C.55-B-1936
M.D. K.55-R-3286

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. A-20580 Name ROSE, Eric Earl

Rank Spr Unit Cdn 2nd Ech CAPF BASE HQ

Charge AA 15(1) AWL

Date of Crime 4-8-45

Date of Arrest 22-8-45 Charge Signed 22-8-45.

Orders for D.C.M.

Place and Date of Trial Brockville, Ontario 30-8-45

Sentence Det 60 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 38491

Date 6-9-45

MEMO

MD 3 - Cdn 2nd Ech, CAPF Base HQ

Absent	Sentence
17 days;	det 60 days.

D. Scholey Capt.
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No. K.55-B-3286

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Confidential

Kingston, Ontario, 3rd. September, 1945.

The Judge Advocate-General,
Dept. of National Defence,
Central Chambers,
OTTAWA, Ontario.

c.55-B-1936

STANDING COURT-MARTIAL
A.20680 Spr Eric Earl BELROSE
Cdn 2nd Echelon, CAPF Base HQ.

Herewith proceedings on the trial by Standing Court-Martial of the marginally named soldier.

(J.E. Dowsley) Major,
President of Standing Court-Martial.

Encl.

N.D. 23
3 M.L.-11-43 (2979)
H.Q. 1772-101-23

39491

H.Q.C. 55-B-1937 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BEAUCHAMP, R. D-57757 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1937

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				ADMIN	NEW FILE	CR	4-9-45
SEP 10 1945	10/9/45	PA 3	pm	Jag	To note	wof	7-9-45
SEP 14 1945	10.9.45	PA	wof	Admin	Per Registration C.R. SEP 12 1945		
				CMBR	Per Registration C.R. OCT 13 1945		
OCT 17 1945	17.10.45	PA 3	pm	JAG	Mens please	ens	17/10/45
OCT 18 1945					Papers C.R. NOV 12 1945		
NOV 14 1945			ELM	Jag			
				Admin	Papers C.R. NOV 30 1945		
DEC 1 - 1945				JAG	For your info		30/11
DEC 6 - 1945	6.12.45	PA		CMBR	Forwarded for your information	ELM	4-12-45
DEC 19 1945	19/12/45	PA	pm	Jag	PER B.F. DEC 20 1945		
JAN 7 1946	7/1/46	PA	ens	CMBR	Per Registration C.R. JAN 4 1946		
AUG 17 1946	17/8/46	PA	ens	W.R.B	JUL 31 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

COPY

10/Beauchamp, R/2

CANADIAN MILITARY HEADQUARTERS

LONDON, 21 Aug 45

The Secretary,
Dept of National Defence,
Ottawa, Canada.

D-57767 Pte BEAUCHAMP, R

The m/n soldier is now serving a sentence of 16 months imprisonment with hard labour awarded by FGCM 13 Jan 45 for the following offences: an absence without leave from which he was apprehended after 33 days (AA Sec 15(1)), an absence without leave from which he was apprehended after 11 days (AA Sec 15(1)), being improperly in possession of a Canadian military vehicle (AA Sec 40) and neglecting to take proper precautions to safeguard army property thereby occasioning the loss of the said property to the value of approximately $117-0-0 (AA Sec 40).

2. He has escaped once while serving his sentence and has accordingly not so far earned full remissions for good conduct. The earliest date on which he should be released if he earns full remissions henceforth is reported to be 22 Dec 45.

3. This soldier enlisted 9 Aug 40 at Montreal, PQ, and he is now 21 years of age. At the time he enlisted he gave a false age. Since enlistment he has been found guilty of 7 offences under AA Sec 15(1), of 7 offences under AA Sec 40 and of 1 offence under AA Sec 11. He has had 1 previous FGCM on 3 Sep 42 when he was awarded 28 days forfeiture of pay for an offence under each of AA Sec 11 and AA Sec 40.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. The SPO who has examined this soldier states that he is an individual of average intelligence who feels he is being discriminated against in the army; that he states he went absent because he was being transferred to a rifle company; and that he is prepared to return to action.

6. In view of the offences of which this soldier has been convicted and the circumstances surrounding his first offence, it is considered that he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 9 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier has misconducted himself in order to avoid further service in action and probably with a view to obtaining his discharge.

7. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original ~~xxxxxxxxxx~~ AF A3104 in respect of the FGCM held 13 Jan 45 on which this direction xxx has been endorsed.

"M Sheppard" Major
for (E G Weeks) Major-General
i/c Adm, CMHQ

COPY

10/Beauchamp, R/2

CANADIAN MILITARY HEADQUARTERS

LONDON, 21 Aug 45

The Secretary,
Dept of National Defence,
Ottawa, Canada.

D-57767 Pte BEAUCHAMP, R

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"M Sheppard" Major
for (E C Weeks) Major-General
i/c Adm, CMHQ

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-57767 Pte Beauchamp D R de Mais

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd	Guilty	Guilty	
4th	Guilty	Guilty	
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1) EKM

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 37 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for sixteen months and to be placed under stoppages of pay in the amount of £15-0-0.

(Sgd) "E.K. McDougall" 13 Jan 45 (Sgd) "J. Campbell" Major
Judge-Advocate, if any. Capt. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ WJM

(1. AA 57A. Delete if not used.)

(Sgd) "W.J. Megill" Brig

Date 14 Jan 45

Commanding 5 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-57767 Pte Beauchamp R	15 Jan 45	"G.Leclerc" Capt. Adjt R de Mais

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 17 Mar 45 JAG BRANCH

RECORDED AT CMHQ IN AB 160 4u-124

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of APA8) 40/F & S/1000 (6144) 4/388

Convened by Order of Brig W.J. Megill Comd 5 C.I.B. dated 10 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-57767	Pte		Robert	BEAUCHAMP	R de Mais

PROCEEDINGS REVIEWED 20 Mar 45 M Magnuson Capt. REVIEWING OFFICER, JAG BRANCH CMHQ

CERTIFIED TRUE COPY

D.J.A. HQ 21 Army Gp. Cdn Sec. 2 Tech HQ

PROCEEDINGS REVIEWED 5 Apr 45 Date

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 13 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) EKM The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and EKM each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1020 hours trial commences. EKM

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) EKM ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ EKM

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.) EKM

A5. President to accused : ~~Do you object to~~ ~~as interpreter ? Ans~~ EKM
~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer ? Ans~~ EKM
~~The shorthand writer is sworn.(1)~~ EKM

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	J. Campbell	Calg Hgh
Member	Capt	I.J. Coady	Calg Hgh
Member	Capt	A.J. Powers	R.H.C.
Judge-Advocate	Capt	E.K. McDougall	HQ 2 Cdn Inf Div.
Prosecutor	Capt	F.D. Bourcier	R de Mais
Defending Offr	Lt	P.A. Brien	Rde Mais

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D-57767 Pte Beauchamp R before arraignment make(s) (no) (~~s~~) plea EKM ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~do~~) EKM not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The pro- EKM ceedings are continued on Record Form E & F

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

EKM

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

EKM

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

EKM

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

EKM

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6). RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. Y ..... and Ex. Z ..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment? Ans. By my defending officer (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

FIRST CHARGE

The accused D-57767 Pte Beauchamp, Robert "Le Regiment de Maisonneuve" a soldier of the Cdn Army (O) is charged with:

Sec 15 (1) Army Act — WHILE ON ACTIVE SERVICE "ABSENTING HIMSELF WITHOUT LEAVE"

in that he

In the field, absented himself without leave from 1330 hrs, 26 Sep 44 until he was apprehended by the U.S. Military Police at Cherbourg about 2050 hrs 29 Oct 44. He was wearing civilian clothes.
(Absent 33 days, 7 hours 20 mins.)

SECOND CHARGE

Sec 15 (1) Army Act — WHILE ON ACTIVE SERVICE "ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, while in close arest absented himself without leave from 2030 hrs 25 Nov 44, until apprehended by Capt M. Savard at 1215 hrs on the 7 Dec 44.
(Absent 11 days 15 hours, 45 mins.)

THIRD CHARGE

Sec 40 (Army Act — WHILE ON ACTIVE SERVICE "CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE"

in that he

In the field, on 7 Dec 44 at approximately 1205 hrs was improperly in possession of C.M. Veh CZ 4286298.

FOURTH CHARGE

Sec 40 Army Act — WHILE ON ACTIVE SERVICE "NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE"

In that he

In the field, between 25 Nov 44 and 7 Dec 44, neglected to take proper precautions to safeguard the following articles.

34 Blankets	23--7--6
9 Pairs of Boots Ankle	10-19--9
14 Pairs of Anklets	3--1-10
1 Cooker No. 3	6-10--0
3 Jerkins	3-17--6
15 Battle Dress (Blouse & Trousers)	35-14--4½
15 Underwear Woolen (Drawers and shirts)	8--1--3
10 Greatcoats Drab	25-16--8
Total	117--8-10½

thereby occasioning the loss of the said articles, to the value of £117-8-10½.

"J. Bibeau" Lt Col
Commanding Officer
Regt de Mais, C.A.(O).

Date in the Field
13 Dec 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

"W.J.Megill" Brig.
Comd 5 Cdn Inf Bde

10 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-57767	Pte		Robert	BEAUCHAMP	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Jan 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ". WJM WJM WJM

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ WJM WJM

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. WJM

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ WJM

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J. Campbell	Calg Highrs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	I.J. Coady	Calg Highrs
Capt.	A.J. Powers	R.H.C.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	T.R. Larkin	R.H.C.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E.K. McDougall	HQ 2 Cdn Inf Div

On Active Service in the Fd

in Holland (Country.)

"W.J. Megill" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 10 Jan 45

Commanding 5 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (8142)

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE (K.R. (CAN) 557)

I certify that I have this morning examined D-57767 Pte Beauchamp R, Regt de Mais and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 13 Jan. 45

"A.Grey" Capt.
Medical Officer.

SUMMARY OF EVIDENCE

IN THE CASE OF

D-57767 Pte Beauchamp, Robert "Regiment de Maisonneuve" a soldier of the Cdn Army (O) while on active service is charged with:

Short statement of the charges:

FIRST CHARGE ABSENTING HIMSELF WITHOUT LEAVE SEC 15 (1) A.A.

SECOND CHARGE ABSENTING HIMSELF WITHOUT LEAVE - WHILE IN CLOSE ARREST SEC 15 (1) A.A.

THIRD CHARGE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE SEC 40 A.A.

FOURTH CHARGE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE SEC 40 A.A.

FIRST WITNESS FOR THE PROSECUTION

D-57655 CSM Lacourse, B. dcm, "Regt de Mais C.A.(O) having been duly sworn and having identified the accused states:

On the 26 Sep 44 in the morning at 1130 hrs, D-57767 Pte Beauchamp, R was transferred from Support Coy to 14 Platoon. Later, I called for him for an interview at "C" Coy H.Q. Sgt Patry in charge of his platoon reported that he was not present at the moment. I sent a runner to find him and at 1330 hrs, he was still absent. I reported the accused absent from 1130 hrs that morning. I didn't see the accused since then, until he was brought back by the Military Police.

THE accused does not wish to cross examine the witness.

"CSM B Lacourse"
D-57655 C.S.M. Lacourse, B.DCM
Regiment de Maisonneuve CA(AF).

SECOND WITNESS FOR THE PROSECUTION

D-57342 Sgt Patry, O. "Regt de Maisonneuve C.A.(O) having been duly sworn and having identified the accused states:

On the 26 Sept 44 in the morning at 1130 hrs, D-57655 C.S.M. Lacourse, B DCM called for D-57767 Pte Beauchamp R. to report to "C" Coy H.Q. but he was not present at 1330 hrs the same day CSM ask for him again the accused was absent. I did not see him since.

The accused does not wish to cross examine the witness.

"Sgt Patry O."
(D-57342 Sgt Patry, O.)
Regiment de Maisonneuve CA(AF)

THIRD WITNESS FOR THE PROSECUTION

D-135270 Sgt Barre, F "R.P." "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn and having identified the accused states:

On the 25 Nov 44 after supper, I brought the accused back into the Guard Room, and locked the door. During the evening I sent L/Cpl Lavigueur, R three (3) times to check the prisoner. They were counted and every one was present each time. Around 2315 hrs L/Cpl Davigueru R and myself before going to bed counted once more our prisoners. To our knowledge every one was present, some of them were sleeping at the time. At reveille next morning at about 0600 hrs L/Cpl Lavigueur went into the Guard Room and found that two

prisoners had excaped through the window which is two storeys high. Namely the accused and Pte Tremblay.

On the 7 Dec 44, Capt Savard and myself went to St-Omer Capelle where we had heardthat the accused was there with a stolen vehicle No CZ4286298. When we arrived at St-Omer Capelle, we informed ourselves if anyone had seen a Canadian soldier with a vehicle. We were informed that there was one. We took all particulars and eventually we were brought to the right place, where Pte Tremblay who had fled with the accused was sleeping. After awakening him, we asked Pte Tremblay where the accused was. He told us that he was out for an hour, and that he would be back at noon. Capt Savard took Pte Tremblay and placed himself on a Crossroad where the accused had to go through and placed me at another crossroad, the other side of town. Sometime afterwards, I saw Capt Savard, arriving with the accused and Pte Tremblay.

On the 26 Nov 44 at 0600 hrs when we awoke the prisoners, I found that the accused was absent and had escaped from the Guard Room. I reported him as A.W.L. and never saw the accused again until we found him at ST-Omer Capelle, at about 1215 hrs the 7 Dec 44.

The accused does not wish to cross examine the witness.

"Sgt Barre F"
(D-135070 Sgt Barre, F.) R.P.
Le Regiment de Maisonneuve,
Cdn Army Overseas.

FOURTH WITNESS FOR THE PROSECUTION

D-57918 L/Cpl Lavigueur R. "R.P." Le Regiment de Maisonneuve Cdn Army (O) having been duly sworn and having identified the accused states:

On the 25 Nov 44, at about 1730 hrs we brought the prisoners to the Guard Room and locked the door. Three (3) times during the evening I went to the Guard Room to check the prisoners and they were all accounted for. Before going to bed at 2330 hrs, Sgt Barre and myself went to the Guard Room and checked again the prisoners and everyone was accounted for. Next morning at reveille I went to the Guard Room at 0600 hrs and noticed, that two of my prisoners were missing. Namely the accused and Pte Tremblay. The window had been opened and the accused, apparently had escaped through there.

The accused does not wish to cross examine the witness.

"R. Lavigueur"
(D-57918 L/Cpl Lavigueur, R) R.P.
Le Regiment de Maisonneuve
Cdn Army (O).

FIFTH WITNESS FOR THE PROSECUTION

Capt M. Savard "T.O" Le Regiment de Maisonneuve, Cdn Army (O) having been duly sworn and having identified the accused states:

On the 25 Nov 44, the vehicle No CZ-4286298 was stolen from "A" Echelon lines. After getting some information, I found out that the vehicle had gone to St-Omer Capelle. On the 6 Dec 44, I left for St-Omer Capelle with Sgt Barre. The 7 Dec 44 in the morning we arrived at the place that we were told they would be (St-Omer Capelle) and knowing that they would probably be in a certain house in that town. We both went to the house indicated and found Pte Tremblay there, sleeping. We awoke him and questioned Pte Trembly of the whereabouts of the accused, and the vehicle. He told us

xxxxx

that the accused had gone to an unknown place and would be back by noon. I took Pte Tremblay with me and went to a crossroad where the accused would have to come through, to go to the house, and sent Sgt Barre, F to another crossroad, at the other side of the town. At about 1205 hours, I saw the vehicle No CZ 426298 driven by the accused, turned down the direction of the house. I then followed him in my own vehicle to the house where I stopped him and put him under close arrest, and the accused had no right and no authority to have the vehicle in St-Omer Capelle or any where else

The accused does not wish to cross examine the witness.

"M. Savard" Capt.
(M. Savard) T.O.
Le Regiment de Maisonneuve
Cdn Army (O).

SIXTH WITNESS FOR THE PROSECUTION

D-157779 Pte Collin, R. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On the 25 Nov 44 at about 2030 hrs, I helped the accused and Pte Tremblay to escape from our Unit Guard Room, and gave him some of my clothes. After the accused was dressed, the accused opened the window and tied blankets together so that he could slide down the side of the house on to the ground. After their escape, I personally made up dummies with their blankets in two places, so to represent the accused and Pte Tremblay, knowing that one of the R.P. would inspect the Guard Room, he would be under the impression that they were sleeping. I also opened the winiow in the morning before reveille so that the R.P. would think that they had escaped during the night.

The accused does not wish to cross examine the witness.

"Collin R"
(D-157779 Pte Collin R.)
Regt de Mais, C.A.(O)

SEVENTH WITNESS FOR THE PROSECUTION

Capt. Y. David, (Q.M.) "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

The articles mentioned in the fourth charge relating to the accused valued at £117-8-10½ is correct in accordance with the ADOS price.

The accused does not wish to cross examine the witness.

"Y. David" Capt.
(Y. David) Q.M.
Regt de Mais C.A.(O).

EIGHTH WITNESS FOR THE PROSECUTION

Lieut. L.J.A. Woods "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On the 25 Nov 44, after being advised that my platoon truck had been stolen, I checked with my men what they had left in the truck, and kept a list until the truck was found, I again checked my list of what was lost and found that the following articles missing:

34 Blankets
9 Pairs of Boots Ankle
14 Pairs of Anklets
1 Cooker No. 3
3 Jerkins Leather
15 Battle Dress (Trousers & Blouses)
15 Underwear (Drawers & Shirts)
10 Greatcoats

which I reported to the Quarter-Master.

The accused does not wish to cross examine the witness.

"L.J.A. Woods"
(L. J. A. Woods) Lieut.
Regt de Mais.

The accused was cautioned as follows.

Q1 Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

AL I do not wish to make a statement.

"R. Beauchamp"
(D-57767 Pte Beauchamp R.)
Regt de Mais C.A.(O).

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of five (5) pages, was taken down by me in the presence fo the accused and that R.P. 4 (C) (D) (E) (F) and (if applicable (G) have been complied with.

"F.D. Bourcier"
(F.D. Bourcier) Capt.
Regt de Mais
Officer detailed to take the Summary.

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163 (1) (1

I certify that D-577767 Pte Beauchamps, R of Regiment de Maisonneuve, "C" Coy was arrest at U.S.M.P. Det.,Cherbourg at 2050 hrs 29 Oct 44. He was dressed in plain clothes.

Signature of Provost Marshal, APM
or other Officer into whose custody
the above named person was taken
on arrest.

"S.C. Sloebelake"
1st Lt. C.M.P.
C.O. 707 MP Btn.

NoD-57767 Name Beauchamp R | Sqn. Battery or Company | Corps R de Mais | Date of enlistment 6-8-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Val Cartier	9-3-41	Pte		DAMAGING GOV. PROPERTY TO THE AMOUNT OF $4.50 A.A.40	Pte Mercier	7 days C.B. Stoppage of P. £3.2.5.	12-3-41	Major Larue	
Borden	3-3-42	Pte		(1) CONDUCT TO THE PREJUDICE OF "left camp to see Paym.at RCOCRU when told not to) AA 40 (2)Neglect to obey camp standing orders "Failed to report at Guard Room" A.A. Sec 11.	S/Sgt. MacLachlan	5 days C.B.	4-3-42	Capt. J.R. Kant	
Borden	12-6 42	Pte		CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MIL. DISC."FAILED TO GET UP AFTER HAVING BEEN SHAKEN AND ALSO ADOPTING AN INSUBORDINATE MANNER. A.A. SEC 40	Sgt.Clark	7 days C.B.	12-6-42	Capt. C.G. Barnes	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25-12-43	Pte		WOAS AWL From 2230 hrs till 2245 hrs ~~XXXXXXX~~ (absent 15 mins 25-12-43. AA 15 (1)	Sgt Edmond Cpl Paquette	7 days C.B.	25-12-43	Capt Vallieres	
Field	16-1-44	Pte		WOAS AWL from 0815 hrs - 2215 hrs 16-1-44 (Abs. 14 hrs) AA Sec 15	Sgt Larue Cpl Paquette	Fof 2 days p. 1 day pay	17-1-44	Lt col Bisaillon	
Field	20-1-44	Pte		AWL from 1830 - 1945 hrs 20-1-44. Abs 1 hr 15 mins. SEC 15 (1)	Sgt Edmond Cpl Paquette	7 days C.B.	21-1-44	Capt Vallieres	
Field	22-2-44	Pte		AA 40 CONDUCT TO THE PREJ. OF GOOD ORDER AND MIL DISC. that he was seen a t 2140 hrs 22-2-44, improperly dressed. Having his tunic unbuttoned.	Maj Bibeau Capt Brosseau	7 days C.B. with pack drill	23-2-44	Capt Vallieres	
Field	20-5-44	Pte		AA 40 Act to the Prdj. good order & Mil Disc that he on 20-5-44 at 1945 hrs was seen with a pr of battle dress trousers with The Field dressing pocket removed.	Lt Col Bisaillon	7 days C.B.	20-5-44	Capt.J.G. Vallieres	

MFM 6
(AFB 122)
40/P&S/136 (3)

No D57767 Name BEAUCHAMP R. | Sqn, Battery, or Company | Corps R de Mais | Date of enlistment 6-8-40 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29-5 44	Pte		AA 15 (1) AWL from 2230 hrs 29-5-44 till 2300 hrs 29-5-44. Abs 30 mins.	Sgt Larocque Cpl Paquette	5 days C.B.	30-5-44	Capt. J.G. Vallieres	
Field	22-6 44	Pte		AA 15 (1) AWL 1600 hrs 22-6-44 till 0800 5-7-44 (absent 12 days 16 hours.)	L/Sgt Plante CSM Allaire Lt Loranser	21 days pay	Lt Col Bisaillon	13 days pay FRI 149 (B)	

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOK HELD IN MY CUSTODY.

"L. Lacroix" Capt & Adjt.
(L.Lacroix) Offr i/c Records
Regiment de Mais
C.A. (O).

(PTO)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (*or as the case may be*)
D-52767	Pte	Beauchamp R	Le Regiment de Maisonneuve C.A.(O)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of **entries** in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For AA Sec 15 (1)	times 5	times
For AA Sec 11	times 1	times
For AA Sec 40	times 4	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N11 beginning on the day of N11

4. The accused has been in confinement, awaiting trial on the present charges, for N11 days in civil custody, and 37 days in military custody, making a total of 37 days, of which N11 days were spent in hospital.

5. The present age of the accused according to his ~~23~~ record of service / attestation paper is

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 6 August 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*). CVSM & Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., dated ..... and in his regiment (*or corps or* department) the rank of ..... dated .....

W1.57637/1519 20M. 5/44. P. Ltd. TS1-1.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of years.

In the rank of years.

In the rank of years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.*)

Date of Promotion

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-57767 *Rank* Pte Name Beauchamp R of R de Mais Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

MR. President, Members of the Court,

Pte Beauchamp pleaded guilty on the charges you read to him. There is a few points I want to tell the court so they could be clement in there sentence.

Pte Beauchamp is only 20 years old.

He joined the army in August 1940 so Pte Beauchamp was only 16 years old when he joined up.

Pte Beauchamp crossed over in England on July 1941 in this paragraph I want to emphasize on the length of time he has been away from his home and being so young.

Since Pte beauchamp left home for overseas he never received a parcel not even cigare tes even though he always gave his family the allowance of $20.00 per month.

Pte Beauchamp has been fighting the toughest part of our war that is to say the battle of France up to the canal Albert, where hefelt discouraged and started to act crazy.

If I pointed those facts to the court sir its because I want the court to take into consideration the age, the length of time away from his home.

H.Q.C. 55-B-1937
THIS COPY FOR: M.D.8/Eng.Repat/1

G.S.

MEMORANDUM - FIELD GENERAL ~~DISTRICT~~ COURT-MARTIAL

No. D-57767 Name Robert BEAUCHAMP

Rank Pte. Unit Le Regt de Mais. C.A.C.

Charge AA 15 (1) AWL

(2) AA 15 (1) AWL

(3) AA 40 Conduct to the prejudice.....

(4) AA 40 Neglect to the prejudice.....

Date of Crime (1) 26-9-44 (2) 25-11-44 (3) & (4) 7-12-44

Date of Arrest (1) 29-10-44 (2) 7-12-44 Charge Signed 13-12-44

Orders for F.G.C.M. Brig. Comd. 5 C.I.B.

Place and Date of Trial In the field. 13-1-45

Sentence Imp. WHL 18 mos. Stoppages £15-0-0

Date of Confirmation 14-1-45

Date of Promulgation 15-1-45

Entered in Records of J.A.G. as No. 4489

Date 3-12-45

MEMO

Reviewed at C.M.H.Q.

for Judge Advocate-General

10M-11-45 [M-425]

HQC 55-8-1937 (JAG/D-60

1

3 December 1945

Canadian Military Headquarters,
2 Cockspur Street,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
D-57767, Pte. R. Beauchamp.

1. Receipt is acknowledged of your 8/ Eng. Repat /1 dated 22 November 1945 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial.

ELM

ELM:EJ

for (R.J.Orde) Brigadier,
Judge Advocate-General.

10/Hayes T.B./2; 8/Eng Repat/1;
10/Wilson WH/5; 10/Sturrock J/1;
10/Rabinovitch B/1 (AG Rev.)

AIR MAIL

CANADIAN MILITARY HEADQUARTERS

London
22 Nov. 45.

12282-A-
NOV 30 1945
C.S.S.-13-1937
Admin

Bomber
CONFIDENTIAL

The Secretary,
Department of National Defence,
Ottawa, Canada.

L.28378, Pte. Hayes TE.
D.57767, Pte. Beauchamp, R.
M.45336, Tpr. Wilson, W.H.
B-39576, Spr. Sturrock, J.
D.118179, Pte. Rabinovitch, B.
K.1207, Pte. Poelzer, R.F.J.

1. Herewith FGCM proceedings in respect of the m/n soldiers requested your JAG 933 dated 13 Nov. 45.

(Sign.)(J.C. Murchie) Lieut.-General
Chief of Staff
Canadian Military Headqu rters.

Enc.
Copy.

4489.

RECORDED AT ... IN AB 100 42-124

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3)
40/P & S/1618 (2804)

Convened by Order of BRIG W. J. MEGIAL Comd 5C.I.B. dated 10 JAN 45

RECEIVED 17 MAR 1945

ACCUSED.

(A is the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed Appmt, A/rank or A/appmt, if any, see AA 182, 183, fns; KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D57767	PTE	ROBERT	BEAUCHAMP	ROEMAIS

PROCEEDINGS REVIEWED 20 Mar 45

REVIEWING OFFICER, JAG BRANCH G.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) HOLLAND on (*date(s)*) 13 JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 19|91-

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans ..... ~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... ~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J CAMPBELL	CAMG HIGH
Member	CAPT	I J COADY	CAMG HIGH
Member	CAPT	A J POWERS	RHC
Judge-Advocate	CAPT	E K MCDOUGALL	HQ 2CDN INF DIV
Prosecutor	CAPT	F D BOURCIER	R de Mais
Defending Offr	LT	P A BRIEN	R de Mais

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D57767 PTE BEAUCHAMP R before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) ~~separately~~ arraigned on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B + E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

VOL IV Fol 10-2

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] **3.**

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....N O.....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court~~ considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to ~~Not Guilty on~~.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). ~~Part I of the~~ Schedule is amended accordingly.

(1. *Court may be closed to consider the statement.* *Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the~~ charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded ~~GUILTY are~~ read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to ~~the charges~~ dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in ~~Record Form~~ D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

FIRST CHARGE:

The accused D-57767 Pte Beauchamp, Robert "Le Regiment de Maisonneuve" a soldier of the Cdn Army (O) is charged with:

Sec 15 (1) Army Act.

WHILE ON ACTIVE SERVICE "ABSENTING HIMSELF WITHOUT LEAVE"

in that he,

In the field, absented himself without leave from 1330 hrs 26 Sep ~~24th~~, 44 untill he was apprehended by the U.S. Military Police at Cherbourg about 2050 hrs 29th Oct 44. He was wearing cilivian clothes.

Absent: 33 days 7 hours 20 mins.

SECOND CHARGE.

Sec 15 (1) Army Act.

WHILE ON ACTIVE SERVICE "ABSENTING HIMSELF WITHOUT LEAVE"

in that he,

In the field, while in close arrest absented himself without leave from 2030 hrs 25 Nov 44, until apprehended by Capt. M. Savard at 1215 hrs ~~on~~ the 7 Dec 44.

Absent: 11 days 15 hours 45 minutes.

THIRD CHARGE:

Sec 40 Army Act.

WHILE ON ACTIVE SERVICE "CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the field, on 7 Dec 44 at approximately 1205 hrs was improperly in possession of C.M. Veh. CZ 4286298

FOURTH CHARGE:

Sec 40 Army Act.

WHILE ON ACTIVE SERVICE "NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE".

in that he,

In the field, between 25 Nov 44 and 7 Dec 44, neglected to take proper precautions to safeguard the following articles.

34 Blankets	23-7-6
9 Pairs of Boots Ankle	10-19-9
14 Pairs of Anklets	3-1-10
1 Cooker No. 3	6-10-0
3 Jerkins	3-17-6
15 Battle Dress (Blouse & Trousers)	35-14-4½
15 Underwear Wollen (Drawers & Shirts)	8-1-3
10 Greatcoats Drab.	25-16-8
TOTAL	117-8-10½

thereby occasioning the loss of the said articles, to the value of £117-8-10½.

To be tried by G.C.M.

J. Bibeau

.....Lt-Col.
(J. Bibeau) Commanding Officer
Regt de Mais C.A. (O)

Dated in the field
10 Jan 45 44.

Confd & Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-57767	Pte		Robert	BEAUCHAMP	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [redacted] committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 10 Jan 45 endorsed by me [redacted] " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J. Campbell	Calg Highrs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	I.J. Coady	Calg Highrs
Capt	A.J. Powers	R.H.C.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	T.R. Larkin	R.H.C.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E.K. McDougall	HQ 2 Cdn Inf Div

On Active Service in the Fd

in HOLLAND (Country.)

(W.J. Megill) (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 10 Jan 45 Commanding 5 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA85 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

Mr. President, members of the court:

Pt Beauchamp pleaded guilty on the charges preferred to him. There is a few points I want to tell the court so they could be clement in the sentence.

1- Pt Beauchamp is only 20 years old.

2- He joined the army in august 1940 so Pt Beauchamp was only 16 years old when he joined up.

3- Pt Beauchamp crossed over in England on

July 1945, in this para-
graph I want to emphasize
on the length of time he
have been away from
his home and being so young
4- Since Pte Beauchamp
left home for overseas
he never received a bat-
cels not even cigarettes.
even thought he always
gave his family the
allowance of 20.00 per
month.
5- Pte Beauchamp have
been fighting the toughest
part of the war
that is to say the
battle of France up

the canal albert, and he felt discouraged and started to act crazy.

Note: If I printed these points facts to the court sir its because I want the court to take in consideration the age, the length of time away from his home.

MEDICAL CERTIFICATE (K.R.(Can) 557)

I certify that I have this morning examined No D-57767

Pte Beauchamp R. Regt. de Maisonneuve and in my opinion

he is fit to undergo trial by Court Martial.

Station in the Field

Date 13 January 1945

Medical Officer

A

SUMMARY OF EVIDENCE

IN THE CASE OF:

D-57767 Pte Beauchamp, Robert "Regiment de Maisonneuve" a soldier of the Cdn Army (O) while on active service is charged with:

Short Statement of the Charges:

FIRST CHARGE ABSENTING HIMSELF WITHOUT LEAVE.
Sec 15 (1) Army Act.

SECOND CHARGE ABSENTING HIMSELF WITHOUT LEAVE - WHILE IN CLOSE ARREST.
Sec 15 (1) Army Act.

THIRD CHARGE CONDUCT TO THE PREJUDICE OF GOOD ORDER & MILITARY DISCIPLINE
Sec 40 Army Act.

FOURTH CHARGE NEGLECT TO THE PREJUDICE OF GOOD ORDER & MILITARY DISCIPLINE.
Sec 40 Army Act.

The Commanding Officer had direct that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

D-57655 C.S.M. Lacourse, B. D.C.M., "Regt de Mais C.A.(O) having been duly sworn and having identified the accused states:

On the 26th Sept 44 in the morning at 1130 hrs D-57767 pte Beauchamp, R. was transferred from support coy to 14 Platoon. Later, I called for him for an interview at "C" COY H.Q. Sgt Patry in charge of his platoon reported that he was not present at the moment. I sent a runner to find him and at 1330 hrs, he was still absent. I reported the accused absent from 1130 hrs that morning. I didnt see the accused since then, until he was brought back by the Military Police.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

Geo. B. Lacourse
D-57655 C.S.M. Lacourse, B. D.C.M.
Regiment de Maisonneuve CA(AF)

SECOND WITNESS FOR THE PROSECUTION.

D-57342 Sgt Patry, O. "Regt de Maisonneuve C.A.(O) having duly sworn and having identified the accused states:

On the 26th Sept 44, in the morning at 1130 hrs D-57655 C.S.M. Lacourse, B. D.C.M. called for D-57767 pte Beauchamp, R. to report to "C" Coy H.Q. but he was not present at 1330 hrs the same day C.S.M. ask for him again the accused was absent. I did not see him since.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

Sgt Patry, O.
(D-57342 Sgt patry, O.)
Regiment de Maisonneuve CA(AF)

THIRD WITNESS FOR THE PROSECUTION:

D-135270 Sgt. Barre, F. "R.P" "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn and having identified the accused, states:

On the 25 Nov 44, after supper, I bought the accused back into the Guard Room, and locked the door. ~~At about 1730~~ hrs During the evening I send L/Cpl Lavigueur, R. three (3) times to checked the prisoners. They were counted and every one was present at each time. Around 2315 hrs L/Cpl Lavigueur R. and myself before going to bed counted once more our prisoners. To our knowledge every one was present, some of them were sleeping at the time. At reveille next morning at about 0600 hrs L/Cpl. Lavigueur went into the Guard Room and found that two prisoners had escaped through the window which is two storeys high. Namely the accused and Pte. Tremblay.

On the 7 Dec 44, Capt Savard and myself went to ST-OMER CAPELLE where we had heard that the accused was there with a stolen vehicle No. CZ-4286298. When we arrived at ST-OMER CAPELLE, we informed ourselves if anyone had seen a Canadian soldier with a vehicle. We were informed that there was one. We took all particulars and eventually we were brought to the right place, where Pte Tremblay who had fled with the accused was sleeping. After awaiking him, we asked Pte Tremblay where the accused was. He told us that he was out for an hour, and that he would be back at noon. Capt. Savard took Pte Tremblayand placed himself on a Crossroad where the accused had to go through and placed me at another crossroad, the other side of the town. Sometimes afterwards, I saw Capt Savard, arriving with the accused and the vehicle. We then returned to the Unit with the accused and Pte Tremblay.

On the 26 Nov 44, at 0600 hrs when we awoke the prisoners, I found that the accused was absent and had escaped from the Guard Room. I reported him as A.W.L. and never saw the accused again until we found him at ST-OMER CAPELLE, at about 1215 hrs the 7 Dec 44.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

Sgt. Barre F.
.....
(D-135270 Sgt. Barre, F) R.P.
Le Regiment de Maisonneuve.
Cdn Army (O)

FOURTH WITNESS FOR THE PROSECUTION:

D-57918 L/Cpl. Lavigueur, R. "R.P". Le Regiment de Maisonneuve Cdn Army (O) having been duly sworn and having identified the accused, states:

On the 25 Nov 44, at about 1730 hrs we brought the prisoners to the Guard-Room and locked the door. Three (3) times during the evening I went to the Guard-Room to checked the prisoners and they were all accounted for. Before going to bed at 2330 hrs, Sgt. Barre and myself went to the Guard-Room and checked again the prisoners and everyone was accounted for. Next morning at reveille I went to the Guard-Room at 0600 hrs and noticed, that two of my prisoners were missing. Namely the accused and Pte. Tremblay. The window had been opened and the accused, apparently had escaped through there.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

R. Lavigueur
.....
(D-57918 L/Cpl. Lavigueur, R.) RP
Le Regiment de Maisonneuve
Cdn Army (O).

FIFTH WITNESS FOR THE PROSECUTION:

Capt. M. Savard "T.O" Le Regiment de Maisonneuve, Cdn Army (O) having been duly sworn and having identified the accused, states:

On the 25 Nov 44, the vehicle No CZ-4286298 was stolen from "A" Echelon lines. After getting some informations, I found out that the vehicle had gone to ST-OMER CAPELLE. On the 6 Dec 44, I left for ST/OMER CAPELLE with Sgt. Barre. The 7 Dec 44 in the moring we arrived at the place that we were told they would be (ST-OMER CAPELLE) and knowing that they would probably be in a certain house in that town. We both went to the house indicated and found Pte Tremblay there, sleeping. We awoke him and questioned Pte Tremblay ofthe whereabouts of the accused, and the vehicle. He told us that the accused had gone to an unknown place and would be back by noon. I took Pte Tremblay with me and went to a crossroad where the accused would have to come through, to go to the house, and send Sgt Barre F. to another crossroad, at the other side of the town. At about 1205 hrs I saw the vehicle No. CZ-4286298 driven by the accused, turned down the direction of the house. I then followed him in my own vehicle to the house where I stopped him, and put him under arrest, and the accused had no right and no authority to have the vehicle in ST.OMER CAPELLE or any where else.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

M. Savard
.....Capt.
(M. Savard) T.O.
Le Regiment de Maisonneuve
Cdn Army (O).

SIXTH WITNESS FOR THE PROSECUTION:

D-157779 Pte Collin, R. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On the 25 Nov 44 at about 2030 hrs, I helped the accused and Pte Tremblay to escape from our Unit Guard-Room, and gave him some of my cloths. Afterthe accused was dressed, the accused opened the window and tied blankets together so that he could slide down the side of the house on to the Ground. After their escape, I personnaly made up dummies with their blankets in two places, so to represent the accused and Pte. Tremblay, knowing that one of the R.P. would inspect the Guard-Room, he would be under the impression that they were sleeping. I also opened the window in the morning before reveille so that the R.P. would think that they had escaped during the night.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

Collin R.
(D-157779 Pte Collin, R.)
Regt de Mais. C.A (O).

SEVENTH WITNESS FOR THE PROSECUTION:

Capt. Y. David (Q.M) "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

The articles mentioned on the fourth charge relating to the accused valued at $117-8-10½ is correct in accordance with ADOS prices.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

Y. David .....Capt.
(Y. David) Q.M.
Regt de Mais. C.A. (O).

EIGHTH WITNESS FOR THE PROSECUTION:

Lieut. L.J.A. Woods "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On the 25 Nov 44, after being advised that my Platoon truck had been stolen, I checked with my men what they had left in the truck, and kept a list until the truck was found. I again checked my list of what was lost and found the following articles missing:

34 Blankets	15 Battle Dress(Trousers & Bluses)
9 Pairs of Boots Ankle	15 Underwear(Drawers & Shirts)
14 Pairs of Anklets.	10 Greatcoats.
1 Cooker No. 3	
3 Jerkins Leather	

which I reported to the Quarter-Master.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

L.J.A. Woods .....Lieut
(L.J.A. Woods) Regt de Mais.

THE ACCUSED WAS CAUTIONED AS FOLLOW.

Q.1 Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make a statement.

Beauchamp R.
(D-57767 Pte Beauchamp, R.)
Regt de Mais C.A. (O)

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I CERTIFY that the foregoing Summary of Evidence consisting of five (5) pages, was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) and (if applicable) (g) have been complied with:

.....Capt.
(W.D. Bourcier) Regt de Mais.
Officer detailed to take the Summary.

Dated in the field,
13 Dec 44.

No.

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT, SECTION 163 (1) (ii)

I certify that No. 0.577467 Rank Pvt. Name BEAUCHAMPS, R.

of 61 Reg. de MAISSONNAUVE "C" Co. (Unit) was arrested at U.S. M.P. Det.

CHERBOURG (place) at 2050 hours on 29 Oct. (date).

He was housed in ~~cells~~ civilian clothes.

Date 30 Oct. 1944

Signature of officer in charge of police station, or other officer duly authorized by the above-named police station to sign.

Lieut. Colonel
Chief Provost
Lt. Col. J.D. McLaren

NOTES

1. This certificate [illegible] in duplicate [illegible].

2. [illegible] 163 (1) (ii) [illegible] by agency [illegible] Criminal Code.

3. [illegible] described as "in the Field". [illegible] actual [illegible] P. arrest [illegible] was a civilian experienced [illegible] given.

(see 21 Army Group [illegible] Routine Orders (Orders) No. 8 (677) dated 13th October 1944)

No. D.57767 Name [illegible] Sqn, Battery, or Company [illegible] Corps [illegible] Date of enlistment [illegible] GC Badges [illegible] Service or Proficiency Pay [illegible]

3/17 MFM 6 (AFB 122) 40/PAS/136 (5413)

Date of last entry in Company Conduct Sheet [illegible] No. and date of last drunk [illegible] Period not reckoning towards freedom from extra fine [illegible] Sheet No. [illegible] Signature OC Company, etc. [illegible]

Place	Date of offence	Rank	Nature of offence	OFFENCE	Name of Witness	Punishment awarded	Date of award or date of release on ticket-of-leave or with leave	By whom awarded	Remarks
VALCARTIER	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
BORDEN	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]		[illegible]	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
BORDON.	12-6-42	Pte.		Conduct to the prejudice of good order and Mil Disc. "Failed to get up after having been shaken, and also adopting an insubordinate manner. A.A. Sec 40.	Sgt. CLARK.	7 days C.B.	12-6-42	CAPT. C.G. BARNES.	
Field.	25/12/43	Pte		WOAS: AWL From 2230 hrs till 2245 hrs 25-12-43. Absent 15 Mins. AA. Sec 15(1).	Cpl. Paquette. Sgt Emond.	7 days C.B.	25-12-43	CAPT. VALLIERES.	
Field.	14/1/44	Pte.		WOAS AWL From 0215 hrs. till 2215 hrs: 14-1-44: Absent 20 hrs. AA Sec 15(1)	Sgt LARUE. Cpl MARTINEAU	15 Ex Pay. For: 2 Ex Pay.	[illegible]	LT. Col. BISAILLON.	
Field.	20-1-44	Pte.		AWL From 1830 hrs. 20-1-44 till 1845 hrs. 20-1-44. Absent: 1 hr 15 mins: AA Sec 15(1).	Cpl. Paquette. Sgt. Emond	7 days C.B.	21-1-44.	CAPT. VALLIERES.	

No. D57767 Name Beauchamp F.R. Sqn, Battery, or Company | Corps C.A.C. | Date of enlistment 6-8-40 | GC Badges — | Service or Proficiency Pay 2 10

Date of last entry in Company Conduct Sheet 27-12-40 | No. and date of last drunk N.L. | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

3/17 MFM 6 (AFB 122) 40/PAS/135 (5413)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22-2-44	Pte.		AA. 40 Conduct to the Prejudice of Good Order and Military Disc. in that he on the 22-2-44 at about 2140 hrs was seen in a Poorly Dressed. Having his Tunic on. Buttoned.	Maj. Bibeau. Capt. Brosseau	7 days C.B. with Pack Drill.	23-2-44	Capt. Valliares	
Field.	20-5-44	Pte.		AA 40 Act to the Prej. of good order & Mil. Disc in that he on the 20-5-44 at 1745 hrs was seen with a pair of Trousers with the Field dressing pocket Removed.	Lt. Col. Bisaillon.	7 days C.B.	20-5-44.	Capt. J.G. Valliares.	
Field.	29-5-44	Pte.		AA. 15(1) AWL. from 2230 hrs 29-5-44 till 2360 hrs 29-5-44: About 30 mins.	Sgt. Larocque Cpl. Paquette	5 days C.B.	30-5-44.	Capt. J. G. Valliares.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	22.6.44	Pte.		AA 15 (1) AWL from 1600 hrs 22.6.44 Till 0800 hrs 5 Jul. 44: Absent: 12 days 16 hrs.	L/Cpl Plante SM Allaire Lt. Lefranser.	21 days Pay.	10.7.44	Lt.Col. Bisaillon.	13 days Pay. F.A. 34 F&R Reg (B)

Certified True Copy From the Regimental Book
Held in my Custody

L. Russel Capt
Capt.
(L. Lacroix) Off. i/c Records.
Regt de Maisonneuve
C.A. (O).

(STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED)

(For use at Trials by FIELD GENERAL COURTS MARTIAL only)

Number	Rank	Name.	(Regiment or as the case may be)
D-57767	Pte	Beauchamp, R.	Le Regiment de Maisonneuve Cdn Army (O)

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a Court Martial or a civil court.

FOR A.A. Sec. 15 (1) ..... 5 TIMES

FOR A.A. Sec. 11 ..... 1 TIMES

FOR A.A. Sec. 40 ..... 4 TIMES

FOR ..... TIMES

Date of first entry in Field Conduct Sheet 9 March 1944

Date of last entry in Field Conduct Sheet 27 January 1944

2. Previous convictions of the accused by a Court Martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for N.A. days beginning on the N.A. day of N.A.

4. The accused has been awaiting trial on the present charges for N.A. days in civil custody; and for ..... days in military custody; ..... days in open arrest, 37 days in close arrest which N.A. days were spent in hospital.

5. The present age of the accused is 21

6. The date of his attestation is 6 August 1943

7. The service which the accused is allowed to reckon, is N.A.

8. The accused is in possession of: CVSM & Cl.

9. N.A.

L. Lacroix Capt. Adj't
L. Lacroix Capt.
Ofr i/c Records
Le Regiment de Maisonneuve
Cdn Army (O).

Dated in the field
~~13 Dec 44.~~
13 Jan 45

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. NO

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. Y and Ex. Z respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. BY MY DEFENDING OFFICER(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 102, RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566. Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5). MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1). KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4489 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 4 day of Dec 19...45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 57767 PTE BEAUCHAMP R RDE MAIS

Charge. (insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	GUILTY	GUILTY	
3rd	GUILTY	GUILTY	
4th	GUILTY	GUILTY	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 37 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: ~~to undergo~~ Dism to be imprisoned with hard labour for fifteen (16) months to be placed under stoppages of pay for the amount of £15-0-0

(Sgd) [illegible] Judge-Advocate, if any. Cmt — 13 Jan 45 Date awarded. — (Sgd) [illegible] Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date 15 Jan 45 (Sgd) [illegible] Maj Commanding Rde Mais

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ (1. AA 57A. Delete if not used.)

(Sgd) [illegible] Brig

Date 14 Jan 45 Commanding [illegible] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused D 57767 Ptte Beauchamp R. Date 15 Jan 45 Signature of Offr. [illegible] Capt Adjt Rde Mais

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

COPY OF ARMY MESSAGE (OUTGOING)

File HQC.55-S-1673(JAG/D-6)

OTTAWA 13 NOV 45

TO CANMILITARY

UNCLASSIFIED

WEEKS FROM ORDE

JAG NINE THREE THREE PLEASE FORWARD BY BOMBER MAIL FGCM PROCEEDINGS RE THE FOLLOWING FIVE SOLDIERS B 39576 SAPPER STURROCK J. (.) L 28378 PRIVATE HAYES T E (.) M 45336 TROOPER WILSON W H (.) D 57767 PRIVATE BEAUCHAMP R (L) D 118179 PRIVATE ROBINOVITCH B J

DEFENSOR

Copies on following files:

HQC 55-H-873
" 55-W-743
" 55-B-1937
" 55-R-863

This message may be sent in CLEAR

"L.C. Carroll" Lt Col

(R.J. Orde) Brigadier,
Judge Advocate-General

M: 1-S-7620 (A/DIS)
1-R-1368
1-B-1464
1-B-12385

DEPARTMENT OF NATIONAL DEFENCE
ARMY

8647
NOV 12 1945
055-B-1937
Chgs. to
Referred to

Montreal, Quebec,
9 Nov 45.

The Secretary,
Departement of National Defence,
Ottawa, Ont.

FORM OF REMISSION

D.141325, Pte. ST.LOUIS, E.
D. 11879, Pte. Rabinovitch, B.
D. 57767, Pte. BEAUCHAMP, R.
D.138993, Pte. BEAUCHAMP, J.A.G.R.

Attached hereto Form of Remission together with AFA 3104 in respect to these soldiers duly completed.

Encl.

(E.J.Renaud) Major General,
District Officer Commanding,
Military District No. 4.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No.....
District File No..M.1-R-1464.A/DIS.....

PART I

No. D57767.....Rank...Pte.....Name...BEAUCHAMP, R.....
Unit.....No. 4 District Depot.....

PART II

Date of Trial...13 Jan 1945.....
Charge(s)...A.W.L. and A.A.Sec.40 (2) charges.....
Sentence...16 months imprs. and H.L. and Stoppages of $15.00.....
Date of Sentence...13 Jan 1945.....
Confirmation -- (a) Authority: .....
(b) Date : .....

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (commute)(mitigate)* the

BALANCE OF TERM OF DETENTION

Signed at..MONTREAL.....this..25..day of Oct 45
.....
(Appointment)(E.J. RENAUD) Major General, DOC)
To be signed by the Remitting Authority personally. M.D. No. 4

PART IV

PROMULGATION

Remission (commutation)(mitigation)* promulgated and extracts taken at..Montreal South, Que.....this...31st..day of..October.....194.5..

(1)

.....
Ass. Officer i/c Documents. (L.R. HAMELIN) Lieut.,
C.I.C., C.A., att'd to
No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No.D-57767.Rank.Pte.....Name....BEAUCHAMP, R.....Field General.....
The sentence of..16 months imprisonment.....awarded by District Court
Martial on the ....11th Janvier.....1945.....has been remitted
.....on the..30th October.....194.5....by....C.O.C.....
UNIT..Military District No.4, Montreal, Que.....
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No..261.....Place..Jacques Cartier Barracks.....Date..31 October 1945.....
Montreal South, Que.....
Adjutant

(J. McN. CHARLEBOIS) Capt-Adjt.,
General List, C.A., att'd to
No.4 District Depot, C.A.

---

*Strike out and initial words not applicable.

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. D57767 Pte Beauchamp, R. Unit R de Mais

Sentenced to be imprisoned with H.L. for 16 months and ~~to be placed under stoppages of pay~~ on 13 Jan 45 ~~in the amount of~~ £15.00

Age on, and date of enlistment 17 - 6 Aug 40 Term of service duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on .....and sentenced to .....and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(15712) Wt.24568/175 7,000 8/40 A.& E.W.Ltd. Gp.498
(16818) Wt.35615/20 7,000 12/40 " " Forms/A.3104/11

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION-BF 13 AUG 45.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 31 MAY 1945	
	NO REMISSION - RETURN TO CANADA IN CUSTODY UNDER SENTENCE	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 13 AUG 1945	
25 Oct 45	Sentence remitted wef 30 Oct 45 CARO 5913	(E.J. RENAUD) Major General, D.O.C., M.D. No.4	Released from detention on 30th October, 1945. (S. ECHENBERG) Colonel, Commanding No.4 D.D., C.A.

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.	26 Sep 44	13 Jan 45
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
15 Jan 45	I recommend that the sentence be served in full	[illegible]

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
17 Jan 45	I concur	[illegible] Brig Comdg 5 Cdn Inf Bde

FIRST CHARGE

Sec 15(1) Army Act

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the field absented himself without leave from 1330 hrs 26 Sep 44 until he was apprehended by the US Military Police at CHERBOURG, FRANCE at about 2050 hrs 29 Oct 44. He was wearing civilian clothes.

Absent: 33 days, 7 hrs 20 mins

SECOND CHARGE

Sec 15(1) Army Act

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the field while in close arrest absented himself without leave from 2030 hrs 25 Nov 44 until apprehended by Capt M. Savard at 1215 hrs on 7 Dec 44.

Absent 11 days, 15 hrs 45 mins

THIRD CHARGE

Sec 40 Army Act

WHILE ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

In the field on 7 Dec 44 at approximately 1205 hrs was improperly in possession of G.M. Veh CZ-4286298

FOURTH CHARGE

Sec 40 Army Act

WHILE ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

In the field between 25 Nov 44 and 7 Dec 44 neglected to take proper precautions to safeguard the following articles:

34 Blankets	23- 7- 6
9 Pairs of boots ankle	10-19- 9
14 Pairs of anklets	3- 1-10
1 Cooker No. 3	6-10- 0
3 Jerkins	3-17- 6
15 Battle dress (blouse & trousers)	35-14- 4½
15 Underwear woolen (Drawers & shirts)	8- 1- 3
10 Greatcoats drab	25-16- 8
TOTAL	117- 8-10½

thereby occasioning the loss of the said articles, to the value of £117-8-10½.

G Lorlow Capt.
Signature of Officer making entry.

JAE

May the proceedings of F.G.C.M. of Pte. Beauchamp be appended to this file and returned please.

A/Sgt Kings. Regt.
C MBR-1
17/10/45

6

File: K.55-B-9430-C(DAPM)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 13 October, 1945.

S P E C I A L D E L I V E R Y

CONFIDENTIAL

District Officer Commanding,

Military District No. 4,

MONTREAL, Que.

D.57767, Pte. BEAUCHAMP, R.

Ref HQC 55-B-1937 Adm 3(b) 2, dated 14 Sep 45.

2. Enclosed herewithi-

(a) AFA 3104

~~xxxxxxxxxxxxxx~~

3. Pursuant to AA 37A, GO 245/45 and the provisions of CARO 5913, review of sentence in this case is to be made by you. As a superior military authority you should take such action concerning this sentence as you deem just and proper.

4. May a receipt for these documents be forwarded to this Headquarters, please.

Copy to: Secretary,
Dept. of National Defence,
OTTAWA, Ontario.
(for information)

for (H.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 3.

Major,

AR

COPY

VRB V GIA NR 00 00 A 100

FROM CMDG TRANS MIDLATCH 1311SOR

TO ARMY BND OTTAWA

TO DOC HD 4 MONTREAL

TO OC NO 4 BD MONTREAL

GR 177 BT

RE NOS RESTRICTED REPORTS RE 674(A) DATED 10 and 12 OCT 45 STOP THE FOLLOWING NOS PRESENTLY HELD AT NO 09 R D B WILL CEASE ATTACHMENT THAT UNIT AND BE DTS NO 3 D D ON 17 OCT 45 and WILL BE DESTATIONED UNDER RECORT TO NO 4 B.D MONTREAL

D.76446 DAGNET H P

D. 87707 BRANCHAMP R

D.114044 MEPERNTIGNY J L C R

D.116179 RABINOVITCH R.J.

D. 125186 TETREAULT R

STOP FORWARD ALL SECTIONAL DOC MENTS OF THESE SOLDIERS DESIGNATELY DIRECT TO OFFICER COMMANDING NO 4 D D STOP REQUEST COMMANDING FOUR HAVE RECORT DETAILED TO MEET THIS TRAIN ON ITS ARRIVAL AT TRANSDIRE IN MONTREAL AT CENTRAL STATION AT 1745 HOURS SAME DATE STOP ALSO OFFICER IN CHARGE 2ND REPORTING CENTRAL MTD CMDG FOUR OFFICER CMDG 4 D D AND INSPECTOR

BT 1316SOR NR B

Original forwarded to D. Records

noted
JCS.

OR(c) PA on file
C 22 - B - 1937

DOF.

Admin 362

HQC 55-B-1937
Adm 3(b)2

CONFIDENTIAL

14 Sep 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

D.57767 Pte BEAUCHAMP, R
SUS XUK W/959

This SUS is returning XUK W/959 due Quebec, P Q 21 Sep 45.

2. Following medical examination he will be despatched to No 3 DD for committal to No 89 MDB.

3. Enclosed herewith CMHQ letter and AF A3104.

4. It will be noted that this SUS is to be discharged under CARO 1029(9).

(A E Walford)
Major-general
Adjutant-General

Encl.

WOP:da

AIR MAIL

Quote No. 10/Beauchamp, R./2

BOMB
CONFIDENTIAL

CANADIAN MILITARY HEADQUARTERS

LONDON 21 Aug 45.

C.55-B-1937

The Secretary,
Department of National Defence,
OTTAWA, Canada.

D-57767 Pte Beauchamp, R.

1. The m/n soldier is now serving a sentence of 16 months imprisonment with hard labour awarded by FGCM 13 Jan 45 for the following offences: an absence without leave from which he was apprehended after 33 days (AA Sec 15(1)), an absence without leave from which he was apprehended after 11 days (AA Sec 15(1)), being improperly in possession of a Canadian military vehicle (AA Sec 40) and neglecting to take proper precautions to safeguard army property thereby occasioning the loss of the said property to the value of approximately £117-0-0 (AA Sec 40).

2. He has escaped once while serving his sentence and has accordingly not so far earned full remissions for good conduct. The earliest date on which he should be released if he earns full remissions henceforth is reported to be 22 Dec 45.

3. This soldier enlisted 9 Aug 40 at Montreal, P.Q. and he is now 21 years of age. At the time he enlisted he gave a false age. Since enlistment he has been found guilty of 7 offences under AA Sec 15(1), of 7 offences under AA Sec 40 and of 1 offence under AA Sec 11. He has had 1 previous FGCM, on 3 Sep 42, when he was awarded 28 days forfeiture of pay for an offence under each of AA Sec 11 and AA Sec 40.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. The S.P.O. who has examined this soldier states that he is an individual of average intelligence who feels he is being discriminated against in the army; that he states he went absent because he was being transferred to a rifle company; and that he is prepared to return to action.

6. In view of the offences of which this soldier has been convicted and the circumstances surrounding his first offence, it is considered that he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 9 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier has misconducted himself in order to avoid further service in action and probably with a view to obtaining his discharge.

7. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original A.F. A3104 in respect of the FGCM held 13 Jan 45 on which this direction has been endorsed.

for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters.

Enc. 1

Copy to OIC Records

1/398 CMHQ 1000.77
40(P&S/803 (3567)

D-57767 Pte. Robert BEAUCHAMP
R.de Mais 2 C.D.I.R.U.

92 N

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 1st day of SEPTEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O). , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial ✓ ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ ✓ NG

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

✓ ~~*[I am unable to appoint :—~~

~~*(1. Three Officers to form the Court.]~~

~~*(2. A Field Officer as President.]~~

~~for the following reasons, namely :—]~~ ✓ NG

* Omit if not applicable.

PROCEEDINGS REVIEWED

Reviewing Officer (C.A.G.) C.M.P.
16 Sep. 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	T.S. KETCHESON (Hast.& P.E.R.)	1 C.D.I.R.U.

Members.

Rank.	Name.	Regiment.
Captain	H.T. Vicars (Seaforth of C.)	1 C.D.I.R.U.
Lieutenant	M.E. George (48 Highrs.)	1 C.D.I.R.U.
Waiting Member Lieutenant	A.V. Soley (Edmn. R.)	1 C.D.I.R.U.

*Signed [signature] Colonel
Commanding "A" Group Cdn. Reinf. Units, C.A.(O).
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-57767 Pte. Robert BEAUCHAMP R.de Mais 2 C.D.I.R.U.	First Charge A.A. Sec. 11	Guilty	Guilty	I confirm the finding and sentence of the Court.
	Second Charge A.A. Sec. 40	Guilty	Guilty To be fined 28 days pay T.S. Ketchen maj. 3rd Sept. 1942	[signature] Colonel 4.9.42
	SEE CHARGE SHEET ATTACHED.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] Colonel (Signed) T.S. Ketchen maj.
Commanding "A" Group Cdn. Reinf. Units. Maj. & P.E. Regt. 1 C.D.I.R.U.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3rd. day of September 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) not
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 3rd. day of Sept. 1942.

[signature] T.S. Ketchen maj.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of~~ 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ NIL

Signed this Fourth day of September 1942

[signature]
Confirming Officer.

COMMANDING OFFICER "A" GROUP CDN. REIN. UNITS.

Promulgated and extracts taken in the case of D-57767 Pte Robert Beauchamp (R. de Mais) 2 C.D.I.R.U.
Pte D.O. No. 212 dated 7 Sep 42

(a) (Dated) 6th Sept 1942 (Signed) [signature] Capt + Adj 5th Cdn Sig Regt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

M.L. 47767/1937 35 M. 5/41 K.J.L./5265(2) Gp. 698/3

CHARGE SHEET

The accused No.D-57767 Pte. Robert BEAUCHAMP, Regt. de Mais., on strength of 2nd Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with

First Charge
SECT 11
ARMY ACT

NEGLECTING TO OBEY OVERSEAS ROUTINE ORDERS

in that he

at London at 1630 hrs on the 25th day of August 1942 did sell to Herbert Lynch, a civilian, two packages of Sweet Caporal Canadian Cigarettes for the sum of three shillings, contrary to O.R.O. 960 and 1360.

Second Charge
SECT 40
ARMY ACT

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

having obtained a Railway Warrant and a Leave Pass to Glasgow, on the 21st day of August 1942, failed to have his pass stamped by the R.T.O. at the destination shown on the said Pass.

H.C.A. Hervey Lt.Col.
(H.C.A.Hervey) Lt.Col.
Officer Commanding
5th Training Wing
2nd C.D.I.R.U.

Laurentide Camp
31st August 1942

To be tried by Field General Court Martial.

(A.Hamilton Gault) Colonel,
Commanding,
"A" Group Cdn. Reinf. Units,
C.A.(O).

Convening Officer.

Witley, Surrey,
1 Sept. 42.

Medical Officer's Certificate

I certify that I have, this morning, examined No.D-57767 Pte. R. Beauchamp of 2nd C.D.I.R.U. and find him fit to undergo trial by Court Martial.

Laurentide Camp
3rd September 1942

R.C.A.M.C.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Jasper Camp ON THE 3rd DAY OF Sept 42

TRIAL OF:-No. D57767 Pte Robert Beauchemp Unit R. de Mais

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lieut McIver (Unit) Calgary Highrs.

Defending Officer:- (Name) Capt. Boudreau (Unit) R. de Mais H.Q. D.L.R.U.

At 1430 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No, Sir

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President T.S. Ketchenson Major (Unit) Hosp & Pt. Depot

Members H.T. Vicars Capt. (Unit) Seafth of C

M.E. Connor Lieut. (Unit) 48th Hgl Rec. H.Q. D.L.R.U.

The officers under instruction are duly sworn.

Q2 Do you object to.....acting as shorthand writer? A2 - No Sir

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Lieut. McIver (Unit) Calgary Hgrs. sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regtl records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes, Sir

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - Yes, Sir

---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

Beauchemp

SUMMARY OF EVIDENCE IN THE CASE OF D-57767 Pte. BEAUCHAMP, R. Regt. de. Maisonneuve Coy. # 2 C.D.I.R.U.

Certified that Rules of Procedure 39A has been complied with.

1st. CHARACTER WITNESS:

Lieut. John Major Regiment de. Maisonneuve Coy., # 2 C.D.I.R.U. an Officer in the Canadian Army Overseas having been duly sworn gives evidence:-

Q.- Lieut. Major will you please tell the Court what you know about Pte. Beauchamp.

A.- In 1940 I was sent to Valcartier as a Reinforcement Officer for the 1st. Bn. of the Regiment de Maisonneuve, I remained in Valcartier until January 10th, 1942 when I was warned for draft coming Overseas. During that period of time I spent in Valcartier, I was in contact with the accused every day, and have always found him to be a good soldier of good conduct and a good worker. All the time he spent on the M.T. he never was paraded for any reason at all. Since I've been in England, I have had no dealings with the accused.

Q.- Has the Prosecutor any questions.

A.- No questions.

2nd. CHARACTER WITNESS:

Capt. Boudreau, P. Regiment de Maisonneuve Coy., # 2 C.D.I.R.U. an Officer in the Canadian Army Overseas having been duly sworn gives evidence:-

As 2 i/c of the Regiment de Maisonneuve Coy., # 2 C.D.I.R.U. I have been in daily contact with the accused, and have found him to be a good soldier both on and off parade.

STATEMENT OF ACCUSED
IN HIS OWN DEFENCE

D-57767 Pte. Beauchamp, R. Regiment de Maisonneuve Coy., # 2 C.D.I.R.U. a soldier in the Canadian Army Overseas having been duly sworn gives evidence:-

At about the 7-8-42 I made application for 7 days leave, to go to Glasgow. The 21-8-42 I left Witley for Milford at 1200 hrs. on leave. I took the train to Waterloo and stopped there. I went to the check room and checked my equipment with the intention of taking the next train to Glasgow. At 3 o'clock I met a girl and had supper with her. It cost 28 shillings, after that I met a few friends from the Regiment, we went to a pub to get a few drinks, it cost me 8 shillings, and then the first night I got a room at the Canadian Legion Club, it cost me 3 shillings for breakfast. I went withonly 3 Pounds for 7 days.
The following morning I counted my money and found that I had 21 shillings left so I decided to stay in London so I would be closer to Witley.
Next Tuesday the 25th I was on the corner of Dean and O'Crompton Street, London around 4.30. I stopped a civilian and asked him to buy two packages of Sweet Caporals for the sum of 3 shillings to Albert Lynch. After this two special investigators of the Canadian Provost Corps in civilian clothes stopped me and asked for my Pay Book and pass, after they took me to a civilian Police Station, I don't know the name of the Station, and then they brought me to No. 6 Canadian Provost Corps Headquarters, till Thursday morning the 26-8-42. I was taken to the Guard Room of # 2 C.D.I.R.U.

SUMMARY OF EVIDENCE IN THE CASE OF D-57767 Pte. BEAUCHAMP, R. Regt. de Maisonneuve Coy., # 2 C.D.I.R.U. (CONTINUED)

STATEMENT OF ACCUSED
IN HIS OWN DEFENCE
(CONTINUED)

Q.- Is there anything else?

A.- No, Sir.

Q. by Prosecuton.- You said when you left here you had 3 Pounds?

A.- Yes, Sir.

Q. by Prosecutor.- You did'nt have 4 Pounds?

A.- No, Sir.

QUESTIONS BY COURT

Q.- Did you know Pte. Beauchamp, that it was against orders to sell Canadian Cigarettes?

A.- Yes, Sir.

Q.- What did you do with your Railway Ticket?

A.- Its in my Pay Book.

FURTHER STATEMENT OF ACCUSED
IN HIS OWN DEFENCE

I sold these cigarettes to get sufficient money to get my bed and supper, as I was coming back to Camp the next morning.

SUMMARY OF EVIDENCE

In the case of No.D-57767 Pte. Robert BEAUCHAMP, Regt.de Mais., on strength of 2nd Cdn. Div. Inf. Reinf. Unit.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness Prosecution

No.C-30629 Sgt. L.A.Denton, S.I.S.,C.P.C., C.M.H.Q., London, having been duly sworn states,

I am C-3062 Sgt.L.A.Denton of the Special Investigation Section, C.P.C., at C.M.H.Q. On the 25th August 1942 I was on foot patrol in the Soho District of London accompanied by S/Sgt Chester also of the Special Investigation Section. At 1630 hrs. of that day we weresstanding at the corner of Dean and Old Crompton Streets in the Soho District and saw the accused along with another Canadian soldier on the opposite side of the Road. I then saw the accused,whom I now recognize, approach a civilian and after a short conversation the accused produced from out of his pocket two packages of Canadian Sweet Caporal Gift Cigarettes and in return for these cigarettes the civilian handed him some money. The civilian then proceeded on his way while I took into custody the accused. The civilian was overtaken by S/Sgt.Chester and returned to where the accused and I were standing. A search of the civilian revealed the Canadian Cigarettes. The accused and the civilian, who gave his name as Herbert LYNCH, 7 Syrus House, Goswell Road, London, E.C.1 were taken to West Central Police Station London where the accused gave his name as No.D-57767 Pte.Robert BEAUCHAMP, and produced a leave pass giving him permission to be absent from his Unit from the 21st to the 28th of August 1942, for the purpose of proceeding to Glasgow. He also had in his possession one Southern Rly. ticket No.1543 dated 21st August 1942 from Milford to Glasgow and return. The Civilian gave the member of the C.I.D. Civil Police a statement,under caution,that he purchased tha Canadian Gift Cigarettes found in his possession from the Canadian Soldier present. Pte. Beauchamp was then taken to No.6 Canadian Provost Corps H.Q., where after being duly cautioned he made a voluntary statement, regarding this matter, which was taken down in writing and signed. I now produce two packages of Sweet Caporal Gift Cigarettes which were the packages sold by Beauchamp to the Civilian Herbert Lynch, for the sum of three shillings. Both packages I have marked with my initials and can be identified by me at any time.

The accused declines to cross-examine the witness.

The accused having been duly cautioned(in French) in accordance with R.P.4(e)
Reserves his Defence.

Certified that all the provisions of R.P.4 (c)(d)(e)(f) and (g) have been duly complied with in connection with the foregoing Summary of Evidence.
Taken down by me in the presence and hearing of the accused this 28th day of August 1942 at Laurentide Camp.

A.J. McFeer. Lieut.
(A.J.McFeer) Lieut
Officer detailed to take Summary of Evidence.

G.I.G. G.M.P.O. PROVOST.

LONDON. 26th AUGUST 42.

re: Reg. No. 2.67767, Pte. BEAUCHAMP, Robert.
Can. F. .I.R.R. Regt. de Maisonneuve.
Sale of Canadian Gift Cigarettes - Contrary
to Routing Orders Nos. 960 & 1360.

1- On 25th August 42, S/Sgt. Chester and the writer were making a general foot patrol and observations in the Soho District of London.

2- At 1630 hrs. upon our arrival at the corner of Dean and Old Compton Streets, we observed the marginally noted man stop a civilian on the sidewalk and sell him two packages of Canadian Gift Cigarettes.

3- While the writer took the soldier in custody, S/Sgt. Chester overtook the civilian and detained him in connection with this illegal sale.

4- The above mentioned civilian gave his name as Herbert LYNCH, 7 [illegible] House, Cowell Road, N.W.1. Two packages of Canadian Gift Cigarettes (Sweet Caporal) were found in LYNCH's possession.

5- These two detained persons were then taken to the West Central Police Station where a statement was taken from LYNCH by the S.I.U. In this statement LYNCH admitted that he purchased two packages of Canadian Cigarettes from Pte. BEAUCHAMP. This statement will be handed to the Customs Dept., for their information and action in-so-far as the civilian is concerned.

6- Pte. BEAUCHAMP had in his possession a leave PASS from 22-8-42 to 27-8-42, for the purpose of proceeding to Glasgow. This man also had in his possession one Southern Railway Ticket No. 1343 dated 21st August 42. BEAUCHAMP admitted that he had never left London owing to shortage of cash.

7- The following voluntary statement was taken from BEAUCHAMP in connection with this offence:-

42

London - 26th Aug.

ROUTING

Statement of Reg. No. 2.67767, Pte. Robert BEAUCHAMP.

I have been cautioned by Sgt. Denton of the Special Investigation Section, that I am not obliged to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be used as evidence.

The above caution has been read over by me and I understand its meaning.

SIGNED - R. BEAUCHAMP.

At 1630 hrs. 25th August 42, I stopped a civilian at the corner of Dean and Old Crompton Streets in the Soho Dist., and asked him if he wanted to buy two packages of Canadian Cigarettes. This civilian agreed to buy two packages of cigarettes, which I sold him for 1/6 per package. I sold these cigarettes because I was broke and needed money for a meal.

I came on leave with eight packages of Sweet Caporal cigarettes and have never before sold any of these cigarettes.

P.T.O.

STATEMENT CONTINUED

accepting those already referred to.

I intended to go to Glasgow for my leave, but did not leave London owing to shortage of money.

Before leaving Camp I bought eight packages of Sweet Caporal Cigarettes from Pte. B. BAUSEMOUR who is a member of the same unit as myself. I paid BAUSEMOUR 12/- for eight packages of Sweet Caporal Cigarettes.

SIGNED — R. BEAUCHAMP.

WITNESS - Sgt. Lewis A. Denton.

NOTE

6. It will be noted that the accused states that he purchased eight packages of Gift Cigarettes from Pte. BEAUCHAMP. This of course constitutes an offence against BAUSEMOUR.

SECRET UNDER INVESTIGATION

REGIMENTAL INFANTRY REPORT No. 311.

Lewis A Denton Sgt.

Reg. No. [illegible], L.A. Denton,
S.P.S. Canadian Provost Corps.

List of Exhibits

In the case of No.D-57767 Pte R.Beauchamp, R.de M., 2nd C.D.I.R.U.

(For the Prosecution)

1. Two packets of Sweet Caporal Cigarettes initialled L.A.D.

2. Voluntary statement of the accused made at C.P.C.,H.Q., on the 25th August 1942.

(For the Defence)

Nil.

M.F.M. 6
(A F R 179)
175M—7-41 (1219-2)
H.Q. 1773-39-1632

No. D57767 Name Beauchamp R. Sqn., Battery, or Company } Corps R. de Mais. Date of enlistment } 6-8-40 G.C. Badges } Service or Proficiency Pay }

Date of last entry in Company Conduct Sheet } 27-11-40 No. and date of last drunk } NIL Period not reckoning towards freedom from extra fine } Sheet No. 1 Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier Quebec	9-3-41	Pte		Damaging Goverment Property(conjointly with Pte Priosielle) to the amount of $4.50	Pte Mercier	7 Days C.B. Stoppage of pay to make good damage done.	12-3-41	Major Larue	
Bordon	3-3-42	Pte		(1) Conduct to the prejudice... "Left Camp to see Pmr R.C.O.C.. when told not to do so.A.A.Sec40 (2) Neglect to obey Camp Standing Orders. Failed to report out at Guard Room. A.A. Sec 11	Sgt McLacklan G.	5 Days C.B.	4-3-42	Major J.R. Kent.	

P.T.O.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	12-6-42	Pte		Conduct to the prejudice of good order and military discipline, in that he failed to get up, after having been shaked and also adopting an insubordinate manner A.A. Sec 40	Sgt Clark	7 Days C.b.	12-6-42	Capt. C.O. Barnes.	

Certified true copy

Major,

O.C., R. de Mais. Coy

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D57767	Pte	Beauchamp, R.	2nd C.D.I.R.U.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For Misc	3 times	4 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 9-8-40

7. The service which the accused is allowed to reckon towards discharge is 2 yrs

8. The accused is entitled to reckon 2 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military air force decoration, or military air force reward ~~(or is in possession of or entitled to). State any military air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of Sept 1942 [illegible] Capt. Adjt. 5 Bde Wing C.O.I.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

I hereby acknowledge that I have received a true copy of the Summary of Evidence taken as Laurentide Camp preliminary to my Court Martial and I further acknowledge receipt of a copy of the charge sheet under which I am being brought to Court Martial.

Laurentide Camp
August 1942

R. R. Beauchamp

I hereby request the Convening Officer to appoint Lt. Gould or Lt. Stewart of the R.H.C. to represent me at my forthcoming Court Martial.

Laurentide Camp
August 1942

R. R. Beauchamp

205.

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

H.Q.C. 55-B-1938 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BAXTER, GORDON JOSEPH B-85851 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1938

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If purpose for which referred cannot be expressed on one line, add minute to file and write here "With Minute")	INITIALS	DATE
SEP 5 1945				ADMIN	NEW FILE	CR	4-9-45
	13-9-45	PA		JAG	To note	WOI	7-9-45
				C.M.B.K.	[redacted] C.R OCT 25 1945		
NOV 16 1945	29-1-46			Adm 3	Recommendation		NOV 12 1945
FEB 1 5 1946	15-2-46				[redacted] C.R JAN 1 9 1946		
MAY 3 1946	3.5.46			Admin	With Papers C.R. MAY 2 1946		
MAY 10 1946	10/5/46			Admin	With Papers C.R. MAY 10 1946		
				Admin	With Papers C.R MAY 15 1946		
MAY 20 1946							
MAY 17 1946	16/5/46			JAG	To note		16/5/46
OCT 25 1946	24-10-46	PA		PRB	[redacted] AUG 20 19[illegible]		
JUL 1 1947	11/7/47	PA		MGR	[redacted] MAY 14 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

Certified True Copy
A. McDougall Capt

B-85851 Private BAXTER, G J
3 CANADIAN FIELD DRESSING STATION,
R C A M C

Spare copy
III-106

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this thirtieth day of December, 19 43.

Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Base Reinforcement Group, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to convene a Field General Court Martial]~~ EWH

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint~~
~~*1 Three Officers to form the Court~~
~~*2 A Field Officer to be President~~
~~for the following reason, namely~~ EWH

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A L BRADY	CAC 5 Bn 2 CBRD

Members.

Rank.	Name.	Regiment.
A/Captain	E D FULTON	CIC 8 Bn 2 CBRD
Captain	G S GILLESPIE	RCASC 5 Bn 2 CBRD
	WAITING MEMBERS	
Captain	E P HALL	CAC 7 Bn 2 CBRD

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E W Haldenby
(E W Haldenby) Brigadier,
Commanding 1 Cdn Base Rft Group
Convening Officer.

AB

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-85851 Private BAXTER, G.J. 3 Canadian Field Dressing Station R C A M C	First Charge: A.A. 8(1)	Not Guilty	Guilty One Year Detention 1 Jan 1944 A.L. Brady Major & Pres.	Confirmed E.W. Haldenby Brig

For detail of charge see att Charge Sheet.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) E.W. Haldenby (Signed) A.L. Brady Major
(E W Haldenby) Brigadier,
Commanding 1 Cdn Base Rft Group CAC 5 Bn CBRD
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the first day of January 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(~~3. The Officers under instruction~~) 3. The Shorthand Writer AB
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this first day of January 1944.

A.L. Brady Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the above Court assembled on the day of 19 , and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.~~

AB Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~I direct that the above sentence of imprisonment or detention be suspended~~) EWH

Signed this 8 day of Jan 1944.

E.W. Haldenby Brig
Confirming Officer.

Promulgated and extracts taken in the case of B85831 Pte Baxter, G.J., 3 FDS

(a) (Dated) 9 Jan 44 (Signed) J H Sturdy Major

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23066) W.L.38300/411 60,000 12/42 A.& E.W.Ltd. Gp.698

MEDICAL OFFICER'S CERTIFICATE

I certify that No. B85851 Pte. Baxter, W.J. of 3 Cdn Fd Dressing Station is fit to undergo trial by Court Martial

L W N Card Maj

Date 1 Jan 44

SIGNATURE OF MEDICAL OFFICER

A L Brady, Major

Accused B.85851 Private Gordon Joseph Baxter RCASC. Att 3 Cdn Fd Dressing Station RCAMC
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in Italy (Country) on 1 January 1944 (Date)

	Rank	Name	Unit
PRESIDENT	Major	A.L. Brady	CAC 5Bn 2 CBRD
MEMBERS	A/Capt E.D. Fulton (CIC 8 Bn 2 CBRD)		Capt G.S.Gillespie RCASC 5 Bn 2 CBRD

JUDGE ADVOCATE (if any) _____

OFFICERS UNDER INSTRUCTION _____

PROSECUTING OFFICER Lieut E.R. Hatch Lawyer/Ans No

DEFENDING OFFICER Capt C.B. Cochran Lawyer/Ans No

(The following procedure must be actually carried out)

AB The President produced the Convening Order, Charge Sheet(s) and Summary of evidence. (Rs P 17(E), 22(A))

AB The President, in closed court (R.P 22, Fn 1), reads the Convening Order and the Charge Sheet(s) to the Members and the Court satisfy themselves that it is properly convened (A.A 49; R.P. 105) and constituted that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P. 106).

AB The accused is (are) brought before the court, and at 0945 hours, the trial commences.

AB The Prosecuting Officer produces a Medical Certificate under K.R. (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled b the President and attached to the proceedings.

President to the accused:

Do you object to K71883 L/Cpl Stace-Smith, J.G. as shorthand writer? Ans. No

AB The shorthand writer is duly sworn (Forms of Oath on Page "D").
AB The Convening Order is read in the hearing of the accused.
AB The names of the President and Members of the Court are read to the accused (R.P. 10)

President to the accused:

AB Do you object to be tried by me as president or by any of the Officers whose names you have heard read over? Answer No sir

AB The President, Members, Judge Advocate and Officers under instruction are duly sworn (R.P. 26-27 (Forms of Oath on Page "D"))

The Charge Sheet(s) is (are) initialled by the President.

AB The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (A.A. 46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs 62(E) 108); or as to the jurisdiction of the Court (R.P.30) or in bar of trial (R.P.36) or as to accused's mental fitness to stand trial (A.A. 130, R.P. 57), record such pleas and evidence (if any) on separate sheet(s) to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge
AB is read whether he pleads guilty or not guilty (R.P. 112)
He pleads as follows.

FIRST CHARGE	Not Guilty	FOURTH CHARGE	_____
SECOND CHARGE	_____	FIFTH CHARGE	_____
THIRD CHARGE	_____	SIXTH CHARGE	_____

(For procedure on alternative charges, see R.P. 37, fn2)

Further proceedings are recorded on Pages hereto attached.

PAGE "B"

(For use when accused pleads "Not Guilty" to all charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to the accused

AB. Q. Do you wish to apply for any adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P. 39(A)). Ans No sir

AB. 2. The Prosecutor's opening address (if any) (R.P. 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto, (See RECORD OF EVIDENCE on Page "D").

AB 3. The Prosecution is closed. (If submission that there is no prima facio case established, see R.P. 40 fnl; R.P. 70 fnl).

AB 4. The accused is informed that he may, if he wishes, give evidence but if he does so he will be liable to cross examination (R.P. 40 (D)(ii)(a)).

5. President to the accused:

AB Q. Do you apply to give evidence yourself as a witness? Ans Yes sir
Q. Do you intend to call any other witnesses in your defence? Ans Yes sir
Q. Is he a witness as to character only?(F.P.40(B)) Ans No sir

AB 6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see RsP 40, 41 and 42).

AB 7. The closing address of the Prosecutor, Defending Officer and Judge Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42).

AB 8. The court is now closed to consider the finding (RsP 43 and 117.)

9. ~~The court being re-opened, the accused is again brought before it, and the findings of "Not Guilty" (if any) are pronounced and (if findings of "Not Guilty" on all charges) the accused is released.~~

AB Where the Court acquits the accused of one or more charges and find him guilty of any other charge or charges, the President of the Court when announcing the findings of not guilty will add that "The findings of the Court on the first charge(~~s~~) being subject to cn confirmation, will be promulgated later".

AB 10. Short statement of Character and Service (~~A.F.B. 296 and Field~~ and copy of M.F.M. 14 Conduct Sheet (MFM 6) signed in the manner required by AA 163(1) (h) and purporting to refer to the accused by his number (if any) rank, name and corps, are produced to the Court, read, marked "X" and "Y", initialled by the President and attached to the proceedings, R.P. 46 Overseas R.O. 3131).

11. President to the accused:

AB Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment (R.P. 46(D)).
Ans. No

No cross examination.
(Records address, if any, on separate sheet, initialled by the President and attached hereto.

AB 12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A. 3). (Punishments, A.A. 44, K.R.(Can) 563-566; one sentence only awarded, (R.P. 48); sentence should be dated.

When the President announces that "The Court is closed for the consideration of the sentence" he will add that " The sentence to be
AB awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

AB The sentence is NOT announced to the accused by the Court.

Sgnd A.L. Brady, Major

.....

(Signature of President)

FIRST WITNESS A27101 Sergeant Vance R. 3 Canadian Field Dressing Station, having been duly sworn states:

"KI was serving the noon meal when Private Baxter came through for his dinner. I told him to move along in the line. At that he became very abusive and called me a Cock-sucker and bastard. I told him that if he used any more of that language I would have to put him on charge. With that he grabbed me by the shirt and backed me against the wall. Sergeant Kidder came in on the scenethen and he pushed him away from me. He continued to be abusive to both me and Sergeant Kidder in his language. Then he reached over and hit me on the face. He was then removed from the kitchen."

Examined by the prosecution:

Q. Sergeant Vance, you said that you told Private Baxter to move up in the line for his dinner. This is, or is not, a part of your duty as Sergeant Cook?

A. It is.

Q. How did you tell Private Baxter? Did you use civil words to tell him?

A. I told him civilly.

Q. From the way you spoke to Private Baxter would you expect to be treated by him in the way you were?

A. No.

Q. Do you think that Private Baxter had been drinking?

A. Yes, I think he had been drinking.

Q. Private Baxter definitely struck you on the face with his hand? Did he?

A. Yes.

Cross-examined by the defence:

Q. Would you state definitely that the accused was drunk?

A. He had been drinking.

Q. What degree of drunkenness do you think he had reached?

A. I am not qualified to answer that.

Q. At the time that you state the accused struck you, what was your dress?

A. Shirt-sleeves.

Q. At the time were you wearing your badge of rank?

A. No.

Q. Will you tell the court how w ll the accuseds knew you?

A. Sufficiently well to know that I was a Sergeant.

Q. Did you actually lay the charge yourself against Baxter?

A. No

Q. Why did you not lay the charge?

A. It had been laid.

Q. By whom was the charge laid?

A. I do not know.

Q. You mentioned in your evidence that the accused struck you the blow with his hand. Could you state which hand?

A. I think it was the left hand.

Q. Are you sure of that?

A. Quite positive.

Q. Was he at that time being restrained by Sergeant Kidder?

A. Sergeant Kidder was in between Private Baxter and I, I could not see any particular reason.

Q. Do you think in your own mind that you might have said something or done something which might have angered a man in a somewhat drunken condition?

A. No.

Q. Did you at any time tell Baxter that he was placed on charge?

A. I told him that if he continued his abusive language I would have to place a charge against him.

Q. You said that the reason that you did not lay a charge was because the charge had already been laid?

A. Yes.

Q. At the same time you did not know who laid the charge. What made you believe that the charge had been laid?

A. He was placed under close arrest. There was an Officer present. The Sergeant of the Transport was there. There was considerable work at the time and I wanted to get back to my duties.

Q. Do you know the name of the Officer?

A. It as Captain Handley.

Re-examined by the prosecution:

Q. Was Captain Handley present when you were struck on the face by Private Baxter?

A. No.

Q. You say that he used abusive language before he struck you. You warned him that if he carried on you would have to charge him?

A. Yes.

Q. You think that the accused has been with the Unit a sufficient length of time to know that you are a Sergeant?

A. Yes.

Q. How long have you been working in the kitchen?

A. Since it was formed. I do not believe it is more than a year ago.

Q. How long have you known the accused?

A. Since he came to the Unit.

Q. Can you tell me approximately how long that would be?

A. I do not know how long.

Q. Has the accused ever worked in the kitchen under your supervision?

A. I do not remember.

Q. Have you ever known the accused to give any trouble of this kind before?

A. No.

Q. What did you do after this man hit you?

A. I did not do anything, sir, Sergeant Kidder was there and put him out of the kitchen. I carried on with my work.

Q. Was that the last you saw of the accused at that time?

A. Yes.

Q. In the line-up did he stagger at all?

A. Not that I could see sir.

Q. What first drew your attention to him?

A. There was quite a gap between him and the man in front.

Q. Is it customary for you to wear your badges of rank in your work?

A. It is not customary.

Q. Do you do this job of supervising the meal parade at all meals?

A. Yes.

Q. Had you a great many or a relatively similar amount?

A. Usually 75to 80 men.

Q. While you have been doing this supervising work have you seen the accused in the line-up before?

A. Yes.

Q. Did you check later on whether or not the accused had been put under arrest?

A. No, I did not.

R.P. 83(b) complied with.

A.L. Brady
Major & Pres.

SECOND WITNESS L17104 A/Cpl Ruff, W., 3 Canadian Field Dressing Station, having been duly sworn states:

"At about 1230 hrs on 24 December 1943, we were serving the noon meal when Private Baxter came along with some fellow men and appeared to be noisy. I heard this noise and saw from his appearance and the description of the place he had been and the people he had been with that he was drunk. He was holding up the noon meal, and at this point Sergeant Vance told him that that was enough, to go and get his dinner, whereupon he, the accused, appeared to become and taking Sergeant Vance by the shirt, pushed him back against the wall and at this time Sergeant Kidder separated them. The accused continued to use abusive language, and then he slapped Sergeant Vance with what appea ed to be the open hand. Then Sergeant Vance ordered him to be put under arrest."

The procecution examines the witness:

Q. Did you see Private Baxter's hand, open or closed, strike Sergeant Vance?

A. No.

Q. Did you see the hand strike the face?

A. No sir, I did not.

Q. Did Sergeant Vance say anything which would make Private Baxter angry enough to strike Sergeant Vance, in your hearing?

A. No.

Q. Did Private Baxter call Sergeant Vance as accused in your hearing, at this time?

A. I do not recall, sir.

Q. Do you think, Corporal Ruff, that Private Baxter has been with the Unit sufficient time to know him as a Sergeant?

A. I do.

The defence cross-examines the witness:

Q. Was the accused drunk?

A. I would never say that, but I believe that he was under the influence by his words and language.

Q. In your evidence you stated that Sergeant Vance ordered the accused under arrest, I believe I am right in saying so?

A. Yes.

Q. What is your job in the kitchen?

A. Cook.

Q. What time did you serve the noon meal?

A. 1200 hours.

Q. The accused was actually holding up the noon meal?

A. He was holding up the balance of the parade that had not gone through.

Q. How many men were there on the meal parade?

A. I do not know.

Q. You did not see the accused strike Sergeant Vance?

A. I did not.

Re-examined by the prosecution:

Q. Did you hear sounds similar to the smack on the face?

A. I did.

Q. This was at the time the blow was struck?

A. Yes.

The court questions the witness:

Q. Did you hear Sergeant Vance order the accused placed under arrest?

A. I did, sir, after the sound of the blow.

Q. Sergeant Vance himself.

A. Yes.

Q. Who else was involved in this incident?

A. Sergeant Kidder was involved.

Q. Was he the only one?

A. I believe so.

Q. Where was Sergeant Vance at the time all this took place?

A. Sergeant Vance was serving and I stood next to him.

Q. You were immediately adjacent to him?

A. Yes.

Q. Why do you suppose the accused struck Sergeant Vance if you did not see the blow fall?

A. The sound of the smack.

Q. Did you see the accused draw his arm back?

A. No.

Q. Did you see Sergeant Vance order the accused placed under arrest?

A. No I only heard him.

R.P. 83(b) complied with. AB

THIRD WITNESS L17046 Sergeant Kidder G.F., 3 Field Dressing Station, having been sworn states:

"At 1230 hours on 24 December 1943 during the meal parade I noticed an argument in the kitchen between Sergeant Vance and Private Baxter. I went over to see what the trouble was. Private Baxter had Sergeant Vance against the wall holding him by the shirt. I approached them and told Private Baxter to get his dinner. He gave us a little back-talk and used insubordinate language. I told him once again to get his dinner. He then reached across and struck Sergeant Vance on the face. I stepped in and separated them. He gave a little more back-talk then the guard came and put him under close arrest."

The prosecution examines the witness:

Q. You say that Private Baxter used insombordinate language. Can you quote anything definite?

A. He called him a yellow bastard and a cock-sucker.

Q. Did Private Baxter have any reason in your opinion for his actions and his insubordinate talk?

A. I cannot answer as I was not present at the start of the argument.

Q. Sergeant Kidder, do you think that Private Baxter knew that he was addressing Sergeant Vance?

A. Yes,

The defence cross-examines the witness:

Q. Where were you standing when the accused struck Sergeant Vance?

A. One foot from the accused and at the side.

Q. At the time the accused had struck Sergeant Vance - I believe you stated in your evidence that the accused did strike Se geant Vance?

A. Yes.

Q. Do you think the accused might have been trying to strike another person, or someone else.

A. He could not, sir, unless he tried to strike me, because we were the only two within reach.

Q. Then I take it there is some doubt in your mind?

A. There is no doubt, I believe he tried to strike Sergeant Vance.

Q. Who put the accused under arrest?

A. The Guard N.C.O.

Q. Was the accused drunk?

AB

A. I can not say the man was drunk but I can say he had been drinking. I could smell the liquor.

Q. Is the accused normally boisterous or rowdy?

A. Not in my handling.

Q. Is the rowdiness left to us, due to the cause of drink?

A. Yes.

Q. Did you at any time tell the accused that he was under Arrest.

A. No, ~~I don't remember~~

Q. Do you recall Sergeant Vance telling the accused that he was under arrest

A. No, I don't remember.

The prosecution re-examines the witness:

Q. Why do you think that Private Baxter knew he was addressing Sergeant Vance?

~~A. No, I don't remember.~~

A. He mentioned in a few of his words. He said " Sergeant Vance, I have had no trouble with you before around the kitchen." He called Sergeant Vance by name.

The court questions the witness:

Q. Who called the Guards? How did they happen to arrive on the scene?

A. I do not know.

Q. Were you in the kitchen when the argument started?

A. I was at the other end of the kitchen and went over to the scene of the argument.

Q. You were not at any great distance?

A. No.

R.P. 83(b) complied with. A.L. Brady, Major & Pres.

CHARGE SHEET

The accused, B85851 Pte. Baxter, G.J., RCASC, of 3 Canadian Field Dressing Station, R.C.A.M.C. is charged with:-

First Charge
Army Act
Sec. 8(1) W.O.A.S.

Striking his superior officer being in the execution of his office -

in that he

at about 1230 hours 24 December 1943 struck with his hand the face of A27101 Sergeant Vance, R., 3 Canadian Field Dressing Station, R.C.A.M.C., who at that time was in charge of the unit kitchen serving the noon meal.

27 Dec 43

J.H. Sturdy Major
(J.H. Sturdy) Major
O.C. 3 Cdn F.D.S.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

DATE 30 Dec 43

(E.W. Haldenby) Brigadier
Commander
1 Cdn Base Rft Group
Cdn Army - C.M.F.

A.L. Brady, Major

In lieu of MFB 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE

OF ACCUSED PERSON

No. B85851 Rank Pte Name Baxter, G.J. Unit 3 Cdn F

Age 23 Married or Single Married No. of Dependents One

Date of Attestation 4 September 1939

No. of days spent in close arrest (to date of trial) 8 days as of 1200 hrs Jan 1st 1944

Date of promotions, appointment and confirmation of rank, if any

N/A

(A certified true copy of M.F.M. 6 must accompany this form)

Dated in the field

This 1st Day of January 1944

(To be dated and signed as for date of Trial)

O i/c Records

3 Cdn Field Dressing Station, R.C.A.M.C.
(Unit)

"X"

Presented to Court unsigned - no MFM 6 att - temporary MFM 14 - not very clear.

A.L. Brady
Major

The case for the defence now begins

FIRST WITNESS

D105789 Pte Nelson, R. RCAMC, 3 Cdn F.D.S., is duly sworn.

Examined by the defending officer

Q. Tell the court in your own words what you know of this case.

A. On 24 December I was outside the front door of the hospital. Pte. Baxter was coming in and I could see he was under the influence of drink. He said he was celebrating his birthday. I told him dinner was on and he went inside.

Q. Tell the court how drunk the accused was.

A. I am not qualified as a judge but I've known him for some time and I would say he was under the influence of drink.

Q. Why?

A. Because when I saw him talking to the guard he was making quite a bit of noise - more than he would if sober. He was definitely not sober.

Cross-examined by prosecutor

Q. Did you see Pte. Baxter strike Sgt. Vance?

A. No , sir.

R..P (83(b) complied with. A.Brady Major & Pres.

SECOND WITNESS

F78263 L/Cpl Prozehar, F.H. is duly sworn.

Examined by defending officer.

Q. Tell the court in your words what you know of the case.

A. In the morning of 24 December I was sent to a billet which some of our boys were cleaning. When I got there I found that the work had been done and that the boys had been drinking. I stayed up there and had a few drinks with them. I found the accused had been drinking quite heavily. It was nearly dinner time, so we started back for dinner. Another man, the accused, and myself went back together. When we got there I went in and got my meal and set it in the mess hall. I knew the accused was drunk so I went into his room, got his utensils and got his dinner for him. I went to look for him and when I came back I was told he had been put under close arrest.

Cross-Examined by pro secutor

Q. Were you in the kitchen at the time Pte. Baxter struck Sgt. Vance?

A. No, sir.

Questioned by Court

Q. What were you drinking?

A. Italian wine.

Q. Were you in charge of the cleaning detail?

A. I was told that when I went down there to inspect the work, and that they could have the rest of the morning off when they finished.

R.P. 83(b) complied with. A. Brady Major

THIRD WITNESS

B85851 Pte. Baxter, G.J., RCASC., Att. to 3 Cdn. F.D.S. is duly sworn:

Examined by defending Officer.

Q. Will you tell the court exactly what happened.

A. On 24 December I was detailed to clean billets. We finished and L/Cpl Prozenar came up around 10 O'clock. We all started to drink. I remember some of the men leaving and talking to some of the others. Things are hazy as to the rest. I don't remember who took me back. I remember some men trying to get me some blankets and they told me to get my small pack. I asked them what was the matter. They told me I was going to the Guard Room. I asked to be paraded to the Major. There was a Major Card, not the O.C. there. I asked him what I was charged with. He said he didn't know. Then S/Sgt Drewery told me I was charged with being drunk and incapable. I was taken to the Guard Room at Canada Barracks and couldn't understand why I should be there on Xmas day and my birthday on a drunk charge. The Orderly Officer tried to find out for me if I was charged with being drunk or something else. He came back at 2000 hrs - I was in bed - and informed me I was up for striking a superior officer in the execution of his duty. On my way down to the Guard Room I asked Sgt. Kidder what the charge was. He didn't know. They came and took the summary the day after Xmas and that is when I first found out the details. AB

Q. Can you recall anything of the alleged assault on Sgt. Vance?

A. If I could sir, I would pleaded guilty.

Questioned by the Court

Q. What were your instructions about cleaning the billet?

A. We were told we could have the morning off when we finished. We were told this by L/Cpl Prozenar after the job was finished.

R.P. 83(b) complied with. A.L. Brady Major & Pres.

Case for the defence closed.

Address of ~~Dept~~ Def Offr.

It is quite clear that the accused was drunk & this should be taken into the consideration of the Court.

A.L. Brady Major

1 Jan 44

Closing address to the court by the Prosecutor:

The fact with which the court is interested is whether or not the accused struck Sgt. Vance.

It is very clear that the three witnesses for the prosecution are certain that the accused did strike Sgt. Vance; a man, by the way, many years his senior; thus committing a serious military offence. Sirs, from the evidence given I am sure that Pte. Baxter knew what he was doing. If he didn't know he has marvellous powers of recovery to remember happenings so soon after, and in detail too.

There is no excuse for drunkenness.

If lieniency is shown in cases such as these discipline in the Canadian Army will rapidly become nil.

E.R. Hatch, Lt.

Army Form A2

PROCEEDINGS OF A SUMMARY OF EVIDENCE

assembled at 5 Bn 2 CBRD
In the Field

on the 26 December 43

by order of Major J.H. Sturdy, Officer

Commanding 3 Canadian Field Dressing Station

for the purpose of Recording evidence on oath in the case of B85851 Pte Baxter, G.J. charged with an offence under Army Act, Section 8.

PRESIDENT.

Lieut. E.R. Hatch

MEMBERS.

IN ATTENDANCE.

The Court having assembled pussuant to order, proceed to examine the first witness.

PROCEEDINGS

OF

A SUMMARY OF EVIDENCE in the case of

B85851 Pte Baxter, G.F. 7/3 charged with an offence under Army Act Section 8. In the Field on the 26th day of December 1943.

Taken under oath by order of Major J.H. Sturdy, officer Commanding 3 Cdn Field Dressing Station.

1st Witness for Prosecution.
A27101 Sgt. Vance, R.

Having been duly sworn states as follows:

Pte. Baxter G.F. came through for his dinner. I told him to step up as he was lagging behind. He then used abusive language calling me a cock-sucker. I warned him that if he used any more of that language he would be puton charge, with the result that he became worse. Grabbed me by the shirt and threatened to punch my head off. Sgt. Kidder then took him away from me; an argument followed between him and Sgt Kidder, me being the subject of the argument. Pte. Baxter reached over then and struck me on the face. He was then taken away.

Sgt. R. Vance.

Question (1) Sgt. Vance, at any time have we ever argued over any matters at all ?

Answer (1) No.

Question (2) We have never had any trouble at all?

Answer (2) No.

Question (3) For what reason do you think I struck you?

Answer (3) In my opinion, you were drunk.

AB

Question (4) If I had not been drunk do you think that this would have happened?

Answer (4) No.

E.R. Hatch, Lt.

2nd Witness for the Prosecution
L17104 Pte. Ruff,W.

Having been duly sworn states as follows:

At about 1230 hours Dec 24 - 43 Pte. Baxter came in for dinner and was rather noisy, giving a description of where he had been and people he had been with. Then Sgt. Vance told him that that was enough and to come and get his dinner. Then Pte. Baxter appeared to get angry at once and took Sgt. Vance by the shirt and pushed him up against the wall. Sgt Kidder separated them at this point. Pte. Baxter still continued to use abusive language then he struck Sgt. Vance on the face with what appeared to be the open hand. Then Sgt. Vance ordered for Pte. Baxter to be placed under arrest.

Pte. W. Ruff.

Question (1) You say that I was noisy?

Answer (1) You appeared to be noisy.

Question (2) Is it usual for me to come into the kitchen noisy?

Answer (2) It is not usual. AB

Question (3) Would you day that I was sober. Were my actions sober?

Answer (3) You appeared to be under the influence of drink.

Question (4) Where did I day I had been and what I had been doing?

Answer (4) There were no places or people named.

E. R. Hatch, Lt.

3rd Witness for the prosecution

L17046 Sgt. Kidder, G. Having been duly sworn states as follows: On the 24 December 1943 about 1230 hours Pte. Baxter was having an argument with Sgt. Vance in the kitchen. I went over to where they were and Pte. Baxter had Sgt. Vance against the wall and was holding him by the shirt collar. I parted them and told Pte. Baxter to go and get his dinner. He then gave some insubordinaye talk, calling Sgt. Vance a yellow bastard and a cock-sucker. He was ~~then~~ told ~~again~~ to go and eat his dinner then after a little more argument he reached over and slapped Sgt. Vance on the face with his left hand. I stepped in and pushed Pte. Baxter away. He gave a little more argument. The guards then came and removed him from the kitchen.

G.F. Kidder, Sgt.

AB.

Question (1) Wouldyou say that I had been drinking quite a bit by my actions and my talk?

Answer (1) I would say that you had been drinking.

ER. Hatch, Lt.

The accused after being cautioned in accordance with R.P. 4 and having been duly sworn states as follows:

Statement of Accused.
B85851 Pte Baxter,G.F.

I was informed when placed under arrest by S/Sgt. Drewery that I was charged with being drunk and incapable in front of Sgt. Kidder.

Pte. G.J. Baxter.

I hereby certify that the above summary of evidence in the case of B85851 Pte. Baxter, G.F. was taken by me under oath on the 26th day of December 1943 and that Rules of Procedure, 4(c) to (f)inclusive were followed strictly.

E.R. Hatch, Lt.

AB

M.F.M. 14 Duplicate copy in lieu of MFM 6

Name BAXTER, Gordon Joseph

Regt. No. B85851 Rank Pte

Enlisted at Hamilton Ont Promotions etc and date

Date 4 Sept 1939

If served previously state unit etc 2nd - 10th Dragoonds

Married, widower, or Single M. 6 Sep 43

Next of Kin Marjorie Frances Baxter Relationship Wife

Address of 10 Spenner Rd., Clapham Junc, SW1, London, Eng.

Assignment of Pay $20.00

Address 10 Spencer Rd, Clapham Junc., SW1, London, Eng.

Dependent's Allowance, Entitled or Not Yes

Date Application forwarded to District Paymaster

In Whose Favour

CASUALTIES ETC

NATURE e.g. Absence, Promotions etc.	Part II D.O. No.	Part II D.O. Date	REMARK: If in Hosp note name etc.
Neglecting to obey an order - 5 days CB	53	23-11-39	
Failing to comply with an ord - 3 days CB	3	6-1-40	
Barrack Dmgs. 11.	152	26-3-40	Total Forf - 12 days pay
AWL - 7 dys Det	165	9-7-41	Camp Bdn 9-7-40
Comit 70 Det Bks	165	9-7-41	Fts 121 days pay.
AWL - Awd 12 days Det	176	22-7-40	
Att. 70 HQ, 2 Cdn Div	196	2-8-40	RCASC for pay
SOS CASF Canada on Embark	3	22-8-40	
TOS CASF (Overseas)	4	23-8-40	
AWL while on active serv at Camp Borden 14 days pay	24	11-4-41	Forf 25 days pay AWL Sec 40 AA
21 days F.P 27 days forf pay	38	4-7-41	
Att fap Camp Borden	36	7-6-41	21-6-41
Ceases Att " "	40	18-7-41	10-7-41
Adm 11 Cdn Fd Amb	4	23-1-42	13-1-42
Disch " " "	5	31-1-12	15-1-42
Att.fap E&SE Comb PT 3 CH - PT Course 39	6	6-2-42	5-1-42
Ceases Att "	7	13-2-42	

On 6-8-41 AWL - 14 days CB Forf 5 days pay	35	13-8-42	AWL
PL 25-9-42 with rats	43	8-10-42	
AWL from 1200 hrs 7-12-42 Awd 80 days Detn	54	24-12-42	2 post still abs 1200 hrs 15-12-42 Forfs 111 days pay.
SOS to CASCRU 7/1/43 TOS 1 CASCRU from 2 CDSC 16-1-41	23	26-1-43	Awd 80 days Detn
Released from Det 2-3-43	56	5-3-43	25 days Remission
AWL from 2359 hrs 14-3-43	88	10-4-43	
Granted permission to marry Miss Marjory F Gardiner, 202 Crescent Bd., Peckham on or after 5-9-43	219	10-9-43	
DO 202 amended Delete Marry Frances Gardiner to Marry Frances Turkner.	217	6-9-43	
TOS from 2 Div Sup (6) Coy wef 16-1-43			
Awd 80 days Det Cdn Det Bks			
Released from Det earned 25 days remission		wef 2/3/43	
AWL from 15 Mar 43 2400 hrs/ SOS as deserter 7 Apr 43	88	8 days - still absent- decld AWL 2359 hrs 14/3/43	
TOS from desertion			
Tried by FGCM on 6/6/43 to undergo 6 mos det. forf 268 days pay. Released from det.wef 5/10/43. Remission 60 days.	243	8-10-43	
SOS to CASCRn to 3 Cdn Fd Dressing Sn 14/10/43	248	14-10-43	
TOS 3 FDS from 1 CASCRU wer 10-10-43	43	23-10-43	
Forf 1 day pay FRI for AWL 2359 hrs 12 Oct 43 to 1000 hrs 13 Oct 43.	249	15-10-43	
Awd 10 days FP AA 15(1) Forf 10 days pay FRI 149(2) Forf 1 days pay FRI 149(1)	3011A	23-11-43	

Certified True Copy of MFM 4

J.H. Sturdy, Major

E.R. Patch, Lt.

A.L. Brady, Major

B.85851 Pte. Baxter, G.J.
1 C.A.S.C.R.U.
B.G.H.Q.5-6-2-212

GG/20

Correspondence to be PINNED here.

'B' GROUP H.Q. 12 JUN 1943 CDN. REINFORCEMENT UNITS

Army Form A.3.

'B' GROUP H.Q. 7 JUN 1943 CDN. REINFORCEMENT UNITS

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 5th day of JUNE, 19 43

Whereas it appears to me, the undersigned, an officer in Command of "B" GROUP CANADIAN REINFORCEMENT UNITS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*[Nominal roll of officers appointed or detailed hereunder]~~

* Omit if not applicable.

Proceedings Reviewed
Reviewing Officer (A.A.G.)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J. Steele	1 C.S.R.U.

Members.

Rank.	Name.	Regiment.
A Captain	A. MONETTE from	1 C.E.R.U.
A Lieutenant	G.F. BROWN from	1 C.A.S.C.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.R. Shields) Brig
Commanding B Gp C.R.U.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.85851 Pte. BAXTER, Gordon, Joeseph, 1 C.A.S.C.R.U.	First Charge A.A.Sec. 15(1)	Guilty	Guilty Undergo Detention for a period of 6 months and forfeit 10 days of pay. Under F. 104 72 days. 2 amnt 11 days 2 Defty 148 days Total forft. 281 days. 9 June 43	Confirmed P.R. Shields 8 Jun 43 Brig
	See Attached Charge Sheet			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) P.R. Shields 8/6 (P.R. Shields)Brig
Commanding B Gp C.R.U.
Convening Officer (*e*)

(*Signed*) [illegible] Maj
1 CSRU
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialed by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the seventh day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 7 day of June 1943.

[illegible] Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of C.A.C.I. 570 of 4018 have been complied with.~~

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 8 day of Jun 1943.

P.R. Shields Brig
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 10 June 43. (Signed) [illegible] Lt Col
Comd. 2 Trng Wing
1 Cdn. A.S.C. R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47797/1937 35 M. 5/41 K.J.L./5265(2) Gp. 698/3

CHARGE SHEET

The accused, B-85851 Pte. Gordon Joseph BAXTER, RCASC, 1 Cdn ASC Rft Unit, a soldier of the Canadian Army, Overseas, is charged with:

WHEN ON ACTIVE SERVICE

1st Charge
A.A.
Sec.15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he, at Farnborough, Hampshire, absented himself without leave from 2359 hrs 14 Mar 43 to 2300 hrs 26 May 43, when he was apprehended by the Corps Military Police at Peckham, England. Total time absent 71 days 23 hrs 1 min.

(H.P.Bonnick) Lt-Col.
Commanding,
2 Trng. Wing.
1 Cdn ASC Rft Unit.

Farnborough, Hampshire,
2 June 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(P.R.Shields)Brig
Comd B Gp
Cdn Rft Units

5 Jun 43

B8581 Pte. BAXTER. G.I.
1 CASCRU.

During trial by Court Martial of the m/r man it was stated, in the statement in mitigation that at a previous court martial, it had been recommended that the accused ~~be~~ transferred with a view to making use of his ability as a boxer and possible P.T. instructor.

Apparently this recommendation, if made, was not acted upon.

This Court considers this does in a measure contribute to the accused's delinquency and recommends further that his transfer to P.T. instruction would be beneficial in treatment of this man and consequent benefit of the service

7 Jan 43.

Flack Maj. President.

Medical Officers' Certificate.
N.D. (Can.) Para 557

I certify that I have this morning examined Pte. B8581 Pte. Baxter
of. H.L. Corps. Rec. and in my opinion he is ~~fit~~ unfit to undergo
trial by court martial.

station. Blenheim Barracks

Date. 7th Jan 1943

Flack Maj

Sgd. E. Bloodscott
(Medical Officer)

7 June 43

Statement made by Defending Officer, Lieut. D.G.R. Sargent No. 1 C.A.S.C.R.U. for mitigation of sentence on behalf of Pte. Baxter, G.J.

"If the Court will allow, I will make a Statement in mitigation on behalf of Pte. Baxter, with the intention of revealing that the present charge to which he pleads guilty, and the previous convictions as shown on his M.F.M. 6 were the result of provocation rather than any badness of character.

Pte. Baxter is a boxer of some considerable skill and in 1942 was the Canadian Army welter weight champion. This proves that he is capable of concentrated and prolonged effort - as necessitated in training - when that effort can be expended in the pursuit of some task which he is keenly interested in.

He joined the Army in Sept. 4th 1939, and has tried consistently, both while still in Canada and after arrival in England in Sept. 1940 to get himself into a unit where he could be employed as a P.T. Instr. specialising in Boxing. All his attempts were unsuccessful, however, and he feels that his unit, while being proud of the honour his prowess brought to it, were entirely unwilling to give him the opportunity to transfer to where he could best use his undoubted skill.

Unfortunately he has the highly strung temperament common to many athletes, and shows his resentment to unfair treatment by doing impulsive and foolish acts. A Review of his M.F.M. 6 will reveal that all except two charges were for AWL offences and that in most cases his sentence was severe,

which increased his sense of injustice. He has never been charged with drunkenness, nor has he a single crime denoting viciousness or evil motive.

I will now call upon Mr. Langs who has experience of Pte. Baxter in the same unit.

For the first 18 months of his Army life Pte Baxter had no definite job, and an early AWL charge was caused by his attempt to get overseas with another Unit. When he was made a D.R. he settled down, and for a year he had no charge whatever. As Mr. Langs has testified, he performed his duties extremely well. Still desiring the work of P.T. Instr. and after becoming welter weight champion, he goes AWL for 31 days to get a detention sentence which would mean his transfer to Reinforcement Unit upon release. The President of the C.M. made a recommendation that when released he be transfered to a unit where he could be used as a P.T. Instr. and also asked that permission to marry, which had been granted him by his O.C., should be forwarded on to his Rein. Unit and that on release he should get his transfer and get married. This was not done. Bitterness against those responsible, and the fact that his fiancee was very ill (see appended letter) was the chief cause of his remaining AWL so long, and I am convinced that Pte. Baxter is definitely a case of a square peg in a round hole. He is a good worker and could be used to profitable advantage if properly placed.

Lt Col Mey

A.A. Longpré M.
Reforming Officer

HANOVER CHAPEL

(CONGREGATIONAL)

BELLENDEN ROAD.

PECKHAM.

"Founded 1857"

LONDON, S.E. 15. 18th Mar. 1943.

MINISTER:
Rev. W. G. TAYLOR,
6, THE GARDENS, PECKHAM RYE, S.E.22

HON. TREASURER:
Mr. W. F. WALLIS,
24, HINDMANS ROAD,
E. DULWICH, S.E.22

HON. SECRETARY:
Mr. H. M. WATKINS,

ACTING SECRETARY:
Mr. IVOR COLTON,
302, SOUTHAMPTON WAY, S.E.5

(From Peckham Rye Station turn right, 1st turning on right and 2nd on left.
From East Dulwich Station turn right, 1st on left (sharp), 1st on right, 1st on left.)

The C/O,
Canadian Army Service Corps,
Reinforcement Unit,
Aldershot.

Dear Sir,

This letter will be somewhat unusual & possibly irregular, but I trust you will consider it sympathetically. I understand that Private Baxter has overstayed his leave by a few days, but I am wondering if you will regard the following facts as extenuating circumstances.

Pte Baxter anticipates marrying a young lady known to me, - Mrs Jardien. During this last fortnight she has been suffering from chest trouble & submitted herself for T.B examination. You may judge that this has occasioned them both considerable anxiety. Mrs Jardien expected to hear the result of the X-ray today (Wed), & on that account Pte Baxter waited in the hope of hearing the report. Unfortunately there has been a delay in the report coming through. If you wish to verify these facts you may refer to Dr Corrie, TB Dispensary, Camberwell, S.E.5. These are the simple facts, & I trust you will allow them to weigh with you when you form your judgment.

Yours faithfully,

W G Taylor.

0930 hrs - Guillemont Barracks - 7 June 43.

Pres - Major J. D. Steele - #1 C S R U
Members - Capt A. Monette - 1 C E R U
Lieut B. F. Brown - 1 CASC R U.

1st case - B85851 - Baxter G. - 1 CASC RU
Prosecutor - R. G. Moore - Lieut - 1 CASC - RU
Defense - D. B. R. Sargent - Lieut. 1 CASC - RU.

No objection to members of the court.

After reading of arraignement being read the accused pleads guilty as charged.

Summary of Evidence read by President.

Plea for mitigation of Punishment read by the defending officer.

Lieut Langs - #1 CASC - RU gives statement as character witness as follows:
" The accused and myself joined the same unit 2 Cdn. Div Supply Coy in Sept 1939 The unit came overseas in summer of 1940. The accused was Cdn army welterweight champion in 1941 - 42 as was thereby an asset to his unit as well as being employed satisfactorily as a D. R for one year. During this time he attempted to change to permanent P. T. work but was never given the opportunity.

EXHIBIT A

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Blenheim Camp Farnborough, Hants on the 7 day of April 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 105851 Pte Baxter, E. J.

DECLARATION.

The Court declare, B 105851 Pte Baxter E.J. 1 Coln Ord. Kent. Unit. C.A.(O). illegally absented himself without leave from 1600 hrs Pte Baxter Farnborough, Hants at 2359 hrs on the 14 day of March 1943, that he is still so absent and that on the 7th day of April 1943 he was deficient and that he is still deficient of the following articles.-

See reverse

(F.A. MacGregor) Capt. PRES
1 Cdn. ASC RU C.A.(O)

(C.D. Kent) Lt.
1 Cdn. ASC RU C.A.(O)

(J.R. GARNEAU) Lt.
1 Cdn ASC RU C.A.(O)

Names of President and Members

COL.
COMMANDING,
Signature of Commanding Officer 1 CDN. A.S.C. REIN. UNIT.

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(12281) Wt.34318/1622 75,000 10/39 A.& E.W.Ltd. Gp.698 Forms/B115/56
(13443) Wt.45725/760 225,000 1/40 " "

Kit Deficiencies

B55851 Pte Burton S.J.

		Value	75% of Value
B.D. Blouse	1	1 - 7 - 8	1 - 0 - 9
B.D. Trousers	1	1 - 7 - 11	1 - 1 - 11 1/2
Brushes Polishing	1	9	- 6 1/2
Brushes Cloth	1	1 - 1	- 10
Brushes Shaving	1	1 - 4	1 - 0
Comb	1	2	- 1 1/2
Dressing F.F.	1	1 - 1	- 10
Knife Table	1	9 1/2	- 7
Razor	1	1 - 10 1/2	1 - 5
		£ 3 - 2 - 8	£ 2 - 8 - 1/2

Exhibit B

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 OF 10 Apr 42.

I CERTIFY that No. B-85851 Rank Pte. Name Baxter C.J.

Unit # 1 C.A.S.C.R.U. #6.Coy was arrested at Peckham (Place)

at 2300 Hrs. (hour) on 26-May-43 (date) and that at the time of his arrest he was wearing (Military Uniform) ~~or (Civilian Clothes)~~.

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
27-May-43

(W. Forn) D. A. P. M.,
London Area

Capt.

SUMMARY OF EVIDENCE

in the case of

B-85651 Pte. Gordon Joseph BAXTER, RCASC,
1 Can ASC Rft Unit, Blenheim Barracks,
Farnborough, Hampshire.

The Commanding Officer, Colonel C.M. Pocock, 1 Can ASC Rft Unit, directs that evidence be taken as follows:

1. Witness.
Lieut. R.G. Moore, RCASC, being duly sworn, states:

I am Lieut. R.G. Moore, RCASC, 1 Can ASC Rft Unit, and have knowledge and am in possession of certain documents pertaining to this case and relative to the accused.

I produce herewith:

Exhibit "A"
A.F.B. 122 Certified true copy of Proceedings of a Court of Inquiry, held 7th August 43, covering B-85651 Pte. Baxter, G.J. A.W.O.L. from 0001 hrs 14th March 43. Kit inventoried by Pte. Baxter with summary.

Exhibit "B"
Identification in accordance with P.G. 3797, purporting to be signed by Capt. M. Fern, D.A.P.M. London Area, dated 27 May 43, showing the apprehension of the accused.

I state that, in my opinion, the attendance of Capt. M. Fern, D.A.P.M. London Area, is, owing to the expense and loss of time involved, not reasonable and a written statement of this evidence, signed by him, has been read to the accused and is attached hereto, marked exhibit "B".

R.G. Moore
(R.G. Moore), Lieut.
1 Can. ASC Rft Unit.

I do not require the attendance of the above witness for the purpose of cross examination.

G.J. Baxter
(B-85651 Pte. Baxter, G.J.).

Sheet #2

SUMMARY OF EVIDENCE in the case of B-35551 Pte. Baxter, G.J.

The accused was then warned in accordance with R.P. 4 (e).

"Do you wish to make any statement on oath? You are not obliged to say anything but if you give evidence unless you wish to do so, but whatever you say or any evidence you give will be recorded down in writing and may be used in evidence."

A. "I do not wish to make any statement at this time."

G. J. Baxter Pte.
(B-35551 Pte Baxter, G.J.)

I hereby certify that the foregoing Summary of Evidence was taken down by me in writing on the 21st of May 45, at 1 Can ASC Rft Unit, in the presence and hearing of the accused and that R.P. 4 (c) (d) (e) (f) and (g) have been complied with.

H. G. Moore
(H.G.Moore) Lieut.
1 Can ASC Rft Unit.

I, B-35551 Pte. Baxter, G.J., RCASC, 1 Can ASC Rft Unit desire the assignment of an officer to represent me at my forthcoming trial by Court Martial. I request the assignment of Major L.H.Smith, RCASC, 1 Can ASC Rft Unit, if available, or else Major A.W.Dyer, RCASC, 1 Can ASC Rft Unit.

G. J. Baxter Pte.
(B-35551 Pte Baxter, G.J.)

J. Heath Maj

CERTIFIED TRUE COPY, COMPILED FROM DOCUMENTS ON HAND IN THIS OFFICE.

No. B65551 Name BAXTER G.J. Sqn., Battery, or Company SUPP COY Corps 2 DIV R.C.A.S. Date of enlistment 4-9-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 122) 40/P & S/136 (263)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	5/7/40	Pte		AWL 2200 hrs 5/7/40 till 1600 hrs 3/7/40 (AA Sec 15 (1))	Sgt Dawson	9 Days Detention	DO165	Maj Montague	Forf. 12 Days pay
Camp Borden	20/7/40	Pte		AWL 2200 hrs 20/7/40 till 0800 hrs 22/7/40 (AA Sec 15 (1))	Sgt Manville Gray. L/Cpl White	12 days Detn.	DO 176	Maj Montague	Forf. 14 days pay
Tourney	16/8/40	Pte		AWL 0100 hrs 16/8/40 till 1100 19/8/40 (AA Sec 15 (1))	Pte Place Sgt Gray	Forf 25 days pay	D.O.5	Maj Montague	
Tourney	22/2/41	Pte		(AA Sec 40) In that he at Farnborough at 1455 hrs on 22/2/41 was improperly dressed. Tunic open at neck and not wearing gaiters	L/Cpl Grant Cpl Meyers	7 days C.B.	D.O.62	Capt Dyser	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tourney	5-5-41	Pte		(AA Sec 15 (1)) In that he absent/ed himself without leave 2200 hrs 4-4-41 to 1020 hrs 5-4-41. 1330 hrs 5-4-41 to 1630 hrs 5-4-41 From 2230 hrs to 2320 hrs 5-4-41	CSM Dawson Cpl Gregor Pte Fulton	14 days C.B. Forf 28 days pay 1 days pay FR&I	D.O.24	Maj Montague	
Tourney	17-6-41	Pte		Sec 40 AA. In that he at 1400 hrs 17-6-41 in the mens mess did use improper language to Sgt. McGrinder and L/Cpl. Ha rrison.	L/Cpl Harrison Pte Taylor L. Pte Badgley	21 Days F.P.	D.O. 38	Maj Montague	
Field	31-7-41	Pte		AWL (AA Sec 15 (1)) from 2245 hrs 31-7-41 till 1330 hrs 1-8-41	Sgt. Allcook CSM Dawson	Forf 1 days pay FR&I 10 days pay AA 46(2)(d)	D.O. 40	Maj McDeer	
Field	30-7-42	Pte		AASec 15(1)) In that he absented himself from 0600 hrs 30-7-42 to 2359 30-7-42	Sgt. Beckington	Forf 1 days 6-8-42 pay. 14 days C.B. 14 days pay		Maj Bigslow	

CERTIFIED TRUE COPY. COMPILED FROM DOCUMENTS ON HAND IN THIS OFFICE

M.F.M. 6 (A.F.H. 122) 40/F & S/136 (269)

No. B55551 Name BAXTER G.J. | Sqn., Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 4 Sept. 1939 | Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5-4-42	Pte		(AA Sec 15 (1) In that he absented himself without leave from 2300 hrs 5-11-42 till 2330 hrs 5-11-42	Cpl Douse Cpl Richmond	Forf 28 days pay	6-11-42	Lt-Col Montague	Forf 28 days pay 43 days pay FR&I TOTA L 71 days pay
Field	7-12-42	Pte		Sec 15 (1)(A) In that he absented himself without leave from 1330 hrs 7-12-42 to 2330 hrs 28-12-42 (21 days 10 hrs) Close arrest 2330 hrs 28-12-42 to 1000 hrs 7-1-43 (9 days 10 hrs 30 mins)	Cpl Douse Cpl McCarthy	60 days Deten. Forf 60 days pay FR&I	7-1-43	F.G.C.M.	Forf 60 days pay FR&I 149 (1)(b) 21 day pay FR&I 149 (1)(a). 10 days pay FR&I 149(1)(c)(ii) Total Forf. 111 days pay.

H A Sulivel Capt
Officer i/c Records
1 Cdn ASC Reinf Unit
Cdn Army Overseas

(P.T.O.)

M.F.R. 185
20M—5-43(10572-3)
H.Q. 87-6-6(1)
A.F.R. 20c
4 JUN 1943

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-85851	Pte.	BAXTER, G.J.	1 Can ASC Rft Unit

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron, Battery~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Sec. 15(1)	3 times	Sec.15(1)	6 times
For		times	Sec.40	2 times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 7 11 days in ~~Air Force~~ military custody, making a total of 7 11 days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is -

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 4 Sept 39

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in ~~military~~ possession of or entitled to). State any air force decoration or reward. ~~military~~ military

N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number B-85651 Rank Pte Name Baxter, G.J. of 1 Cdn ASC Rft Unit ~~Regiment~~ Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	7/1/43. Field	Sec. 15(1) AA AWL.	80 days detention	N/A

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

Officer i/c Record
1 Cdn ASC Reinf Unit
Cdn Army Overseas.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

x64

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

"A."

Order convening the Court.

F J Gilmour Major Pres

On Active Service, this FIFTH day of JANUARY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 2nd Canadian Division

Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

yul.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—)~~

* Omit if not applicable.

yul.

Proceedings Reviewed

Reviewing Officer (JAG) CMHQ

Wall in Taffe

8 Feb 43

125

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	F. J. Gilmour R C A attd H Q 2 Cdn Div	

Members.

Rank.	Name.	Regiment.
A MAJOR	To be detailed by CRCASC 2 Cdn Div	R C A S C
A CAPTAIN OR LIEUT	to be detailed by ADMS 2 Cdn Div	R C A M C
	WAITING MEMBER	

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (G H Roberts) Major-General
Commanding Comd 2 Cdn Division
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
585851 Pte Gordon Joseph Baxter, 2 Cnd Div Sup Coy (6 Coy) RCASC	FIRST CHARGE Section 15(1) Army Act ABSENTING HIMSELF WITHOUT LEAVE (See charge sheet attd)	Guilty	Guilty. 80 days detention 7 Jany 1943 F J Gilmour Major Pres.	I confirm F.J.G.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) J. H Roberts) Major-General
Commanding 2 Canadian Division
Convening Officer (*e*)

(*Signed*) F J Gilmour (F. J. Gilmour) Major
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET.

The accused R-26551, Pte GORDON JOSEPH BAXTER, 2 Cdn Div Sup Coy (6Coy) R.C.A.S.C. a soldier of the Canadian Army Overseas, is charged with.

First Charge.
Army act.
15 (1)

Absenting himself without leave,

In that he, in the field absented himself without leave from 2 Cdn Div Sup Coy (6Coy) R.C.A.S.C. from 1330 hrs 5 Dec 43 until 1130 hrs 30 Dec 43.

J.A. Bigelow Major.
O.C. 2 Cdn Div Sup Coy (6 Coy)
R.C.A.S.C. Can Army Overseas.

Field
30 Dec 43.

TO BE TRIED BY D.A.S.M.

(C.R. Scotts) Maj-Gen
Comd 2 Cdn Div

In the field
5 Jan 44

B.G. Johnson
Maj

2 Cdn Div Sup Coy (6 Coy)

R.C.A.S.C. Cdn Army (Overseas)

7 Jan 4[illegible]

I have today examined B85851 Pte Baxter, J.C. and found him to be free from all infectious diseases and medically fit to undergo Field General Court Martial.

"C" Infirmary
May 7
pro

(G.F. Homer) Capt.
Medical Officer
2 Cdn Div Sup Coy (6 Coy)
R.C.A.S.C. Cdn Army (Overseas)

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field Genl Court-Martial held at In the Field on the 7th day of January 1943 by order of Major General J H Roberts Commanding 2nd Cdn. Div. dated the 5th day of January 1943

President.

Majr J Fulmour RCA HQ 2 Cdn Div

Members.

Major H.A. Macdonell 2 Cdn. Div. R.C.A.S.C.

Capt. H.W. Fish 2 Cdn Div. R.C.A.M.C.

Trial of* B-85851 Pte Gordon, ~~Judge Advocate~~.
Joseph Baxter 2 Cdn Div. Sup Coy (6 Coy)

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~to serve owing to~~ ~~is not available~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt A.C. Reynolds 2 Cdn Div Sup Coy 6 Coy RCASC

~~Counsel‡~~ or defending officer† Capt L.A. Dowling 2 Cdn Div Sup Coy. RCASC

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

J Fulmour Maj in pres

Q4274. Wt.W16639/78. 35,000 sets. 8/40. K. & H., Ltd. G657/11. Forms A 9/55.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

nil

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

✓ *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

✓ *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

✓ *Answer.*

The accused having pleaded Guilty to the charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused Pte Gordon Joseph Baxter is found guilty of the Charge

†The summary (or abstract) of evidence is read, marked "D" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No.

Answer. ~~The accused in mitigation of punishment says:—~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

Evidence as to character.

E

**To be struck out except in cases where trial has taken place on a plea of "Not Guilty."*

Finding.*

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

**When the Court is already open this sentence will be struck out.*

Proceedings on Conviction *before Sentence.*

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lt E A C Reynolds is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* A7B 296 & Conv Copy of MFMC.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked 2 & 7, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

~~Cross-examined by the accused.~~

[Instruction.—*If by reason of the nature of the service of the accused in a departmental corp. or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.*]

Question to the accused.

Do you wish to address the Court? *Answer.* My defending officer will

~~The Court is closed for the consideration of the sentence.~~

F

~~Sentence~~.

~~The Court sentence~~ the accused ~~Sentence.~~

The defending officer addresses the Court. Stresses the youth of accused. He joined the army 24 hrs after outbreak of war. Has gone in periods of good behaviour with periodic outbreaks of small petty offences. No excuse but reason is youth + vigour + inclination to get impatient. Suggests a sentence no larger than what is sufficient to show the accused that this offence should not be repeated.

The Court is closed to consider sentence.

J J Gilmour
Maj
Pres

SUMMARY OF EVIDENCE IN THE CASE OF B-85851 Pte. Gordon Joseph BAXTER. 2 Cdn Div Sup Coy (6Coy) a soldier of the Canadian Army Overseas.

The accused has been informed of his rights.

The Commanding Officer does not direct and the accused does not demand that the evidence be taken on oath.

First Witness for the Prosecution B-86588 Cpl.Douse,J.R. 2 Cdn Div Sup Coy (6Coy) States

I am Coy H.Q. Cpl and it was my duty to know when passes and leave had expired. Pte Baxter's Pass was expired on 7th Dec 1942 at 1200 hours. later on 1330 hours 7th Dec 42 I called the roll of Coy H.Q. and Pte Baxter did not answer his name. The roll was called at 0830 hours,1330 hours and 2300 hours every day after and Pte Baxter did not answer his name from that day on.

The accused declines to cross examine the witness.

J.R.Douse
J.R.Douse(Cpl)

Second Witness for the prosecution B-85818 Cpl McCarthy,C. 2 Cdn Div Sup Coy (6Coy) States

I was Cpl of the guard on the 28th Dec 1942 and at 2330 hours Pte Baxter whom I recognize reported to me and knowing him to be an absentee I placed him under close arrest. I then reported the matter to the Sgt of the Guard. Pte Baxter was properly dressed and sober when he reported to me.

The accused declines to cross-examine the witness.

C. McCarthy
C.McCarthy(Cpl).

Third Witness for the prosecution. Lieut.Reynolds ,E.A.C. 2 Cdn Div Sup Coy (6Coy). States.

I am Adjt. and have in my possesion all books and documents pertaining to the unit and all personnel. I herewith produce a certified true copy of the declaration of the court of enquiry taken from Army Book 68. This bearing relative to Pte Baxter whom I recognize .

The accused declines to cross-examine this witness.

E.A.C.Reynolds
E.A.C.Reynolds Lieut.

The accused having been duly cautioned in accordance with R.P. 4C D & E declines to make a ny statement.

Taken down by me in the field this 30th day of December 1942. and I certify that R.P. 4 has been complied with

W.D.S.Careless Capt
W.D.S.Careless Capt.
Officer taking down Summary.

I Pte.Baxter G.J. B-85851 Desire the services of an Officer to represent me at my Courts Martial. CAPT. E.B. Swift, RCASC.

G.J. Baxter
G.J.Baxter (Pte)

List of witness for the Prosecution.

B-86588 Bpl Douse J.R. 2 Cdn Div Sup Coy
B-85818 Cpl McCarthy C. 2 Cdn Div Sup Coy.
~~Lieut. E.A.C. Reynolds 2 Cdn Div Sup Coy.~~

List of witness for the Defense
NIL.

List of exhibits.
~~Offical certified true copy of Declaration of Court of Enquiry.~~

No. B85851 Name BAXTER, G.J Sqn., Battery, or Company 2 Cdn Div Sup Coy (6 Coy) Corps R.C.A.S.C. Date of enlistment 4 Sep 39 G.C. Badges n.a. Service or Proficiency Pay n.a. M.F.M. 5 (A.F.B. 122) (125M—7-41 (J.H.Q.-50) H.Q. 1772-50-1452

Date of last entry in Company Conduct Sheet n.a. No. and date of last drunk n.a. Period not reckoning towards freedom from extra fine n.a. Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed after 6 month service 4 Mar 40 Date of Last entry NIL									
Camp Borden	5 Aug 40	Pte		Sec 15 (1)AA. AWL 2200 hrs 5 Aug 40 to 1800 hrs 8 Aug 40	Sgt Dawson Cpl Bradshaw	9 days detention	DO 165/40 9 Aug 40	Major Montague	Forfeits 12 days pay
Camp Broden	20 Aug 40	Pte		Sec 15 (1)AA. AWL 2200 hrs 20 Aug 40 to 0800 hrs 22 Aug 40	Sgt Melville-Gray L/Cpl White	12 days detention	DO 176/40	Major Montague	Forfeits 14 days pay
Tournai	16 Aug 40	Pte		Sec 15 (1)AA. AWL 0100 hrs 16 Aug 40 to 1100 hrs 19 Aug 40	Sgt Melville-Gray Pte Place	Forfeits 25 days pay	DO 5/40 12 Sep 40	Major Montague	
Tournai	22 Feb 41	Pte		Sec 40 AA. In that he at Farnboro at 1653 hrs 22 Feb 41 was improperly dressed. Tunic open, no anklets	L/Cpl Grant Cpl Myers	7 days C.B.	28/2/41	Capt DeGeer	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tournai	5 Apr 41	Pte		Sec 15 (1)AA. AWL 2200 hrs 4 Apr 41 to 1020 hrs 5 Apr 41. 1330 hrs 5 Apr 41 to 1630 hrs 5 Apr 41 2230 hrs 5 Apr 41 to 2320 hrs 5 Apr 41	CSM Dawson Cpl Greger Pte Fulton	14 days CB Forfeits 28 days pay. Forfeits 1 days pay FR&I	Part II Orders 24 11 Apr 41	Major Montague	
Tournai	17 Jun 41	Pte		Sec 40 AA. In that he at 1400 hrs 17 Jun 41 in the men's mess did use improper language to Sgt McGrinder & L/Cpl Harrison	L/Cpl Harrison Pte Taylor Pte Badgley	21 days field punishment	4-7-41 20-6-41 Part II 38 Sheet 3	Major Montague	
Field	31 Jul 41	Pte		Sec 15 (1)AA. AWL 2245 hrs 31 Jul 41 to 0330 hrs 1 Aug 41	CSM Dawson Sgt Allcock	Forfeits 1 days pay FR&I 10 days pay AA 46-2-d	Part II 40 21 Aug 41	Major DeGeer	

M.F.M. 6
(A.F.B. 122)
175M—7-41 (2210-20)
H.Q. 1772-39-1052

No. B85851 Name BAXTER, G.J. Sqn., Battery, or Company 2 Cdn Div Sup Coy (6 Coy) Corps R.C.A.S.C. Date of enlistment 4 Sep 39 G.C. Badges n.a. Service or Proficiency Pay n.a.

Date of last entry in Company Conduct Sheet — No. and date of last drunk n.a. — Period not reckoning towards freedom from extra fine n.a. — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Jul 42	Pte		Sec 15(1)AA. AWL 0600 hrs 30 Jul 42 to 2359 hrs 30 Jul 42	Sgt Beckingham	Forfeits 1 days pay FR&I 149(1)(a) 14 days CB 14 days pay FR&I 149(1)(c)	6 Aug 42	Major Bigelow	Forfeits 1 days pay FR&I 149(1)(a) 14 days pay FR&I 149(1)(c)
Field	3 Nov 42	Pte		Sec 15(1)AA. AWL 2300 hrs 3 Nov 42 to 2330 hrs 5 Nov 42	Cpl Douse Cpl Richmond	Forfeits 28 days pay	6 Nov 42	Lt-Col Montague	Forfeits 28 days pay & 3 days pay FR&I Total 31 days pay.

Certified True Copy
~~(G.J. Bigelow) Major,~~
~~O.C.~~ 2 Cdn Div Sup Coy (6 Coy) R.C.A.S.C.

(P.T.O.)

(Substitute for A.F.B. 296)
or N.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. B55751 Name Pte Gordon Joseph Baxter Unit 2 Con Div Sup Coy (6 Coy) A.D.A.S.C.

Age 22 Married or Single S No. of Dependents none

Date of Attestation 4 Sep 39

No. of Days Spent in Close Arrest (To Date of Trial)

Civil ✓ Military 10 Hospital ✓ Total 10 days

Dates of Promotions, appointments and reductions (Rank, Unit and Corps)

none

A Certified True Copy of L.C.M. Form accompany this form

(Officer i/c Records)

Capt

Dated at

This 7 day of Jan 1943.

(To be dated and signed on completion of trial)

"Eff."

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 7th day of January '43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(~~3. The interpreter~~) JR

*(~~4. The officers under instruction~~) JR

were duly sworn.

Signed this 7th day of January 1943.

[illegible] Maj

President of the Court Martial.

* Omit if not applicable

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this JR day of 19

President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1929

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders~~)

Signed this 9 day of Jan. 1943

[illegible] Lt-Col

Confirming Officer.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension

Promulgated and extracts taken in the case of BP5851 Pte. Baptie, J. J.

(a) (Dated) 9 Jan 43. (Signed) [illegible] Major.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(84) Wt. 38092/1316 70m 2/41 W. & Co., Ltd. Gp. 745/2

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B85851 Pte Gordon Joseph BAXTER - CIC - 3 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th	M		
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for 1 year beginning on (date) 2 May 44 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 43 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for two (2) years and to be put under stoppage of pay until he has made good the sum of $133.85 (costs of return)

~~(Sgd)~~ ~~Judge-Advocate, if any.~~ 2 May 45 Date awarded. (Sgd) "EM Miller" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

KGB ~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) "KG Blackader" Brig

Date 3 May 45 Commanding 13 Cdn Inf Trg Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B85851 Private Gordon Joseph BAXTER	Promulgated 4 May 45 Extract DO 113 d/7 Apr 45	"AM Young" Lt.col Officer Commanding 3 Cdn Inf Depot Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Received 28 May 45 JAG Br, CMHQ

RECORDED AT CMHQ IN AB 160 51-88

CFA96 (In lieu of AFA3) 40/P & S/1698 (2084)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier KG Blackader DSO MC ED Comd 13 CITR dated 30 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B85851	Pte		Gordon Joseph	BAXTER	CIC 3 CITR

Proceedings Reviewed "EL Marrus" Capt 29 May 45 Rev Offr JAG Br CMHQ

Certified true copy of original proceedings herein. R Lawrence Capt 23 Aug 45 J.A.G. Rev.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 2 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

M A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

M The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

M A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)

M ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~

~~The interpreter is sworn.~~(1) Do you object to C96167 Sgt M Boudrault as shorthand writer? Ans No

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

M Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

M A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	EM Miller ED KC	HQ CRU
Member	Capt	GR Cowie	5 CITR
Member	Lieut	WMC Stone	1 CITR
~~Judge-Advocate~~			
Prosecutor	Lieut	GV Mortimer	3 CITR
Defending Offr	Lieut	DJ Burns	3 CITR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

M A8. The accused ----- before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

M A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

M A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

M B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans.....No.....[5]

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....A, initialled and read aloud by the President.[1]

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....[1]

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.[1]

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.[1]

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans.....Do you intend to call witnesses on your behalf ? Ans.....Are they witnesses as to character only ? Ans.....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]

Ans.....makes a statement.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service[1], and certified true M copy (copies) of Conduct Sheet(~~s~~)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex....B.... and Ex....C.... respectively.[3]

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in M mitigation of punishment ?[1] Ans.....Plea read and filed by Def Offr.....[2]

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which M is dated and signed by him ~~and the JA, if any~~.[2]

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B85851 Pte Gordon Joseph BAXTER - CIC - 3 CITR

Charge (Insert "alternative" where applicable.)	Plea. (See Instrs p 2)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th	N		
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 1 year beginning on (date) 2 May 44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial a total of 43 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court

To undergo detention for two (2) years and to be put under stoppage of pay until he has made good the sum of $135.85 (costs of return)

2 May 45 (Sgd) "EM Miller" Major
Date awarded. President. (RP 45, 50.)

~~(Sgd) Judge Advocate, if any.~~
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part 1 is

Confirmed

KGB ~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) "KG Blackader" Brig

Date 3 May 45 Commanding 13 Cdn Inf Trg Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B85851 Private Gordon Joseph BAXTER	Promulgated 4 May 45 Extract DO 113 d/7 Apr 45	"AM Young" Lt.col Officer Commanding 3 Cdn Inf Depot Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Received 28 May 45
JAG Br, CMHQ

RECORDED AT CMHQ IN AB 160 5I-88

CFA96 (In lieu of AFA3) 40/P.R.S./1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier KG Blackader DSO MC ED Comd 13 CITB dated 30 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B85851	Pte		Gordon Joseph	BAXTER	CIC 3 CITR

Proceedings Revi wed "CL Marrus" Capt 29 May 45 Rev Offr JAG Br CMHQ

Certified true copy of original proceedings herein.
R Lawrence Capt 23 May 45
J.A.G. Rev.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 2 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

M A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

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A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1)

M The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

M A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1)

M ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to the interpreter being sworn?~~(1) Do you object to C96167 Sgt M Boudrault as shorthand writer? Ans No.
~~The interpreter is sworn.~~(1) The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

M Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

M A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	EM Miller ED KC	HQ CRU
Member	Capt	DR Cowie	5 CITR
Member	Lieut	WMC Stone	1 CITR
~~Judge Advocate~~			
Prosecutor	Lieut	BV Mortimer	3 CITR
Defending Offr	Lieut	LJ Burns	3 CITR

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

M A8. The accused ----- before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

M A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

M A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B85851 Private Gordon Joseph BAXTER Canadian Infantry Corps, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE: Section 15(1) Army Act

WHILE ON ACTIVE SERVICE, absenting himself without leave,

In that he

in the Field, absented himself without leave whilst undergoing detention from 0330 hours 14 January 1944 until surrendering himself to an Immigrant Inspector at Norfolk, Virginia, at 2100 hrs 7 April 1944, thereby incurring cost of return to unit of $133.85

Total absence 83 days, 21 hours and 1 minute

SECOND CHARGE: Section 15(1) Army Act

WHILE ON ACTIVE SERVICE, absenting himself without leave,

In that he,

in the Field, absented himself without leave from 4 Canadian Infantry Reinforcement Unit from 2300 hrs 3 July 1944 until surrendering himself to the Civil Police at Strand, London at 0115 hours 20 March 1945.

Total absence 259 days, 2 hours and 15 minutes

IN THE FIELD
25 April 1945

"A.D. Whitaker"
(A.D. WHITAKER) COLONEL
COMMANDER
NO 3 CDN INF TRG REGT

To be tried by Field General Court Martial

"KG Blackader"
(KG Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
30 Apr 45

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&R/1007 (25648)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B85851	Pte		Gordon Joseph	BAXTER	CIC 3 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 30 Apr 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~ KGB

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	E.M. MILLER ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd	5 CITR
Lieutenant	to be detailed by Comd	1 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd	3 CITR

~~JUDGE ADVOCATE.~~

KGB

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

"K.G. Blackader" (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(KG Blackader)

Date 30 Apr 45

Commanding 13 Cdn Inf Trg Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"H"

MEDICAL OFFICER'S CERTIFICATE

K.R.(CAN.) PARA.557

I certify that I have this morning examined

No. B85851 Pte Baxter C

of #3 CITR and in my opinion he

is fit / unfit to undergo Trial by Court martial.

"W.T. LAURIE" Capt
Medical Officer

Station Field

Date 2 May 45

(CMU RO no3 para 27 d/6 Jan 42)

M.F.B.246

"M"

Plea ~~on~~ mitigation in case of B85851 Pte BAXTER G.J.

I hereby submit a plea of leniency for the following reasons:-

(a) That the accused was in a state of mental confusion caused by the "self-thought" injustice of the previous Court Martial, and, as a result, acted on the impulse of the moment, without premeditation

(b) That a sincere effort was made on the part of the accused to return to this country, in order to look after his wife and children

(c) That while AWL in this country, the accused worked honestly, under his own name, in order to support his family. During this period, he did nothing to injure any innocent persons, nor did his actions bring any discredit to the Canadian Army.

(d) That the accused voluntarily surrendered himself to face trial and make reparation for his crime.

"D.J. Burns"
(D.J. Burns) Lieut.
Defending Officer.

"M"

CASE OF

E1[redacted]85851 Private BAXTER, G.J., CIC --- No 3 CITR

The accused states:-

Sir, it goes back to 1 Jan 44, when I hadmy court-martial in Italy; I was placed under arrest on Christmas Eve; first of all it was supposed for being drunk. When I came to in the guard room, I inquired from the Orderly officer why I was being held. He didnt know and telephoned and he came back and told me that I was being held for sla ging a sergeant. I was tried on 1 Jan 44. My defence never tried to get me any witnesses or anything. At the court-martial, I wanted to plead drunk and insapable but the President of the Court said that I had to plead guilty or not guilty, sir. They just dropped it there. He never said any more and just carried on with the court-martial. During the trial the prosecutor was cross-examining witnesses, the President asked him several times not to put the words in the witnesses' mouth or that he would have to throw the case out. I couldnt get anyone to say that I was not drunk. They couldnt say that I was drunk because they couldnt get a doctor. The sergeant said that I was drunk. Christmas Day was my birthday and I guess I had had too much to drink. Upon being cross-examined, one of the witnesses said that he didnt even see me hit the sergeant and they still accepted his evidence against me. The fellow that was taking down the short-hand couldnt read his notes back upon being asked to do so; he had his short-hand all mixed up. The next day I went back to the guard-room and asked to get an appeal right then. I felt it was all muddled up and I didnt think that I had had a fair trial. I was told that I had to wait till I got my sentence. I asked my Def Offr if my wife's allowance would be stopped and he said yes that it would, in which he was wrong because it was only stopped after six months' detn and it stops the following month; the def offr also told me that I couldnt appeal in a theatre of war. I just felt as though I had to do something. I sailed for England with a draft; I was not under escort. Upon arriving in England, I was not given any orders so I left for London the same night to go and see my wife. The buzz-bombs were on. The wife's allowance had been running on till June because I didnt know that because the officer had told me it would not. I started to work the same week I got home. I was going back around Sep but my wife was pregnant again. I knew I wouldnt be getting any money after six months. My wife will be confined this month. I have her fixed up now for about two months after sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH HP 83 B

"M"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B85851 Private Gordon Joseph Baxter, (CIC), on the strength of No 3 Cdn Inf Trg Regt. a soldier of the Canadian Army Overseas

By direction of the Commanding Officer, the Summary is taken on oath.

FIRST WITNESS: For the Prosecution

Capt E.T. Stewart, General List, No 3 Cdn Inf Trg Regt, having been duly sworn, states:

I am Capt E.T. Stewart and am Adjutant No 3 Cdn Inf Depot Bn. Pursuant to Overseas HQ 5352 I produce the following documents which have been read over and shown to the accused B85851 Pte Baxter G.J. whom I know recognize and identify, and which are attached hereto as Exhibits.
EXHIBIT "A" Certified True Copy of a Declaration of a Court of Inquiry held on the 5 August 1944 relating to the accused.
EXHIBITS "B" A.F.O. 1617 in accordance with P.C. 2797 dated 20 March 1945 relating to the accused

"E.T. STEWART"
(Capt E.T. Stewart)

The accused declined to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence.

I certify that the foregoing Summary of Evidence consisting of ONE (1) page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

In the Field
21 April 1945

"M.A. Craig" Lieut.
(M.A. Craig) Lieut
Officer detailed to take Summary.

M

ADDITIONAL SUMMARY OF EVIDENCE

Additional Summary of Evidence in the case of B85851 Private Gordon Joseph Baxter, (CIC), on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the additional Summary is taken on oath:

FIRST WITNESS: Recalled For the prosecution

Capt E.T. Stewart, General List, No 3 Cdn Ing Trg Regt, having been duly sworn, states:

I am Capt E.T. Stewart and am Adjutant No 3 Cdn Inf Depot Battalion. Pursuant to Overseas R.O. 5352 I produce the following documents which have been read over and shown to the accused B85851 Pte Baxter G.J. whom I now recognize and identify and which are attached hereto Exhibits.
EXHIBIT "C" Certified True Extracts from MFM 4 relating to the accused.
EXHIBIT "D" Certificate in accordance with P.C. 2797, dated 7 April 1944 relating to the accused.
EXHIBIT "E" Certificate in accordance with P.C. 2797, dated 3 May 44 relating to the accused.
EXHIBIT "F" Certificate in accordance with P.C. 58/4015, dated 3 May 44 relating to the accused.
EXHIBIT "G" Certificate in accordance with P.C. 58/5015, dated 3 May 44, relating to the accused.
EXHIBIT "H" Certificate, in accordance with P.C. 58/4015, dated 19 June 44 relating to the accused.

"E.T. STEWART" Capt
(E.T. Stewart) Capt

The accused declined to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence.

I certify that the foregoing Additional Summary of Evidence consisting of ONE (1) page was taken down by me in the presence of hearing of the accused, and that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

In the Field
25 April 1945

"M.A. Craig" Lieut
(M.A. Craig) Lieut
Officer detailed to take Summary.

Ex "A"

Emma

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		"J MADILL" Lieut. A/Adjt.		

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2 day of May 1945

"J MADILL" LIEUT A/ADJT
Officer having custody of
Reg Books

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B85851 Pte Baxter J.G. of the (CIC) No 3 Cdn Inf Trg Regt

Note.— The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

† See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.	*Since Enlistment.
For AA 15(1)	times	9 times.
For AA 40	times	2 times.
~~For~~	~~times~~	~~times.~~ "JM"
~~For~~	~~times~~	~~times.~~ "JM"

~~Number of instances of gallantry or distinguished conduct,~~ JM

~~or,~~ JM

~~There are no entries in the Conduct sheets of the accused.~~ JM

~~2. The accused has not been previously convicted.~~ JM

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Ex B - "EMM"

393/PP&TJ/K 20,000 10/41

~~3. The accused is not under sentence at the present time.~~ JM

or,

The accused at the present time is under sentence for One year

beginning on the 1 day of January 1944

4. The accused has been in confinement, awaiting trial on the present charges

for Nil days in Civil Custody,

and 43 days in Military Custody.

Total 43 days.

Of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / ~~attestation paper~~ is 24 yrs JM

6. The date of his ~~commission~~ / attestation JM specified in his ~~record of service~~ / ~~attestation paper~~ is 4 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 7 months

~~8. The accused is entitled to deferred pay or gratuity in respect of~~ JM ~~years' service.~~ JM

~~9. The accused is entitled to reckon~~ ~~years' service for the purpose of determining his pension, &c.~~ JM

~~10. The accused is in possession of, or entitled to, no military decoration or military reward.~~ JM *or* is in possession of *or* entitled to CVSM & CLASP

~~11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of~~ JM

~~12. (*In the case of an officer.*) The accused holds in the army the rank of~~ JM ~~, dated~~ ~~, and in his regiment (or corps or department) the rank of~~ JM ~~dated~~ JM

~~13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.~~ JM

~~Date of Promotion.~~ JM

~~In the rank of~~ JM ~~years.~~ JM

~~In the rank of~~ JM ~~years.~~ JM

~~In the rank of~~ JM ~~years.~~ JM

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B85851 Pte Baxter G.J. of the CIC 3 CITR

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or ~~status of Officer disposing of the charge or dispensing with Trial.~~	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
FGCM	In the Field 7 Dec 1942	Sec 15(1) A.A. A.W.L.	60 dys det forf 80 dys pay. FR&I 149(1)(b)	
FGCM	In the Field 14 Mar 44	Sec15(1) A.A. A.W.L.	6 mos det forf 267 dys pay. FR&I 149(1)(a)(b)(c)	Remission earned 60 dys wef 5 Oct 43
FGCM	In the Field 1 Jan 44	AA Sec 8(1)	1 year detention	

(*continued overleaf.*)

Ex "B"

CERTIFY that the man whose personal description is given below surrendered himself to* Police Sgt 48 E Perry at Strand London WC 2 at (hour) 1.15 am on the 20th day of March 45 as being No. B85951 (Rank and Name) Private Joseph Baxter a deserter (or absentee without leave) from York and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 24 Height 5 Feet 8½ Inches

Complexion fresh Hair dark brown

Eyes hazel

Marks scar back of neck

In uniform or plain clothes plain clothes

Probable Date and Place of Attestation	Hamilton Ontario 4/9/39
Probable Date of Desertion or beginning of absence, and from what place	York 3/7/44

Signature of Officer of Police in charge of ?? Insp Metrolpolitan Police Bow St. E Divn Station

20/3/45

M Date of Signature.

Army Form O.1017
R.A.F. Form 1

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of No. who surrendered to the Police at on

Payable to

Nil

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

EXHIBIT A
p. 2 c

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 5th day of August 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B85851 Pte Baxter G.J.

DECLARATION

The Court declare that No. B85851 Pte Baxter G.J. on strength of No 4 Cdn Inf Rft Unit illegally absented himself without leave From No 4 Cdn Inf Rft Unit at 2300 on the 3rd day of July 1944, that he is still so absent, and that on the 3rd day of August 1944 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	100%	VALUE 75%	ARTICLES	100%	VALUE 75%
Anklets, web	0. 4. 5	0.3. 4	Knife table	8	8
Battle Dress Blouse	1. 8. 6	0.17.7½	Knife clasp	3.10	3.10
Battle Dress Trousers	1.4. 1½	18.1	Fork table	4	4
Boots ankle	1. 4. 5	18.3½	Spoon table	4	4
Cap Field Service	2. 6	1.10½	Belts waist	3. 0	3. 0
Drawers Cellular	3.10	2.10	Braces L & R	2. 8	2. 8
Drawers woolen	5.4½	4. 0	Pouches Basic	6. 0	6. 0
Vest Woolen	5.4½	4. 0	Frog Bayonet	10	10
Great Coat Drab	2.11.8.	1.18.9	Haversack	8. 0	8. 0
Overalls Combination	12.2.	9.1½	Strap shoulder	2.10	2.10
Shirt angola	18.2.	12.7.	Pack	8. 3	8. 3
Socks woolen	5.4.	3. 9	Straps web support	1. 2	1. 2
Bade cap	4½	4½	Tins mess	1. 2	1. 7
Braces	1.4.	1. 0	Steel Helmet	10. 8½	10. 8½
Brass cleaning	2.	2	Net Camouflage	8	8
Brushes Polishing	1.3.	11	Water bottle	3. 8	3. 8
Cap Comforter	1.6.	1. 1½	Carrier W Bottle	1. 8	1. 8
Dressing First Field	1.1.	9½	Respirator light	14. 7	14. 7
Ointment Anit-gas	1.4.	1. 4	Eye Shields	1. 0	1. 0
Gas Detectors	6.	6.	Sheets grounds	0.13. 2	0.13. 3

TOTAL:
100% £14.2.4¼ 75% £12.6.5.

Capt G.F. McIntyre ~~Garlt & York R (4 CIRU)~~ President

Lieut W.H. Hayward ~~N. Shore R (4 CIRU)~~ Member

Lieut C.A. Rose SD&G Highrs (4CIRU) Member

Signed at In the Field

this 5th day of August 19 44

Signature of Commanding Officer (A.B. SMITH) Lt.col

Certified true copy "ET Stewart" Capt
Signature of Officer having custody of original record

3/60B MFB 375—AFB 115 40,P&S/392 (6610)

EXHIBIT C

SERVICE AND CASUALTY FORM

PART I (For all ranks)

MFM 4 (Part I)
AFB 103 (Part I)
40/P&S/318 (4254)

Unit 8 Cdn F.D.S. (RCASC) Regimental Number B85851

1. Surname BAXTER
2. Christian Names Gordon Joseph
3. *Substantive Rank and Appointment
   *Acting Temporary or Local Rank Pte
   giving date
   *To be entered in pencil to facilitate alteration
4. Place of birth Hamilton Ont Canada
5. Date of birth as declared on attestation 25 Dec 1920
   (A)
6. Date of enlistment 4 Sep 39
7. Place of enlistment Hamilton Ont Canada
8. Residence at time of enlistment 17 Albany Ave Hamilton Ont
9. (B) Special conditions (if any) of enlistment or rate of pay
10. (C) Any subsequent variations of conditions of service
11. Religion R.C.
12. If married, state date
13. Trade on enlistment Driver
14. Corps, trade and grade
15. (D) Qualifications
16. (E) Miscellaneous entries
    Driver IC

(17) Regiment or Corps	Unit (Battn, etc)

(18) Medical

Category	Date	Authority
A	4 Sep 39	Medical board

(19) Next of kin (entries to be made in pencil) (wife)

Marjorie Frances Baxter
10 Spencer Rd. Clapham Junc
London SW 11 England

(20) E
(21) E
(22) E

NOTES—

(A) Here enter particulars of any subsequent claim as to actual age after verification of birth certificate.
(B) Whether for home service only, enlisted at special rates of pay, etc.
(C) If to be retained on home service, period if specified to be stated; also authority and on what grounds: see (A) above.
(D) Signaller, Farrier, etc.
(E) Instructions regarding allotment of these sub-heads will be made as may be necessary after mobilization.

(a) Report		(b)	(c)	(d)	(e)	(f)	(g)
Date	From whom received	Unit	Record of all casualties regarding promotions (acting, temporary, local or substantive), appointments, transfers, postings, attachments, &c., forfeiture of pay, wounds, accidents, admission to and discharge from Hospital, Casualty Clearing Stations, &c. Date of disembarkation and embarkation from a theatre of war (including furlough, &c.) in accordance with para 2 of Note to Table I of Appendix III of Field Service Regulations, Volume 1.	Place of Casualty	Date of Casualty	Army rank as at (e)	Army Form or other authority for entry to be shown
		3 FDS	On 1 Jan 44 tried by FGCM AA 8(1) Guilty - (1 yr det) Confd by Comd HQ 1 CBRG 1 Jan 44. Close arrest from 1230 hrs 24 Dec 43 to date of trial. Forf 366 dys pay FR&I 149(1)(c). forf 8 dys pay FR&I 149(1)(c)(1) Total forf 374 dys pay	Field	1 Jan 44	Pte	3/44
	RCASC	X-2 list AWL from 14 Jan 44 (Certified true extract from MFM 4 25 Apr 45) "ML Craig" Lt A/Asst Adjt Officer having custody of Reg Books			14 Jan 44	Pte	X/14/44

EX D

16-1-2003(2) mac

Certificate in accordance with Order in Council OC 2797 d/April 10, 42 as published in Routine Order 1877 and in General Order 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I certify that the person whose description is given below (surrendered to) Immigrant Inspector Joseph J Cole

at Norfolk, Virginia at about 6.00 pm

on the 7th day of April 1944.

and at the time of surrender he was dressed in civilian clothes.

Regimental particulars of officer or soldier referred to above.

No B85881 Jun 9 44 am
Military Attach
Private Can Embassy
Washington DC

BAXTER, Gordon

m 9948

"Daniel A Regan"
Inspector in Charge
Immigration and Naturalization Service
Norfolk, Virginia

m

Exhibit E mac

Certificate in accordance with Order in Council PC 2707 d/April 10, 42, as published in Routine Order and in General Order No 127, 1942.

(Apprehension by or surrender to service authorities)

I, Lieut. E.C. Snelgrove No 30 Provost Company, CA.

Hereby certify that B85851 Pte BAXTER Gordon Joseph

of the R.C.A.S.C. (RU) Abellino Italy

was apprehended by Aboard U.S.S. N.W. Butner, Norfolk, Va, USA.

at Norfolk, Va, USA

on the 7th day of April 1944. and at 1100 hrs on the 3rd May 1944 was taken into custody of the Windsor, Detachment, No 30 Provost Company, on arrest as a deserter(or absence without leave)and that at the time of his arrest he was wearing(dressed in civilian)clothes)

Dated at Windsor, Ont, this 3rd day of May 1944

"E.C. Snelgrove" Lt.
Officer in charge.
Windsor Detachment, No 30 Provost Company

m

ABSENTEES AND DESERTERS

Exhibit F
MAC

Certificate in Accordance with Order in Council Pc 58/4015 dated June 5th 1941, as published in Canadian Army Routine Order 1877, 1942.

(Transportation only)

I, Lieut E.C. Snelgrove No 30 Provost Coy, CA. hereby certify that I (authorized) the hereinafter itemized transporation for escort to proceed from Windsor Ont to Detroit Michigan and return to Windsor Ont. for the purpose of escorting B85851 Pte Baxter, Gordon Joseph RCASC (WU) Abbelino Italy. alleged to be an absentee without leave, the facts, date and particulars of the transportation required and thecost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Cost of transportation from Windsor, Ont to Detroit Michigan and return to Windsor Ont, via S.N.B. Vehicle, and Detroit/Windsor Tunnel.	
Tunnel tolls for NBN vehicle as above for escort and the return of the accused:-	$1.20
The above is recoverable from:-	
85851 Pte Baxter, Gordon Joseph RCASC (WU) Abellino, Italy.	
	Total $1.20

Dated at Windsor Ont this 3rd day of May AD 1944.

E.C. Snelgrove, Lieut. -Cdr in charge
Windsor Detachment, No 30 Provost Coy
CA

Offs authorizing transportation

MC

Ex C
mac

ABSENTEES AND DESERTERS

Certificate in accordance with order in council PC 58/4015 dated June 5th 1941, as published in Canadian Army Routine Order 1877, 1942

(Transportation only)

I, Lieut W.T. Skelton, Issuing Offr, For DS & TC, MD No 1 hereby certify that I issued the hereinafter itemized transportation for escort to proceed from Windsor, Ontario, to London, Ontario, and return to Windsor, Ontario, for the purpose of escorting B85851 Pte BAXTER, Gordon Joseph, RCASC (HQ) Abellino, Italy. alleged to be a deserter or an absentee without leave, the facts, date and particulars of the transport warrants issued and the cost thereof for said soldier and escort being as follows: N.T.S.

PARTICULARS	COST
Cost of Transport Warrant W-574498 dated 3 May 1944 Covering the following transportation	
One 2nd class single to London Ontario	1. 85
One 2nd class return to London Ontario	3. 70
	5. 55
The cost of above is recoverable from B85851. Pte Baxter, Gordon Joseph, RCASC (HQ) Abellino, Italy.	
	$5.55

Dated at Windsor, Ontario, this 3 day of May 1944

"W.T. Skelton" Lieut

NN

EX H

In a c

ABSENTEES AND DESERTERS

Certificate in Accordance with Order in Council PC 58/4015 dated June 5th 1941, as published in Canadian Army Routine Order 1877, 1942.

(transportation only)

I, Major F.J. Gammage, Issuing Officer, DS & TC, M.D. 1. hereby certify that I issued the hereinafter itemized transportation for escort to proceed from London, Ont, to Halifax, N.S. and return to London, Ont. for the purpose of escorting A 85851 Pte Baxter C.J. No 5 Base Reinforcement Bn, C.A.C.S. alleged to be a deserter or an absentee without leave, the facts, date and particulars of)the transport warrants issued) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
To cost of Transport Warrant No C672667 dated 19 Jun 44 and issued to cover the following transportation:	
One second class single London to Halifax (absentee)	21.47
Two second class returns London to Halifax (escorts)	85.88
Seventeen meal tickets @ .75¢	12.75
Seven meal tickets at $1.00	7.00

The above costs are recoverable from:

A85851 Pte Baxter C.J.
No 5 Base Reinforcement Bn
C.A.C.S.

TOTAL: $127.10

Dated at London, Ontario, this 19th day of June AD 1944

"F.J. Gammage" Major
Issuing Officer, DS & TC, M.D. No 1

NO 3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.)(O)

3d/11

Date 21 April 1945

I, No B85851 Pte Baxter, J.G. 3 CITR wish to have an officer defend me at my forthcoming trial by court martial.

I desire the services of an officer if he is available.

(Sgd) Pte G.J. Baxter

No B85851 Name Baxter GJ | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 4.9.39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 132) 40/PAS/136 (B488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	5.7.40	Pte		AWL from 2200 hrs 5.7.40 till 1800 hrs 8.7.40 (Sec 15(1)	Sgt Dawson Cpl Broadshaw	9 dys det	DO 165 9.7.40	Maj Montague	Forf 12 dys pay
Camp Bordoen	20.7.40	Pte		AWL from 2200 hrs 20.7.40 till 0800 hrs 22.7.40 Sec 15(1)	Sgt Melville-Gray L/Cpl White	12 dys det	DO 174	Maj Montague	Forf. 14 dys pay
Tournay	16.8.40	Pte		AWL from 0100 hrs 16.8.40 till 1100 hrs 19.8.40 Sec 15(1)	Sgt Melville-Gray Pte Place	Forf 25 dys pay	DO 4	Maj Montague	
Tournay	22.2.41.	Pte		Sec 40 in that he at Farnborough was improperly dressed, tunic open at neck and not wearing gaiters	L/Cpl Grant Cpl Meyers	7 dys CB		Capt Deber	
Tournay	5.4.41	Pte		Sec 15 in that he absented himself without leave from 2200 hrs 4.4.41. to 1030 hrs 5.4.41 1330 hrs 5.4.41 to 1630 hrs 5.4.41 from 2230 hrs to 2300 hrs 5.4.41.	CSM Dawson	14 dys CB Forf 28 dys pay AA 46(2)(d) forf 1 dys pay FR&I		Maj Montague	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tournay	17.6.41	Pte		Sec 40. In that he at 1400 hrs 17.6.41 in the mens mess did use improper language to Sgt McGrinder and L/Cpl Harrison	L/Cpl Harrison Pte Taylor Pte Bagley	20 dys FP	4.7.41	Maj Montague	
Field	21.7.41	Pte		AWL Sec 15(1) in that he did absent himself without leave from 2245 hrs 31.7.41 till 1330 hrs 1.8.41	Sgt Allcock	Forf 1 dys pay 10 dys pay AA 46 2d		Maj DeGeer.	
Field	30.7.42	Pte		Sec 15(1) in that he absented himself without leavw from 0600 hrs 30-7-42 to 2359 hrs 30-7-42	Sgt Beckingham	Forf 1 dys pay FR&I 149(1)(a) 14 dys CB 14 dys pay 149(1)(c) Forf 2B dys pay	6.8.42.	Maj Bigelow.	Forf 1 dys pay FR&I 149(1)(a) Forf 14 dys pay FR&I 149(1)(c) Forf 2B dys pay and 3 dys pay FR&I 149 (1) (a) Total 31 dys pay
Field	3.11.42	Pte		Sec 15(1) in that he absented himself without leave from 2300 hrs 3.11.42 to 2300 hrs 5.11.42	Cpl Douse Cpl Richmond		6.11.42.		

Sheet 2

No B85851 Name Baxter GJ | Sqn, Battery, or Company | Corp RCASC | Date of enlistment 4 Sep 39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Dec 42	Pte		Sec 15(1) in that he absented himself without leave from 1330 hrs 7 Dec 42 to 2330 hrs 28 Dec 42 (21 dys 10 hrs) close arrest 2330 hrs 28 Dec 42 to 1000 hrs 7 Jan 43 (9 dys 10 hrs 30 mins)	Cpl Douse Cpl McCarthy	80 dys deten forf 80 dys pay FR&I 149(1)(b)	7 Jan 43	Field General Court Martial	Forf 80 days pay FR&I (1) (b) 21 dys pay FR&I 149(1)(a) 10 dys pay FR&I 149(1) (c) (ii) Total forf 111 dys pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Mar 43	Pte		Sec 15(1) AWL 2359 hrs 14 Mar 43 to 2300 hrs 26 May 43 TTA 72 days 23 hrs 1 min,	TRIED BY FGCM Date of trial 7 Jun 43 Sentence - 6 mons - det Confm "B" Gp. 8 Jun 43. Prom. 10 Jun 43		Forf 73 dys pay 149(1)(a) " 183 dys pay 149(1)(b) 11 dys pay 149(1)(c)		
				Released from the Det Bks Headley having expired. Remission earned Military Prisons 60 dys.	Down on Oct 5 1943 Sentence under "Rules for Detn Bks and				
Field	12 Oct 43	Pte		AA Sec 15(1) WOAS AWL from 2359 12 Oct 43 until 1000 hrs 13 Oct 43 TTA 10 hrs 1 min.	hrs Documentary Lt Bastien	Admonished	13 Oct re	Lt.col JM McGown	Forf 1 dys pay FR&I 149(1)(a)
Field	22 Nov 43	Pte		AA Sec 15(1) absent without leave from 2115 hrs 22 Nov 43 to 0500 hrs 23 Nov 43	Sgt Kidder	10 dys FP	22 Nov 43	Maj JH Sturdy	Forf 10 dys pay FR&I 2(b) forf 1 dys pay FR&I 149 (1)(a)

CERTIFIED TRUE COPY OF MFM 6.

(W.H. Laughlin) Lt. for Offr i/c Bdn Sec GHQ 2nd Ech AAI

Sheet 3.

No B85851 Name Baxter GJ | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 4 Sep 4 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 8(1)		1 yr det	1 Jan 44	FGCM	Forf 366 dys pay FR&I 149(1)(b)
	EX "C"			CERTIFIED TRUE COPY OF MFM 6 21 April 1945. "J Madill" A/Adjt Offr having custody of original record.					

(PTO)

LIST OF WITNESSES

In the case of B85851 Pte Baxter G.J. (CIC) on the strength of No 3 Cdn Inf Trg Regt.

FOR THE PROSECUTION

1. Capt E.T. Stewart No 3 CDN INF TRG REGT

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

In the case of B85851 Pte Baxter G.J. (CIC) on the strength of No 3 Cdn Inf Trg Regt

EXHIBIT "A" Certified true copy of a Declaration of a Court of Inquiry held on the 5 Aug 44

EXHIBIT "B" A.F.O. 1617 in accordance with P.C. 2797, dated 20 March 1945.

EXHIBIT "C" Certified true copy of MFM 4 relating to the accused

EXHIBIT "D" Certificate in accordance with PC 2797 dated 7 April 1944

EXHIBIT "E" Certificate in accordance with PC 58/4015 dated 3 May 1944

EXHIBIT "F" Certificate in accordance with PC 58/4015 dated 3 May 1944

EXHIBIT "G" Certificate in accordance with PC 58/4015 dated 3 May 1944

EXHIBIT "H" Certificate in accordance with PC 58/4015 dated 19 June 1944

25 April 1945.

This is to acknowledge that I have received free of charge, the following papers in connection with my forthcoming trial by FGCM.

1. Copy of Charge Sheet
1. Copy of Summary of Evidence
1. Copy of Additional Summary of Evidence
1. List of Exhibits
1. List of Witnesses

"PTE G.J. BAXTER"
B85851 Pte Baxter G.J."

C A N A D I A N A R M Y

T-20-B-22489(A2)
HQ MD 2
14 May 46

Canadian Army
T.D.O.C.
22374
MAY 15 1946
File
Chgd. to
Referred to

The Secretary,
MD (Army)

Remission of Sentence
B-8585, Pte BAXTER, G.J.
2 DD (formerly 3 CITR(

1 Ref HQC 55-B-1938 Adm 3(b)2 dated 13 Feb 46.

2 Herewith completed Appendix "g" to CMRO 9613.

3 Also enclosed herewith AF A 3104 XXXXXXX with respect to the marginally-named, for disposal, please.

for (H.C. MacKendrick) Col
T/D.O.C. MD 2

JB

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM.

NDHQ File No. HQC 55-B-1938
District File No. T-20-B-22489

PART I

No. B-8585 Rank Pte Name BAXTER, G.J.
Unit 2 DD (formerly 3 CITR)

PART II

Date of Trial 2 May 45 (FGCM)
Charge(s) (1) AWL (AA Sec 15(1) (2) AWL (AA Sec 15(1)

Sentence 2 years' Detention - stoppages $133.85 - Apprehension
Date of Sentence 2 May 45
Confirmation - (a) Authority K.G. Blackader Brig Comd 13 Cdn Inf Trg Bde
(b) Date

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act (xxxx

Army Form A 3101.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I. [illegible] 3-[illegible] Pte. BAXTER, G.I. [illegible] 3 CITR
[illegible] Undergo [illegible] for 2 years and stop[illegible] 2 May 45
[illegible] 75 cost of return
[illegible] 19 Sep 79 [illegible] 5 yrs 7 mos

FIRST TRIAL

II. [illegible]

[illegible] amend

Date:

III. [illegible] h I

[illegible] on

SECOND TRIAL.

IV. [illegible]

[illegible] found

[illegible] (b)

Date:

V. [illegible] which

[illegible] com-

[illegible] viewed

Date:

[illegible] made

([illegible]) [illegible]

VI.— Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

The Reviewing Authority *under section 57 of the Army Act* may order that Section mitigate, remit or commute a sentence which has in execution, and if the sentence as commuted or mitigated is a penal sentence, inquire into and decide as well on all subject to the powers granted by section 57A of the Army Act. Vide also section 64 and 65 as to suspension of sentence.

[illegible]	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters
3 May 46	Remit effective date of discharge.

12 JUN 1946

(F.M. Benson) Col
T/D.O.C. MD 2

Continued on page 4)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.— First Trial. (1) A. A. Sec 15(1) AWL while undergoing detention from 2359 hrs 14 Jan 45 until 2100 hrs 7 Apr 44 when he surrendered himself at Norfolk, Virg Cost of return $177.85. Abs. 83 days 21hrs (2) A. A. Sec 15(1) AWL from 2300 hrs 7 Jul 44 until 0115 hrs 20 Mar 45. Absent 256 days 2 hrs 15 min	14 Jan 1944	2 May 45

Signature [illegible]

VIII.— Second Trial.

Signature of Officer making entry.

IX. C.O.'s remarks and recommendations on Sentence.

7 days I recommend that sentence be served in full. [illegible] take off.

Signature

X. Confirming Officer's remarks and recommendations on First Trial.

Date

8 May 45 I Concur

Signature

(K. G. BLACKADER) Brig
Comd-13 Cdn Inf Trg Bde

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C A N A D I A N A R M Y

T-20-B-22489(A2)
T-36-10-282 Vol 4

HQ MD 2
6 May 46

CENTRAL REGISTRY Army
CONF. SEC.
MAY 9 1946
File C-JJ-B-1938
Chgd. to
Referred to Admin

OC
2 DD

Remission of Sentence - SUS ex UK
B-8585/Pte BAXTER, G.J. - 1029(S)

1 Ref CB 1-4-8-2 (SCA) dated 29 Apr 46.

2 The T/Commander, Camp Borden, advised that the m/n SUS was despatched to 2 DD for discharge under CARO 1029(S).

3 The D.O.C. MD 2 has remitted the balance of the sentence now being served by the m/n SUS effective the date of discharge.

4 Enclosed herewith Appendix "G" to CARO 5913 effecting Remission.

4 May Promulgation of the remission be made to the said SUS effective the date of discharge, Parts IV and V of the said form completed and the form then returned to this HQ please.

(H.I.T. McLeod) Capt
for (N.S. Cuthbert) LtCol
AA&QMG MD 2

HITM/JB

Copies to : The Secretary, (For Information)
DND (Army)

The Commander, (For Information)
CAMP BORDEN

CB 1-4-8-2 (SCA)
& Personal file.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Headquarters Camp Borden,
Camp Borden, Ontario,
29 APR 46.

District Officer Commanding,
Military District No. 2
Toronto, Ontario.

Officer Commanding,
No. 2 District Depot,
TORONTO, Ontario.

The Commandant,
No. 86 Military Detention Bks.,
CAMP BORDEN, Ontario.

Officer Commanding,
31 Coy C Pro C.,
CAMP BORDEN, Ontario.

CENTRAL RECORDS Army
CONSC.
20271
MAY 1 1946
File 6-55-B-1938
Chgd. to
Referred to

~~B 8585 Pte. BAXTER G.J.~~ CARO 1029 (8)
SUS - AUK at No. 86 M.D.B.

The m/n soldier under sentence by Court Martial O/S and presently serving sentence at No. 86 M.D.B. ~~has~~ will have completed one half of his sentence and therefore, is eligible for discharge in accordance with CARO 5913 para 9, 2 May 46.

2. In this connection Report on Conduct and AFA 3104 are enclosed for this soldier. May these forms be forwarded to NDHQ when they have served their purpose.

3. This SUS is being despatched to his home District Depot in accordance with N.D.H.Q. letter HQC 9039-1-1 (Adm 3) dated 31 Oct 45 (R863A) for discharge as indicated after his name.

4. This SUS will be despatched to No. 2 DD on 2 MAY 46 as per schedule below. Officer Commanding, No. 31 Coy C Pro C, Camp Borden, will provide escort and arrange movement including meals and necessary transportation.
By Vehicle supplied by CS&TO, Camp Borden.

(R.E.A. Morton) Colonel
T/Commander, Camp Borden.

Copy to: The Secretary,
Department of National Defence,
OTTAWA, Ontario.

District Paymaster
Military District No. 2,
TORONTO, Ontario.

District Records Officer,
Military District No. 2,
TORONTO, Ontario.

C.S.T.&O. Camp Borden.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

CONFIDENTIAL
OTTAWA, Ontario

HQC 55-B-1938
Adm 3(b)2

District Officer Commanding,
Military District No 2,
TORONTO, Ontario.

13 Feb 46

Commander,
Camp Borden,
CAMP BORDEN, Ontario.

B-85851 Pte BAXTER G J
SOS - HMS Arbiter

1. Further this HQ letter HQS 8336-6 Vol 5 dated 2 Feb 46 and 12 Feb 46.

2. Herewith is AFA 3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1028(8).

~~3. [illegible]~~

4. The sentence awarded has been reviewed by CMBR who have recommended for remission on 2 May 46.

5. Ack.

(E.C. Weeks)
Major-General
Adjutant-General.

HQC 55- D-1038 (CMBR-6) P

1 Nov 45.
Case No. 0803

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: R-85851 Pte. BAXTER, G.J.

2. Unit at date of offence: 3 Cdn Inf. Trng Regt, C.A.O.

3. Charge: (1) A.A.15(1) A.W.L. Absent from his Unit whilst undergoing detention from 14 Jan 44 until he surrendered at Norfolk Virginia 2 Apr 44. (Absent 84 days)

(2) A.A.15(1) AWL. Absent from 4 Cdn Inf Reinforcement Unit from 3 July 44 until surrendering at London England, 20 Mar 45. (Absent 259 days)

PLEA: Guilty both charges.

4. Place and Date of Trial: England 2 May 45
(FGCM) (~~xxx~~) (~~xxx~~)

5. Finding. Guilty both charges.

6. (a) Sentence: 2 years detention and stoppages of $133.85
(b) Date of Sentence: 2 May 45

7. Date of Confirmation: 3 May 45

8. Date of Promulgation: 4 May 45

9. Being served at: To be ascertained O/S in N.D. _____

(N.B. - Discharged under RO 1029 ( ) for
w.e.f.)

PAGE 3 Case No.----------

CONDUCT

11. (a) Prior to conviction: Poor in 4 yrs 4 mos. service.

Date of enlistment: 4 Sep 39

Date of enrolment: Age: 24

Previous Offences:
13 under A.A. 15(1)
2 under A.A. 40
3 under A.A. 8 (1)
3 previous FCOIeM, awarded 80 days; 6 mos & 1 yr detn.

(b) After conviction: Good

Expected date of release with remission earned for good conduct, 1 Sep 46

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) Apparently served some time in Italy. Present Offence was committed while serving 1 year detention sentence awarded by FCOM on 1 Jan 44.

(c) Prisoner states he went AWL on Cpd charge in order to proceed to London to see wife as she was expecting a baby. Allowance had been stopped and he was desirous of earning money for a purpose which he could not do while serving detention.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc.)

Reviewing Officer:- Recommend sentence be served in full.

Reviewed by- Warren
(W.R. MOGS) Major.

---

14. Recommendation of the Board:

For remission on 2 May 46
or as soon as may be after the return of the
SUB to Canada, whichever is the later.

Date NOV 1 2 1945

H.A. Stitwell Maj
Secretary
Courts-Martial Board of Review.

31

Quote No. HQC. 55-B-1938

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
13 September 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
B-85851, Pte. G. J. Baxter.

1. Receipt is acknowledged of your 10/Baxter G.J./1 dated 22 June 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

E.A.M.
for (R.J. Orde), Brigadier
Judge Advocate-General.

BWH:EJ

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THIS COPY FOR: H.Q.C. 55-B-1938
M.D. 10/Baxter GJ/1

MEMORANDUM - ~~DISTRICT~~ FIELD GENERAL COURT-MARTIAL

No. GS B-85851 Name BAXTER, Gordon Joseph

Rank Pte Unit Can Inf Corps on strgth No 3 Can Inf Trg Cntr CAC

Charge (1) AA 15 (1) WOAS AWL
(2) AA 15 (1) WOAS AWL

Date of Crime (1) 14-1-44 (2) 3-7-44

Date of Arrest (1) 7-4-44 (2) 29-3-45 Charge Signed 30-4-45

Orders for ~~DCCM~~ FGCM Brig. Comd 13 CITB

Place and Date of Trial In the field 2-5-45

Sentence Detention 2 years Stoppages $133.85

Date of Confirmation 3-5-45

Date of Promulgation 4-5-45

Entered in Records of J.A.G. as No. 4161

Date 11-9-45 Balance of sentence remitted by Conf. Auth.

MEMO Reviewed at CMHQ

29

for Judge Advocate-General

10M-8-45(M-189)

AIR MAIL

Quote No. 10/Baxter,G.J./1

BOMBER
CONFIDENTIAL

CANADIAN MILITARY HEADQUARTERS

LONDON 22 Jun 45.

P.55-13-1938

The Secretary,
Department of National Defence,
OTTAWA, Canada.

B-85851 Pte Baxter, G.J.

1. The m/n soldier is now serving a sentence of 2 years detention awarded by FGCM 2 May 45 for an absence without leave while undergoing detention, from which he surrendered to an Immigration Inspector after 83 days (AA Sec 15(1)) and an absence without leave from which he surrendered to the civil police after 259 days (AA Sec 15(1)). He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 1 Sep 46.

2. This soldier enlisted 4 Sep 39 at Hamilton, Ont and he is now 24 years of age. Since enlistment he has been found guilty of 13 offences under AA Sec 15(1), of 2 offences under AA Sec 40 and of 1 offence under AA Sec 8(1). He has had 3 previous FGCsM. On 7 Jan 43 he was awarded a sentence of 80 days detention for an absence without leave of 9 days (AA Sec 15(1)). On 7 Jun 43 he was awarded a sentence of 6 months detention for an absence without leave of 72 days (AA Sec 15(1)). On 1 Jan 44 he was awarded a sentence of 1 year detention for an offence under AA Sec 8(1).

3. This soldier has been medically examined and certified as fit to undergo his sentence.

4. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an individual of about average intelligence who is aggressive, egotistical and poorly disciplined; and that he is considered to be a purely disciplinary problem.

5. From this soldier's record of 16 offences and 4 FGCsM, it is clear that he is useless and incorrigible. It it consequently considered that the present sentence is fully deserved and that he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier has deliberately misconducted himself in order to avoid rendering any effective service to the army and probably with a view to obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 2 May 45, together with original A.F. A3104 in respect thereof on which this direction has been endorsed.

(Beverley Matthews) Brig.
for Maj Gen i/c Adm.
Canadian Military Headquarters.

Enc. 2.

4161

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1/39B CMHQ 1000:77
40/P & S/803 (6740)

Extracts entered as No. 4161 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 13 day of Jun 19 45

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-85851 Pte Gordon Joseph BAXTER - CIC - 3 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 1 year beginning on (date) 2 May 45 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 43 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for two (2) years and to be put under stoppage of pay until he has made good the loss of $133.85 (Cost of return)

(Sgd) Judge-Advocate, if any. 2 May 45 Date awarded. (Sgd) President. (RP 45, 50.) Major
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1)
(1. AA 57A. Delete if not used.)

Date 3 May 45 (Sgd) K Blackader Brig
Comd - 13 Cdn Inf Trg Bde
Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-85851 Private Gordon Joseph BAXTER	~~Promulgated~~ at Thurso Extract D.O. 113 dated 7 Apr 45	(L. Young) Lt-Col Officer Commanding, 3 Can. Inf. Depot Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 28 MAY 1945

RECORDED AT CMHQ IN AB 160 & 51-88

CFA96 (in lieu of AP A21 40/P & B/1236 18/1/44) 4/368

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 30 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 108. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-85851	Pte		Gordon Joseph	BAXTER	CIC 3 CITR

PROCEEDINGS REVIEWED 29 May 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 2 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as Interpreter? Ans .....
~~The Interpreter is sworn.~~(1) Do you object to Cpl 67747 M Boudreau as shorthand writer? Ans No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E M Miller ED KC	HQ Cdn
Member	Capt	G R Cowie	5 CDJR
Member	Lieut	W M C Stone	1 CDJR
~~Judge-Advocate~~			
Prosecutor	Lieut	E V Mortimer	3 CDJR
Defending Offr	Lieut	D J Burns	3 CDJR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See Di p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea
.....(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

25

Extracts entered as No. 4/61 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 13 day of Jun 19 45

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-85851 Pte Gordon Joseph BAXTER - CIC - 3 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 1 year beginning on (date) 2 May 45 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 43 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for two (2) years and to be put under stoppage of pay until he has made good the sum of $133.85 (Costs of return)

2 May 45 (Sgd) [illegible] Major
Date awarded. President. (RP 45, 50.)

(Sgd) Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Brig

Date 3 May 45 Comd - 13 Cdn Inf Trg Bde
Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date. Promulgated	Signature of Offr.
B-85851 Private Gordon Joseph BAXTER	4 May 45 Extract D.C. 113 dated 7 Apr 45.	(..... Young) Lt-Col Officer Commanding, 3 Can. Inf. Depot Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 51-88.

CFA96 (in lieu of AFA91) 40/P & S/1006 (81-10) 4/368

RECEIVED 28 MAY 1945

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 30 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/ronk or A/oppmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-85851	Pte		Gordon Joseph	BAXTER	CIC 3 CITR

PROCEEDINGS REVIEWED [illegible] Capt 29 May 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 2 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

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A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) Do you object to Cpl 61674 Cpl M Boudreault as shorthand writer? Ans No.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E M Miller EDKC	4 CDR
Member	Capt	G R Cowie	5 CDR
Member	Lieut	W M C Stone	1 CDR
~~Judge-Advocate~~			
Prosecutor	Lieut	E V Mortimer	3 CDR
Defending Offr	Lieut	D J Burns	3 CDR

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

23

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

*Ins here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (2)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(2) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. .....

Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Makes a statement
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(~~s~~), and in mitigation of punishment?(1) Ans. Plea read and read by Defr offr (3)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which dated and signed by him ~~and the JA, if any.~~(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

OFFICE OF THE JUDGE ADVOCATE GENERAL

CANADIAN ARMY OVERSEAS

REVIEW SHEET

PRE-POST CONFIRMATION

FGCM 2 May 45 (21-A-22 (Leh (UK
(Date of Sentence)

No. B85891 Rank Pte

Name BAKER G.J.

Unit 3 CITR

Charge(s) 15(1) 15(1)

Plea	G	G			
Finding	G	G			

Sentence 2 yrs det SP $133.85

Received from CR 28 May 45

Passed to Rev Offr 29 May 45

Passed to Rev 1 30 May 45

Passed to

Passed to

Returned to Rev Clerk

Record & Pass File AGS LJ Brody Capt 29 May 45

RECOMMENDATION OF INITIAL REVIEWING OFFR

Pass Confirm

~~Quash Non-confirm Charge~~

Date 30 May 45 "EL Marrus" Capt (Reviewing officer)

FINAL JAG OPINION

Pass Confirm

~~Quash Non-confirm Charge~~

Date 4 June 45 "LJ Brody" Capt

OBSERVATIONS:

In the case of pleas of guilty:- There is nothing in the record of the proceedings which required the Court to advise the accused to change his plea.

~~In the case of pleas of not guilty:- There is legal evidence to justify the finding.~~

~~No other material injustice to the accused.~~

1. Accused pleaded guilty to two charges of AWL
2. Ex D - Certificate of surrender signed by US Inspector in charge of Immigration and Naturalization - not admissible.
3. Schedule shows accused under sentence for 1 yr beginning 2 May 44. The sentence commenced 4 Jan 44

1. The sentence of 1 yr det by FGCM on 1 Jan 44 expired on 1 Jan 45 notwithstanding accused escaped prior to expiry thereof. The currency of the sentence was not affected.

RECORDED AT DMHQ IN AR 160.
51-88

LJB

Over

(Continue over if necessary)

B (Contd)

1. Contd the accused surrendered himself on 20 March 1945 and remained in custody until the present trial. The sentence awarded on 1 Jan 44 had expired before 20 March 45 and consequently the court could award the full term of 2 yrs detn. The record on part 1 of page 4 of the proceedings that the accused "is at present under sentence for 1 yr as beginning on 2 May 44" appears to be incorrect.

"LJ Brody" Capt
JAG Rev 1

23 May 45

CHARGE SHEET

The accused, B-85851 Private Gordon Joseph BAXTER, Canadian Infantry Corps, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE:

Section 15(1) Army Act.

WHILE ON ACTIVE SERVICE, absenting himself without leave,

in that he,

In the Field, absented himself without leave whilst undergoing detention from 2359 hours 14 January 1944 until surrendering himself to an Immigrant Inspector at Norfolk, Virginia, at 2100 hours 7 April 1944, thereby incurring cost of return to unit of $ 133.85.

Total absence 83 days, 21 hours and 1 minute.

SECOND CHARGE:

Section 15(1) Army Act.

WHILE ON ACTIVE SERVICE, absenting himself without leave,

in that he,

In the Field, absented himself without leave from 4 Canadian Infantry Reinforcement Unit from 2300 hours 3 July 1944 until surrendering himself to the Civil Police at Strand, London at 0115 hours 20 March 1945.

Total absence 259 days, 2 hours and 15 minutes.

IN THE FIELD
25 April 1945

(W.D. WHITAKER) COLONEL
COMMANDER
No 3 CDN. INF. TRG. REGT.

To be tried by Field General Court Martial.

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
30 Apr 45

23

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-85851	Pte		Gordon Joseph	BAXTER	CIC 3 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 30 Apr 45 endorsed by me, ~~for by an offr of my staff for rec~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for enforcement of superior qualified authy~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Jd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate the person mentioned hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	E M MILLER, ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd	5 CITR
Lieutenant	to be detailed by Comd	1 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd	3 CITR

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 30 Apr 45

K G Blackader (Signed personally. RP 105 fn 2.)

(K G Blackader)

Commanding 13 Cdn Inf Trg Bde

Brigadier (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/F & S/1607 (4031)

(See overleaf for oaths and notes for use on trial.)

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Medical Officer's Certificate. 4C/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. B85851 Pte

Baxter C of #3 C.I.T.R

and in my opinion, he is fit to undergo trial by Court Martial.

Station. Field

Date. 2 May - 45 (Sgd.) [illegible] Capt.
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42) 21

Plea of mitigation in case of B-85851, Pte. BAXTER, G.J.

I hereby submit a plea of leniency for the following reasons:-

(a) That the accused was in a state of mental confusion caused by the "self-thought" injustice of the previous Court Martial, and, as a result, acted on the impulse of the moment, without premeditation.

(b) That a sincere effort was made on the part of the accused to return to this country, in order to look after his wife and children.

(c) That while A.W.L. in this country, the accused worked honestly, under his own name, in order to support his family. During this period, he did nothing to injure any innocent persons, nor did his actions bring any discredit to the Canadian Army.

(d) That the accused voluntarily surrendered himself to face trial and make reparation for his crime.

D. J. Burns.
(D.J.Burns) Lieut.
Defending Officer.

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CASE OF

E-1 B-85851 Private BAXTER, G.J., CIC --- No. 3 C I T R

The accused states:-

Sir, it goes back to 1 Jan 44, when I had my court-martial in Italy; I was placed under arrest on Christmas Eve; first of all it was supposed for being drunk. When I came to in the guard-room, I inquired from the Orderly Officer why I was being held. He didn't know and telephoned and he came back and told me that I was being held for slapping a sergeant. I was tried on 1 Jan 44. My defence never tried to get me any witnesses or anything. At the court-martial, I wanted to plead drunk and incapable but the President of the Court said that I had to plead guilty or not guilty, Sir. They just dropped it there. He never said any more and just carried on with the court-martial. During the trial the prosecutor was cross-examining witnesses, the President asked him several times not to put the words in the witnesses' mouth or that he would have to throw the case out. I couldn't get anyone to say that I was not drunk. They couldn't say that I was drunk because they couldn't get a doctor. The sergeant said that I was drunk. Christmas Day was my birthday and I guess I had had too much to drink. Upon being cross-examined, one of the witnesses said that he didn't even see me hit the sergeant and they still accepted his evidence against me. The fellow that was taking down the short-hand couldn't read his notes back upon being asked to do so; he had his short-hand all mixed up. The next day I went back to the guard-room and asked to get an appeal right then. I felt it was all muddled up and I didn't think that I had had a fair trial. I was told that I had to wait till I got my sentence. I asked my Def Offr if my wife's allowance would be stopped and he said yes that it would, in which he was wrong because it was only stopped after six months' detn and it stops the following month; the def offr also told me that I couldn't appeal in a theatre of war. I just felt as though I had to do something. I sailed for England with a draft; I was not under escort. Upon arriving in England, I was not given any orders so I left for London the same night to go and see my wife. The buzz-bombs were on. The wife's allowance had been running on till June but I didn't know that because the officer had told me it would not. I started to work the same week I got home. I was going back around Sep but my wife was pregnant again. I knew I wouldn't be getting any money after six months. My wife will be confined this month. I have her fixed up now for about two months after, Sir.

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

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-85851 Private Gordon Joseph Baxter, (CIC), on the strength of No 3 Cdn. Inf. Trg. Regt., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary is taken on oath.

FIRST WITNESS: For the Prosecution. Capt. E.T. Stewart, General List, No 3 Cdn. Inf. Trg. Regt., having been duly sworn, states:

I am Capt. E.T. Stewart and am Adjutant No 3 Cdn. Inf. Depot Bn. Pursuant to Overseas R.O. 5352 I produce the following documents which have been read over and shown to the accused B-85851 Pte. Baxter, G.J. whom I now recognize and identify, and which are attached hereto as Exhibits.
EXHIBIT "A" Certified True Copy of a Declaration of a Court of Inquiry held on the 5 August 1944 relating to the accused.
EXHIBITS "B" A.F.O. 1617 in accordance with P.C. 2797 dated 20 March 1945 relating to the accused.

E T Stewart Capt.
(Capt. E.T. Stewart).

The accused declined to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make a statement or give evidence on oath? You are not obliged to day anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence.

I certify that the foregoing Summary of Evidence consisting of ONE (1) page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

M.A. Craig Lieut.
(M.A. Craig) Lieut.
Officer detailed to take Summary.

IN THE FIELD
21 April 1945.

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ADDITIONAL SUMMARY OF EVIDENCE

Additional Summary of Evidence in the case of B-85851 Private Gordon Joseph Baxter, (CIC), on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the additional Summary is taken on oath:

FIRST WITNESS: Capt. E.T. Stewart, General List, No 3 Cdn. Inf. Trg. Regt., having been duly sworn, states:

Recalled For the Prosecution

I am Capt. E.T. Stewart and am Adjutant No 3 Cdn. Inf. Depot Battalion. Pursuant to Overseas R.O. 5352 I produce the following documents which have been read over and shown to the accused B-85851 Pte. Baxter, G.J. whom I now recognize and identify and which are attached hereto as Exhibits.

EXHIBIT "C" Certified True Extracts from MFM 4 - lating to the accused.
EXHIBIT "D" Certificate, in accordance with P.C. 2797, dated 7 April 1944 relating to the accused.
EXHIBIT "E" Certificate, in accordance with P.C. 2797, dated 3 May 44 relating to the accused.
EXHIBIT "F" Certificate, in accordance with P.C. 58/4015, dated 3 May 44 relating to the accused.
EXHIBIT "G" Certificate, in accordance with P.C. 58/5015, dated 3 May 44 relating to the accused.
EXHIBIT "H" Certificate, in accordance wiihh P.C. 58/4015, dated 19 June 44 relating to the accused.

E T Stewart Capt
(E.T. Stewart) Capt.

The accused declined to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make a statement or give evidence on oath? You are not obleged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence.

I certify that the foregoing Additional Summary of Evidence consisting of ONE (1) page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

IN THE FIELD
25 April 1945.

Michael Craig Lieut.
(M.A. Craig) Lieut.
Officer detailed to take Summary.

17

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		Unauthorised absence.		

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of MAY 1945.

Unauthorised absence 9 days
Attached during custody of Regtl Books

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B-85851 Pte. Baxter, J.G. of the (CIC) No 3 CDN. INF. TRG.REGT.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For A.A. 15 (1)	times	9 times.
For A.A. 40	times	2 times.
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the Conduct sheets of the accused~~

~~2. The accused has not been previously convicted~~

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Act, are set out in the Schedule annexed to this statement.

Wt. 43648.664 50,000 2/40 W. S. Ltd. 51—6004

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~~3. The accused is not under sentence at the present time.~~

or,

The accused at the present time is under sentence for One Year beginning on the 1 day of January 1944

4. The accused has been in confinement, awaiting trial on the present charges for N.L days in Civil Custody,

and 43 days in Military Custody.

Total 43 days.

Of which N.L days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 24 yrs.

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 4 Sept 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 7 months.

~~8. The accused is entitled to deferred pay or gratuity in respect of years' service.~~

~~9. The accused is entitled to reckon years' service for the purpose of determining his pension.~~

~~10. The accused is in possession of, or entitled to, no military decoration or military reward.~~ *or* is in possession of *or* entitled to C.V.S.M. & CLASP.

~~11. (*If the accused is a warrant officer.*) The accused before he was made warrant officer last held the regimental rank of~~

~~12. (*In the case of an officer.*) The accused holds in the army the rank of , date~~ , ~~and in his regiment (or corps or department) the rank of~~ ~~date~~

~~13. The accused has served as a non-commissioned officer continuously without reduction, to the present date~~

~~Date of Promotion~~

~~In the rank of~~ , ~~years~~

~~In the rank of~~ , ~~years~~

~~In the rank of~~ , ~~years~~

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B-65851 Pte. Baxter, E.J. of the C.I.C., No 3 C.I.T.R.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the offence or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	In the Field 7 Dec. 1942	Sec. 15 (1) A.A. ,A.W.L.	80 days detention Forf. 80 days Pay F&I 149 (1) (b)	
F.G.C.M.	In the Field 14 Mar. 1944	Sec. 15 (1) A.A., A.W.L.	6 Months Detention Forf. 267 day Pay F&I 149 (1) (a), (b)(6)	Remission earned 60 days wef 5 Oct 43.
F.G.C.M.	In the Field 1 Jan 44	A.A. Sec 8(1)	1 year detention	

(*Continued overleaf.*)

Shelby "A"
Case

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 5th day of August 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-85851 Pte. Baxter, G.J.

DECLARATION

The Court declare that No. B-85851 Pte. Baxter, G.J., on strength of No 4 Cdn. Inf. Rft. Unit

illegally absented himself without leave From No 4 Cdn. Inf. Rft. Unit.

at 2300 on the 3rd day of July 1944,

that he is still so absent, and that on the 3rd day of August 1944 he was deficient, and

that he is still deficient of the following articles :—

ARTICLES	100 % £	s	d	VALUE 75% £	s	d
Anklets, Web.	0	4	5	0	3	4
Battle Dress Blouse	1	3	6	0	17	7½
Battle Dress Trousers	1	4	1½	0	18	1
Boots Ankle	1	4	5	0	18	3½
Cap Field Service	0	2	6	0	1	10½
Drawers Cellular	0	3	10	0	2	10
Drawers Wollen	0	5	4½	0	4	0
Vest Wollen	0	5	4½	0	4	0
Great Coat Drab	2	11	8	1	18	9
Overalls Combination	0	12	2	0	9	1½
Shirts Angola	0	18	2	0	13	7
Socks Wollen	0	5	4	0	3	9
Badge Cap	0	0	4½	0	0	4½
Braces	0	1	4	0	1	0
Brass Cleaning	0	0	2	0	0	2
Brushed Polishing	0	1	3	0	0	11
Cap Comforter	0	1	6	0	1	1½
Dressing First Field	0	1	1	0	0	9½
Ointment Anti-Gas	0	1	4	0	1	4
Gas Detectors	0	0	6	0	0	6
TOTAL:-- 100 % £14 2 4½				75% £12 6 5		

ARTICLES	100% £	s	d	VALUE 75% £	s	d
~~Knife Table~~						
Knife Table	0	0	8	0	0	8
Knife Clasp	0	3	10	0	3	10
Fork Table	0	0	4	0	0	4
Spoon Table	0	0	4	0	0	4
Belts Waist	0	3	0	0	3	0
Braces L &R	0	2	8	0	2	8
Pouches Basic	0	6	0	0	6	0
Frog Bayonet	0	0	10	0	0	10
Haversack	0	8	0	0	8	0
Strap Shoulder	0	2	10	0	2	10
Pack	0	8	3	0	8	3
Straps Web Support.	1	2	0	0	1	2
Tins Mess	0	1	2	0	1	7
Steel Helmet		10	8½	0	10	8½
Net Camouflage	0	0	8	0	0	8
Water Bottle	0	3	8	0	3	8
Carrier W. Bottle		1	8	0	1	8
Respirator Light		14	7	0	14	7
Eye Shields	0	1	0	0	1	0
Sheets Ground	0	13	2	0	13	3

Capt. G.F. McIntyre, Carlt & York R(4CIRU) ..... President

Signed at In the Field

Lieut. W.H. HAYWARD N.Shore R (4CIRU) ..... Member

this 5th day of August 1944

Lieut. C.A.Rose SD&G Highrs (4CIRU) ..... Member

Signature of Commanding Officer (A.B. SMITH)LT.-COL.

Certified true copy [signature]

Signature of Officer having custody of original record

3/60B MFB 375-AFB 115 40/P&S/392 (6610)

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Exhibit "B"
Page

I CERTIFY that the man whose personal description is given below surrendered himself to* Police Sergeant 48E Perry at Grand Londn 6Dis at (hour) 1.15 am on the 20th day of March 1945 as being No. B. 25-85-1 (Rank and Name) Private Joseph Baxter a deserter (or absentee without leave) from York and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 24 Height ~~5'8½"~~ 5 Feet 8½ Inches

Complexion fresh Hair dark brown Eyes hazel

Marks scar back of neck

In uniform or plain clothes plain clothes

Probable Date and Place of Attestation	Hamilton, Ontario 4/9/39
Probable Date of Desertion or beginning of absence, and from what place	York 3/7/44

Signature of Officer of Police in charge of ..... Station.

METROPOLITAN POLICE BOW STREET

20/3/45 Date of Signature.

13

Army Form C 217
R.A.F. Form 1017

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. ..... who surrendered to the Police at ..... on .....

Payable to .....

Nil			

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

Exhibit "C" to AC.

12

M.F.M. 4 (Part I)
A.F.B. 108 (Part I)
500M—8-39 (1700)
H.Q. 1772-45-18

SERVICE AND CASUALTY FORM

PART I (For all ranks)

Unit 3 CDN F.D.S. (R.C. A.S.C) Regimental Number B-85851

1. Surname BAXTER
2. Christian Names Gordon Joseph
3. *Substantive Rank and Appointment Pte
   *Acting Temporary or Local Rank
   giving date

*To be entered in pencil to facilitate alteration.

4. Place of birth Hamilton, Ont Canada
5. Date of birth as declared on attestation 25 Dec. 1920.
   (A)
6. Date of enlistment 4 Sept. 1939.
7. Place of enlistment Hamilton Ont Canada
8. Residence at time of enlistment 17 Albany Ave. Hamilton Ont.
9. (B) Special conditions (if any) of enlistment or rate of pay
10. (C) Any subsequent variations of conditions of service
11. Religion R.C.
12. If married, state date
13. Trade on enlistment Driver
14. Corps, trade and grade
15. (D) Qualifications
16. (E) Miscellaneous entries

Driver I/C.

(17) Regiment or Corps | Unit (Battn., etc)

(18) Medical

Category	Date	Authority
A	4 Sep 1939	Medical Board

(19) Next of kin (entries to be made in pencil) (wife)

Marjorie Frances BAXTER
10 Spencer Rd, Clapham Junc.
London S.W. 11 England

(20) E.
(21) E.
(22) E.

NOTES—
(A) Here enter particulars of any subsequent claim as to actual age after verification of birth certificate.
(B) Whether for home service only, enlisted at special rates of pay, etc.
(C) If to be retained on home service, period if specified to be stated; also authority and on what grounds; see (A) above.
(D) Signaller, Farrier, etc.
(E) Instructions regarding allotment of these sub-heads will be made as may be necessary after mobilization.

(a) Report		(b)	(c)	(d)	(e)	(f)	(g)
Date	From whom received	Unit	Record of all casualties regarding promotions (acting, temporary, local or substantive), appointments, transfers, postings, attachments, &c., forfeiture of pay, wounds, accidents, admission to and discharge from Hospital, Casualty Clearing Stations, &c. Date of disembarkation and embarkation from a theatre of war (including furlough, &c.) in accordance with para. 2 of Note to Table I of Appendix III of Field Service Regulations, Volume I	Place of Casualty	Date of Casualty	Army rank as at (e)	Army Form or other authority for entry to be shown
		3 F.D.S.	On 1 Jan 44 tried by F.G.C.M. and fd. guilty - (p. dtn. Con'd by Comd. H.Q. 1 C.B.R.G.) 1 Jan 44. Close arrest from 1230 hrs 24 Dec 43 to date of trial. For 366 days pay F.R. & I. 1490 1(c) 1 of 8 days F.R. & I. 1490 1(c) Total for 374 days pay.	Field.	1 Jan 44	Pte.	3/44.
	RASC.	X-2 list	Put from 14 Jan 44 (see sht given)		14 Jan 44	Pte.	8/14/44
			~~Left this Unit from MFA 44 25 (Apr 44)~~				
			Richard Craig Brent a/asst adj.				
			Officer Having Custody of Regimental Number				

16-1-2003(2)

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

Exhibit "D" MAC

(APPREHENSION BY OR SURRENDER TO CIVIL AUTHORITIES)

I certify that the person whose description is given below ~~was arrested by~~ (surrendered to)

Strike out words not applicable

Immigrant Inspector Joseph J. Sole
(Name of Peace Officer or Constable)

at Norfolk, Virginia (Place) at about 9.00P.M. (Hour)

on the 7th day of April 19 44

Strike out words not applicable

and at the time of ~~arrest~~ (surrender) he was ~~wearing military (air force) uniform~~ (dressed in civilian clothes).

Regimental particulars of officer or Soldier referred to above.

No. B.85851

Rank Private

Name BAXTER, Gordon

Unit

JUN 9 '44

M-9948

Description

Age

Height

Complexion

Hair

Eyes

Marks

MILITARY ATTACHE
CANADIAN EMBASSY
WASHINGTON, D.C.

Signature of peace officer or constable by whom arrest or to whom surrender was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

Daniel A Regan
~~(Name of Officer in Charge of Police Station)~~
Inspector in Charge,
Immigration and Naturalization Service
Norfolk, Virginia

Strike out words not applicable.

M.F.M. 215
25M—4-42 (4330)
H.Q. 1772-39-1935

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Exhibit "E"
W.A.C.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Lieut. E. O. Snelgrove (Number) (Rank) No. 30 Provost Coy. CA. (Name) (Unit)

hereby certify that B-85851 (Number) Pte. BAXTER, Gordon Joseph (Rank) (Name in full)

of the R.C.A.S.C. (RU) Abellino Italy (Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~(surrender to)~~ Aboard U.S.S. N. W. Butner, (Number) (Rank)

Norfolk, Va. USA. (Name) (Unit or appointment)

at Norfolk, VA. USA (Place) at (Hour)

on the 7th day of April 19 44

And at 1100 hrs. on the 3rd May 1944 was taken into custody of the Windsor Detachment, No. 30 Provost Coy. on Arrest,

Strike out words not applicable } as a deserter (or absentee without leave), and that at the time of his arrest he was wearing ~~military or naval uniform~~ (dressed in civilian clothes).

Dated at Windsor, Ont. this 3rd day of May 19 44

(E. O. Snelgrove) Lieut. Officer in Charge,
(Signature, Number, Rank, Unit or appointment)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6900)
H.Q. 1772-39-1936

Windsor Detachment, No. 30 Provost Company

10

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Exhibit "A" MAC.

Fill in complete description — I, Lieut. E. O. Snelgrove (Rank) (Name) No. 30 Provost Coy. CA. (Unit)

Strike out word not applicable — hereby certify that I ~~[illegible]~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Windsor, Ont. (Place) to Detroit, Mich. (Place)

and return to Windsor, Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — B-65851 (Number) Pte. (Rank) BAXTER, Gordon Joseph (Name in full)

RCASC (RU) (Unit) Abellino. Italy (Attachment, if any)

Strike out phrase not applicable — alleged to be a ~~deserter or an~~ absentee without leave, the facts, date and particulars of (the ~~transport warrant issued~~) (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Cost of transportation from Windsor, Ont. to Detroit, Michigan and return to Windsor, Ont. via D.N.D. Vehicle, and Detroit/Windsor Tunnel. Tunnel tolls for D.N.D. Vehicle as above for escort and the return of the accused:-	$1.20
The above is recoverabke from:- B-65851 Pte. BAXTER, Gordon Joseph R.C.A.S.C. (RU) Abellino. Italy	
TOTAL	$ 1.20

Dated at Windsor, Ont. this 3rd day of May A.D. 19 44

E.O. Snelgrove

(E.O. Snelgrove) Lieut. Officer in Charge,
Signature, rank, unit, attachment (if any) and appointment of officer
~~issuing transportation~~ (authorizing transportation)
~~Strike out description not applicable.~~

Windsor Detachment, No. 30 Provost Coy. CA.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(25m—30-42 (9462))
H.Q. 1772-25-1(62)

9

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Exhibit "G" page

Fill in complete description — Strike out word not applicable — Complete — Full description of soldier being escorted — Strike out phrase not applicable

I, Lieut. W.T. Skelton (Rank) Issuing Officer (Name), For D.S.&T.O. M.D.No.1 (Unit) hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort to proceed from Windsor Ontario W.T.S (Place) to London Ontario (Place) and return to Windsor Ontario (Place) for the purpose of escorting B-85851 (Number) Pte. (Rank) Baxter, Gordon Joseph (Name in full) R.C.A.S.C.(RU) (Unit) A-Bellino. Italy (Attachment, if any) alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~the transportation required~~ and the cost thereof for said soldier and escort being as follows: W.T.S

PARTICULARS	COST
Cost of Transport Warrant Ø-574498 dated 3 May.1944 Covering the following transportation	
One 2nd class single to London Ontario	1.85
One 2nd class return to London Ontario	3.70
	5.55
The cost of above is recoverable from B-85851.Pte. Baxter, Gordon Joseph.R.C.A.S.C.(RU)Bellino Italy.	
TOTAL	$ 5.55

Dated at Windsor Ontario this 3 day of May A.D. 19 44

W. T. Skelton Lieut

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (authorizing transportation)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482

M.F.B. 1481
(35m—10-42 (6462)
H.Q. 1772-89-1831

8

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Schd "H" UAC

Fill in complete description — I, Major F.J. Gammage (Rank) (Name), Issuing Officer, D.S. & T.O., M.D. 1 (Unit),

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from London, Ont. (Place) to Halifax, N.S. (Place)

and return to London, Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — A.85851 (Number), Pte. (Rank) Baxter, C.J. (Name in full)

No.5 Base Reinforcement Bn. (Unit), C.A.O.S. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(transportation vouchers)~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
To cost of Transport Warrant No. C672667 dated 19 Jun 44 and issued to cover the following transportation:	
One second class single London to Halifax (absentee)	21.47
Two second class returns London to Halifax (escorts)	85.88
Seventeen meal tickets @ .75¢	12.75
Seven meal tickets @ $1.00	7.00
The above costs are recoverable from: A.85851, Pte. Baxter, C.J., No.5 Base Reinforcement Bn., C. A. O. S.	
TOTAL	$ 127.10

Dated at London, Ontario this 19th day of June A.D. 1944

(F.J. Gammage) Major,

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(issuing vouchers)~~

Issuing Officer, D.S. & T.O., M.D. No. 1.

(Strike out description not applicable.)

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
125m—10-42 (6462)
H.Q. 1772-89-1651

7

No 3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.)(C)

3D/11

Date 21 April 1945 194

I, No. B-85951 Pte. Baxter, J.G. No.3 C.I.T.R. wish to have
(Rank) (Name)

an Officer defend me at my forthcoming trial by Court-Martial.

I desire the services of an Officer
if he is available.

(Sgd) Pte. J.G. Baxter

6

No. 385851 Name Baxter, G.J. Sqn, Battery, or Company | Corps RCASC. | Date of enlistment 4-9-39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/1433/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	5-7-40	Pte.		A.W.L. from 2200 hrs 5-7-40 till 1800 hrs 8-7-40 (Sec 15)(1)	Sgt. Dawson Cpl.Broadshaw	9 days Detn.	DO 165 9-7-40	Maj.Montague Forf. 12 days pay.	
Camp Borden	20-740	Pte.		AWL from 2200 hrs. 20-7-40 till 0800 hrs 22-7-40 (Sec 15)(1)	Sgt.Melville-Gray L/Cpl White	12 days detn.	DO 174	Maj.Montague Forf. 14 days pay.	
Tournay	16-8-40	Pte		AWL from 0100 hrs 16-840 till 1100 hrs 19-8-40 (Sec 15)(1)	Sgt Melville-Gray Pte.Place	Forf 25 days pay	DO 4	Maj.Montague	
TOurneay	22-2-41	Pte.		Sec 40 In that he at Farnborough was improperly dressed, Tunic open at neck and not wearing gaiters.	L/Cpl. Grant Cpl. Meyers	7 days C.B.		Capt.Deber.	
Tournay	5-4-41	Pte.		Sec 15 In that he absented himself without leave from 2200 hrs 4-4-41 to 1020 hrs 5-4-41 ~~in~~ 1330 hrs 5-4-41 to 1630 hrs 5-4-41 from 2230 hrs to 2300 hrs 5-4-41	SSM Dawson	14 days C.B. Forf.28days Pay A.A.46 (2)(d) 1 days Pay Fnl	Forf	Maj. Montague.	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tournay	17-6-41	Pte.		SEC 40. In that he at 14000 hrs 17-6-41 in the mens mess did use improper language to Sgt. McGrinder and L/Cpl. Harrison.	L/Cpl. Harrison Pte. Taylor Pte. Bagley	20 days F.P.	4-7-41	Maj. Montague	
Field	21-7-41	Pte.		AWL (Sec 15)(1) in that he did absent himself without leave from 2245 hrs 31-7-41 til 1330 hrs 1-8-41	Sgt. Allock	Forf. 1days Pay 10 days pay A.A.46 2d		Maj DeGeer.	
Field	30-7-42	Pte.		SEC. 15 (1) In that he absented himself without leave from 0600 hrs 30-7-42 to 2359 hrs. 30-7-42	Sgt. Beckingham	Forf 1days Pay FR&I 149(1)a) 14 days CB. 14 days pay 149(1)(c)	6-8-42	Maj. Bigelow	Forf 1days pay FR&I 149(1)(a) Forf 14 days pay FR&I 149 (1)(c)
Field	3-11-42	Pte.		SEC 15 (1) In that he absented himself without leave from 2300 hrs 3-11-42 to 2300 hrs 5-11-42	Cpl. Douse Cpl. Richmond	Forf 28 days Pay	6-11-42.		Forf 28 days pay & 3 days pay FR&I 149 (1) (a) Total 31 days pay

3/17 MFM 6
(AFB 122)
40/T&S/136 (5413)

Sheet No 2

No. B85851 Name Baxter, G.J. | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 4 Sept 39 | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Badges | Signature OC Company, etc

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	7 Dec 42	Pte		Sec 15 (1) In that he absented himself without leave from 1330 hrs 7 Dec 42 to 2330 hrs 28 Dec 42 (21 days 10hrs) Close arrest 2330 hrs 28 Dec 42 to 1000 hrs 7 Jan 43 (9 days 10 hrs 30 min)	Cpl. Douse Cpl. McCarthy	80 days Detention Forf 80 days Pay FR&I 149 (1)	7 Jan 43 (b)	Field General Court Martial	Forf 80 days Pay FR&I (1) (b) 21 days Pay FR&I 149 (1)(a) 10 days pay FR&I 149(1) (c) (ii) Total Forfeit 11 days pay

(PTO)

Sheet No 3

No. B85851 Name Baxter, G.J. | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 4 Sept 39 | Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/T&S/136 (5415)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIEDL	7 Dec 42	Pte.		Sec 15 (1) In that he absented himself without leave from 1330 hrs 7 Dec 42 to 2330 hrs 28 Dec 42 (21 days 10hrs) Close arrest 2330 hrs 28 Dec 42 to 1000 hrs 7 Jan 43 (9 days 10 hrs 30 min)	Cpl. Douse Cpl. McCarthy	80 days Detention Forf 80 days Pay FR&I 149 (1)	7 Jan 43 (b)	Field General Court Martial	Forf 80 days Pay FR&I (1) (b) 21 days Pay FR& I 149 (1)(a) 10 days pay FR&I 149(1) (c) (ii) Total Forfeit 111 days pay

(PTO)

3/17 MFM 6
(AFB 122)
40/Pads/150 (5418)

M

Sheet 3

No. 585851 Name Baxter, G.J.

Corps RCASC

Date of enlistment 4 Sept 43

Sheet No

Service or Proficiency Pay

Date of last entry in Company Conduct Sheet

Sqn, Battery, or Company

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Badges

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		A.A. Sec 8(1)		1 yr detn	1 Jan 44	FGCM	Forf 366 days pay FR&I 149(1)(b)

CERTIFIED TRUE COPY OF MFM 6 21 April 1945

Officer having custody of Original Record.

(PTO)

LIST OF WITNESSES

In the case of B-85851 Pte. Baxter, G.J., (CIC), on the strength of No 3 Cdn. Inf. Trg. Regt.

FOR THE PROSECUTION

1. Capt. E.T. STEWART — NO 3 CDN. INF. TRG. REGT.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

In the case of B-85851 Pte. Baxter, G.J., (CIC), on the strength of No 3 Cdn. Inf. Trg. Regt.

EXHIBIT "A" Certified True Copy of a Declaration of a Court of Inquiry held on the 5 Aug 1944.

EXHIBIT "B" A.F.O. 1617 in accordance with P.C. 2797, dated 20 March 1945.

EXHIBIT "C" Certified True Copy of M.F.M. 4 relating to the accused.

EXHIBIT "D" Certificate, in accordance with P.C. 2797, dated 7 April 1944.

EXHIBIT "E" Certificate, in accordance with P.C. 2797, dated 3 May 1944.

EXHIBIT "F" Certificate, in accordance with P.C. 58/4015, dated 3 May 1944.

EXHIBIT "G" Certificate, in accordance with P.C. 58/4015, dated 3 May 1944.

EXHIBIT "H" Certificate, in accordance with P.C. 58/4015, dated 19 June 1944.

25 April 1945.

This is to acknowledge that I have received free of charge, the following papers in connecti n with my forthcoming trial by FGCM.

1. Copy of Charge Sheet
1. Copy of Summary of Evidence
1. Copy of Additional Summary of Evidence
1. List of Exhibits
1. List of Witnesses.

Pte. G.J. Baxter
B-85851 Pte. Baxter, G.J.

2

H.Q.C. 55-B-1939 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BEATTIE, CHARLES F-86200 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1939

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and [illegible] "Minute")		
				ADMIN	NEW FILE	CR	4-9-45
SEP 14 1945	13-9-45	PA		JAG	To note	wof	7-9-45
				CMJBR	OCT 25 1945		
NOV 8 - 1945				Admin 3	Recommendation	WAA	NOV 5 1945
	10-1-46				DEC 29 1945		
JAN 10 1946	9-1-46	PA		Admin			
				Admin	JAN 21 1946		
JAN 25 1946	25 JAN 46	PA		CMJBR	to note pls		21-1-46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

COPY
BOMBER
CONFIDENTIAL

AIR MAIL

CANADIAN MILITARY HEADQUARTERS

LONDON 30 Jul 45

The Secretary,
Department of National Defence,
OTTAWA, Canada.

F-86200 Pte Beattie, C.

1. The m/n soldier is now serving a sentence of 18 months detention awarded by FGCM 27 Mar 45 for an absence without leave from which he surrendered after 33 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 26 Mar 46.

3. This soldier enlisted 8 Aug 41 at Halifax, N.S., and he is now 23 years of age. Since enlistment he has been found guilty of 18 offences under AA Sec 15(1), of 7 offences under AA Sec 40, of 2 offences under AA Sec 11 and of 1 offence under each of AA Sec 9(2), AA Sec 15(2) and AA Sec 24(2). He has had 1 previous FGCM, on 6 Jun 43, when he was awarded a sentence of 90 days detention for an offence under each of AA Sec 15(1) and AA Sec 40.

4. This soldier was medically reboarded on 7 Jan 43 and placed in category B2 Special on a diagnosis of mental dullness. He has been certified as fit to undergo his sentence.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an individual of low average intelligence who is aggressive and poorly disciplined but not entirely irresponsible; that he is headstrong, stubborn, self-opinionated and lacks a sense of humour; and that he appears to be genuinely anxious to be sent on operational duty with CIC.

6. In viewof the length of this soldier's illegal absence in a theatre of operations and his poor previous record which includes 1 conviction by FGCM and 27 offences for which he was punished summarily, it is considered that he should be required to serve his present sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier has misconducted himself in order to avoid rendering any effective service to the army and probably with a view to obtaining his discharge.

7. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 27 Mar 45, together with original AFA 3104 in respect thereof on which this direction has been endorsed.

Sgd: Beverley Matthews, Brig

(Beverley Matthews) Brig.
for Maj Gen i/c Adm.
Canadian Military Headquarters.

Enc. 2.

In Reply Please Quote No: File Nos. as in m/n.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Headquarters, M. D. No. 6,
Halifax, N. S., 16 Jan 46.

CENTRAL REGISTRY Army
3199
JAN 21 1946
File OJ. 2. 1939
Chgd. to
Referred to admin

CONFIDENTIAL,

Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUS - H.M.S. KHEDIVE	Our File	Reference -- Your File
F-86200 Pte. BEATTIE, C.	H.F-86200 (JAG)	HQC 55-B-1939 Adm 3(b)2 d/9 Jan 46.
F-95130 Pte. BOUDREAU, R.J.	H.F-95130 (JAG)	HQC 55-B-1889 Adm 3(b)2 d/9 Jan 46.
F-97469 Pte. BOUDREAU, N.F.	H.F-97469 (JAG)	HQC 55-B-2180 Adm 3(b)2 d/9 Jan 46.
F-52306 Pte. BOUTILLIER, C.A.	H.F-52306 (JAG)	HQC 55-B-1929 Adm 3(b)2 d/9 Jan 46.
F-5049 Pte. DAVISON, J.M.	H.F-5049 (JAG)	HQC 55-D-1209 Adm 3(b)2 d/9 Jan 46.
F-82507 Pte. DOUCETTE, J.N.	H.F-82507 (JAG)	HQC 55-D-1206 Adm 3(b)2 d/9 Jan 46.
F-50186 Gnr. FAULKNER, T.R.	H.F-50186 (JAG)	HQC 55-F-564 Adm 3(b)2 d/9 Jan 46.
F-88225 Pte. GALLANT, J.W.	H.F-88225 (JAG)	HQC 55-G-1182 Adm 3(b)2 d/9 Jan 46.
F-60290 Pte. GAUDET, G.F.	H.F-60290 (JAG)	HQC 55-G-1080 Adm 3(b)2 d/9 Jan 46.
F-82721 Pte. GAUTRIER, R.C.	H.G-3332 (JAG)	HQC 55-G-1064 Adm 3(b)2 d/9 Jan 46.
F-31729 Pte. HANNON, D.J.	H.F-31729 (JAG)	HQC 55-H-926 Adm 3(b)2 d/9 Jan 46.
F-95783 Pte. HIGGINS, S.E.	H.F-95783 (JAG)	HQC 55-H-918 Adm 3(b)2 d/9 Jan 46.
F-49990 Pte. JACKSON, A.	H.F-49990 (JAG)	HQC 55-J-430 Adm 3(b)2 d/9 Jan 46.
F-2964 Pte. LANGILLE, B.C.	H.L-3484 (JAG)	HQC 55-L-1648 Adm 3(b)2 d/9 Jan 46.
F-89094 Pte. MacDOUGALL, A.	H.F-89094 (JAG)	HQC 55-M-3009 Adm 3(b)2 d/9 Jan 46.
F-55635 Pte. STRONG, G.O.	H.F-55635 (JAG)	HQC 55-S-1699 Adm 3(b)2 d/9 Jan 46.
F-65305 Pte. TOWNSEND, R.J.	H.F-65305 (JAG)	HQC 55-T-674 Adm 3(b)2 d/9 Jan 46.
No. 6 District Depot, C.A.		

Reference your letters as in the m/n.

2. Forwarded herewith, duly completed, one copy of Form of Remission of Sentence in each case in the m/n, remitting sentence w.e.f. 17th JANUARY, 1946.

3. Also forwarded herewith Army Form A3104, in respect of each case in the m/n, duly completed in Part VI.

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

GD/jmcg

noted

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF
SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No: HQC 55-R-1939
District File No: H.F-86200

PART I

No. F-86200 Rank Private NAME BEATTIE, C.
Unit No. 6 District Depot, C.A.

PART II

Date of Trial 27th March, 1945.
Charge(s) Sec. 15 (1) A.A., Absenting Himself Without Leave.

Sentence Eighteen months detention
Confirmation -(a) Authority:
(b) Date :

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (commute)(mitigate) xxxxxxxxxxxxxxxxxx eight (8) months and ten (10) days of his sentence, effective 17th January, 1946.

Signed at Halifax, N. S., this 11th day of January, 1946.

(J. C. STEWART) Brigadier,
D. O. C., M. D. No. 6.

PART IV
PROMULGATION

Remission (xxxxxxxxxxxxxxxxxxxxxxxxxx promulgated and extracts taken at Halifax, N.S. this 17th day of January, ,1946.

Sgd. Philip Morash Lt.
Officer i/c Documents.
(Unit, attachment and appointment to be stated) (G.A. BRAINE) Captain,
No. 6 District Depot, C.A.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. F-86200 Rank Private Name BEATTIE, C.
The sentence of GRESS Eighteen (18) Months detn
awarded by F.G. Court-Martial on the 27th March 45 194 ,
has been remitted eight (8) mons and ten (10) days
on the 17th an 46 194 , by D.O.C.,
Unit M.D.No.6.

Certified True Extract of Daily Orders Part II of No. 6 District Depot, C.A.
No. 14 Place Halifax,N.S. Date 17th January, 1946.

Sgd. L.H. LeBlanc Capt.
Adjutant (L.H. LEBLANC) Captain,
No. 6 District Depot,C.A.

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. F-86200 Pte BEATTIE C Unit 9 CBR Bn

Sentenced to eighteen months detention on 27 Mar 45

Age on, and date of, enlistment ~~20 years~~ 8 Aug 41 Term of service duration

20 years

FIRST TRIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*28381) Wt.36510/3932 60,000 10/44 A. & E.W.Ltd. Gp.498 Forms/A.3104/14.

24

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	NO REMISSION - RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 26 JUN 1945	
11 Jan46	Remit 8 mos and 10 days of his sentence, eff. 17th JANUARY, 1946.	(J.C. Stewart) Brigadier, D. O. C., M. D. No. 6.	

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
VII. - First Trial. AA Sec.15(1) AWL from 0820 hrs 24 Jan 45 to 1615 hrs 26 Feb 45 Absent 33 days 7 hrs 55 mins	24 Jan 45	27 Mar 45

Signature of officer making entry

VIII. - Second Trial. AA

Signature of officer making entry

IX. - CO's remarks and recommendations on First Trial. Signature

Date: I recommend that the sentence be sounding full.

(H. W. Rick), Lt.-Col., Commanding, 9 Bn, 3 C.B.R.Gp.

Accused committed to 1 Cdn Detn & F.P. Bks

X. - Confirming Officer's remarks and recommendations on First trial.

5 Apr 45 This man's conduct sheet speaks for itself, he has "used" the army for his own purposes. I recommend he serve sentence in full and then be dismissed for MISCONDUCT.

23

(G S N Gostling) Brig
Comd
2 Cdn Disc BCD Gp

22

In Reply Please Quote No: File Nos as in the m/n.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Headquarters, M. D. No. 3,
Halifax, N. S., 11 JAN 46.

CONFIDENTIAL

Secretary,
Department of National Defence,
OTTAWA, Ontario.

S.U.S. - H.M.S. KHEDIVE	Our File	Reference - Your File
F-86200 Pte. BEATTIE, C.	H.F-86200 (JAG)	HQC 55-B-1939 Adm 3(b)2 d/9 Jan 46.
F-95130 Pte. BOUDREAU, E.J.	H.F-95130 (JAG)	HQC 55-B-1889 Adm 3(b)2 d/9 Jan 46.
F-97469 Pte. BOUDREAU, W.F.	H.F-97469 (JAG)	HQC 55-B-2180 Adm 3(b)2 d/9 Jan 46.
F-52306 Pte. BOUTILLIER, G.A.	H.F-52306 (JAG)	HQC 55-B-1929 Adm 3(b)2 d/9 Jan 46.
F-5049 Pte. DAVISON, J.M.	H.F-5049 (JAG)	HQC 55-D-1209 Adm 3(b)2 d/9 Jan 46.
F-82507 Pte. DOUCETTE, J.W.	H.F-82507 (JAG)	HQC 55-D-1206 Adm 3(b)2 d/9 Jan 46.
F-88225 Pte. GALLANT, J.W.	H.F-88225 (JAG)	HQC 55-G-1182 Adm 3(b)2 d/9 Jan 46.
F-60290 Pte. GAUDET, G.F.	H.F-60290 (JAG)	HQC 55-G-1080 Adm 3(b)2 d/9 Jan 46.
F-62721 Pte. GAUTHIER, R.C.	H.G-3332 (JAG)	HQC 55-G-1064 Adm 3(b)2 d/9 Jan 46.
F-31729 Pte. HANNON, D.J.	H.F-31729 (JAG)	HQC 55-H-926 Adm 3(b)2 d/9 Jan 46.
F-95783 Pte. HIGGINS, S.E.	H.F-95783 (JAG)	HQC 55-H-916 Adm 3(b)2 d/9 Jan 46.
F-49990 Pte. JACKSON, A.	H.F-49990 (JAG)	HQC 55-J-430 Adm 3(b)2 d/9 Jan 46.
F-2964 Pte. LANGILLE, B.C.	H.L-3484 (JAG)	HQC 55-L-1648 Adm 3(b)2 d/9 Jan 46.
F-89094 Pte. MacDOUGALL, A.	H.F-89094 (JAG)	HQC 55-M-3009 Adm 3(b)2 d/9 Jan 46.
F-56635 Pte. STRONG, G.O.	H.F-56635 (JAG)	HQC 55-S-1699 Adm 3(b)2 d/9 Jan 45.
F-65305 Pte. TOWNSEND, R.J.	H.F-65305 (JAG)	HQC 55-T-674 Adm 3(b)2 d/9 Jan 45
F-50185 Gnr. FAULKNER, T.R.	H.F-50185 (JAG)	HQC 55-F-564 Adm 3(b)2 d/9 Jan 46.

Reference your letters as in the m/n.

2. Receipt is hereby acknowledged of your above referenced letters together with Army Form A3104 and CMHQ letter in each case in the m/n.

GD/jmcg

Pa on file
Z, 15-1-46

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

~~xxxxxxxxxxxxxx~~ HQC 55-B-1939
Adm 3(b)2

District Officer Commanding, 9 Jan 46
Military District No 6,
HALIFAX, N.S.

F.86200 Pte BRATTIE, C.
SUS - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is AFA3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(3).

3. ~~It will be noted that this SUS was sentenced to be discharged with ignominy under Rule 1(1)(a).~~

4. The sentence awarded has been reviewed by CMBR who have recommended remission on 9 Nov 45.

5. Ack.

(E.C. Weeks)
Major-General
Adjutant-General

HQC 55- B-1930 (CMBR- 5)

Case No. 0648

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: F.86200 Pte. BEAUTIE, C.

2. Unit at date of offence: 9 Cdn Base Rft. Dn.

3. Charge: Sec 15(1) A.A.

AWL from 0820 hrs. 24 Jan 45 until surrendering at 1615 hrs 26 Feb 45.
Length of absence, 33 days.

PLEA: Guilty.

4. Place and Date of Trial: Belguim, 23 Mar 45
(FGCM) (xxx) (xxx)

5. Finding: Guilty

6. (a) Sentence: 18 mos Detention.

(b) Date of sentence: 27 Mar 45

7. Date of Confirmation: 27 Mar 45

8. Date of Promulgation: 29 Mar 45

9. Being served at: To be ascertained in M.D. ____

(N.B. - Discharged under RO 1029 ( ) for
war

Case No.----------

CONDUCT

11. (a) Prior to conviction:

Date of enlistment: 8 Aug 41

~~XXXXXXX XXXXXXXXXX~~
Awarded 90 days Det by RCCM in 1943. Age:23
19 Offences of AWL
11 other charges
(b) After conviction: good

Expected date of release 26 Mar 46

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Item 10 has been omitted.
Was very anxious to serve with the CIC and eventually received a transfer from RCASC to CIC but before being posted to a unit, he was hospitalized. After hospitalization he was put back into RCASC and all his efforts couldn't get him out. He became discouraged and went AWL.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc)

CMHQ - Serve sentence in full and thereafter be disch for misconduct.

Reviewing Officer: In view of previous record I recommend Sentence be served in full with normal remission based on conduct.

Reviewed by A. M. Stephenson
A. M. Stephenson, Major

---

14. Recommendation of the Board:
For remission on 9 Nov 45.
or as soon as may be after the return of the SUB to Canada, whichever is the later.

Date NOV 5 1945 19.....

W. A. Stilwell Maj
Secretary
Courts Martial Board of Review

noted
JGS

Quote No. HQC.55-B-1939

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
13 September 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
F-86200, Pte. C. Beattie.

1. Receipt is acknowledged of your 10/Beattie C/1 dated 30 July 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

EdM

BWH:JJ

for (R.J. Orde), Brigadier
Judge Advocate-General.

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THIS COPY FOR: H.Q. C, 55-B-1939
M.D. ~~10/Beatrie C/1~~

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

GS

No. F-86200 Name BEAUTRIE, Charles

Rank Pte Unit X-4 List RCASC 47 Coy 9 CBR Bn CAO

Charge ~~AA 15 (1) WOAS AWL~~

Date of Crime 24-1-45

Date of Arrest 26-2-45 Charge Signed 17-3-45

Orders for ~~D.C.M.~~ FGCM MX Brig. Comd 2 CBRG

Place and Date of Trial In the field 23-3-45

Sentence Detention 18 mos

Date of Confirmation 27-3-45

Date of Promulgation 29-3-45

Entered in Records of J.A.G. as No. 4162

Date 11-9-45

MEMO

Reviewed at CMHQ

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E. G. Eccl. cmd
for Judge Advocate-General

10M-8-45(M-189)

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Beattie, C./-

CANADIAN MILITARY HEADQUARTERS

LONDON 30 Jul 45.

C55-13-1939

The Secretary,
Department of National Defence,
OTTAWA, Canada.

F-86200 Pte Beattie, C.

1. The m/n soldier is now serving a sentence of 18 months detention awarded by FGCM 27 Mar 45 for an absence without leave from which he surrendered after 33 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 26 Mar 46.

3. This soldier enlisted 8 Aug 41 at Halifax, N.S., and he is now 23 years of age. Since enlistment he has been found guilty of 18 offences under AA Sec 15(1), of 7 offences under AA Sec 40, of 2 offences under AA Sec 11 and of 1 offence under each of AA Sec 9(2), AA Sec 15(2) and AA Sec 24(2). He has had 1 previous FGCM, on 6 Jun 43, when he was awarded a sentence of 90 days detention for an offence under each of AA Sec 15(1) and AA Sec 40.

4. This soldier was medically reboarded on 7 Jan 43 and placed in category B2 Special on a diagnosis of mental dullness. He has been certified as fit to undergo his sentence.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an individual of low average intelligence who is aggressive and poorly disciplined but not entirely irresponsible; that he is headstrong, stubborn, self-opinionated and lacks a sense of humour; and that he appears to be genuinely anxious to be sent on operational duty with CIC.

6. In view of the length of this soldier's illegal absence in a theatre of operations and his poor previous record which includes 1 conviction by FGCM and 27 offences for which he was punished summarily, it is considered that he should be required to serve his present sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier has misconducted himself in order to avoid rendering any effective service to the army and probably with a view to obtaining his discharge.

7. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 27 Mar 45, together with original A.F.A3104 in respect thereof on which this direction has been endorsed.

(Beverley Matthews) Brig.
for Maj Gen i/c Adm.
Canadian Military Headquarters.

Enc. 2.

25

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F86200 - Private BEATTIE, Charles - 4 CMP & DB

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 41 AA	Not Guilty	Not Guilty	
2nd Sec 40 AA	Not Guilty	- -	
3rd Sec 40 AA	Not Guilty	- -	
4th Sec 40 AA	Not Guilty	- -	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of NIL days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

accused was released to custody of 4 CMP and det barracks where he is undergoing sentence on a previous charge

(Sgd) A.V.L. Mills Capt. 31 May 45 (Sgd) A.S. Donald Col
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Noted.
D.C. Spry
(D.C. SPRY) MAJ-GEN
COMD-CDN RFT UNITS.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 169 58-55

RECEIVED 18 SEP 1945 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CFA98 (In lieu of AFA98) 40/P & B/1698 (6144) 4/38B

Convened by Order of Maj-Gen D.C. Spry, DSO Comd Can Rft Units dated Aug 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F86200			Charles	BEATTIE	4 CMP&DB

PROCEEDINGS REVIEWED 11 Sep 45 J. Mahoney Capt. AJAG
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held at the Fd in (country) England on (date(s)) 31 Aug 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to W-120032 - Pte. HEALD, M.G. as shorthand writer? Ans No.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt. Col.	A.S. Donald, DSO	1 CGRU
Member	Major	O.J. Atkins	4 Cdn Repat Depot
Member	Major	E.A. Kay	4 Cdn Repat Depot
Judge-Advocate	Capt.	A.V.L. Mills	HQ CRU
Prosecutor	Capt.	S.C. Biggs (Lawyer)	4 CITR
Defending Offr	Major	J.H.J. Pelletier (Lawyer)	4 Cdn Repat Depot

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(s)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 9, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing or Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No, sir.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) ~~(an)~~ opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st, 2nd, 3rd & 4th charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the~~.....~~charge(s), and~~ allowed on the 1st, 2nd 3rd & 4th charge(s), and that, accordingly, ~~the trial will proceed on the former, but~~ the accused is ~~(are)~~ found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....(1) Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of ~~the Court on the~~.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. F.86200 Pte Charles BEATTIE, 4 Cdn Mil Prison & Detn Bks, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RIOTOUS DAMAGE, CONTRARY TO SECTION 12 OF THE MALICIOUS DAMAGE ACT, 1861,

in that he

at Headley, England, on 10th May, 1945, while a soldier undergoing sentence in No 1 Cdn Detention Bks, and being riotously assembled together with other soldiers undergoing sentence in said Detention Bks, damaged the said Detention Bks.

SECOND CHARGE
(alternative)
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

at Headley, England, on 10th May, 1945, while a soldier undergoing sentence in No 1 Cdn Detention Bks, was concerned in a disturbance in the said Detention Bks.

THIRD CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

at Headley, England, on 8th May, 1945, while a soldier undergoing sentence in No 1 Cdn Detention Bks, was concerned in a disturbance in the said Detention Bks.

FOURTH CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

at Headley, England, on 9th May, 1945, while a soldier undergoing sentence in No 1 Cdn Detention Bks, was concerned in a disturbance in the said Detention Bks.

Reading, England,
14 Aug 45

L.S. Grayson
(L.S. Grayson) Lt-Col
Officer Commanding,
No. 4 Cdn Mil Prison & Detn Bks

To be tried by Field General Court-Martial.

D.C. Spry
(D.C. Spry) Maj-Gen
Comd
Cdn Rft Units

In the Field
15 Aug 45

assaulted civ
AR L Tillsley

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 116. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.86200	Pte		Charles	BEATTIE	4 CMP&DB

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~been~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 15 Aug 45 endorsed by me, (~~order accordingly~~) " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~because it is not practicable to delay the trial for reference to a superior competent authy~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I nominate to appoint (a) the officer to act as the Court is a Mj Officer detailed, for the reason that another officer~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Unit.)
Lt Col	A.S. Donald DSO (Must be named. RP 106.)	1 CGRU

MEMBERS.

(Rank.)		(Unit.)
Major	O.J. Atkins	4 Cdn Repat Depot
Major	E.A. Kay (Named or detailed. RP 106.)	4 Cdn Repat Depot

WAITING MEMBER.

(Rank.)		(Unit.)
Major	W.O. Stockdale DSO (Named or detailed, if any. RP 106.)	1 Cdn Repat Depot

JUDGE-ADVOCATE.

(Rank.)		(Unit.)
Capt	A.V.L. Mills (Must be named, if any. RP 106.)	HQ CRU

On Active Service in the Fd

in England (Country.)

D.C. Spry (Signed personally. RP 105 fn 2.) (D.C. Spry)

Major General (Rank.)

Commanding Cdn Rft Units. Convening Officer.

Date 28 Aug 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1097 (5143)

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) 557)

I certify that I have this morning examined

NO. F 86200 RANK. Pte NAME. BEATTIE C. UNIT. No 1 CASCRU

and in my opinion he is fit to undergo trial by Court Martial.

Station: Field

Date: 31 Aug 45

P.W. Hudson Capt
(Medical Officer)
P.W. Hudson
No 4 Cdn Mil Prison & Detn Bks
(Unit)

Date: 31 Aug 45

TRIAL OF

F-86200 - Pte. Charles BEATTIE,
S.U.S. No. 4 Cdn Mil Prison & Detn. Bks.

OPENING ADDRESS BY THE PROSECUTOR

May it please the court, I feel a strong duty to the court to point out in this case, there was an unsatisfactory summary but it supports the laying of these charges. I have gone over the charges carefully with the witnesses and find there is no evidence to support the first charge and I ask the court to take the case on the second, third and fourth charges. It is my duty to call what evidence there is.

FIRST WITNESS PROSECUTION- A-34001 - S/Sgt SEMPLE, P.J. No. 3 Cdn Mil Prison and Detn. Bks., having been duly sworn is examined by the Prosecutor:-

Q. You were on the staff at Headley Detention Barracks on the 8th, 9th and 10th of May this year?
A. Yes sir.

Q. You had duties in "A" compound?
A. Yes sir.

Q. You know the accused?
A. Yes sir.

Q. Did you see him on the 8th of May?
A. No sir.

Q. On the 9th?
A. Yes sir.

Q. Where was he?
A. I saw him various times on the morning of the 9th, between 10 and 11 o'clock, and saw him again about 1400 hours.

Q. Where was he then?
A. Between 2 and 3 cell blocks.

Q. What was he doing?
A. Just walking around.

Q. Was he carrying anything?
A. A small piece of wood.

Q. Was he alone?
A. Yes sir.

Q. When you saw him later what time was that?
A. Around 1100 hours at the same place with other SUS.

Q. Where was it you saw him?
A. By #2 cell block.

Q. Should he have been out?
A. They were all out at that time sir.

Q. This time was the accused alone?
A. No sir, there were several SUS.

Q. Were they carrying anything?
A. Some were carrying iron bars but they were just walking around.

Q. Did you see them do anything?
A. No sir not at the time.

Q. Did you see the accused later on that day?
A. Around 1600 hours.

Q. Where was he?
A. On the parade square.

Q. What was he doing?
A. Just fooling around on the parade square.

Q. Were there others with him?
A. Yes there were others there.

Q. How long did you see him this time?
A. For about 5 or 10 minutes sir.

Q. When did you see him again?
A. I did not see him again until I returned from dinner.

Q. Noon dinner?
A. Yes sir.

Q. The time you saw him fooling around on the parade square was that after dinner?
A. About 1100 hours.

Q. You came back at 1300 hours and you saw him again?
A. Yes sir.

Q. Where was he?
A. Walking around by the fence and the unit hospital looking for cigarettes.

Q. Did you see him after that?
A. Yes I saw him again around 1700 hours, between 1600 and 1700 hours.

Q. What was he doing?
A. Still milling around with other SUS.

Q. Was he carrying anything?
A. No sir.

Q. Did you see him again on the 9th of May?
A. Between 1900 and 2000 hours.

Q. Where was he?
A. By the fence.

Q. Which part of the fence?
A. On the west side of A compound.

Q. Near the N.W. corner?
A. Yes sir.

Q. What was he doing?
A. There were about 50 SUS calling to the troops going by.

Q. Was he carrying anything?
A. No sir.

Q. Did you see him again on the 9th of May?
A. No sir that was the last time.

Q. Did you see him on the 10th of May?
A. No sir.

WITNESS IS CROSS EXAMINED BY DEFENCE

Q. On the 9th did you see the accused doing any damage?
A. No sir.

Q. Did you see him with a group creating trouble?
A. No sir, he was not making trouble.

Q. Did you see him causing any trouble himself?
A. No sir he was with other men, large numbers at times.

Q. How did it happen that the SUS were milling around on the parade square?
A. That was when the SUS in the livings huts, living huts 1,2 and 3 got out of the doors of the living huts and paraded down to the square, they were in large numbers and some had iron bars from the windows of the living huts.

Q. After that did the SUS in cell blocks do anything?
A. I couldn't say sir.

Q. Did the SUS from the cell block come out?
A. I don't know sir.

Q. During the 9th, after the SUS were milling around the square, if they were not causing trouble was there any interference from the staff, preventing them from going around the square?
A. Yes sir, I tried to prevent damage to the cell block.

Q. If actually the SUS were seen milling around the square if they weren't doing any damage were they interfered with?
A. The staff did not interfere with the SUS on the square only where they were doing damage to the cell blocks.

Q. Do you know if outsiders were throwing in cigarettes?
A. Yes sir, cigarettes were thrown over the fence from civilians and soldiers.

Q. Was there any interference from the staff to stop them throwing cigarettes in?
A. No sir, we were too far away.

Q. Was there any interference from the staff towards the SUS to prevent them from smoking the cigarettes that were thrown to them?
A. Yes sir, I gave them a direct order to return to the huts, many obeyed my order but many returned again, getting back between the buildings.

Q. When these men were around the fence were the SUS shouting and talking?
A. Some were shouting "Throw us cigarettes" in loud voices.

Q. Is it possible that the SUS didn't here your order?
A. No sir.

Q. When you went to the SUS was the accused among them?
A. Yes sir I saw him twice that evening.

Q. Did you give him a direct order?
A. Not to him but I gave the order to the men in general.

Q. Is it possible that some did not hear what you said on account of the loud shouting?
A. No sir, the mem heard me alright, in fact some of the SUS tried to get them to come back.

Q. Did you see the accused going back?
A. Yes sir, I did see him return down the N.W. side of the fence.

Q. After you gave the order?
A. Yes sir.

Q. On the 10th did you see the accused?
A. No sir.

Q. On the summary of evidence you said you saw the accused on the morning of the 8th, and there was trouble going on in the living huts?
A. On the morning of the 8th I saw him, but there was no trouble on the morning of the 8th.

Q. On the 23 of July you said there was?
A. Yes sir.

Q. Is it possible that your memory might have slipped and you are not very sure of the accused being involved in the distrubance?
A. Everything was quiet on the morning of the 8th, until around noon, I was with Major German on duty and everything was quiet that morning.

QUESTIONS BY THE JA

Q. Do you recall giving the statement on the summary of evidence?
A. Yes sir.

Q. Do you recall saying you saw the accused on the 8th of May at 1100 hours carrying a window bar?
A. I said I saw him carrying something and stated it might have been a piece of wood.

Q. Did you sign your statement on the summary of evidence?
A. Yes sir.

Q. You realize it was taken under oath?
A. Yes sir.

Q. Did you see any damage done to the latrines on the 9th of May?
A. No sir windows were broken but I did not see it.

Q. Do you recall saying in the summary of evidence that the latrines were crowded with SUS on the 9th of May and they were smashing the latrines?
A. No sir that was on the 10th of May.

Q. Did you see the accused in the latrines on the 9th or the 10th?

A. On the 9th sir.

Q. What was he doing?
A. The latrines were used by all the SUS.

Q. Did you see him on the 10th?
A. No sir.

Q. Did you read over the summary of evidence before you signed it?
A. Yes sir.

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

WITNESS WITHDRAWS

SECOND WITNESS PROSECUTION - C-11721 - CSM (WO2) AMYOTT, W.F. No. 3 Cdn Mil Prison & Detn Bks, having been duly sworn is examined by prosecution:-

Q. Were you on staff at Headley Detention Barracks on the 8th, 9th and 10th of May this year?
A. Yes sir.

Q. And had been at Headley for some time?
A. Yes sir.

Q. Do you know the accused?
A. Yes sir.

Q. Did you see the accused on the 8th of May?
A. No sir.

Q. On the 9th of May did you see the accused?
A. Yes sir.

Q. Where were you?
A. By the corner of living hut No. 3.

Q. What time was this?
A. About 3 o'clock.

Q. Where was the accused?
A. On the parade square listening to a SUS on the parade square making a speech.

Q. Who was the SUS making the speech?
A. SUS Gravelle.

Q. Did you see him for very long?
A. For about 10 minutes.

Q. What happened after that?
A. After that they started off the parade square towards the cell blocks.

Q. Did you see the accused start that way?
A. Yes sir.

Q. Did you see the accused again?
A. No sir.

Q. Did you see the accused on the 10th of May?
A. No sir.

Arwt

A. On the 9th sir.

Q. What was he doing?
A. The latrines were used by all the SUS.

Q. Did you see him on the 10th?
A. No sir.

Q. Did you read over the summary of evidence before you signed it?
A. Yes sir.

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

WITNESS WITHDRAWS

SECOND WITNESS PROSECUTION - C-11721 - CSM (WO2) AMYOTT, W.F. No. 3 Cdn Mil Prison & Detn Bks, having been duly sworn is examined by prosecution:-

Q. Were you on staff at Headley Detention Barracks on the 8th, 9th and 10th of May this year?
A. Yes sir.

Q. And had been at Headley for some time?
A. Yes sir.

Q. Do you know the accused?
A. Yes sir.

Q. Did you see the accused on the 8th of May?
A. No sir.

Q. On the 9th of May did you see the accused?
A. Yes sir.

Q. Where were you?
A. By the corner of living hut No. 3.

Q. What time was this?
A. About 3 o'clock.

Q. Where was the accused?
A. On the parade square listening to a SUS on the parade square making a speech.

Q. Who was the SUS making the speech?
A. SUS Gravelle.

Q. Did you see him for very long?
A. For about 10 minutes.

Q. What happened after that?
A. After that they started off the parade square towards the cell blocks.

Q. Did you see the accused start that way?
A. Yes sir.

Q. Did you see the accused again?
A. No sir.

Q. Did you see the accused on the 10th of May?
A. No sir.

WITNESS IS CROSS EXAMINED BY THE DEFENCE

Q. Did you see the accused on the 9th of May causing any disturbance?
A. No sir.

Q. Did you see him in any group causing a disturbance?
A. No sir I only saw him listening in the group.

Q. How far was he from the speaker?
A. I would say about 10 feet from the speaker.

Q. Were there any jokes going on in the group?
A. There was so some laughing and talking.

Q. Is it possible that the accused could not hear everything SUS Gravelle said?
A. I think he could hear Gravelle.

Q. How many SUS were there in the group?
A. About 20 to 30.

Q. Besides that did you see him again?
A. No sir.

Q. What time was that?
A. It was between 5 and 6 that I did see him in this group when Gravelle gave the speech.

Q. That was the only time you saw him?
A. Yes sir.

QUESTIONS BY THE PRESIDENT

Q. You say the first time you saw Beattie on the 8th of May was in the morning?
A. No sir, it was at this speech that Gravelle was making.

Q. On the 9th of May ~~between 9 and 9~~ in the morning?
A. No sir.

Q. Listen to this, this is what you said in the summary of evidence "I stayed in the Compound all night until the morning of the 9th of May 45. When I turned my shift over to S/Sgt Thorold, I went for my breakfast and at approximately 0815 hrs I was warned that I was wanted back in "A" Compound with all possible Staff as SUS were breaking out of Cell Blocks. The Cell Blocks 5,6,7,8,9 and 10 did break out. I saw SUS Beattie standing alongside SUS Gravelle in what appeared to me to be an attitude of leadership and after Gravelle finished addressing the group, Beattie, Gravelle and a number of the mob disappeared behind the Cell Blocks. At other times I saw him around the Compound adopting the attitude of leadership."
A. I meant that to be the evening of the 9th between 5 and 6 in the evening.

Q. It was in the evening was it?
A. Yes sir.

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

WITNESS WITHDRAWS

THIRD WITNESS PROSECUTION:- C-48515 - Cpl. BRUNDAGE, D.H. Cdn Detn Bks, Alton, having been duly sworn is examined by prosecution.

Q. You were on staff at Headley Detention Barracks on the 8th, 9th and 10th of May this year?
A. Yes sir.

Q. You had duties in "A" Compound?
A. Yes sir.

Q. Do you know the accused?
A. Yes sir.

Q. I believe you didn't see him on the 8th and 9th of May?
A. No sir.

Q. Did you see him on the 10th of May?
A. Yes sir.

Q. At what time?
A. Before noon sir about 10 o'clock.

Q. Where was he?
A. Past 3 and 4 cell block.

Q. What was he doing?
A. He was with other SUS.

Q. Was he carrying anything?
A. No sir.

Q. How many SUS were with him?
A. It is hard to say sir.

Q. Were other SUS near him or was he alone?
A. There were other SUS there.

Q. How many?
A. Probably 2 or 4 sometimes more.

Q. Did you see him again?
A. In cell block No. 2.

Q. Where were you at the time?
A. Inside of cell block No. 2.

Q. What were you doing?
A. I went to see what the breaking was in the cell block.

Q. What happened?
A. As I came inside I was struck by a light bulb being broken, some of the glass went down my clothes, I stayed out after that.

Q. Who was the SUS that broke the light bulb?
A. I don't know sir.

Q. Was he carrying anything?
A. He was carrying a piece of wood about 2½ feet long.

WITNESS IS CROSS EXAMINED BY THE DEFENCE

Q. What time did you say this SUS broke the bulb in the hut?
A. About 11 o'clock sir.

Q. Between 8 and 9 or before noon when you first saw the accused was he causing any disturbance?
A. No sir.

Q. Did you see him at any time with a group of SUS causing and trouble?
A. No sir.

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

WITNESS WITHDRAWS

CASE CLOSES FOR PROSECUTION

SUBMISSION BY THE DEFENCE

I wish to point out that in the first place there is no evidence of riotous damage on the 10th of May, secondly there is no evidence whatsoever that there was a disturbance on the 10th of May or that the accused was in it. On the third charge there is no evidence by any of the witnesses that they saw the accused involved in any disturbance. On the 9th of May, there is no evidence either that the accused was involved in the group causing any disturbance nor was he causing a disturbance himself. The prosecution has put up that the rules were quite lax on the morning of the 9th and as long as the SUS were not causing a disturbance they were not bothered by the staff. There is evidence that when he was ordered to return from the fence he did so. Consequently I put before the court that there is no evidence against the accused on any of the charges.

PROSECUTION

There is no evidence on the first three charges, the only evidence on the 9th of May which the court may consider is the disturbance by the fence where this accused could have been improperly concerned.

COURT CLOSES TO CONSIDER SUBMISSION BY DEFENCE

COURT RE-OPENS

The court finds the accused NOT GUILTY of the first, second, third and fourth charges. The accused will be released to the custody of Cdn Mil Prison and Detn. Bks.

Arb

SUMMARY OF EVIDENCE

in the case of

F 86200 Pte BEATTIE, C.

No 4 Cdn Mil Prison and Det Bks

By order of the Commanding Officer,

all evidence is taken on oath.

18 July 45.

In the Field

A2c

FIRST WITNESS:

A 34001, S/Sgt. SEMPLE P.J., No. 3 Cdn. Military Prison & Detn. Bks., having been duly sworn, states:

I am A 34001, S/Sgt. SEMPLE P.J., No. 3 Cdn. Military Prison & Detn. Bks. On the 8th May, 1945, I was on duty as 2i/c in "A" Compound in charge of all Cell Blocks. At approximately 0815 hrs, trouble started in the Living Huts and men started parading with iron bars throwing them through windows into the cells. I saw SUS BEATTIE at approximately 1100 hrs at which time he had a window bar, but I cannot say whether any damage was done. On 9th May, 1945, the O.O.C. arrived at "A" Compound Parade Square, and talked to the men, at which time he asked questions as regards issue of cigarettes. I heard him tell the men he would see what could be done after which the men dispersed. That evening at approximately 1600 hrs I saw a number of men heading towards the latrine on the west end of Living Hut No. 1, "A" Compound. I went after the men but the latrine was crowded with SUS, armed with clubs or iron bars, smashing the latrines. When standing outside, I saw SUS BEATTIE, carrying a club and having come from the latrines.

The accused declines to cross-examine the witness.

S/Sgt.
(P.J. Semple)

SECOND WITNESS:

C 11721, C.S.M. (WO2) AMYOTT W.F., No 3 Cdn. Military Prison & Detn. Bks., having been d ly sworn, states:

I am C 11721, C.S.M. (WO2) AMYOTT W.F., No. 3 Cdn. Military Prison & Detn. Bks. On the evening of 8th May 45, at approximately 1730 hrs, the general alarm was sounded. I returned to "A" Compound immediately and I was told there had been a break of twelve SUS. A number of SUS from the Living Huts 1,2, and 3 were out on the Parade Square. I entered Living Hut 3, and gave them an order to stand by their beds which most of theSUS did. I then left the hut to help make rounds, to see if we could locate anyone out of the hut and hid in the buildings. I stayed in the Compound all night until the morning of 9th May 45. When I turned my shift over to S/Sgt. THOROLD, I went for my breakfast and at approximately 0815 hrs I was warned that I was wanted back in "A" Compound with all possible Staff as SUS were breaking out of Cell Blocks. The Cell Blocks 5,6,7,8,9 and 10 did break out. I saw SUS BEATTIE standing alongside SUS GRAVELLE in what appeared to me to be an attitude of leadership and after GRAVELLE finished addressing the group, BEATTIE, GRAVELLE and a number of the mob disappeared behing the Cell Blocks. At other times I saw him around the Compound adopting the a ttitude of leadership.

The a ccused declines to cross-examine the witness.

C.S.M.
(W.F. Amyott)

THIRD WITNESS:

C 48515 Cpl BRUNDAGE, D.H., Canadian Detention Barracks, Alton, having been duly sworn states:

I am C 48515, Cpl BRUNDAGE, D.H., Canadian Detention Barracks, Alton. On the morning of the 10th May 45 I was on duty in "A" Compound, No 1 Canadian Detention Barracks. A great number of the SUS were milling about outside the cell blocks - some SUS going into cell blocks from time to time. At approx 1145 hrs I went into No 2 cell block to see what was going on as I heard the sound of breaking glass and battering in the cell block. As I entered the cell block an SUS, whom as far as I know is the accused SUS BEATTIE, struck one of the light bulbs and the broken glass came spraying over me. THE SUS had a piece of board approx 1" lumber in his hand. After being struck by the broken glass I stepped outside.

THIRD WITNESS (CONTINUED):

The accused cross-examines the witness:

Q. 1. Did you personally see me at the trucks which were being loaded to take SUS to Reading?
A. 1. No, I did not see you.

The accused declines to further cross-examine the witness.

_____Cpl.
(D. H. Brundage)

Arm

The accused having been duly cautioned, according to R.P. 4(E) declines to make any statement or to give any evidence upon oath and reserves his defence.

I certify that this Summary of Evidence was taken down by me in the presence and hearing of the accused and in accordance with R.P. 4(C),(D),(E),(F) and (G) this twenty-third day of July 1945.

_____ Capt. RCA
(R. C. Hamilton)
Officer detailed to take the Summary.

Arm

LIST OF WITNESSES

WITNESSES FOR PROSECUTION

1. A.34001 S/Sgt SEMPLE PJ
2. O.11721 CSM ARYOTT WF
3. O.48515 Opl BRUNDAGE DH

WITNESSES FOR DEFENCE

Nil

In the Field
23 July 45

LIST OF EXHIBITS

Nil

Page 1

HRR

Summary of Evidence
in the Case of

F 86 200 Pte Beattie C
No 4, Cdn. Mil. Prison & Det. Bks,
By Order of the Commanding Officer,
all evidence is taken under oath
In the field 14 Jul 45

Page 2

First Witness: A

A 37001 S/Sgt Semple P.J., No 3 Canadian Detention Barracks, having been duly sworn states:

I am A 37001 S/Sgt Semple P.J., No 3 Canadian Det. Bks.
On the 8th May 45, I was on duty as S/Sgt in A Compound in charge of all cell block. At approx 0345 hrs, trouble started in the living huts and men started parading with iron bars throwing them through the windows into the cells. I saw S.U.S. Beattie approx 1100 hrs at which time he had a window bar but I cannot say whether any damage was done.

On 9th May 45, the G.O.C. arrived at A Compound parade square and talked to the men at which time he asked question as regards issue of cigarettes. I heard him tell the men he would see what could be done after which the men dispersed. That evening at approx 1600 hrs I saw a number of men heading towards the latrine on the west end of living hut 1, A Compound. I saw after the men but the latrine was crowded with S.U.S. armed with clubs or iron bars, smashing the latrine. When standing outside I saw S.U.S. Beattie carrying a club and having come from the latrines.

The accused declines to cross examine the witness

P J Semple S/Sgt
P. J. SEMPLE

AFJC

Second Witness:

C 11721 C. S.M (WO II) Amyott, W.F, No.3 Cdn. Det & Prison Barracks being duly sworn states:

I am C 11721 C.S.M (W.O. II) Amyott W.F, No3 Cdn. Det & Prison Bks. On the evening of 8 May 45 at approx 1730 hrs., the general alarm was sounded. I returned to A Compound immediately and I was told there had been a break of 12 S.U.S. A number of S.U.S. from the living huts 1, 2 + 3 were out on the parade square. I entered living hut 3 and gave them an order to stand by their beds which most of the S.U.S. did. I then left the hut to help make rounds to see if we could locate any one out of the hut and hid in the building. I stayed in the Compound all night until the morning of 9 May 45. When I turned my shift over to S/Sgt Thorne I went for my breakfast and approx 0815 hrs I was warned that I was wanted back in A Compound with all possible speed as S.U.S. were breaking out of cell blocks. The cell blocks 5, 6, 7, 8, 9, 10 did break out. I saw S.U.S. Beattie standing along side S.U.S. Grovelle in what appeared to me to be an attitude of leadership and after Grovelle finished addressing the group, Beattie, Grovelle and a number of the men disappeared behind the cell blocks.

At other times I saw him around the compound adopting the attitude of leadership.

The accused declines to cross examine the witness.

W.F. Amyott C.S.M
W.F. AMYOTT

Third Witness:

C48515 Cpl. Brundage D.H. R.C.A.F., Canadian Detent. in Barracks, Alta., being duly sworn

I am C48515 Cpl Brundage, D.H., Canadian Detention Barracks, Alta. ~~Between 1 & 2 o'clock on May 15, while on duty~~ R.C.A.F. ~~I saw~~ R.C.A.F. On the morning of the 10 May 45 I was on duty in A Compound, No 1 Canadian Detention Barracks. A great number of the S.U.S. were milling about outside the cell blocks, some S.U.S. going into cell blocks from time to time. At approx. 1145 hrs, I went into No. 2 Cell block to see what was going on as I heard the sound of breaking glass and banging R.C.A.F. in the cell block. As I entered the cell block an S.U.S. ~~man~~, who as far as I know is the accused S.U.S Beattie, struck one of the light bulbs ~~and~~ and the broken glass came ~~coming~~ coming over me. The S.U.S. had a piece of board approx. 1" lumber in his hand. After being struck by the broken glass I stepped outside.

The accused cross examine the witness.

Q.1. Did you personally see me at the trucks which were being loaded to take S.U.S. to Reading.

A.1. No, I did not see you.

The accused declines to further cross-examine the witness.

D.H. Brundage Cpl.

AZ

The accused having been duly cautioned to R.P. 4(E) declined to make any statement or to ~~say~~ give any evidence upon oath and reserves his defence.

I certify that this summary of Evidence was taken down by me in the presence and hearing of the accused and in accordance with R.P. 4(C), (D), (E), (F) and (G) this 23 day of July 1945.

R. O. Hamilton, Capt RCA.
Officer detailed to take Summary.

AWR

In the case of F.86200 Pte. Beattie C. 4 CMP Det
(Number - Rank - Name - and Unit of Accused)

Receipt for copy of Charge Sheet and Summary of Evidence

I have been given, free of charge, a copy of the Charge Sheet and Summary of Evidence in my case at 1400 hrs this 15 day of AUG 1945.

C Beattie
(Signature of Accused)

Acknowledge of notice under RP 89(b) and request for Defending Officer

I have been warned at 1400 hrs this 15 day of AUG 1945, that the Prosecutor at my trial by Court Martial will be an officer having legal qualifications, and that I am entitled to 7 days notice of such fact. I expressly waive such notice.

I request that an officer having legal qualifications be appointed to represent me as my defending officer at my trial by Court Martial.

C Beattie
(Signature of Accused)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.86200 Pte. Charles BEATTIE, X 4 List RCASC 9 CBR Bn.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Not. guilty	Guilty except that BEATTIE surrendered instead of being arrested.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

PSO ~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for eighteen months.

(Sgd) ..... Judge-Advocate, if any. 27 Mar 45 Date awarded. (Sgd) "P.S. Osler", Major. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) "G.S. GOSTLING" BRIG.

Date 27 Mar 45. Commanding 2 Cdn. BASE RPT. GP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F.86200 Pte. Charles BEATTIE, X-4 List., RCASC, 9 CBR Bn.	29 Mar 1945	"G.L. NEISON", Capt. & Adjt., 9 Bn. C.B.H. Gp.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5 F - 16

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1698 (2664)

Convened by Order of Brigadier G.S.N. Gostling, Comd 2 CBRG dated 22 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-86200	Pte.	CHARLES	BEATTIE	X-4 List RCASC 9 CBR. Bn.

Certified true copy of original proceedings herein.

J.A.G. Rev. 3

Proceedings reviewed: 2 May 45 "E.K. Drynan", Lt.

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED "W.B. BAKER" Major 2 Cdn. Sec. H.Q. 2 Army Gp. 28 Apr 45.

Held in the Fd in (country) BELGIUM on (date(s)) PSO 23 and 27 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 28/10

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

PSO A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

PSO The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

PSO A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1420 hours trial commences.

PSO A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

PSO ~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

PSO ~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

PSO ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	P.S. OSLER	RCA	X-9 List 3 Cdn. Hosp
Member	Capt.	D.L. Mc JANNET	RCASC	9 CBR Bn
Member	Lt.	G.V. DEVICK	GIC	11 CBR Bn
Judge-Advocate		- Nil -		
Prosecutor	Lt.	M. LAMARCHE	GIC	10 CBR Bn
Defending Offr	Lt.	J.R. FIRTH	CAC	9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans ..... Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

PSO A8. The accused F-86200 Pte. Charles BEATTIE before arraignment make(s) ~~(no)~~ (a) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

PSO A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

PSO A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B, D & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii)*, Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes. (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides ~~(not)~~ to advise accused to change his ~~(their)~~ plea(~~s~~) of Guilty to Not Guilty on the First charge(~~s~~). The accused is (~~are~~) so informed, and he ~~(they)~~ change(~~s~~) his (~~their~~) plea(~~s~~) on the First charge(~~s~~). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

~~B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)~~

~~(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)~~

B5. The Summary of Evidence is marked Ex ~~initialled and read aloud by the President.(1)~~

~~(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charges to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)~~

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No. (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

PSO D2. The Prosecutor makes (~~an~~) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans I wish to give evidence Do you intend to call witnesses on your behalf ?

PSO Ans No. ~~Are they witnesses as to character only ? Ans~~

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

PSO D7. The Court is closed to consider the finding(~~s~~).(1) The finding(~~s~~) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

PSO D8. The President ~~announces the finding(s), if any, of Not Guilty,~~ and states to the accused that the finding(~~s~~) of the Court on the First charge(~~s~~), being subject to confirmation, will be promulgated later.(1)

PSO ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith,~~

PSO ~~and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (5), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

PSO E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true PSO copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport PSO to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

PSO E3. President to accused : Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes in mitigation of punishment. (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 187 RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England See AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, F.86200 Pte. Charles BEATTIE, X-4 List RCASC 47 Coy 9 CBR Bn., a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE: A.A. 15 (1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself from 0820 hrs 24 Jan 45 until apprehended by Cdn. Prov Corps at Approximately 1615 hours 26 Feb 45.

(Total absence 33 days 7 hrs. 55 minutes)

"H.W. Rick" Lt. Col.,
Commanding,
9 Bn, 2 C.B.R. Gp.

In the field
17 March 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field
22 Mar 45.

"G.S. GOSTLING" Brigadier,
Commander.,
2 Canadian Base Reinforcement Group.

CFA95 (In lieu of AFA2)
40/PAR/1097 (2068)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.86200	Pte.		Charles	BEATTIE	C-4 List RCASC. 9 CBR Bn.

CONVENING ORDER.

PSO 1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused,
PSO being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on
PSO (*date*) 22 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-
PSO Martial ".

PSO 2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General
PSO Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

PSO ~~4.- I am unable to appoint- (a) three Offrs to form the Court; (b) a 1st Offr as President, for the reasons I have~~
PSO ~~attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

PSO ~~5.- I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P.S. OSLER	RCA X-9 List 3 Cdn. NSTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt. or Lt.	to be detailed by OC 9 CBR Bn.	9 CBR Bn
Lt.	to be detailed by OC 11 CBR Bn.	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.) "G.S. GOSTLING" (Signed personally. RP 105 fn 2.) Brigadier. (Rank.)

Date 22 Mar 45. Commanding 2 Cdn. Base Rft. Gp. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

PS0

MEDICAL OFFICER'S CERTIFCATE

I certify that I have this day examined E.86200
(No)

Pte. BEATTIE, C. and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.
~~unfit~~ J.W.M.

Station Field.
Date. 23 Mar 45.

"J.W. MARTIN" Capt. (Sgd)
Medical Officer.
Unit

PSO

MEDICAL OFFICER CERTIFICATE.

(KR(Can) Para 557)
CMHQ CL 173

I certify that I have this day examined F.86200

Pte. BEATTIE, C. and in my opinion he is
(Rank) (Name)

PWM fit ~~unfit~~ to undergo trial by Court Martial.

Station Field.

Date 27 Mar 45

" J.W. MARTIN" Capt. (Sgd)
(Medical Officer)
(Unit) 9 Btn. 3 CBAG.

Statement by BEA[illegible]TE in reference to the charge.

I surrendered to Provost M.P. in Brussels. I was not arrested by them.

Owing to the change of plea to "Not Guilty" the court is adjourned until 0930 hrs [illegible] March 1945.

"P.[illegible] [illegible]", Major.

[illegible]

Lt. [illegible] Devlin [illegible] to be [illegible].

"P.[illegible] [illegible]", Major.

FIRST WITNESS:

K.42242 C...M. P...TT, W.D., C.S.M. of 47 Coy., 9 CBR Bn.

sworn, states:

I called 47 Coy. roll on 24 Jan 45 at 0.20 hours and Pte. [illegible] was absent. I called 47 Coy. roll [illegible] and 1 Feb 45 and he [illegible] absent. I called [illegible] on 1 and 1 Feb 45 and he was still absent. [illegible] the daily of the [illegible] billets [illegible] the [illegible] and [illegible] could not be found. I never saw him when the summary of evidence was being taken.

[illegible] (3 (b) [illegible]

The Prosecutor tender a copy of a [illegible] relating to Pte. [illegible]. This is [illegible] Red exhibit "A".

DE [illegible]

[illegible]:

K. 310 Pte. [illegible], K. 47 Coy., 9 CBR, [illegible] sworn states.

On [illegible] Feb 45 about 4.[illegible] p.m. I reported [illegible] to the Provost [illegible] and [illegible] reported [illegible] self [illegible] 3 days [illegible] A.W.L. This was in Brussels I went [illegible] of my own free will.

[illegible]

Q. How long did you stay in Brussels?
A. [illegible] 30 days.

[illegible]

Q. Was [illegible] only [illegible] to which you reported?
A. Yes.

Q. [illegible] did you [illegible] to?
A. I [illegible] to the [illegible]. In [illegible], I don't know [illegible].

[illegible] (3 (c) [illegible]

[illegible]:

[illegible] was [illegible] Brussels [illegible] days.

[illegible]

[illegible] guilty of [illegible], but is not guilty of the charge as laid with respect to [illegible] being arrested. He surrendered himself and is not guilty of the charge as laid.

STATEMENT BY BEATTIE IN MITIGATION.

I came to France with 82 Arty. Bgy., RCASC on 12 Jul 44. I first applied for a transfer to infantry on 1 Aug 44, but I was told it was impossible. Then in Oct 44 I applied again and it was allowed. From my unit I went to the reallocation Unit in Oct and I left ther on being re allocated to 4th. R.S. Hldrs. I arrived at 10 Bn. [illegible] in Nov 44. From there I went to hospital and from hospital back to 47 [illegible]. While in [illegible] I asked to be paraded to [illegible] Bde Wood in Dec about the transfer. Nothing happened. I went [illegible] I asked [illegible] help and it didn't. Then [illegible] I was [illegible] to be paraded [illegible] Lt. [illegible] on 24 [illegible] 44.

[illegible]

[illegible]

[illegible]

[illegible] on Pte. [illegible] I would like to present a few facts [illegible] been [illegible] in the army for 8 years, posted [illegible] been [illegible] in the RCOC. [illegible] arrived in France [illegible] the [illegible] Army [illegible] Corps [illegible] work- [illegible] the Infantry. [illegible] sent to [illegible] and in sept was re [illegible] as a rifleman, I [illegible] to Fresnes [illegible] posted [illegible] 10 Bn. [illegible] 10 Bn. [illegible] when he w[illegible] sent to [illegible] back to the Inf reinforcement [illegible]. [illegible] and [illegible] the same thing, [illegible] been re-located to infantry." [illegible] various [illegible] in [illegible] Bde. [illegible] important [illegible] in [illegible] 10 Bn. [illegible] be surrendered [illegible] Because [illegible] wants to get [illegible] back and cleared off his [illegible] that [illegible] can [illegible] to the Infantry where he wants to [illegible]. Pte. [illegible] wants [illegible] been [illegible] ask the [illegible] to consider [illegible] second, [illegible] and his [illegible] case so [illegible] on [illegible].

[illegible], [illegible].

EXHIBIT "A"

EXHIBIT "A"

CERTIFICATE IN ACCORDANCE WITH P.C. 2727 of 10 Apr 42.

I CERTIFY THAT No. F.86260 [illegible] Pte. [illegible], G.

[illegible], 12 [illegible]. 2 [illegible] was arrested at [illegible] (Pl ce)

at 1615 [illegible] on [illegible] 48 [illegible] [illegible] of his

[illegible]

[illegible] Provost Marshal, [illegible] Provost [illegible] Officer

[illegible] Officer [illegible] Warrant Officer [illegible] the

[illegible] Canadian Provost [illegible], [illegible] the det-

[illegible] and [illegible] study the

[illegible]

[illegible] 48.

"J. [illegible]" [illegible]

[illegible] Provost Corps.

EXHIBIT "B"

PSO

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
F.86200	Pte.	BEATTIE, C.	9 Bn, 2 C.B.R.G.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec. 15 (1) A.A. Sec. 18 (2)	16	times.
For A.A. Sec. 11 A.A. Sec. 40	1	times.
For A.A. Sec. 24 (2)	2	times.
For A.A. Sec. 9 (2)	7	times.
	1	times.

Date of first entry in Field Conduct Sheet 22 Mar 42

Date of last entry in Field Conduct Sheet 6 Dec 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for beginning on the~~ ~~day of~~ JSEM JSEM

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 29 ~~86~~ M.L. days in military custody, i.e., Nil days in open arrest, 29 ~~86~~ M.L. days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23 & 2/12 yrs.

J SEM

6. The date of his attestation ~~calling-up for military service~~ is 8 Aug 41

7. The service which the accused is allowed to reckon is 2 & 10/12 yrs.

†State the military decorations (if any) held by accused.

8. The accused is in possession of † CVSM & CLASP

9. ~~If the accused is a warrant officer or (N.C.O.)~~ ~~The accused has served continuously, without reduction,~~ to the present date—

Date of Promotion.

In the substantive rank of

In the war substantive rank of

~~In the~~ acting rank of JSEM

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2857 30,000 5/44 51-432 T.Ltd. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field 5 Jun 43	A.A. Section 15 (1) A.W.L. 5 days, 12 hours.		
		A.A. Section 40	90 days detention.	
		J SBM		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 27 day of March 1945.

"C.L. NEILSON" Capt. A Adjt.
Officer having custody of the Regmental books.

EXHIBIT C

ESD

MFM 6 (AFB 122) 40/PAS/125 (3483)

No. 86200 Name BEATTIE, G. Sqn. Battery. or Company | Corps R.C.A.S.C. | Date of enlistment 18.8.41 | GC Badges | Service or Proficiency Pay N.A.

Date of last entry in Company Conduct Sheet N.A. | No and date of last drunk N.A. | Period not reckoning towards freedom from extra fine N.A. | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with Overseas R.O. 2084 previous sheet destroyed on completion of 6 months service from date of attentation. Sheet destroyed 18.2.42 Last entry Nil. Cases of drunkeness Nil. Last instance on N.A.						(J.FitzRandolph) Maj. OC C.T. Pot. Coy. RCASC		32 Coy.	
Camp Borden Ont.	22 3 42	Pte.		Sec 15 (2) F ile to appear at an appointed place of parade	Cpl.Bennett Pte Avery Pte McDonald	7 days C.B.	23.3.32	E.M. Rimmer Maj.	
Camp Borden Ont.	1	Pte.		Sec 15 (1) A.A. A.W.L. 2 days 2 hrs 30 min	L/Cpl. Harnois	5 days pay FRI 149 (2)	6.4.42	C.M. Rutton Lt. Col.	for 3 days FrI 149 pay (1) (a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	11.6.42	Pte.		Sec. 15(1) A.A. AWL from 2230 hrs 11.6.42 to 2330 hrs 11.6.42 TA 1 hr.	Cpl. Young L/Cp. South well	Forf. 5 days pay FRI 149(2)	12.6.42	W.H. Montague, Lt. Col.	Forf 6 dyas pay FRI 149(1)(a)
Aldershot	23.6.42	L/Cpl.		Sec. 15(1) A.A. AWL from 0830 hrs 23.6.42 to 1045 hrs 28.6.42 TA 5 dyas 2 hrs 15 mins.	Sgt. Miller Sgt. Snider Sgt. Hooper	Reduced to pte.	30.6.42	MV McQueen Col.	
Farnborough	30.6.42			A.A. Sec. 11 Neglected to obey standing orders	RSM Muzylo	14 dys CB	15.7.42	MV McQueen Col.	
Farnborough	12.7.42			A.A. Sec. 40 failed to answer name on defaulters roll call at 0630 hrs. 12.7.42	Documentary	7 days CB 4 days pay FRI 149 (2)	15.7.42	F.W. Miles Lt. Col.	
Field	4.9.42			Sec 15(1) A.A. AWL from 0600 hrs 4.9.42 to 1240 hrs. 9.9.42 TA 5 days 40 mins.	C11686 Cpl. Sheahan, J.	7 days CB 5 days pay FRI 149 (2)	18-9.42	J. Fitz Randolph Maj.	forf 6 dyas pay FRI 149 (1) (a)

MFM 6
(AFB 122)
40/P25/136 (345)

No P86200 Name BEATTIE, C | Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 18.8.41 | GC Badges | Service or Proficiency Pay N.A. | Character

Date of last entry in Company Conduct Sheet N.A. | No and date of last drunk N.A. | Period not reckoning towards freedom from extra fine N.A. | Sheet No 2 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11.9.42	Pte		Sec. 40 AA did make a false statement.	C11686 Cpl. Sheahan, J.	7 days CB	13.9.42	J. Fitz-Randolph, Maj.	
Field	8.11.42	Pte.		(1) Sec 40 AA used Cdn Gov Petrol on an open flame causing damage to property	L/Cpl. Stewart, LK	28 days FP	10.11.42	J. Fitz-Randolph, Maj.	Forf. 28 days pay PRI 149 (1) (b) Placed under stoppage of pay £1.3.0 PRI 158 (2)
	9.11.42	Pte.		(2) Sec 40 AA stole a bag of apples	B83974 S/Sgt. E.S.				
	8.11.42	Pte.		(3) Sec 40. AA used another man's equipment without their permission	C11366 L/Cpl. Chamberlain, V.				
	8.11.42	Pte.		(4) Sec 24 (2) AA did lose by neglect his respirator AG					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17.3.42	Pte.		Sec 15 (1) AA AWL from 1800 hrs 17.3.43 until apprehended at 0945 hrs on 28 Mar 43 (10 days. 15 hrs 45 mins)	Sgt. Bentley Documentary	21 days FP	30.3.43	RL Munnery Major	Forf 21 days pay 11 days pay and costs £0.5.3 FRI 149
Field	29.4.43	Pte.		AA Sec 15(1) AWL 6 hrs 45 mins AA Sec 9(2) disobey lawful command given by superior officer. AA sec 11 negl. to obey camp standing orders.	Cpl. Finley Cpl. Finley	28 days Det'n	30.4.43	RL Munnery Major	Auth forf 28 days pay FRI 149
Field	6.6.43.	Pte.		AA Sec 15 (1) AWL 5 days 12 hrs AA Sec 40	Cpl. Finley Sgt. Young Lt. Bayly	90 days Det.& placed under stoppage of pay inthe am't of £0.4.3 under RRI 173 (1)	FGCM	Conf'd Lt. Col. Bisson H.Q. 2 Cdn. Corps Tps.	Forf 90 days pay FRI 149(2)Forf 6 days pay. FRI 149 (1)(a) Total forf 105 days pay.

MFM 6
(AFB 122)
40/PAR/136 (3485)

No P86200 Name BEATTIE, C. | Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 18.8.41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12.9.43	Pte.		AWL sec 15(1) Absent from 1200 hrs 12 Sep 43 until 1845 hours 14 Sep (TTA 2 days 6 hrs. 45 mins)	Documentary	Aw'd 7 days pay	17-9-43	Lt. Col. JM McGown	Forf 3 days pay FRI 149(1)(a) aw'd 7 days pay FRI(149)2)
Field	26.9.43	Pte.		AWL sec 15(1). Absent from 2359 hrs 26 Sep 43 until 0705 hrs 27 Sep43. (TTA 7 hrs. 6 mins)	Documentary	Aw'd 2 days pay.	29.9.43	Lt. Col. WC Fletcher.	Forf. 1 days pay FRI 149 (1)(a) Aw'd 2 days pay FRI 149 (2)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11.10.43	P.e.		AA sec 15(1) AWL from 1400 hrs 11 Oct 43 until apprehended at 0900 hrs 13 Oct 43 (AWL 1 day 19 hrs)	Documentary	2 days pay FRI 149 (1) a	15 Oct 43	Lt. Col. PM Irwin	2 days pay FRI 149 (1) (a)
Field	12.10-43	Pte.		AA Sec 15(1) AWL from 1400 hrs 15 Oct 43 until reporting in at 0900 hrs 17 Oct 43 (AWL 1 day 19 hrs.)	L/Sgt. Spencer, C.	14 days CB	20.10.43	Lt.Col. PM Irwin	2 days pay FRI 149 (1) (a)
Field	26.10.43	Pte.		AA Sec 15(1) WOAS AWL while a defaulter from 1400 hrs 26 Oct until apprehended at 1800 hrs 26 Oct 43 (AWL 4 hours.	A/Cpl. Mc Donald, E.D.	14 days FP 14 days pay FRI 149 (1) b	28.10-43	Lt. Col. P.M. Irwin	
Field	11.11.43	Pte.		AA Sec 15 (1) WOAS AWL from 1430 hrs 11. Nov 43 until apprehended	Lt. Prest Documentary	3 days pay 149 (2) FRI	13 Nov 43	Major Lable.	

MFM 6
(AFS 122)
40/PAS/136 (34[illegible])

No P86200 Name BEATTIE, C. | Sqn, Battery, or Company N.A. | Corps R.C.A.S.C. | Date of enlistment 18.8.41 | GC Badges | Service or Proficiency Pay N.A. | Character

Date of last entry in Company Conduct Sheet N.A. | No and date of last drunk N.A. | Period not reckoning towards freedom from extra fine N.A. | Sheet No 4. | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1.12.43	Pte.		AA 15(1) AWL from 2359 hrs 1.12.43 to 1115 hrs 2.12.43 (11 hrs. mins)	Sgt. 16 Ruberrz Documentary	28 days pay FRI 149 (1) b 28 days FP	4.12.43	Lt. Col. P.M. Irwin	1 days pay FRI 149(1) a stoppage of pay £o.5.3
	11.11.43	Pte.		AA 40 conduct to the prejudice did defraud the Southern Rly. of five shilling twopence contrary to CRURO 507					
Field	8 Mar 44	Pte.		(1)WOAS AWL from 2200 hrs 8 Mar 44 till 0030 hrs 11 Mar 44 AA Sec 15 TA 2 days 2 hrs. 30 mins.	L/C H eath (1)Documentary	28 days Det to run concurrently with FIRST CHARGE.	n.22.3.44	Maj.WH Copeland	3 days pay FRI 149 (1)(a)
	11 Mar 44	Pte		(2) WOAS AWL from 1340 hrs 11 Mar till 2310 hrs 20 May 44 AA Sec 15 TA 9 days 9 hrs. 30 mins.	Sgt. Kirkwood (1) Pte. Mc Donald Documentary		to 22.3.44	Maj. W.H. Copeland	10 days pay FRI 149(1)pay 28 days payFRI 149 (1)(b)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6 Dec 44	Pte.		WOAS AWL AA Sec 15 (1) absent 12 days 5 hrs. 40 mins.	CSM Pratt Documentary	28 days F.P. 28 days pay 13 days pay Total pay 41 days pay	21 Dec 44	AI Hood. Lt. Coo.	FRI 149 1 b FRI 149 1 a.

CERTIFIED TRUE COPY

"C.L. NELSON" Capt. and Adjt.
Officer having custody of
regmental documents and books.

20 Mar 45.

EXHIBIT "A" P.S.O.

SUMMARY OF EVIDENCE.

in the case of

F 86200 Pte. BEATTIE, C. 47 Coy 9 Bn. 2 CBRG

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: K. 42242 CSM PRATT, W.D. on strength of 47 Coy 9 Bn. 2 CBRG having been duly sworn states:

"I am K.42242 CSM Pratt, W.D. of 47 Coy 9 Bn. 2 CBRG. On the 24 Jan 45 at approximately 0820 hrs I called the Coy roll and Pte. BEATTIE was absent. A search was made of Coy. barracks and Pte. BEATTIE could not be found. I have called company roll daily from 24 Jan 45 until 1 Feb 45 and again on 15 and 16 Feb 45 Pte. BEATTIE has remainded absent."

"W.D. PRATT", C.S.M., K.42242

The accused declines to cross-examine the witness.

SECOND WITNESS: (Documentary) The certificate of apprehension in accordance with P.C. 2797 d/10 Apr 42, produced as documentary evidence was read over to the accused, marked Exhibit "A" signed by me and attached hereto.

"M.B. Jack" Lieut.

THE ACCUSED WAS CAUTIONED AS FOLLOWS

Do you wish to make any statemtn or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

The accused declines to make any statment.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

"M.B. Jack" Lieut.,
Officer detailed to take
Summary of Evidence.

In the Field
17 March 1945.

LIST OF WITNESSES

in the case of

F.86200 Pte. BEATTIE, C. 47 Coy. 9 Bn. 2 CBRG

FOR PROSECUTION

1. K.42242 CSM PRATT, W.O. 47 Coy. 9 Bn. 2 CBRG
2. (Documentary) Statement of Apprehension.

FOR DEFENSE:

NIL.

LIST OF EXHIBITS

in the case of

F.86200 Pte. BEATTIE, C. 47 Coy., 9 Bn. 2 CBRG.

"A" Certificates of apprehension in accordance with P.C. with P.C. 2797 of 10 Apr 42.

DATE 19 March 1945.

F.86200 Pte. BEATTIE, C.

1. I hereby acknowledge receipt of one copy of Charge Sheet and one copy of the Summary of Evidence delivered to me.

1615 hrs 19 March 1945.

(a) I request tha _____ if available, be appointed, OR

(b) I request that an Officer be appointed as my Defending Officer at my trial by Court-Martial.

C. BEATTIE.

I hereby certify that Lt. J.R. FIRTH was appointed to defent F. 86200 Pte. BEATTIE, C. at his forthcoming trial by Court Martial and that the sais Lt. J.R. FIRTH was notified that he was defending officer on 19 March 1945.

"J.D. Mc Kiskan" Lieut.
for. Capt. & Adjt.,
9 Bn. 2 C.B.R. Gp.

RECORDED AT CMHQ IN AB 160 5F-716

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AA43) 40/P & S/1696 (4930) 4/38B

REC'D 2 MAY 1943 JAG Br. C.M.H.Q.

Convened by Order of Brigadier G S N Gostling, ED Comd 2 CBRG dated 22 MAR 45

ACCUSED.

(Refer to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
F-86200	Pte		Charles	BEATTIE	I-9 List 9 CBR Bn

PROCEEDINGS REVIEWED 2 May 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED

Cdn Sec GHQ 2 Echn MAY 23 1945

28 Apr 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 23 and 27 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

28/10-

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1420 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	P S OSLER	RCA	X-9 List 3 Cdn NETD
Member	Capt	D L McJannet	RCASC	9 CBR Bn
Member	Lt	G V Derick	CIC	11 CBR Bn
Judge-Advocate		nil		
Prosecutor	Lt	M Lamarche	CIC	10 CBR Bn
Defending Offr	Lt	J R Firth	CAC	9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused F-86200 Pte Charles BEATTIE before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ~~D or E~~ B, D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

21

2 CBRG Vol. 5 P. 111.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. no plea .....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides ~~(not)~~ to advise accused to change his ~~(their)~~ plea(~~s~~) of Guilty to Not Guilty on the First charge(~~s~~). The accused is ~~(are)~~ so informed, and he ~~(they)~~ change(~~s~~) his (~~their~~) plea(~~s~~) on the First charge(~~s~~). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

~~B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part 1 of the Schedule.(1)~~

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

10/Beattie, C/2

OFFICE OF THE JUDGE ADVOCATE GENERAL

CANADIAN ARMY OVERSEAS

A.V.C. S.W.D.

XXX- Cdn Corps Det A.V.C.	(21 Gp (" ("
TCC 27 Mar 45 (Date of sentence)	
No. B62200 Rank Pte.	
Name BEATTIE, C.	
Unit X-4 List RCASC	

Charge(s)	15(1)			
Plea	N.G.			
Finding	Guilty	Special Finding		

Sentence 18 Months Detention

Received from CM 2 May 45	
Passed to Rev Off 2 May 45	
Passed to Rev 1 2 May 45	
Passed to	
Passed to	
Returned to Rev Clerk 2 May 45	
Record ~~Pth~~ Pass AGS "K.G. Morden" Lt. Col., ADJAG CMHQ.	

A CONFIRMING OFFICER'S REVIEWING OFFICER

Pass ~~Confirm~~

~~Arrest the confirmation of the sentence~~

Date 2 May 45 "E.K. Dryman" Lt.
(Reviewing Officer)

FINAL JUDGE ADVOCATE

Pass ~~Confirm~~

~~Arrest the confirmation of the sentence~~

Date 2 May 45 "K.G. Morden" Lt. Col. ADJAG CMHQ

OBSERVATIONS:

~~In the case of pleas of guilty:- There is nothing in the record of the proceedings which required the Court to advise the accused to change his plea.~~

1 In the case of pleas of not guilty:- There is legal evidence to justify the finding.

2 No substantial injustice to the accused.

3. Rev. sheet Cdn. Sec. 1 Reg. N.D. 21 A Gp. (comments on procedure) noted.

4. Defence: Plea changed to N.G. following statement of accused.
Acc. gave evidence admitting A.L.
Def. sums up - address in mitigation.
Barracks recco. discharge from Army.

5. C.C. Dern.

RECORDED AT CMHQ ON APR 160

5 F - 16

(Continue over if necessary)

P10

CHARGE SHEET

The accused, F-86200 Pte. Charles BEATTIE, X-4 List RCASC 47 Coy 9 CBR Bn, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A.A. 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself from 0820 hrs 24 Jan 45 until apprehended by Cdn Prov Corps at Approximately 1615 hrs 26 Feb 45.

(Total absence 33 days 7 hrs. 55 minutes)

(H.W. Rick) Lt.-Col.,
Commanding,
9 Bn, 2 C.B.R.Gp.

In the Field
17 March 1945

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G S M Gostling) Brigadier
Commander
2 Canadian Base Reinforcement Group

In the Field
22 Mar 45

19

P10

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-86200	Pte		Charles	BEATTIE	C-4 List RCASC 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 22 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P S CELER	RCA X-9 List 3 Cdn MRTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	to be detailed by OC 9 CBR Bn	9 CBR Bn
Lt	To be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 22 Mar 45

(Signed personally. RP 105 fn 2.)
(G S F Gostlin)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In Bed of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

18

P20

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)

I certify that I have this day examined F86200
(No.)

Pte BEATTIE. C.
(Rank) (Name)

and in my opinion he is

fit to undergo trial by Court-Martial.
~~unfit~~

Station Fwd.

Date. 23. 3. 45.

J.H. Martin Capt (Sgd)
Medical Officer
Unit

P10.

MEDICAL OFFICER CERTIFICATE

(KR(Can)Para 557)
CMHQ CL 173

I certify that I have this day examined F-86200
(Number)

PTE BEATTIE-C and in my opinion he is
(Rank) (Name)

fit ~~unfit~~ to undergo trial by Court Martial

Station FIELD

Date 27-3-45

J. H. Martin Capt (Sgd)
Medical Officer

(Unit) 9 Pln 3 CBRC

16

2. Statement by Beattie in reference to the charge.

I surrendered to Provost HQ in Brussels. I was not arrested by them.

Owing to the change of plea to "Not Guilty" the Court is adjourned until 0930 hrs 26 Mar 45

P J Osler major

26 Mar 45. The Court is further adjourned until a member Lt G V Derich is able to be present.

P J Osler major.

15

D3

PTO

First Witness

K42242 CSM Pratt W.D., CSM of 47 Coy 9 CBR Bn sworn states.

I called 47 Coy roll on 24 Jan 45 at 0820 hrs and Pte Beattie was absent. I called Coy rolls up to and including 1 Feb 45 and he remained absent. I called them again on 15 and 16 Feb 45 and he was still absent. A search was made daily of the Coy billets by the Orderly NCO and Beattie could not be found. I next saw him when the summary of Evidence was being taken.

RP 83 (B) complied with

The Prosecutor produces certificate of apprehension relating to Pte Beattie. This is marked Exhibit A.

D5

Defence

First Witness

F 86200 Pte Beattie C 47 Coy 9 CBR Bn sworn states.

14

On 26 Feb about 4.30 pm I reported in to the Provost HQ and reported myself 33 days AWL. This was in Brussels. I went there of my own free will.

Cross examined by Prosecutor

Q. How long did you stay in Brussels?

A. about 30 days.

By the Court

Q. Was it the orderly room to which you reported?

A Yes.

Q Who did you speak to?

A I spoke to the Sgt in charge. I don't know his name.

RP 83 (B) complied with.

Address by Prosecution

The certificate of apprehension states clearly that Beattie was arrested, and he himself admits he was in Brussels for 30 days.

Address by Defence

It is not denied that Beattie is guilty of AWL, but he is not guilty of the charge as laid with respect to being arrested. He surrendered himself and thus is not guilty of the charge as laid.

E 3

Statement by Beattie in mitigation

I came to France with 82 Army Coy RCASC on 12 Jul 44. I first applied for a transfer to infantry on 1 Aug 44, but I was told it was impossible. Then in Oct 44 I applied again and it was allowed. From my unit I went to the Reallocation Unit in Oct and I left there on being reallocated to Nth NS Highrs. I arrived at 10 Bn CBRG in Nov 44. From there I went to hospital and from hospital back to 47 Coy, which is RCASC. I asked to be paraded to Lt Col. Hood in Dec about the transfer. Nothing happened. I went absent for 2 days to see if that would help and it didn't. Then later while doing FP for the 2 days absence I asked to paraded to Lt Col Hood again, but still nothing happened. This was on 24 Dec 44.

The statement was read over to Beattie.

MO.

12

Plea in Mitigation

Pte Beattie

Before the Court passes judgment on Pte Beattie, I would like to present a few facts about his army career. He has been in the army for 3½ years most of which has been spent in the R.C.A.S.C. He enlisted in France with the Cavalry Company of the Screen Corps ~~Medical Service Corps~~ ~~Platoon~~ and after working with them decided he wished to go to the infantry. He was sent to 3 R.R.C. ~~and~~ in ~~Sept~~ Sept and was re-mustered to R.H.S. Highlanders as I produce a document from 30 Spec Coy to show that Beattie was posted to 10 Bn as rifleman. He was then in 10 Bn for 1½ months awaiting draft when he went to hospital for 10 days. When he came out of hospital he was sent back to 47 Coy and could not get back to the Draft reinforcement battalion. He was passed to various people and finally to Lt Col Hood O/C 12 Bn. They all told him the same thing - they couldn't do anything despite the fact that Beattie had been re-allocated to Infantry. In a period of despondency after his various attempts to get to the infantry, Pte Beattie went A.W.L. I can understand his feelings for he received no cooperation from the people in authority of 12 Bn. When he realized his mistake he surrendered to the Provost and now wants to get this black mark cleared off his army record so that he can get up to the infantry when he wants to serve. Pte Beattie is anxious as the court has seen, to get up to the infantry and I ask the court to consider his record, his 29 days under close arrest and his eagerness to fight where he is needed and be very lenient in his case so that he can get on with his army work.

EXHIBIT "A" CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42 Exhibit "A" p10.

I CERTIFY THAT No F86200, Rank PTE. Name BEATTIE, C.

Unit RCASC, 12 BN. 2 CBRG. was arrested at BRUSSELS (Place)

at 1615 (hour) on 26 FEB 45 (date) and that at the time of his arrest he was wearing (military uniform) or (~~civilian clothes~~).

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

(J. TWEDDLE) A/CAPT.
OC 2 CDN L of C PROVOST Co

FIELD
26 FEB 45

W.B. Jack

10

This is Exhibit "A" referred to in the Summary of Evidence in the case of F86200 Pte Beattie C
taken before me this 9th day of March 1945.

W B Jackson

Exhibit B 220

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
F 86200	PTE	BEATTIE, C.	9 Bn, 2 C.B.R.G.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. Sec. 15(1)	16 times.
	~~A.A. Sec. 15(2)~~	~~1~~ times.
For	A.A. Sec. 11	2 times.
	A.A. Sec. 40	7
For	~~A.A. Sec. 24(2)~~	~~1~~ times.
For	A.A. Sec. 9(2)	1 times.

Date of first entry in Field Conduct Sheet 22 Mar 42

Date of last entry in Field Conduct Sheet 6 Dec 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*~~3. The accused at the present time is under sentence for~~ JWM

~~beginning on the~~ ~~day of~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for ~~25~~ 29 days in military custody, *i.e.*, Nil days in open arrest, ~~25~~ 29 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23 & 2/12 yrs.

6. The date of his attestation is 8 Aug 41

~~enlisting in the military service~~

7. The service which the accused is allowed to reckon is 2 & 10/12 yrs.

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM & CLASP.

~~9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously~~, without reduction, ~~to the present date~~—

	Date of Promotion.
In the substantive rank of JWM	
In the war substantive rank of	
~~In the acting rank of~~	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

9

(27833) Wt.24939/3404 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field 6 Jun 1943	A.A. Section 15(1) A.W.L. 5 days, 12 hours. A.A. Section 40	90 days detention	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~23~~ 27th day of March 1946

(C.L. Nelson) Capt. & Adj.
Officer having custody of the regimental books.

Exhibit C 110

3/17 MFM 6 (AFB 122) 40/P48/136 (5418)

No. F86200 Name BEATTIE, C. Sqn, Battery, or Company Corps R.C.A.S.C. Date of enlistment 18.8.41 GC Badges Service or Proficiency Pay N.A. Character

Date of last entry in Company Conduct Sheet N.A. No. and date of last drunk N.A. Period not reckoning towards freedom from extra fine N.A. Sheet No 1 Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with Overseas R.O. 2084 previous sheet destroyed on completion of 6 months service from date of attestation. Sheet destroyed 18.2.42. Last entry Nil. Cases of drunkeness Nil. Last instance on N.A.						(J. FitzRandolph) Maj OC C.T. Pet Coy (32 Coy) R.C.A.S.C.			
Camp Borden Ont	22 3 42	Pte		Sec 15(2) Failed to appear at an appointed place of parade	Cpl Bennett Pte Avery Pte McDonald	7 days C.B.	23.3.42	E.M. Rimmer Maj	
Camp Borden Ont	1 4.42	Pte		Sec 15 (1) A.A. A.W.L. 2 days 2 hrs 30 min	L/Cpl Harnois	5 days pay FRI 149(2)	6.4.42	C.M. Rutten Lt.Col	For 3 days FRI 149 pay (1)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	11.6 42	Pte		Sec 15(1) AA. AWL from 2230 hrs 11.6.42 to 2330 hrs 11.6.42. TA 1 hr	Cpl Young L/Cpl Southwell	Forf 5 days pay FRI 149(2)	12.6.42	WH Montague, Lt-Col	
Aldershot	23.6 42	L/Cpl		Sec. 15(1) AA. AWL from 0830 hrs 23.6.42 to 1045 hrs 28.6.42. TA 5 days 2 hrs 15 mins	Sgt Miller Sgt Snider Sgt Hooper	Reduced to pte	30.6.42	MV McQueen Col	Forf 6 days pay FRI 149(1)(a)
Farnborough	30.6 42	Pte		AA Sec 11. Neglected to obey standing orders	RSM Muzylo	14 days CB	15.7.42	MV McQueen Col	
Farnborough	12.7 42	Pte		AA Sec 40. Failed to answer name on defaulters roll call at 0630 hrs 12.7.42	Documentary	7 days CB. 4 days pay FRI 149(2)	15.7.42	F.W.Miles Lt-col	
Field	4.9 42			Sec 15(1) AA. AWL from 0600 hrs 4.9.42 to 1640 hrs 9.9.42. TA 5 days 40 mins	C11686 Cpl Sheahan, J	7 days CB 5 days pay FRI 149(2)	18.9.42	J.Fitz Randolph Maj	Forf 6 days pay FRI 149(1)(a)

No. F86200 Name BEATTIE, C

Sqn, Battery, or Company: NA

Corps: R.C.A.S.C.

Date of enlistment: 18.8.41

GC Badges:

Service or Proficiency Pay: NA

3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet: NA

No. and date of last drunk: NA

Period not reckoning towards freedom from extra fine: NA

Sheet No: 2

Signature OC Company, etc:

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11.9.42	Pte		Sec 40 AA. Did make a false statement	C11686 Cpl Sheahan, J.	7 days CB	13.9.42	J Fitz-Randolph Maj	
Field	8.11.42	Pte		(1) Sec 40 AA used Cdn Gov Petrol on a n open flame causing damage to property	L/Cpl Stewart LK	28 days FP	10.11.42	J Fitz-Randolph Maj	Forf 28 days pay FRI 149 (1)(b) Placed under stoppage of pay £1.3.0 FRI 158(2)
	9.11.42	Pte		(2) Sec 40 AA stole a bag of apples	B83974 S/Sgt Gordon, ES				
	8.11.42	Pte		(3) Sec 40 AA used another man's equipment without their permission	C11366 L/Cpl Chamberlain V				
	8.11.42	Pte		(4) Sec 24(2) AA did lose by neglect his respirator AG					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	17.3.43	Pte		Sec 15(1) AA AWL from 1800 hrs 17.3.43 until apprehended at 0945 hrs on 28 Mar 43 (10 days 15 hrs 45 mins)	Sgt Bentley Documentary	21 days FP	30-3.43	RL Mummery Major	Forf 21 days pay 11 days pay and costs £0-5-3 FR&I 149
Field	29.4.43			AA sec 15(1) AWL 6 hrs 45 mins AA sec 9(2) disobey lawful command given by superior officer AA sec 11 negl to obey camp standing orders	Cpl Finle y Cpl Finley Cpl Finley Sgt Young Lt Bayly	28 days Det'n	30.4.43	RL Mummery Major	Aut forf 28 days pay FR&I 149
Field	6.6.43	Pte		AA sec 15(1) AWL 5 days 12 hrs AA sec 40		90 days Det Det & placed under stopp of pay in the amt of £0.4.3 under FRI 173(1)	FGCM	Conf'd by Lt. Col. Bisson HQ 2 Cdn Corps Tps	Forf 90 days pay FR&I 149(2) Forf 6 days pay. FRI 149 (1)(a) Total forf 105 days pay

No. F86200 Name BEATTIE C | Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 18.8.41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fie ld	12 Sep 43	Pte		AWL sec 15(1). Absent from 1200 hrs 12 Sep 43 until 1845 hrs 14 Sep 43. (TTA 2 days 6 hrs 45 mins)	Documentary	Awarded 7 days pay	17-9-43	Lt-col JM McGown	Forf 3 days pay FRI 149 (1)(a) Awarded 7 days pay FRI149(2)
Field	26.9 43	Pte		AWL sec 15(1). Absent from 2359 hrs 26 Sep 43 until 0705 hrs 27 Sep 43. (TTA 7 hrs 6 mins)	Documentary	Awa rded 2 days pay	29.9.43	Lt-col WC Fletcher	Forf 1 days pay FRI 149 (1)(a) Awarded 2 days pay FRI149(2)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 Oct 43	Pte		AA sec 15(1) AWL from 1400 hrs 11 Oct 43 until apprehended at 0900 hrs 13 Oct 43 (AWL 1 day 19 hrs)	Documentary	2 days pay FRI 149(1)a	15 Oct 43	Lt-col PM Irwin	2 days pay FRI 149(1)a
Field	12 Oct 43	Pte		AA Sec 15(1) AWL from 1400 hrs 15 Oct 43 until reporting in at 0900 hrs 17 Oct 43 (AWL 1 day 19 hrs	L/Sgt Spencer, C	14 days CB	20 Oct 43	Lt-col Irwin	2 days pay FRI 149(1)(a)
Field	26 Oct 43	Pte		AA Sec 15(1) WOAS AWL while a defaulter from 1400 hrs 26 Oct until apprehended at 1800 hrs 26 Oct 43 (AWL 4 hours)	A/Cpl McDonald, ED	14 days FP 14 days pay FRI 149(1)b	28 Oct 43	Lt-col Irwin	
Field	11 Nov 43	Pte		AA Sec 15(1) WOAS AWL from 1430 hrs 11 Nov 43 until apprehended	Lt Prest Documentary	3 days pay 149(2) FRI	13 Nov 43	Maj Lable	

3/17 MFM 6 (AFB 122) 40/F.S./138 (5418)

No. F86200 Name BEATTIE C | Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 18.8.41 | GC Badges | Service or Proficiency Pay NA | Character

Date of last entry in Company Conduct Sheet NA | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No 4 | Signature OC Company, etc

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Dec 43	Pte		AA 15(1) AWL from 2359 hrs 1.12.43 to 1115 hrs 2.12.43 (11 hrs 16 mins)	Sgt Ruberrz Documentary	28 days pay FRI 149(1)b 28 days FP	4 Dec 43	Lt-col PM Irw in	1 days pay FRI 149(1)a Stoppage of pay £0-5-3
	11 Nov 43	Pte		AA 40 conduct to the prejudice did defraud the Southern Rly of five shilling twopence contrary to CRURO 507	L/C Heath Documentary	28 days Detn	22 Mar 44	Maj WH Copeland	3 days pay FRI 149(1)(a)
Field	8 Mar 44	Pte		(1) WOAS AWL from 2200 hrs 8 Mar 44 till 0030 hrs 11 Mar 44 AA Sec 15 (1) TTA 2 days 2 hrs 30 mins	Sgt Kirkwood Pte MacDonald Documentary	28 days Detn to run con- currently with FIRST charge	22 Mar 44	Maj WH Copeland	10 days pay FRI 149(1)a 28 days pay FRI 149(1)b
	11 Mar 44			(2) WOAS AWL from 1340 hrs 11 Mar 44 till 2310 hrs 20 Mar 44 AA Sec 15 (1) TTA 9 days 9 hrs 30 mins					

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6 Dec 44	Pte		WOAS AWL AA sec 15(1) absent 12 days 5 hrs 40 mins	CSM Pratt Documentary	28 days FP 28 days pay 13 days pay Total pay41 days pay	21 Dec 44	AI Hood Lt-col	FRI 149 1 b FRI 149 1 a

Certified true copy

(C.L. Nelson) Capt and Adjt
Officer having custody of
regimental documents and books

Exhibit A p10

SUMMARY OF EVIDENCE

in the case of

F 86200 Pte BEATTIE, C., 47 Coy 9 Bn 2 CBRG

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS K 42242 CSM PRATT, W.D. on strength 47 Coy 9 Bn 2 CBRG having been duly sworn states:

"I am K42242 CSM Pratt, W.D. of 47 Coy 9 Bn 2 CBRG. On the 24 Jan 45 at approximately 0820 hrs I called the Coy roll and Pte BEATTIE was absent. A search was made of Coy barracks and Pte BEATTIE could not be found. I have called company roll daily from 24 Jan 45 until 1 Feb 45 and again on 15 and 16 Feb 45 Pte BEATTIE has remained absent".

.....
(~~C.W.~~ W.D. Pratt) C.S.M. K42242

The accused declines to cross-examine the witness.

SECOND WITNESS (Documentary) The certificate of apprehension in accordance with P.C. 2797 d/10 Apr 42, produced as documentary evidence, was read over to the accused, marked Exhibit "A" signed by me and attached hereto.

(M.B. Jack) Lieut.

THE ACCUSED WAS CAUTIONED as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

(M.B. Jack) Lieut.
Officer detailed to
take Summary of Evidence.

In the Field.
17 March 1945.

4

LIST OF WITNESSES

in the case of

F86200 Pte BEATTIE, C 47 Coy 9 Bn 2 CBRG

FOR PROSECUTION

1. K42242 CSM PRATT, W.O. 47 Coy 9 Bn 2 CBRG
2. (Documentary) Statement of Apprehension

FOR DEFENCE

Nil

LIST OF EXHIBITS

in the case of

F86200 Pte BEATTIE, C. 47 Coy 9 Bn 2 CBRG

"A" Certificate of apprehension in accordance with P.C. 2797 of 10 Apr 42

3

Date 19 March 45

F 86200 Pte BEATTIE C.

1. I hereby acknowledge receipt of one copy of Charge Sheet and one copy of the Summary of Evidence delivered to me

1615 hrs 19 March 45

2. (a) I Request that _____

if available, be appointed, OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court-Martial.

C. Beattie

I hereby certify that Lt J. R. Firth was appointed to defend F 86200 Pte Beattie C. at his forthcoming trial by Court Martial and that the said Lt. J. R. Firth was notified that he was defending officer on 19 Mar 45

J. D. McKechnie Lt
~~Capt~~
for. CAPT. & ADJT.,
B BN. 2 C.B.R. GP.

2

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. no (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1) PJO

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ PJO

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans. I wish to give evidence. Do you intend to call witnesses on your behalf? PJO

Ans. no. ~~Are they witnesses as to character only?~~ Ans. .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42 (93(e).)

D7. The Court is closed to consider the finding(~~s~~).(1) The finding(~~s~~) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened. PJO PJO PJO

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(~~s~~) of the Court on the First charge(~~s~~), being subject to confirmation, will be promulgated later.(1) PJO PJO PJO

~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. no

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3) PJO PJO PJO

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes in mitigation of punishment.(2) PJO

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 462 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 13 day of ~~Jan~~ 19~~45~~

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-86200 Pte Charles BEATTIE X-4 List RCASC 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA sec 15 (1)	Not guilty	Guilty except that Beattie surrendered instead of being arrested.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on ~~(date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 31 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for eighteen months

(Sgd) ..... Judge-Advocate, if any. 27 Mar 45 Date awarded. (Sgd) P/Osler major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... (G S N Gostling) Brig

Date 27 Mar 45 Commanding 2 CDN BASE RFT GP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. F86200 Pte Charles BEATTIE X4 List RCASC, 9 CBR Bn.

Date. MAR 29 1945

Signature of Offr. CAPT. & ADJT., 9 BN. C.B.R. GP.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

GG-150

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty - first day of June, 1943.

Whereas it appears to me, the undersigned, an officer in Command of HQ, 2 Cdn Corps Tps RCASC, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ JSB

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[I am unable to appoint—~~

~~(XXXX

SCHEDULE.

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-86200 Pte. BEATTIE, Charles. 2 Cdn Motor Ambulance Convoy RCASC	(1) First Charge:- A.W.L. A.A. Sec. 15(1)	Guilty	Guilty	Confirmed JBS
	(2) Second Charge:- Conduct To The Prejudice Of Good Order And Military Discipline. A.A. Sec. 40.	Guilty	Guilty To undergo detention for a period of 90 days and to be stopped and to forfeit under deduction of pay in the sum of $4/3 Cost of Apprehension W H Copeland Maj 22 June/43 E Ferrazza Capt J.A.	Confirmed JBS 23 June/43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J B Bissett Major — Commanding 2 Cdn Cdn Cpy RCASC — Convening Officer (e)

(Signed) W H Copeland Major — E Ferrazza Capt J.A. — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of June/43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) W.C. Judge Advocate W.H.C.
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 22nd day of June 19 43

E Ferrazza Capt J.A. — W H Copeland Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 22nd day of June 1943,

J B Bissett Major
Confirming Officer.

Promulgated and extracts taken in the case of F. 86200 Pte Beattie, Charles

(a) (Dated) 23 JUN 1943 (Signed) [illegible] Lieut-Colonel

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

WT. 47787/1937 35 M. 3/41 K.H./50663 Gp. 698/3
Wt. 28409/1226 6 M. 8/41 K.H./7104/2 Gp. 698/3

CHARGE SHEET

The Accused, F.86200 Pte Charles BEATTIE, 2 Motor Ambulance Convoy, RCASC, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Army Act
Section 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1800 hours 6 Jun 43 until apprehended in London at 0600 hours 12 Jun 43, thereby incurring expense to the public for his return to his unit in the amount of £0.4.3. (Absent 5 days 12 hours).

Second Charge
Army Act
Section 40.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 12 Jun 43, was in possession of a document purporting tobe genuine leave pass knowing it not to be genuine.

In the Field
19 Jun 43.

(R. L. Mummery) Major,
O.C. 2 M.A.C. RCASC.

To be tried by Field General Court Martial

(J.G.Bisson) Lt. Col.,
Comd 2 Cdn Corps Tps, RCASC

21 Jun 43

APPENXID G

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can) Para 557

W.K. Cobb Pte.

I certify that I have, this morning, examined F-86200, Pte. BEATTIE, Charles, of 2 M.A.C., R.C.A.S.C. and in my opinion he is ~~unfit~~ Fit to undergo trial by court martial.

Station Field

Date 22 June 43.

Medical Officer D. Robertson Capt

PAGE I

Record of Proceedings of a Field General Court Martial

Held in the Field in ENGLAND (Country) on 22 June 43 (Date) to try

Accused F-86200 Pte Charles Beattie (Number)(Rank)(Christian Names)(Surname) 2 Motor Ambulance Convoy RCASC (Unit)

	Rank	Name	Unit
President	Major	W H Copeland	33 Cdn Corps Tps Coy RCASC
Member	Capt.	J A Clemendor	34 Cdn Corps Tps Coy RCASC
Member	Lt.	M J Friedman	33 Cdn Corps Tps Coy RCASC
Judge Advocate (if any)	Capt.	E H Jermyn	HQ 2 Cdn Corps
Officers Under Instruction (if any)	Lt.	G G Gomery	2 M A C RCASC
	Lt.	D. A. Pettigrew	2 M A C RCASC
	Lt.	G S. Greene	34 Cdn Corps Tps Coy RCASC
	Lt.	P R Hodgins	33 Cdn Corps Tps Coy RCASC
Prosecuting Officer	Capt.	F.C. Devenne	2 M A C RCASC
Lawyer? Ans NO.			
Defending Officer	Capt.	T. Harper	2 M A C RCASC
Lawyer? Ans NO.			

(The following procedure must actually be carried out)

1. The President produces the Convening Order, Charge Sheet(~~s~~) and Summary of Evidence. (Rs.P.17(E), 22(A)).

   (If a waiting member substituted, record is on separate sheet, initialled by the President and attached hereto). (For form of record see M.M.L. P.742 top).

2. The President, in closed court (R.P.22, fn 1) reads the Convening Order and the Charge Sheet(~~s~~) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted (A.A.49: Rs.P.106, 107), that the accused is (~~are~~) amenable to Military Law, and that each charge discloses an offence (Rs.P.23,108).

3. The accused is (are) brought before the Court and at 1010 hours the trial commences.

4. The Prosecuting Officer produces a Medical Certificate under K.R.(Can) 557 (See CMHQ Circular Letter 173) that the accused has (have) this day been examined and is (are) fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

(Over)

~~5. President to accused:~~

Q - Do you object to _____ as interpreter?
A - _____

The interpreter is duly sworn. (Form of oath on Page "D").

Q - Do you object to _____ as shorthand writer?
A - _____

~~The shorthand writer is duly sworn. (Form of oath on Page "D").~~

6. The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused and they severally answer to their names (R.P.25).

7. President to accused:

Q - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A - NO SIR

(If objection is made it is recorded on separate sheet, initialled by the President and attached hereto. (R.P.25). (For form of record see M.M.L. p. 742 Variation).

8. The President, Members, Judge-Advocate and Officers under Instruction are duly sworn (Rs.P.26, 27). (Forms of oath on page "D").

9. The Charge Sheet(~~s~~) is (~~are~~) signed by the President.

10. The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial (A.A.46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs.P.62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130; R.P.57), such pleas and evidence (if any) are recorded on separate sheet(s), initialled by the President and attached hereto). (For form of record see M.M.L. p. 744, 745, Variations).

11. Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge	GUILTY	Fifth Charge	
Second Charge	GUILTY	Sixth Charge	
Third Charge	NAC	Seventh Charge	NAC
Fourth Charge		Eighth Charge	

(For procedure on alternative charges, see R.P. 37(A) and fn. 2). (For form of record see M.M.L. p. 744 Instructions).

Further proceedings are recorded on pages hereto attached.

PAGE 'A'

(For use when accused pleads "Guilty" to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. The President complies with R.P.35(B) by ascertaining that the accused understands the nature of the charge(s) (fn. 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) & fn. 3) and advising him to withdraw his plea if he thinks the accused ought to plead "Not Guilty" thereto.

2. The finding(s) of the Court ~~is~~ are (are) recorded on p. 2 of A.F.A.3.

3. President to accused:

Q - Do you desire to make any statement of the circumstances in reference to the charge(s)? (R.P.37(B)).

A - yes sir

(Statement (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

4. The Summary of Evidence is read aloud, in the presence of the accused, signed by the President and attached to the proceedings.

(If no such Summary, sufficient evidence for determination of the sentence is taken and recorded on separate sheets, initialled by the President and attached hereto). (R.P.37(B)).

5. President to accused:

Q - Do you wish to make any statement in mitigation of punishment? (R.P.37(C)).

A - yes sir

(Statement (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

(If from paras. 3, 4 or 5 it appears to the Court that the accused did not understand the effect of his plea see Rs.P. 37(B) fn. 3; 37(C); 37(D) fns. 5 & 6: M.M.L. p. 747 Variations).

6. President to accused:

Q - Do you wish to give evidence yourself or to call any witnesses as to character? (R.P.37(C)).

A - no sir

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

7. Statement of Character and Service (A.F.B.296 or M.F.B.355) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A.163(1)(h) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, marked "F", and "E", signed by the President and attached to the proceedings. (R.P.46; Overseas R.O.3131).

8. President to accused:

Q - Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment?(R.P.46(D)).

A - No sir

(Address (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

(Over)

9. The President announces:

" The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

10. The Court is closed to consider the sentence.

11. The sentence is recorded, dated and signed by the President (R.P.50) on p. 2 of A.F.A.3.

(Punishments, A.A.44; M.M.L. p.130-134; K.R.(Can)563-566; Overseas R.Os.309, 2323).
(One sentence is awarded in respect of all offences, R.P.48).
(For form of sentence see M.M.L. p.756-759).

12.

(Signature of President)

(2 Cdn Corps 15-6-43)

J.A.

Statement of circumstances re charges

I, Pte Beatty state I went AWL and altered pass deliberately so as to get out of the unit and be transferred to air-borne troops. I have applied once before to get out of the service corps as I am not happy in it.

Statement in mitigation of punishment

Mr President and members of the court. Pte Beatty has committed an offence. He admits being guilty to both charges and he has also stated relative to the circumstances that he did so deliberately. He didn't go AWL with the object of getting out of work but with the direct object of committing an offence in order that he could get out of the unit. The altering of the pass from the 6th to the 16th was also done with the same object in mind. He assures me that about 6 months ago he applied for transfer. His mind is made up that he wants to go to air-borne troops which in itself is a very commendable attitude. He admits guilt and expects to be punished. I ask the court to consider the circumstances and the reasons why Pte Beatty went AWL in considering the sentence.

G. Fermyn Capt
J.A.

D.H. Copeland Major
Pres.

Attached to the proceedings is a psychiatric report with reg and to the accused produced by the prosecuting officer for the information of the court.

G. Fermyn Capt
J.A.

Field,
18 Jun 43

A.D.J.G.
2 Cdn Corps

Attention Capt. Jermyn:

The attached correspondence is forwarded in connection with the trial by Court - Martial of Pte. Beattie, C. 2 M.A.C. R.C.A.S.C.

At the time Pte. Beattie was last paraded before me, I came to the conclusion that he was mentally deficient and made arrangements to have him examined by a psychiatrist.

May the reports be used in connection with Pte. Beattie's trial.

for (R.L. Mummery) Major,
O.C. 2 M.A.C., R.C.A.S.C.

AQ Cond.
2 Cdn. Corps Tps RCASC

21-6-43

Letter and attached correspondence returned by A.D.J.A. with the suggestion that same be forwarded with H.F.B. 321 form of application for a court martial.

for OC 2 MAC, RCASC

33/CTC/5-2

D.D.M.S.
2 Cdn. Corps

Withdrawn
Pro

Neuro-psychriatic Consultation
F-36200 Pte. Beattie, Charles
2 Cdn. M.A.C., R.C.A.S.C.

1. At the request of the O.C. of 2 Cdn. M.A.C., R.C.A.S.C. the m/n was examined and the following points elicited:-

A. Family History: Father killed at Dunkirk. Mother alive and well. 4 brothers alive and well, both in the services. All grandparents are dead. No history of insanity or epilepsy in family.

B. (a) Personal History: Has had the ordinary diseases of childhood. No operations. No serious illness. No serious accidents.
(b) He was born in Scotland. He attended school from age 4 to 15. Had 2 years High School, then went to sea. Remained in the Merchant Marine until enlistment in the forces, 8 Aug 41 at Halifax, N.S. He states he had no trouble in school or while in the marine service.
(c) Since being in the army he has been charged frequently for various offences. He personally feels that he is being persecuted un-warrantedly. He considers his offences so minor that they should be overlooked. He has a tendency to follow actions of others, particularly if they are of a mischievous nature. With reference to A.W.L., he commits this offence on his own accord. He claims he goes absent because he is not given enough leave.
(d) His life in the army has enabled him to make new associates. He does not quarrel with his mates. On pay days he usually gets drunk, and spends all his money. Even though broke between pay days he does not borrow.
(e) He is interested in sports such as swimming and skating. His social life is limited to dancing. His relationship with the opposite sex is restricted, but not completely. Denies V.D.
(f) Statements with reference to his character as reported by the O.C., are denied and patient expresses complete ignorance of incidents reported.

C. Physical Examination: This man is physically fit. His general appearance is untidy, and he is definitely is not clean in body.

2. The general impression from this interview is that the man cannot adapt himself to the regulations of constituted authority, has no sense of responsibility and that prevarication comes very easily to him. The man's conduct and report of O.C. are attached.

3. Could arrangements be made for examination by neuro-psychiatrist as soon as possible, please.

FIELD
30 April 43

(J. Tanzman)Major
Medical Officer Comd 2 Corps Tps R.C.A.S.C.

DEPARTMENT OF PSYCHIATRY - No.1 C.G.H.

F-86200 Pte Beattie, Chas. #2 Cdn Motor Ambulance Convoy, RCASC.
20 yrs Cat.A enl. 8 Aug 41 to Engl. 11 May 42

Date: 4 May 43

Report:

Major Tanzman reports "This man lacks sense of responisbility. Cannot adapt himself to regulations of constituted authority. Prevaricates, and is a chronic offender. He is now under sentence".

Complaints. He feels well, except for frequent occipital headaches, which are more severe at night and which he believes are due to faulty vision. He has recurring tonsilitis.

Family History. Father, in Permanent Force, 5th Gordon Highlanders, was killed at Dunkirk, aged 45 - had always had excellent health. Mother, aged 49, living in Scotland. Has been "very nervous" since husband's death - has been in bed for past 4 - 5 months, and "cries nearly all night". Siblings: 3 brothers, 4 sisters; patient second oldest. 2 brothers in Middle East Army; 4 sisters, nurses; 2 in Cairo, 2 in Aldershot. Adopted sister is looking after Mother. She is unmarried and knows of no familial diseases.

Past illnesses: He has never been in hospital - no serious accidents or functional disturbances. Personal history: Born in Scotland always a healthy child in a happy home; doesn't remember any fits or nightmares; was afraid of the dark as a child; talks in his sleep and, until a year ago, walked in his sleep frequently.
By 13 years he had finished first year high school, failed in a few subjects; denies any tendency to juvenile delinquency. He has always liked athletics, team games, track, and swimming, and had a good ----- time. He states he attended church every Subday for nine years; belonged to the Seaman's Univ. and Seven Seas Club.
He went to sea at 14 years and worked on different ships for one company - Brocklebank Line. Got his Able Seaman papers in three years. Was never unemployed and believes he has a good record at sea. When with six others he refused to sail, having not been paid, he was in Perth prison for two months - his only jail record.
He saved $500.00, now deposited in Bank of Montreal. He has been a moderate drinker, smoker (15-20). Reads murder and Western fiction
No abnormal _____ history exhibited.
He has never worked in Canada. Was having a two-month holiday there when he enlisted, as he "wanted a change", but tried to enlist as a maritime gunner. He has liked the RCASC and has no desire to change unles it was to go back to sea. He states he has got on well with men and officers, and that a former O.C., Major Shannon, asked him to go with him as his driver when he was transferred to the Forestry Corps. He denies having had any serious driving accidents. He states he has benn A.W.L 5 times, usually overstaying his leaves, which he spends with his Mother in Scotland. Denies being charged for drunkenness or other charges. He denies any worries, financial or otherwise. He has always returned to the unit of his own accord, and says he has always been well trusted. Hopes to stay with the present unit and would prefer field punishment to being sent to holding-unit. After the war he hopes to sail at first. Afterwards, has a girl in Canada he would like to marry. Says he sometimes get depressed, as when his friend was killed when the ship on which they were sailing was torpedowd in the Mediterranean, when the patient was in the water 19 hours.

Impressions: I could get no history of pre-war psychiatric behaviour and have only the man's statement about his Army crimes, which he states have usually been overstaying leave with invalid mother. He states he likes the unit, and the work he is doing, but would prefer being a maritime gunner. I have asked the Personnel Selection Board to inform me if such a transfer is possible. He is a dull, untidy tough-looking person, but friendly and co-operative. Rouin score, 38 - top of the "dull, normal" group. He is fit to undergo detention, and following that, a transfer appears to be indicated, if it is felt he is not doing satisfactory work in the present unit.

No diagnosis.

(signed) G.M.Kirkpatrick, Capt.
Specialist, RCAMC.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

I CERTIFY that No. F-86200 . Rank . Pte. . Name . Beattie, C. . . . . .

Unit No 2 Motor Amb. Convoy R.C.A.S.C. . . was arrested at London . . . .(Place)

at .0600 . .(hour) on 12-June-43 . .(date) and that at the time of his arrest he was wearing (Military Uniform) or (~~xxxxxxxxxxxxxxxxxx~~).

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken in arrest. (Strike out part inapplicable).

. . . . . Capt.
(W. Stern) D. A. P. M.,
London Area

This is Exhibit 'A' referred to in the summary of evidence in the case of F-86200 Pte Beattie C. 2 MAC - RCASC taken before me this 19th day of June 1942.

Capt.
Officer taking Summary.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No F86100 Rank Pte Name Beattie, C Unit 2 MAC

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
(2 June 43)	Escorts return fare from LONDON To Holmwood		4	3
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Holmwood		Own ticket	
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		4	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

This is Exhibit 'B' referred to in the summary of evidence in the case of F-86200 Pte C Beattie R MAC - RCASC taken before me this 19 day of June 1943.

(W. FERN) D.A.P.M. LONDON AREA Capt.

Officer taking summary

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

O.M.H.Q. 1000:55
40/P & S/483

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 2 MOTOR AMBULANCE CONVOY R.C.A.M.C.
Regiment

PASS

Army Form B.
(In pads of 50)

No. F-86200 (Rank) Pte (Name) Beattie, C.

has permission to be absent from his Quarters/duty, from

1800 hrs 28 May 43 1800 hrs 16 June 43

for the purpose of proceeding to Bredin, Scotland

Field

28-5-43

Lieut. R.
for O.C. No. 2 M.A.C. T.P.R.C.

Delete whichever is not applicable.

Destination (if) granted unless absence is to exceed 24 hours, unless notification is favorable during ill local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

CANADIAN COPYRIGHT RESERVED

This is Exhibit C referred to in the affidavit of [illegible] this day of F-86200 Pte Beattie C [illegible] 19 day of June 1943

This is Exhibit 'D' referred to in the summary of evidence in the case of F-86200 Pte Beattie C. taken before me this 19th day of June 1943

Statement of Evidence in the case of
Reg.No. F-86200 - Pte - BEATTIE, C.
2 N.A.C., R.C.A.S.C.

Offer taking summary

Plain Witness
For the prosecution

ABSENT WITHOUT LEAVE.

1. At London on the 12 Jun 43, at about 0600 hrs, I was on duty in the Red Shield Club, Blackmars Rd., where on the receipt of information, that the a/m soldier had acquired a room, and had not paid for it (having given his pass as security), I approached him and asked him if he was on leave. He stated that he was, and that his pass was in good order.

2. I was not satisfied with it, and asked him to accompany me to No:6 Provost Coy., Detention Room, where I would phone his unit, and the statement verified. When at N.... he again stated that the pass was genuine, and that he was still on leave.

3. I then turned him over to Cpl. HARTLEY. He got in touch with his unit, and found that he was absent from the 6 Jun 43. He still claimed that there was a mistake at his unit, as he had got fourteen days leave with a weekend. I then placed him under arrest and handed him over to the N.C.O. i/c Cells to be detained.

London.
17 June 43

.....H.M. Fair L/Cpl.
Reg.No. A-56073 - H.M. Fair.
No: 6 Provost Coy.
Cdn Provost Corps.

LIST OF EXHIBITS

"A" Certificate of apprehension.

"B" Expense voucher.

"C" Leave pass.

"D" Statement of A.56073 L/Cpl Fair, H.M. 6 Cdn Pro Coy.

Summary of Evidence in the case of F.86200 Pte Charles BEATTIE, 2 Motor Ambulance Convoy, RCASC, a soldier of the Canadian Army Overseas, charged with absence without leave and being in possession of a false leave pass.

By direction of the Commanding Officer, evidence is taken on oath.

FIRST WITNESS D.114813 Sgt Young, J.W, 2 M.A.C. RCASC, being duly sworn, states:-

I am D.114813 Sgt Young, J.W., of 2 M.A.C. RCASC. On 6 Jun 43 I was the Orderly Sergeant. At 1800 hrs Pte Beattie, C. had failed to return to unit lines on the expiration of his privilege leave. I reported his absence at tattoo roll-call at 2300 hrs same day. I did not see Beattie, C., again until after he had been returned to his unit by No.6 Canadian Provost Coy. I produce certificate purporting to be signed by Capt W. Fern, D.A.P.M. London Area relating to the accused, whom I now recognise, showing that he was arrested in London at 0600 hrs on 12 Jun 43.

The certificate referred to by the witness produced, read over to the accused, marked exhibit "A", signed by me and attached hereto.

(Signature of Officer taking Summary)

I produced expense voucher purporting to be signed by Capt W. Fern, D.A.P.M. London Area, showing cost of return of accused to his unit to be £0.4.3.

The expense voucher referred to by the witness produced, read over to the accused, marked exhibit "B", signed by me and attached hereto.

(Signature of Officer taking Summary)

(Signature of Witness)

SECOND WITNESS Lieut L.M. Bayly, 2 M.A.C. RCASC, being duly sworn, states:

On 28 May 43 I was Adjutant of 2 M.A.C. RCASC, and as such signed a pass for the accused, whom I now recognise, for 9 days privilege leave from 1800 hrs 28 May 43 to 1800 hrs 6 Jun 43. I produce the pass and identify my signature thereto. The date of the expiration of the leave appears to have been changed by inserting the figure "1" before 6 Jun 43.

Pass referred to by the witness produced, read over to the accused, marked exhibit "C", signed by me and attached hereto.

(Signature of Officer taking Summary)

(Signature of Witness)

THIRD WITNESS A.56073 L/Cpl Fair, H.M. 6 Canadian Provost Coy.

A document purporting to be a signed statement of evidence of A.56073 L/Cpl Fair, H.M. 6 Canadian Provost Coy was read over to the accused, marked exhibit "D" and attached hereto.
I certify that in my opinion owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

The accused does not require the attendance of this witness for cross-examination.

(Signature of Officer taking Summary)

The accused was warned as follows:-

Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give would be taken down in writing and may be used in evidence.

The Accused: I have nothing to say at this time.

I certify that R.P.4 has been complied with.

Taken by me in the Field in the presence and hearing of the accused, this 19 day of Jun 1943.

(Signature of Officer taking Summary)

No. 786200 Name BEATTIE, C. Sqn., Battery, or Company Corps R.C.A.S.C. Date of enlistment 18.8.41 P.C. Badges Service or Proficiency Pay N.A.

M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2632)

Date of last entry in Company Conduct Sheet N.A. No. and date of last drunk N.A. Period not reckoning towards freedom from extra fine N.A. Sheet No. 1 Signature O.C. Company, etc. J. Fitzrandolph Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with Overseas R.O. 2084 previous sheet destroyed on completion of 6 months service from date of attestation. Sheet destroyed 18.2.42; Last entry Nil; Cases of Drunkeness Nil; Last instance on N.A.									
					(Sgd)(J. Fitzrandolph)Maj O.C. C.T. Pet Coy(32 Coy) R.C.A.S.C.				
Camp Borden, Ont.	22. 3.42	Pte		Sec.15(2)A.A.Failed to appear at an appointed place of parade	Cpl Bennett Pte Avery Pte McDonald	7 days C.B.	23.3.42	E.M.Rimmer Maj	
Camp Borden ont.	1. 4.42	Pte.		Sec 15(1)A.A. A.W.L. 2 days 2 hrs. 30 min	L/Cpl. Harnois	5 days pay FRI 149(2)	6.4.42	C.M.Ruttan Lt.Col.	Forf 3 days FRI 149 pay (1)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	11.6.42	Pte.		Sec 15(1)A.A. A.W.L. from 2230 hrs 11.6.42 to 2330 hours 11.6.42 T.A. 1 hr.	Cpl.Young L/Cpl.Southwell	Forf 5 days pay FR&L 149(2)	12.6.42	W.H.Montague Lt.Col.	
Aldershot	23.6.42	L/Cpl.		Sec 15(1)A.A. A.W.L. from 0830 hrs 23.6.42 to 1045 hrs 28.6.42 T.A. 5 days 2 hrs.15 min	Sgt Miller Sgt.Snider Sgt Hooper	Reduced to private	30.6.42	M.V.McQueen Col.	Forf 6 days pay F.R.&I.149 (1)(a)
Farnborough	30.6.42	Pte.		A.A Sec 11 Neglected to obey standing orders	R.S.M. Muzylo	14 days C.B.	15.7.42	M.V.McQueen Col.	
Farnborough	12.7.42	Pte		A.A. Sec.40 Failed to answer name of defaulters roll call at 0630 hrs 12.7.42	Documentary	7 days C.B. 4 days pay F.R.&I 149(2)	15.7.42	F.W. Miles Lt.Col.	
Field	4.9.42	Pte		Sec 15(1) A.A. AWL from 0600 hrs 4.9.42 to 1640 hrs. 9.9.42. T.A. 5 days 40 min.	C-11686 Cpl Sheahan,J.	7 days C.B. 5 days pay F.R.&I 149(2)	18.9.42	J.Fitzrandolph Maj.	Forf. 6 days pay FRI 149(1)(a)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17-3-43	Pte.		Sec.15(1) AA A.WL. from 1800 hrs 17-3-43 until apprehended at 0945 hrs on 28 Mar 43 (10 days,15 hrs. 45 min.)	Sgt.Bentley Documentary	21 days F.P.	30-3-43	R.L.Mummery Major	Forf 21 days pay, 11 days pay, and costs £0-5-3 F.R.I 149
Field	29-4-43	Pte		AA Sec 15(1) AWL 6 hrs 45 min	Cpl Finley				
				AA Sec 9(2) disobey.lawful comm given by superior officer	Cpl Finley	28 days det'n	30-4-43	R.L. Mummery Major	Aut forf 28 days pay.FRI 149.
				AA Sec 11 Negl.to obey Camp Stdg Orders	Cpl Finley				

CERTIFIED TRUE COPY OF RECORDS IN MY POSSESSION:

for (R.L. Mummery)Major,
O.C. 2 Motor Ambulance Convoy, RCASC.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17-3-43	Pte.		Sec.15(1) AA A.WL. from 1800 hrs 17-3-43 until apprehended at 0945 hrs on 28 Mar 43 (10 days,15 hrs. 45 min.)	Sgt.Bentley Documentary	21 days F.P.	30-3-43	R.L.Mummery Major	Forf 21 days pay, 11 days pay, and costs £0-5-3 F.R.I 149
Field	29-4-43	Pte		AA Sec 15(1) AWL 6 hrs 45 min AA Sec 9(2) disobey.lawful comm given by superior officer AA Sec 11 Negl.to obey Camp Stdg Orders	Cpl Finley Cpl Finley Cpl Finley	28 days det'n	30-4-43	R.L. Mummery Major	Aut forf 28 days pay.FRI 149.

CERTIFIED TRUE COPY OF RECORDS IN MY POSSESSION:

for (R.L. Mummery) Major,
O.C. 2 Motor Ambulance Convoy, RCASC.

F.

M.F.B. 355
22M—3-41 (572-3)
H.Q. 1772-39-620
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-86200	Private	BEATTIE, Charles	2 Motor Ambulance Convoy, R.C.A.S.C.

1. The following is a fair and true summary of the entries in the ~~Service Conduct~~ ~~Regimental Service Conduct~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~or Regimental~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA Sec. 15(1)	4 times	6 times
For AA Sec. 11	2 times	2 times
For AA Sec. 15(2)	5 times	1 times
For AA Sec. 40	1 times	5 times
For AA Sec. 24(2)		1 times
Number of instances of gallantry or distinguished conduct		1

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~xxx~~

~~Previous convictions of the accused by a court-martial or civil court, or summary awards under Section 47 of the Army Act and dispensations with trial under Art. 70 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~xxx~~

~~The accused at the present time is under sentence for xxxxxxxxx beginning on the xxxxxxxxx day of xxxxxxxxxxxx~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 21 years

6. The date of his ~~commission~~ attestation specified in his record of service is 18th August, 1941

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon xxxxxxxx service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~service~~ military decoration, or ~~air force~~ military reward for ~~service~~ ~~possession of or entitled to, a military air force decoration or reward.~~

10. ~~If the accused is a warrant officer, the rank he was in when he was last reduced~~ ~~Air Force~~ ~~the regimental rank of~~

11. ~~In the case of an officer.~~ ~~The accused holds in the Royal Canadian Air Force~~ ~~Permanent Force~~ the rank of ..... unit ~~dated~~ ....., ~~and in his regiment (or corps), the rank of~~ ..... ~~dated~~ .....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:~~

..... ~~Date of promotion~~

In the rank of ....N.A.... years.

In the rank of ....N.A.... years.

In the rank of ....N.A.... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number ....F-86200.... Rank ....Pte.... Name ....BEATTIE, Charles.... of ....2 C.M.A.C., R.C.A.S.C.,.... Unit / Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		-NIL-		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(G.G. Comery) Lieut.
Adjt. 2 MAC, RCASC.

Signed this ~~[illegible]~~ 22nd ~~[illegible]~~ day of June, 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

The accused, Pte. Beattie, C., #F-86200, desires that an officer be appointed to defend him at his forthcoming trial by by Court Martial.

The accused desires to have Capt. T. Harper of 2 M.A.C., R.C.A.S.C., to defendd him at his trial by Court Martial if this officer is available.

(F.C. DeVenne) Captain,
2 M.A.C., R.C.A.S.C.

H.Q.C. 55-B-1940

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BERNARD, DAVID M-67161 SPR.

CONFIDENTIAL
H.Q.C. 55-B-1940

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and mark "With Minutes")		
SEP 13 1945				JAG	NEW FILE	CR	6-9-45
SEP 26 1945	26/9/45	P.A.	E.R.M.	JAG	With Papers C.R. SEP 26 1945		
NOV 13 1945	13/11/45	P.A.	[illegible]	CMBR	With Papers C.R. NOV 16 1945		
DEC 20 1945				CMBR	With Papers C.R. DEC 25 1945		
DEC 27 1945	28/12/45	P.O.R.	[illegible]	adm	Transfer	[illegible]	27 Dec 45
JAN 16 1946	16/1/46	P.A.	[illegible]	JAG	With Papers C.R. JAN 15 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

N.D.H.Q. File No.....

District File No. 22-B-10491

PART I

M.67171 Rank Spr. Name David BERNARD

Unit No. 13 District Depot

PART II

Date 30th. August, 1945.

Art. Sec. 12 (1) (a)

120 days detention

30 Aug. 1945

CENTRAL REGISTRY Army
OCT 15 1969
15-12-1944

PART III

Remission

Remitted by the Remitting authority under Section 53(1) of the

Act the xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx the balance of the sentence, effective 12 Nov. 1945, pursuant to CARO.5913

Signed at Vancouver, BC this 12 day of Nov. 45

..... Brigadier

Brigadier i/c Administration Pacific Command.

(Must be signed by the Remitting authority personally.)

PART IV

Commutation

xxxxxxxxx xxxxxxxx

VANCOUVER B.C.

Calgary, Alberta.

Commuted and extracts under Art. ~~xxxxxxxxxx~~ NO. XI DD CA

No. 13 District Depot, C.A.

Date 7th December 1945

Capt., ~~Adjt.~~,

Officer i/c Records (W.L.Sims)

~~Nor'l District Depot, C.A.~~

No. 13 District Depot, C.A.

PART V

Variation

M 67171 Spr. David BERNARD

120 days detention

~~xxxxxxxx~~ Date 30th day of Aug. 45 has been

varied be remitting the balance of the said sentence

12th November 5 Brigadier i/c Administration

Pacific Command

~~Nor'l District Depot, C.A.~~

No. 13 District Depot, C.A.

Certified true Extract of Daily Orders Part II of

No. 291 Place ~~Vancouver, B.C.~~ Calgary, Alberta Date 7th December 1945

~~Nor'l District Depot, C.A.~~

Capt., Adjutant.

(W.M.Sellar) No.13 District Depot, C.A.

* Strike out and initial words not applicable

IN REPLY PLEASE QUOTE
No. 22-B-10491(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Pacific Command,
Vancouver, B.C. 20 Dec. 1945.

17189
C 55-13-1940
(m 12

The Secretary,
N.D.H.Q.,
OTTAWA, Ont.

M-67171, Pte. D. Bernard

1. Enclosed herewith M.F.M.288 re the m/n soldier for custody, pursuant to CARO 5913.

E.C. Pearkman Maj.
Major-General,
G.O.C.-in-C., Pacific Command.

Noted
27 Dec 45
A. MacLeay
CMBR 75
Noted
W. Nelson

N.D. 23
3 Mil—11-43 (2979)
H.Q. 1772-101-23

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
13 Oct 45	No action	(F M W Harvey) Brig.DOC MD #13	
12 Nov.45	of sentence Bal/remitted today.	Brig. Brig i/c Admin.Pacific Command.	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge Sec.12(1)(a) Army Act	Desertion. At Seebe, Alberta, at 2130 hrs. on 25 Apr. 45, absented himself from 229 General Pioneer Section, Royal Canadian Engineers, C.A., until surrendering himself to military authorities at Calgary, Alberta, at 2230 hrs. on 23 August 1945. Absent 120 days 1 hour. Lieut.-Col., (J.W.Littleton), Officer Commanding, No.13 District Depot, C.A. (Signature of Officer making entry)	25 April 1945	30 August 1945.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
20 September 1945	nil	Lieut.-Col., (J.W.Littleton), Officer Commanding, No.13 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
22 September 1945	SUSPENSION NOT RECOMMENDED	(F.M.W.Harvey) Brig. D.O. C., M.D. 13.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

F & C 22-B - 10491

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

RECEIVED 15 OCT 1945 GENERAL COMPANY PACIFIC COMMAND

Part I

Case of M67171 (Number) Sapper (Rank) David Barnard (Name in full)

No.13 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 120 days detention.

on 30th August 1945 at Calgary, Alberta

being served at No. 81 Military Detention Barracks, C.A. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 years 8 months -- 6 January 1942

Medical grade or category 21 - 1111141

First Trial—Part II

To ADJUTANT-GENERAL (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should (not) be (suspended) ~~XXXX

PA on file
GCB

DEPARTMENT OF NATIONAL DEFENCE
- ADT -

22-B-10491

Headquarters, Pacific Command
VANCOUVER, B.C., 26 Oct 1945.

5794
OCT 29 1945
File
Chgd Cat 55-B-1945
Referred to CMBR

Secretary,
Dept. of National Defence,
OTTAWA, Ontario.

SOLDIER UNDER SENTENCE - Transfer
Military Detention Barracks

M.67161 Spr. BERNARD, D.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major General,
G.O.C. in C.,
Pacific Command.

ADMIN. TO NOTE & P. A.

OCT 30 1945

Secretary
Courts - Martial Board of Review

22-B-10491

Headquarters,
Pacific Command.
(Attention C.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.H.S.

The transfer of the u/m S.U.S. has been completed with effect date stated hereunder

No.	Rank	Name		Unit
M-67161	Spr	BERNARD	D.	#15 D.D.

Transferred from No. 81 M.D.Hks. at Calgary, Alta

to No. 92 M.D.Hks. at Chilliwack, B.C.

with effect 11 Oct 45

W. D. Nelson LOL
for Commandant
No. 92 M.D.Hks.

submitted in duplicate

HQC 55-B-1940 (JAG/D-5)

26 Sep 45

District Officer Commanding,
Military District No. 13,
Calgary, Alberta.

Standing
M.67171 Spr. Bernard, D.
Court-Martial

C.36-B-5002 (JAR)

Receipt is acknowledged of your Standing dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

E. L. M.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

LCC/fdr

R172

File: C.36-B-5002 (JAR)

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

AIR MAIL
REGISTERED
CONFIDENTIAL

343652 22 Sep 45

NATIONAL HEADQUARTERS ARMY
CORR. SEC.
SEP 25 1945
File 055-B-1940
Chgd. to
Referred to

The Secretary
Department of National Defence
OTTAWA, Canada

STANDING COURT-MARTIAL
M.67171 Spr. Bernard, D.

Reference H.Q.C. 55-B-1940 (JAG/D-4) dated 13 Sep 45.

1. Returned herewith are the Proceedings of the marginally noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his unit (23 Aug 45) and trial (29 Aug 45)

is 5 days

The time between apprehension and trial is 5 days

3. ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ xxxx.

4. Upon review, no remission has been ordered by the District Officer Commanding, Military District No. 13.

(F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13.

15

REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of M.67161 Sapper David Bernard

No.13 District Depot, C.A.

Reviewed on 18 day of September, 1945

Decision

(F.M.W. Harvey) Brigadier,
District Officer Commanding, M.D. 13.

MEDICAL OFFICER'S REPORT

I certify that No M67161 Sapper David Bernard of No.13 District Depot C.A. is in a good state of health, and is fit to undergo Trial by Court martial.

Medical Officer

Station Calgary, Alberta

R.C.A.M.C.(C.A.) Attached to No.13 District Depot, C.A.

Date 29th. August, 1945.

M. F. B. 246

50M—9-44 (5437)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. M.67161 Sapper David Bernard

of No. 13 District Depot, is in a good state of health,

and fit C.A. to undergo Trial by Court martial.

R. Hewson Maj

Medical Officer
R.C.A.M.C., Attached to
No. 13 District Depot, C.A.

Station Calgary, Alberta,

Date 30th August 1945.

M. F. B. 246

50M—9-44 (5437)
H.Q. 1772-39-480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries - Calgary.

on the ~~30th~~ 29th day of August 1945 at ~~17.00~~ 17.25 hours,

for the trial of: M67161 (Number) Sapper (Rank) David Bernard (Full Name)

No. 13. District Depot C.A. (Unit) (Attachment, if any)

PRESIDENT: Lieut-Col. Walter Kingsley Lull. MC. VD. H.Q. M.D. No 13. C.A.

PROSECUTOR: Lieut. (Rank) J.M. Pryke (Full Name) No. 13. D.D.-C.A. (Unit) (Attachment, if any)

COUNSEL OR DEFENDING OFFICER: Captain (Rank) R.A. Pelletier (Full Name) No. 13. D.D.-C.A. (Unit) (Attachment, if any)

FINDING: The Court find the accused.
Not guilty of desertion but guilty
of absence without leave.

SENTENCE: The Court sentence the accused.
To undergo detention for 120 days.

Signed at The Armouries Calgary this 30th day of August 1945.

President,
Standing Court-Martial.

Contracts entered as No. 39513 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 6 day of Sept 1945

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No Sir.

For minute of adjournment see page BB

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter?~~

Question to the accused. Do you object to M41138 W.O II C.S.M. LeRoy Parks CMSC I.T.Q. MD. No 13 as shorthand writer?

Answer: No Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: The accused was remanded for trial by Standing Court Martial.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes. Sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: Not guilty

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of ~~Rule of Procedure~~ 55 (B) are here complied with.)

At 1725 hours on the 29th day of August, 1945 the Court opened.

At 1730 hours on the 29th day of August, 1945 the Court adjourned.

At 1100 hours on the 30th day of August, 1945 the Court re-opened.

"B" 7
do with
Prendergast

CHARGE SHEET

The accused, No. M67161 Sapper David Bernard, No.13 District Depot,C.A., a G.S. soldier of the Canadian Army, placed on active service, is charged with:

Charge
Sec. 121.) (a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Seebe, Alberta, at 2130 hours on the 25th April 1945, absented himself from 229 General Pioneer Section, Royal Canadian Engineers, C.A., until surrendering himself to military authorities at Calgary, Alberta, at 2230 hours on the 23rd August 1945.

.....Lieut.-Col.,
(J.W.Littleton), Officer Commanding,
No.13 District Depot,C.A.

CALGARY, ALBERTA
29th August 1945.

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Lieut. J.W. Pryke, No. 13 District Depot, C.A.

being duly sworn, ~~is examined by the Prosecutor~~ states:

Question I am Lieut. J.W. Pryke of No. 13 District Depot, C.A. and I am producing the following documents:

Certified extract from M.F.M. 2

(Certified extract from M.F.M. 2 is read, marked Exhibit "F", signed by the President and attached to the proceedings.)

M.F.B. 375.

(M.F.B. 375 is read)

Court — Is that 225 or 229 Pioneer section?

Prosecutor — It is 225 sir. I would point out sir before presenting this document. I would point out that all these Pioneer Sections come within the jurisdiction of the Officer Commanding, No. 13 E.S. & W. Coy. If the defence are in any doubt this Pioneer Section does come under the jurisdiction of the No. 13 E.S. & W. Company.

(M.F.B. 375 is marked Exhibit G, signed by the President and attached to the proceedings.)

Court — What relation has 229 General Pioneer Section to 225?

Prosecutor — It is a section within the E.S. & W. Coy. I understand he was on strength of 225 and later transferred to the 229 or meybe the reverse. It should state on the M.F.M. 2.

(The Prosecutor reads the M.F.M. 2)

He was with 229 originally and then came to 225. This court was held by 225, however, as I say, it all follows under the jurisdiction of E.S. & W. Coy.

Court — And you can say that the Officer Commanding E.S. & W. Coy. was Officer Commanding of both 225 and 229.

Prosecutor — Yes sir.

M.F.M. 216

(M.F.M. 216 is read, marked Exhibit "H", signed by the President and attached to the proceedings.)

I recognize the accused No. M.67161, Sapper David Bernard as being the person to whom these documents relate.

The Defending Officer declines to cross-examine.

Questioned by the Court.

Q. I notice that the 375 shows that the man absented himself from 225 and the charge sheet shows that he absented himself from 229.

A. It is perfectly correct that he absented himself from 229 he was transferred from 225 and was S.O.S. from 225.

Court In that case I shall not have to amend the charge sheet.

The witness resumes his seat.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement

Question to the accused. Do you intend to call any witness in your defence?

Answer. No sir

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No sir.

THE ACCUSED MAKES AN UNSWORN STATEMENT.

I am No. M.67161 Sapper David Bernard of No. 13 District Depot in Calgary. I went on leave on furlough to go home and from there I went to Cold Lake to see my friends before my leave was over. Somebody came along to have a man to work. I was short of money to come back with so I started on that and I was intending to come back. Then after I made a little money to come back I came to Edmonton and stayed there a week and from there I reported to No. 13 District Depot in Calgary. Every time I come to town or around I wear my uniform and after I make enough money on that I come back.

The Defending Officer makes a closing address.

The Prosecutor makes a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir

Question to the accused. Do you wish to address the Court?

Answer. Yes sir through my Defending Officer

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

May it please the court sir. I feel this morning sir that a lot of things can be said in favour of the accused of the person who has been found guilty, in mitigation of sentence. First of all on his behalf I would like to point out that you have before you a man who wears the campaign medal and clasp which indicates that he who is charged is serving his country and if he is found in Canada at this time well then it must have been because he was sent back. Therefore we know that he went overseas and he came back to his own country. Sometime in April 1945 he was given a furlough and he went home and from his home on to Cold Lake and there this offence was committed but may I point out to you sir that before you today there stands a person belonging to a race in this country whose powers of reasoning and whose method of conduct are dictated more by their hearts than by reason. I happen to know these people well because I have had a great deal to do with them and I know personally that these people think nothing at all of being in one place one day and without no reason whatever moving off to some other place. They are by nature just as free as the wind and the air in the places in which they live. I have had experience with the schools in the northern part of Alberta. I know some of the educators in these institutions and they have told me that the behaviour and the attendance of these people at the school does not at any time bring any surprise because that kind of behaviour is expected. They are in the school one day, the following day they may be out fishing or hunting and that to them is normal, quite proper way of leaving, so I beg the court to consider exactly what goes on in the emotions of these people when the court comes to the decision as to what sentence it must give. These people are good people at heart. They do not commit these offences out of malice or any desire to do wrong but simply because their nature gives them that nature of freedom which perhaps many of us might be envious.

The documents which have been placed before you carry a number of convictions concerning the same kind of an offence previously committed. I would beg to point out to you Mr. President that most of

them are indeed trivial and short absences. There was one particular case which perhaps extended longer than the others but he duly served and paid the penalty for that and yet I must point out that such a punishment or any punishment is not in itself sufficient to change the age old customs of these people. Their nature is such that these things come to them naturally. They see no wrong in it and they mean no wrong and they think in their minds and rightly they think they are not doing wrong by going away. I believe sir that might be reason, the reason, why the accused might be punished previously but I know in this instance before you today that is the accused goes to Cold Lake, that is the region where they might be found, I can imagine the reaction it would be to have this boy coming back from overseas and the people all gathered around.

I would like to add to my statement before concluding sir that there was only one offence while this man served overseas and of a short duration and I would therefore request the court to be as kind and as lenient and mercifull as it is possible to be with this accused before you.

Regimental No. M67161 Rank Spr. Sheet No.

Name BERNARD, D

Record of Promotions, Reductions, Transfers, Casualties, Reports, etc.	Rank Shown	Effective Date	Unit	Place	Authority D.O. Number	Authority Dated
AWL from 2130 hrs. 25 Apr. 45	spr.	25 Apr. 45	#229 G.P.S.	Calgary	11	27 Apr.45
SOS #229 Gen. Pnr. Sec. to #225 Gen. Pnr. Sec. RCE	"	28 Apr. 45	"	"	12	30 Apr.45
TOS #225 Gen. Pnr. Sec. RCE	"	29 Apr. 45	#225 GPS	Calgary	11	30 Apr.45
Still Absent 2130 hrs. 30 Apr. 45	"	30 Apr. 45	"	"	11	30 Apr.45
AWL from 2130 hrs. 25 Apr. 45 & still absent 2130 hrs. 3 May 45 (8th day)	"	3 May 45	"	"	16	7 May 45
Still absent 2130 hrs. 16 May 45 (22nd day)	"	16 May 45	"	"	20	18 May 45
SOS des. having been decl. illegally absent from 2130 hrs. 25 Apr. 45 by a Ct. of Inq. held 23 May 45. Deficiencies of kit to the value of $40.04.	"	23 May 45	"	"	22	25 May 45
TOS from #225 GPS on surrender to mil. authorities at 2230 hrs.	"	23 Aug. 45	#13 DD	Calgary	203	28 Aug.45

Certified to be a true extract of M.F.M. 2
of which it purports to be a copy.

W.A. Blench Lieut.,
(W.A.Blench) Ass't.Adjutant,
No.13 District Depot,C.A.

23

Exhibit "C"
to the
President.

25

RECORD of the Declaration of a Court of Inquiry assembled at Calgary, Alberta on the 23 day of May 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M.67161 Spr. David Bernard, No. 225 General Pioneer Section R.C.E. C.A. (A)

DECLARATION

The Court declare that No. M.67161 (Regt'l No.) Spr. (Rank) David Bernard (Full Name) 225 General Pioneer Section RCE CA (Unit) illegally absented himself without leave from 225 General Pioneer Section RCE CA at Seebe, Alberta (Place) at 2130 hours on the 25 day of April 1945, that he is still so absent, and that on the 25 April 45 he was deficient, and that he is still deficient of the following articles:

ARTICLES	VALUE	ARTICLES	VALUE

Signed at Calgary, Alberta this 23 day of May 1945

J.L. Simpson (Name) Lieut. (Rank) 13 ES&W Coy. RCE (Unit) President

(Name) (Rank) (Unit) Member

(Name) (Rank) (Unit) Member

Signature of Commanding Officer Charles E. White (Name) Major (Rank) 13 ES&W Coy. RCE (Unit)

Certified true copy (Name) Capt. (Rank) 13 ES&W Coy RCE (Unit)

(Signature of Officer having custody of original record) A225 Gen. Pioneer Sec RCE.

M.F.B. 875
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-257

Articles			Value
Clothing Div. "A"			
A. Coats Waterproof Army	1	6.91	5.18
A.1300 Gloves woollen Khaki	1	.66	.39
Clothing Div. "B"			
B.450 Blouses battle dress Serge	2	13.00	9.75
B1800 Caps Field Service	2	1.40	1.05
B3300 Drawers Cotton	2	.84	.63
B.3550 Drawers Woollen	1	1.40	1.05
B7950 Shirts khaki cotton	3	4.62	3.46
B8350 Shirts Undercotton	2	.86	.64
B8600 Shirts woollen	1	1.20	.90
B8750 Shoes Leather black	1	4.84	3.63
B8850 Socks/Army/	3	1.38	1.03
B10200 Trousers Battle Dress Serge	2	13.10	8.72
Clothing Div. "C"			
C650 Braces	1	.28	.21
C750 Brushes boot polishing	1	.21	.15
C800 Brushes button	1	.11	.08
C850 Brushes cloth	1	.17	.12
C900 Brushes Haid	1	.39	.29
C950 Brushes Shaving	1	.42	.31
C1000 Brushes Tooth	1	.09	.06
C1100 Combs hair	1	.04	.03
C1350 Holdalls	1	.22	.16
C1650 Neckties black	1	.19	.14
C1700 Pins, collar	1	.06	.04
C1450 Knife clasp	1	.99	.74
C1850 Razors safety sets	1	.42	.31
C2100 Socks Black	2	.56	.44
C2250 Sticks Button	1	.04	.03
C2400 Towels hand	2	.62	.46
Clothing Div. "D"			
D24350 Badges Cap RCE	1	.06	.04
	Total	55.08	40.04

C[illegible]IFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

~~(APPREHENSION BY OR~~ SURRENDER TO SERVICE AUTHORITIES)

I, Lieut-Col. J. W. Littleton, Officer Commanding No. 13 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that M67161 Sapper David Bernard
(Number) (Rank) (Name in full)

of the #225 General Pioneer Section, R.C.E., C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) M60647- L/Cpl.
(Number) (Rank)

M.G. Anderson
(Name)

No. 13 District Depot, C.A.
(Unit or appointment)

at Calgary, Alberta, at 2230 hours
(Place) (Hour)

on the 23rd day of August 19 45.

Strike out words not applicable } as a ~~deserter~~ (absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military ~~or force~~ uniform ~~(dressed in civilian clothes)~~

Dated at Calgary, Alberta, this 24th day of August 19 45

(Signature, Number, Rank, Unit or appointment)
(J.W. Littleton) Lieut.-Col., Officer Commanding, No. 13 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

A. G.S. SOLDIER OF THE CANADIAN ARMY PLACED ON ACTIVE SERVICE.

29

M.F.B. 355
~~Dir's G (14)~~
H.Q. 1773-39-625
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or unit)~~
M67161	Sapper	David Bernard	No.13 District Depot,C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL	1	times	AWL 3	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~or,~~ ~~There are no entries in the conduct sheets of the accused.~~ ~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted ~~or,~~ ~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 ~~are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or,~~ ~~The accused at the present time is under sentence for~~ ..... ~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 6 days in military custody, making a total of 6 days in custody, of which Nil days were spent in hospital. Close arrest ...6... days Open arrest ..Nil... days

5. The present age of the accused according to his ~~record of service is~~ attestation paper 24 years 3 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 6 January 1942

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ ..... ~~service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to).~~ ~~State any air force decoration or reward~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ ~~Air Force~~ ~~the regimental rank of~~ .....

~~11. (In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of Permanent Force, and in his regiment (or corps) the rank unit

dated

dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit of Regiment

Name

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of August 1945 Blench Lieut.,
(W.A.Blench) Ass't.Adjutant,
No.13 District Depot,C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

30

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank

.....dated.....

12. The accused has served as a non-commissioned officer contihuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of August 1945 W.A.Blench Lieut.,
(W.A.Blench) Ass't.Adjutant,
No.13 District Depot,C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

Reg. No. M67161 Name BERNARD David

Signature O.C. Company, etc. Corps R.C.E.

Date of enlistment or enrolment 6-7-42 Date of Birth

M.F.M. 6

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
	1942 Sheet destroyed 6-6-42 Nil entries end of six months service.								
Field	13-7-43	Gnr.		AA Sec.15(1) AWL from 2300 hrs. 13 Jul 43 to 1700 hrs. 14 Jul 43 (Abs. 18 hrs)	Sgt. Paisley, W.G.	Forf. 3 days pay FR&I 149(2)	21 Jul 43	Capt. W.S. Page	Forf. 1 days pay FR&I 149(1) Total forf. 4 days
Calgary, Alta.	27-7-44	Gnr.		AWL 2130 hrs. 27-7-44 to 2015 hrs. 3-8-44	Cpl. McKay, A. Documentary	7 days C.B.	4-8-44	Capt. W.B. White	Forf. 7 days pay FR&I 149(1)(a)
Calgary, Alta.	26-12-44	Spr.		AWL 0630 hrs. 26 Dec.44 to 0630 hrs. 19 Jan 45 (Abs. 24 days) AA Sec.15(1)	Cpl. Hutchinson R.F.	21 days detention Sec.46 2(a) AA	20 Jan 45	Major C.E. White	Forf. 24 days pay FR&I 149(1)(a)

Certified to be a true copy of M.F.M. 6 of which it purports to be a copy.

W.A. Blench Lieut.,
Asst. Adjutant,
No.13 District Depot, C.A.

M.F.M. 6—500M
H.Q. 1772

(P.T.O.)

H.Q.C.55-B-1940 (JAG/D-4)
Your C. 36-B-5002

13 Sep 45

The District Officer Commanding,
Military District No. 13, Calgary, Alta.

STANDING COURT-MARTIAL

M. 67161 Spr. David BERNARD,
No. 13 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate General.

JOGR/MM

THIS COPY FOR: H.Q. C. 55-B-1940
M.D. C. 36-B-5002

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. M-67161 Name David Bernard

Rank Spr. Unit No. 13 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion.....

Date of Crime 25-4-45

Date of Arrest 23-8-45 Charge Signed 29-8-45

Orders for D.C.M.

Place and Date of Trial The Armouries, Calgary. 29-8-45

Sentence Detention 120 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39513

Date 6-9-45

MEMO Guilty AWL Balance of sentence remitted by Cont. Auth.

M.D. 13

ABSENT

4 mos.

No. 13 D.D. C.A.

SENTENCE

Det 120 days.

for Judge Advocate-General

10M-8-45(M-189)

R204 IN REPLY PLEASE QUOTE No. C. 36-B-5002.

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY
Headquarters, M.D. No. 13,
Calgary, Alberta.

30th August, 1945.

CONFIDENTIAL
REGISTERED
AIRMAIL

C-55-B-1940

Judge Advocate General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
No. M.67161, Sapper David Bernard,
No. 13 District Depot, C.A.

1. Attached hereto are the proceedings of the marginally noted standing court-martial.

(W.K. Jull) Lieut. Col.
President,
Standing Court-Martial.

NAT. DEF. B. 440
2500M 4-44 (4320)
H.Q. 1772-39-263

395/13

H.Q.C. 55-B-1941 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS CONFIDENTIAL

SUBJECT

FIELD GENERAL COURT-MARTIAL

BOURDAGES, PAUL D-7154 GNR.

CONFIDENTIAL H.Q.C. 55-B-1941

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				ADMIN	NEW FILE	CR	6-9-45
SEP 14 1945	13-9-45	PA		JAG	To note	wof	7-9-45
				CMBR	Per Requisition C.R. OCT 25 1945		
NOV 17 1945	29-1-46		wof	Adm 3	Recommendation	gas	NOV 12 1945
JAN 28 1946	28/2/46	BG	GSB	Admin	PER B.F. JAN 29 1946		
FEB 27 1946	28/3/46	BG	GSB	Admin	PER B.F. FEB 28 1946		
MAR 28 1946	23.5.46			Adm	PER B.F. MAR 28 1946		
JUN 4 1946	7/5/46	PA		JAA	Per Requisition C.R. JUN 4 1946		
	28/6/46	PA			WITH PAPERS CR AUG 23 1946	OK	
AUG 23 1946	11/9/46			Admin	To note & pl.		27-8-46
SEP 3 1946	18/9/46			Admin	Per Requisition C.R. SEP 16 1946		
OCT 1 1946	30/9/46			Admin	WITH PAPERS CR SEP 24 1946	OK	
	26/10/46			Admin	WITH PAPERS CR OCT 25 1946	OK	
OCT 28 1946	28/10/46			Jals	To note & pl.		26/10/46
OCT 29 1946				DRD	NOV 27 1946		
MAR 5 1947	14-3-47			Hm	WSG with 405-B-2179 & Adm		12 Mar 47
APR 9 1947	8/4/47			WBG	PER REQUISITION CR APR 3 1947		
MAY 1 1947	9/5/47			WAR	PER REQUISITION CR APR 10 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-7154 Gunner Bourdages P

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Charge	Guilty	Guilty	
2nd Charge	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~[illegible]~~ "W"

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which 5 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two (2) years.

(Sgd) ..... Judge-Advocate, if any. 10 May 45 Date awarded. (Sgd) "W. J. M. Mogan Capt" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~[illegible]~~ "JCS"

(1. AA 57A. Delete if not used.)

(Sgd) "J C Stewart Brig"

Date 10/May/45 Command.rg OIC Cdn Sect 1st Echelon AFHQ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-7154 Gnr BOURDAGES P 2 Cdn NETD	12 May 45	"D J Burgoyne Major" OC No 2 Cdn NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5h-2.

CERTIFIED TRUE COPY
(JBD Sword) Capt
Cdn Sec Ech AFHQ
21 May 45

CFA9d (In lieu of AFA3) 40/P & S/1698 (2854)

FIELD GENERAL COURT-MARTIAL

Cdn Sec

Convened by Order of Brig J.C. STEWART CBE DSO Comd 1 Ech AFHQ dated 7 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-7154	Gnr	Paul	BOURDAGES	2 Cdn NETD

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) "W" 10 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) "W" amenable to military law, and each charge discloses an offence.(3) "W"

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) "W" brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) "W" fit to undergo trial by court-martial.(1) ~~[illegible]~~ "W"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans ..... "W"

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt	W J M Mogan	(CAC)	Cdn Sec 1 Ech AFHQ
Member	Capt	H R Park	(CAC)	Cdn Sec 1 Ech AFHQ
Member	Lieut	G. Clerk	(CIC)	2 Cdn NETD
Judge-Advocate				
Prosecutor	Capt	D C Rhodes	(CIC)	2 Cdn NETD
Defending Offr	Capt	T B Harrison	(RCA)	2 Cdn NETD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~) "W" arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) "W" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) "W"

A10. The Court (~~adjourns~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). ~~Part I of the Schedule~~ is amended accordingly. "W"

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~X~~ "W" (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. "W"

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(~~A~~)(B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below. "W"

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. "W" The Prosecutor produces Statement ~~X~~ "W" as to Character and Particulars of Service(1), and certified true copy (~~XXXX~~ of Conduct Sheet(~~X~~ "W")(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(i), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"WJ13M"

CHARGE SHEET

The accus ed, D.7154 Gunner Paul BOURDAGES, No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas, is charged with:--

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 0630 hrs 14 Feb 44 absented himself without leave until about 1600 hrs 15 Jun 44.
(Total Absence: 122 days, 9 hrs, 30 mins).

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 0945 hrs 24 Jul 44 absented himself without leave until about 1915 hrs 16 Apr 45.
(Total Absence: 266 days, 9 hrs, 30 mins).

In the Field
1 May 1945

D J Burgoyne
(D.J. Burgoyne) Major
Commanding Officer
No. 2 Cdn N.E.T.D.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
Italy
7 May 45

"J C Stewart"
(J. C. STEWART) Brigadier
OIC Cdn Sec 1 Mch AFHQ

"WJMM"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2568)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D7154	Gnr		Paul	BOURDAGES	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 7 May 45 endorsed by me, ~~in the name of the Court~~ (~~as follows~~), " To be tried by Field General Court-Martial ". "JCS"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for the convenience of a superior military offr.~~) "JCS"

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (~~a) three Offrs to form the Court,~~ (b) a Fd Offr as President, for the reasons I have attached hereto. None available due to exigencies of the service. "JCS"

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~5. I hereby appoint as Judge-Advocate the next senior Offr mentioned hereunder.~~ "JCS"

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Capt	W J M MOGAN	(CAC)	Cdn Sec 1 Ech AFHQ

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Capt	H R PARK	(CAC)	Cdn Sec 1 Ech AFHQ
Lieut	G CLERK	(CIC)	2 Cdn NETD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)
Capt	G W C BRINKHURST	(CIC)	Cdn Sec 1 Ech AFHQ

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

"J C Stewart" (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(J C STEWART)

Date 7 May 45

~~Commanding~~ OIC Cdn Sec 1 Ech AFHQ
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"WJMM"

MEDICAL OFFICER'S CERTIFICATE.
(KR (Can) 557)

I certify that I have this morning examined No D-7154 Rank GNR NAME BOURDAGES, P. of 2 Cdn NE.T.D. and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.
"JWM"

In the Field

DATE 10 May 45.

"J W McMartin Capt"
Medical Officer.

"WJMM"

PLEA IN MITIGATION OF SENTENCE

In the case of: D-7154 Gnr BOURDAGES, P.

Mr President, and Members of the Court:-

The accused enlisted 8 Dec 1939 in the 1st A/Tank Regiment, RCA, and came overseas with that regiment in the same month. He remained with that unit all the time it was in England and came out to Sicily in July 1943. He saw action throughout the Sicilian fighting and after landing in Italy he was wounded in the fighting around Foggia. He went to hospital in North Africa, recovered from his wound, and was sent to the Artillery Reinforcement Battalion in North Africa. There he acted as R.P. for 2½ months, but became rather disatisfied because he was not sent to a forward unit. He went AWL but after awhile gave himself up to the same reinforcement unit then at Eboli, with the British Royal Artillery. There he was held for more than a month in the British Detention Compound awaiting a charge. After more than a month he slipped away on a sick parade on the second charge of AWL.

The record of the accused is fair considering the long period of time spent overseas, namely 5½ years. He has served in Sicily and Italy and has been wounded; and as the result of his hasty action has forfeited Rotational Leave. I ask the Court to take these points into consideration and be lenient in awarding sentence.

"T B Harrison" Capt.
(T.B. Harrison) RCA

Ex "A"
"WJM"

SUMMARY OF EVIDENCE

In the case of D.7154 Gunner BOURDAGES, P., No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS
For the
PROSECUTION.

A.104046 Cpl. Wells, H.K., having been duly sworn, states:-

"I am A.104046 Cpl. Wells, H.K., employed as clerk in the Legal Office, No. 2 Cdn. N.E.T.D. and as such I have custody of regimental documents. I present a certified true extract from X-List RCA (Sect. "B") Part II Order No. 82 dated 23 Jun 44 (Appended hereto as Exhibit "A"); a certified true extract from X-List RCA (Sec."B") Part II Order No. 97 dated 24 Aug 44 (Appended hereto as Exhibit "B") and a certificate in accordance with the Army Act, Sec.163(1)(jj) purporting to be signed by R.A. Archer, Capt. DAPM., 78 Sec. SIB. CMP (Appended hereto as Exhibit "C") all these documents pertaining to D.7154 Gnr Bourdages, P."

H K Wells
(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) pages, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

R D Hutsell
(R. D. Hutsell) Capt.
Officer detailed to take Summary of Evidence.

In the Field.
1 May 45.

PART II ORDER EXTRACT FORM

TO:
Ex "E"
"WJM"

99/20/.....

.....19.....

EXTRACTS FROM: Unit "X"-List RCA (Section 'B')

Part II Order No. 83 dated 23 Jun 44

Absent Without Leave
AWL from 0630 hrs 14 Feb 44. Ret from AWL 1600 hrs 15 Jun 44.
D7154 Gnr Bourdages, P. X-4 List (3 Bn)

THIS IS EXHIBIT "A" REFERED TO BY ME IN THE CASE OF D.7154 Gnr BOURDAGES,P.

"R D Hutsell" Capt
(R.D. Hutsell)
Officer detailed to take Summary of Evidence.

~~The following documents are~~ ~~(attached to this extract and marked as exhibits)~~
~~(referred to this extract and marked~~

Certified true extract 25 Apr 45 "J B D Sword"
Date of certification: (J B D Sword) Capt
Officer having custody of the original
Cdn Sec 1st Echelon AFHQ

Originating Clerk's Initials .....

ECH—6
40/P & S/1276 (4032)

..... for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

PART II ORDER EXTRACT FORM

TO: Ex "F"
"WJM"

99/20/.....

.....19.....

EXTRACTS FROM: Unit X-List R C A (Section 'B')

Part II Order No. 97 dated 24 Aug 44

Strength Decrease

SOS X-4 List (6 Bn) as deserter 17 Aug 44 having been declared illegally absent from 0945 hrs 24 Jul 44 by a Ct of Inq.
Deficiencies in kit in the amount of 36.52
D7154 Gnr Bourdages, P.

THIS IS EXHIBIT "B" REFERRED TO BY ME IN THE CASE OF D.7154 Gnr BOURDAGES P

"R D Hutsell" Capt
(R.D. Hutsell)
Officer detailed to take Summary of Evidence.

The following documents are ~~attached in the envelope except as otherwise indicated.~~
~~required. Please forward same~~

Certified true extract date of certification: 25 Apr 45

"J B D Sword"
(J B D Sword) Capt
Officer having custody of the original
Cdn Sec 1st Echelon AFHQ

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

THIS IS EXHIBIT "C" REFERRED TO BY ME IN THE CASE OF D.7154 Gnr BOURDAGNS P

"R D Hutsell" Capt
(R.D. Hutsell)
Officer detailed to take Summary of Evidence.

Certificate in accordance with the Army Act Sec. 163(1)(jj)

I certify that

No D7154 Rank Gnr Name BOURDAGE, Paul.

of the 27th Battery, 1st. A/T Regt., ROYAL CANADIAN ARTILLERY,

was arrested at ROME at 19.15 Hrs.,

on the 16th day of April, 1945.

Signature of PM, APM or other Officer) "Undecipherable"
into whose custody the above named)
person was taken on arrest.) Rank Captain,

Appointment (if any) D.A.P.M.

Commanding 76 Section, S.I.B., C.M. Police.

Date 18th April, 1945

Ex "D"
"WJMM"

Ex "B" "WJMM"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name	Regiment (or as the case may be).
D.7154	Gnr	Paul BOURDAGES	# 2 Cdn N.E.T.D.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry, if the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15(1) ..... 2 times.

For A.A. Sec 40 ..... 5 times.

~~For "JM"~~ ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is not under sentence for ~~xxxx

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field 29 Aug 42	AA Sec 15(1) AWL from 2300 hrs 29 Aug 42 until 1810 hrs 30 Sep 42. Absent: 31 days 19 hrs 10 mins	90 dys detn	Released 4-12-42 Remission earned 30 days.

"A"

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 10th day of May 1945

"J M Reid" Capt & Adjt.
(J M Reid) Officer i/c
Regtl Books and Records, 2 Cdn NETD

3/17 MFM 6 (AFH 123) 40/PAS/126 (5413)

No. 7154 Name BOURDAGE, P | Sqn, Battery, or Company | Corps RCA | Date of enlistment 13-12-39 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No entries from previous sheet destroyed 14 Jun 40 on completion of six months service					
Field	3-8-40	Gnr		AWL from 2359 hrs 3-8-40 until 2140 hrs 5-8-40	TSM Cookman	Forf 28 dys pay	6-8-40	JA G Major	
Field	31-1-41	Gnr		AWL from 2230 hrs 31-1-41 until 0730 hrs 3 Feb 41	Sgt Lawrence	10 days CB	6-2-41	J A G Major	
Field	11-5-41	Gnr		AA 40 - Improperly dressed	Sgt Barraclough	4 days CB	23-5-40	J A G Major	
Field	16-1-42	Gnr		AA 40 - Failed to get up for PT	Sgt Barraclough, L/C McEwen	4 days CB	15-1-42	GA White Maj	
Field	14-8-42	Gnr		AA 40 - Dirty revolver	L/C McEwen, L/C McCullh	4 days CB	6-9-42	GA White Maj	
Field	29-8-42	Gnr		AA 15(1) AWL from 2300 hrs 29 Aug 42 until 1810 hrs 30 Sep 42. Absent 31 days 19 hrs 10 mins.	Sgt Lawrence, Doc	4 days CB, 90 dys detn	6 Oct 42	FGCM	Forf 32 dys pay PR&I 149(1)(a) 6 dys pay PR&I 149(1)(c)(ii) (PFO)
				Released from Detn Bks 4-12-42, Remission earned 3 days.					

Ex "C" "WJMM"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12 Jan 43	Gnr		WOAS neglect to the prejudice of good order and military discipline, etc, failed to report to office on time. AA Sec 40	BSM Rafton Gnr Fall	7 days CB	12 Jan 43	Maj W Wilkinson	
Field	15 Jul44	Gnr		AA 40 - While a prisoner failed to obey an order		7 dysprison diet	18Jul44	LtCol HE Wright	

"Certified to be a true copy from the Regtl Books in my Custody".

"J M Reid" Capt & Adjt
(J M Reid)
Officer i/c Regtl Books & Records.
No. 2 Cdn N.E.T.D.

1 May 45.

150 P

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Fourth day of October, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—]~~

PROCEEDINGS REVIEWED

President.

Rank.	Name.	Regiment.
Major	L.T.Poulter	2 Cdn Fd Regt

Members.

Rank.	Name.	Regiment.
Captain	J.G.Whitwell	2 Cdn Lt AA Regt
~~Lieut.~~ Capt.	~~R.G.Fitzgerald~~ E.R. Zavitz	2 Cdn Fd Regt
Lieut.	R.A.Timmins	2 Cdn Lt AA Regt

Waiting Member

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (A.E.D.Tremain) Brigadier C.R.A. 1 Cdn Div.

Convening Officer.

Commanding.

L.T. Poulter Major

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D7154 Gnr. Bourdages, P. 1 Cdn A Tk Regt	First Charge Sec. 15(1) A.A.	Guilty.	Guilty 90 days Detention Forfeiture of 32 days pay under F.R.&I. 149 A. Forfeiture of 6 days pay under F.R.&I. 1C	Geo. Prior The finding and sentence of the Court. S.L.A. Irwin Brigadier

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) S.L.A. Irwin Brigadier (Signed) L.T. Poulter
Commanding R.C.A. Peter Pan. — Convening Officer (e)
Major RCA 2nd Fld Bty RCA — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6th October ~~1942~~ L.T.P. day of October 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 6th. day of October 1942.

L.T. Poulter Major RCA
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify~~ that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I ~~direct that the soldier named in the margin be not~~ committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 14 day of Oct 1942

S.L.A. Irwin
Confirming Officer. Brigadier

Promulgated and extracts taken in the case of D-7154. Gnr. Bourdages. P.

(a) (Dated) 16 Oct 42. (Signed) Hugh Burnett Capt.
1st. Anti-Tank Regiment, R.C.A., C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(21759) Wt. 40115—983 200 m 2/40 P. St. G. 620

27 Bty.

[redacted]

Squadron / Battery / Company / Detachment

1st. A.A.T. Regt.

MORNING SICK REPORT

Unit or Battalion

Oct. 6th. 19 40

Regt'l No.	RANK AND NAMES (Christian Name in full)		Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
D 7134	Gnr.	Bourdages. Paul.	23	R.C.	Pris.	S	For C.M.	Fit.

Medical Officer

Orderly N.C.O.

M. F. H. 292
(440M-3-41 (9663-9-40)
H.Q. 1773-30-248

(OVER)

I have satisfied myself that none of the officers detailed as members of the Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge(s) before the Court Martial.

L. T. Paulter Major.

(Signature of the President)

CHARGE SHEET

A.A.
SEC. 15 (1)

The Accused No.D-7154. Gnr. Bourdages, P. 27th Battery, 1st Anti-Tank Regiment, R.C.A. a soldier of the Canadian Army Overseas is charged with:-

When on Active Service absenting himself without leave

in that he

at Cooden absented himself without leave from 2300 hrs 29 Aug 42 till 1810 hrs 30 Sept 42. (Time absent 31 days, 19 hours and 10 minutes.)

In the field

1 Oct 42.

L.T. Poulter Major RCA
President

(H.M.HAGUE) Lt-col.,
Commanding
1st Anti-Tank Regt., R.C.A.
Cdn Army Overseas.

To be tried by Field General Court-Martial.

5 Oct 42 [illegible] Brigadier

1.

Form 8(a)

PROCEEDINGS OF A REGULAR COURT MARTIAL HELD IN THE FIELD

ON THE 6 DAY OF October 42

Trial of No. D 7154 Gnr. Boundoque P. 1st Cdn. A/T. Reg't.

Prosecutor: Lieut. J. A. C. Kee 1st Cdn. A/T. Reg't.

Presiding officer: Lieut. J. S. Malbern 1st Cdn. A/T Reg't

Lieut. W. A. Campbell 2 Cdn. Field Reg't.

Lieut. H. B. Fader 2 Cdn. L.A.A. Reg't.

1. The order convening the court was read and the presence of the accused and witnesses was ascertained.

2. The prosecutor and accused stated that they had no objection to any Members of the court.

3. The prosecutor read the charge sheet. I do not

LTP

LTP

4. The accused answered the charge sheet as follows: x

charge

LTP

5. The prosecutor and accused stated that they had no further questions.

6. The prosecutor and accused stated that they had no further evidence to adduce.

L. T. Boulter Major

8

Fourth witness ~~having been~~ Capt. H. Burnett, Adjutant 1st Cdn. A/TK. Regt. RCA. having been duly sworn states:

Question by President - "Have you any evidence to produce as to the character and particulars of service of the accused"

Answer by Fourth Witness "I produce this statement on A.F.B. 122 and A.F.B. 296 and certify ~~they~~ these AFB are true copies." The witness then identified the accused. The defense refused to cross examine witness.

The Defending Officer ~~and took the stand~~ addressed the court and asked for the leniency of the court owing to the fact that ~~the~~ the accused Gnr. Bourdage had gone A.W.L for the purpose of working ~~on~~ in the harvest of the country's ~~to~~ crop. At the time the offence occurred there was considerable newspaper propaganda on the necessity of X troops helping in the harvest and this led to the accused taking his own way of finding farm work.

Defending officer then submitted two letters which appear as exhibit 'A' and 'B'. The defense rests.

Upon the accused pleading guilty the Court is closed for the consideration of a sentence

L. T. Poulter
Major R.C.A.
President

Summary of Evidence in the Case of D-7154 Gnr. Bourdages, P. 27th Battery, 1st Anti-Tank Regt., R.C.A. Taken under oath by the direction of Lt-col. H.M.Hague, Commanding Officer, 1st Anti-Tank Regt., R.C.A.

1st Witness. for the prosecution.

D-7137. Bdr. Dube, A.A. 27th Battery, 1st Anti-Tank Regt, R.C.A. having been duly sworn states:

I took the roll call on the 29th of Aug at 2300 hrs and Gnr. Bourdages, P. was absent from his quarters. I reported it to Sgt. Lawrence, who was Orderly Sergeant the night of the 29th.

Sgd. [illegible] .....

The accused declined to cross-examine the witness.

2nd Witness for the prosecution.

D-7119. Sgt. Lawrence, C.E. 27th Battery, 1st Anti-Tank Regt., R.C.A. having been duly sworn states:

On Saturday Aug 29th. as Orderly Sergeant, it was reported to me by Bdr. Dube, A.A. that Gnr. Bourdages, P. was absent at the tattoo Roll Call. I investigated and found it to be correct, and reported it in the Orderly Sergeants Report. On calling the Roll Call I found, as A.Troop, Sgt. Gnr Bourdages absent on every parade since.

Sgd. [illegible] Lawrence Sgt.

The accused declined to cross-examine the witness.

3rd Witness for the prosecution.

D-7109. Sgt. Cruise, R.W. 27th Battery, 1st Anti-Tank Regt., R.C.A. having been duly sworn states:

On 30 Sept 42 I was Orderly Sergeant. Gnr. Bourdage reported to me at 1810 hrs. I placed him in the Guard Room under arrest and reported this to the Sgt. Major.

The accused declined to cross-examine the witness.

Sgd. [illegible] Cruise Sgt

The accused having been duly cautioned in accordance with Rule of Procedure 4 (e) Reserves his defence.

Certified that Rule of Procedure 4, c, d, f, and g have been complied with.

Taken down by me in the presence and hearing of the accused this 1st. day of October 1942 at Cooden.

Sgd. [illegible] Capt

L. F. Poulter
Major R.C.A.
President.

Exhibit A

Phone
PULBOROUGH 167
Station
PULBOROUGH

Doctor
JANET K. AITKEN

Communications, Cheque, Etc. to—
OLD POST GARDENS (REGD)
COLDWALTHAM
PULBOROUGH
SUSSEX 5th Sept. '42

The Commanding Officer
R.C.A. C.A.S.F.
Canadian Base P.O.

Dear Sir,

Two of your gunners Paul Bourdag and Yvon Brindamour have been a Godsend to me during the last week in helping me out in food production and at the same time showing some of my people how they work on the other side.

If by any chance you can spare these two another week I would be most grateful for their help.

Thank you.

Yours truly.

J. Mitchell

L. T. Paulin Major R.C.A.
President.

Exhibit B.

Phone
PULBOROUGH 187
Station
PULBOROUGH

Doctor
JANET K. AITKEN

Communications, Cheques, Etc. to—
OLD POST GARDENS (REGD.)
COLDWALTHAM
PULBOROUGH
SUSSEX 12th Sept '42.

The Commanding Officer
R.C.A. C.A.S.F.
Canadian Base P.O.

Sir,

This is to state that Gunners Yvon Brindamour & Bourdage have worked well and truly for me during the past week. Please accept my sincere thanks for this kindly assistance.

Yours truly.

J. Aitken

L. F. Paulter
Major R.C.A.
President.

Description of Court by which Tried, or Officer or Authority disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this first day of October 1942.

Major
Commanding
1st. Anti-Tank Regiment, R.C.A., C.A.S.F.

6.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

D7154 Gnr Bourdages, P. of the 27 Battery 1 Cdn Anti-Tank Regt.,RCA

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.		*Since Enlistment.	
For A.A.Sec.15(1)	-	times	2	times.
For A.A.Sec.40	2	times	3	times.
For		times		times.
For		times		times.

[redacted]

or,

[redacted]

2. The accused has not been previously convicted,

or,

[redacted]

Wt. 42648/664 50,000 2/40 W. S. Ltd. 51—6604

L. T. Poulin Major R.C.A.
President.

3. The accused is not under sentence at the present time,

or,

~~[illegible]~~ for ~~[illegible]~~ days ~~[illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges

for No days in Civil Custody,

and ~~1~~ 5½ days in Military Custody. As at ~~1800~~ 1000 hrs, ~~1~~ 6 Oct 42

Total 1 days.

Capt

Of which No days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 23¼ years

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 13 Dec 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 9½ months

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 9½ months years' service.

9. The accused is entitled to reckon 2 years 9½ months years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~[illegible]~~]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N.A.

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of N.A. dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

			N.A.	Date of Promotion.
In the rank of		,	years,	
In the rank of		,	years,	
In the rank of	N.A.	,	years,	N.A.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name of the

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*)

RC

Certified true copy
Lt Col

No. D71154 Name BOURDAGE P

Date of last entry in Company Conduct Sheet

Sqn., Battery or ~~Company~~ 27 A/Tk Corps RCA

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Date of enlistment 17-12-39

Sheet No. 2

G.C. Badges

Signature O.C. Company, etc.

Service or Proficiency Pay

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No entries from previous sheet destroyed 14 Jan 40 on completion of six months service									
Sydney	3-8-40	One		A.W.O.L. from 2359 hrs 3-8-40 till 2400 hrs 5-8-40	T.S.M. Cockman	Forfeit 28 days pay	6-8-40	Maj Meyer	
Halifax	31-1-41	"		A.W.O.L. from 2359 hrs 31-1-41 till 0730 hrs 3-2-41	Lt Lawrence	10 days C.B.	6-2-41	Maj Meyer	
Dunnfield	11-5-40	"		A.A. 40 Improperly dressed	Lt Col McEwen	4 days C.B.	22-5-40	Maj Meyer	
Tamworth	25-6-42	"		A.A. 40 Failed to get up for PT	Lt Col McCulloch	4 days C.B.	15 Jun 42	Lt Col McCulloch Maj	
	14 Aug 42			A.A. 40 Dirty overall	Lt Lawrence	4 days C.B.	15 Aug 42	Lt Col McCulloch Maj	
					B.Q.M.S. de Magnis				

1ST ANTI-TANK REGIMENT R.C.A. C.A.S.F. 1 OCT 1942

(P.T.O.)

27 Battery, 1 A. Tk. Regt. R.C.A.
1 October 1942.

F.S.C.M.
D-7154 Gnr. Bourdages, P.

1. I wish to have Lt. J. S. Mulkerns, of the 27th Bty. 1 A. Tk. Regt. R.C.A. represent me as my defending Officer in my forthcoming trial.

Bourdages P.

D-7154 Gnr. Bourdages, P.

1st ANTI-TANK REGIMENT
R.C.A.
C.A.S.F.
1 OCT 1942
ORDERLY ROOM

C A N A D I A N A R M Y

T.20-B-23753 (A4)

HQ MD 2
21 Oct 46

AHQ

REMISSION OF SENTENCE

D.7154 Gnr BOURDAGES P

CENTRAL REGISTRY Army
COMT. DOC.
OCT 23 1946
Chgd. to

1 Ref HQC-55-B-1941 (Adm 3b3) dated 10 Sep 46.

2 Herewith completed Appx "G" to CARO 5913.

3 Also enclosed herewith ~~XXXXXXX~~ AFA 3104s with respect to the m/n soldier, for disposal.

P. H. Sparling
(H A Sparling) Brig
DOC MD 2

/HHF

46

(4)

gaol. Rev 3/6

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. D7154 Gnr Bourdages P Unit 2 Cdn NETD

Sentenced to be imprisoned with HL for 2 yrs on 10 May 45

Age on, and date of enlistment 20 yrs 13 Dec 39 Term of service DURATION

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

45

(15712) Wt.24568/175 7,000 8/40 A.A.E.W.Ltd. Gp.698
(19851) Wt.30943/1217 15,000 12/40 " " Forms/A.3104/31

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION- RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	for (Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 15 AUG 1945	
20Sep 46	REMIT BALANCE OF IMPRISONMENT WITH HARD LABOUR EFFECTIVE 26 Sep 46	(H A SPARLING) BRIG DOC MD 2	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
AA 15(1) AWL 122 days 9 hrs 30 mins	14 Feb 44	10 May 45
AA 15(1) AWL 266 days 9 hrs 30 mins	24 Jul 44	10 May 45
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
16 May 45	Committed to 2 Cdn Fd Pun Camp	D Burgoyne Major O.C. No 2 Cdn NDTD

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
17/May/45	No remission	J Stewart Brig O.C. Cdn Sect 1st Echelon AFHQ

15

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. D-7154 Pte BOURDAGES, P. Unit #4 Cdn(Gen. Rft)Wing #1 Cdn Repat Depot.

Sentenced to Twenty Two (22) months IHL & DWI on 25 JUL 46

Age on, and date of, enlistment 24 years, 12 Dec 39 Term of service 7 yrs 7 mon.

FIRST TRIAL.

For details of offences, see paragraph VII.

For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.

For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to .....

and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude

(*25503) Wt.49340/415 38,000 1/44 A. & E.W.Ltd. Gp.698 Forms/A.3104/12

44

All recommendations, etc., considered upon review, should be pasted here.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	NO REMISSION - RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	for (JC Murchie) Lieut-General Chief of Staff Canadian Military Headquarters 13 Aug 46.	
20 Sep 46	JHL only [illegible] REMISSION EFF 26 Sep 46	(H A SPARLING) BRIG DOC MD 2	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA SEC 15 (1) WOAS AWL, While in custody at No.3 CMP & DB undergoing sentence did absent himself without leave from 0700 hours 25 Sep 45 until apprehended by civil Police at Caterham, at 2250 hours 26 Jun 46, thereby incurring costs of return to his unit in the amount of £0-4-11. Total Time absent: 274 days 14 hours, 50 minutes. Major. Signature of Officer making entry. No.3 Cdn Mil Prison & Detn Bks.	25 Sep 45	25 Jul 46
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
	I agree with the finding of Court & recommend that it be served in full	Major. (H.F. Garmen) Commandant. No.3 Cdn Mil Prison & Detn Bks.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
20 Aug 46	I concur	W B K Lordan Col.

PART V
CERTIFIED TRUE EXTRACT OF DAILY PART 11 ORDER

No. D-7154 RANK Pte NAME BOURDAGES P.

The sentence of 2 yrs Imp. with H.L.
awarded by Court-Martial on the 10th day of May 45
has been remitted by 225 days
on the 26th day of Sept 1946 by Brig. H.A. Sparling DOC M.D. No. 2
Unit

Certified True Extracts of Daily Orders Part 11 of 16 Oct 46- #249
No. 2 DD Place Long Branch Camp, Ont. Date 16 Oct 46

Capt.
Adjutant No. 2 DD

43

~~First trial~~ ~~225~~ Second 3666

APPENDIX "A" TO CANADIAN ARMY ROUTING ORDER NO. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM.

1st Trial 223

HQC 55-B-1941(Adm3b3)
T.20-B-23753

PART I

No. D7154 Rank Pte Name BOURDAGES P.
Unit (#4 Cdn (Gen Rft) Wing #1 Cdn Repat Depot) 2 DD

PART II

	1st Trial	2nd Trial
Date of Trial	10 May 45	25 Jul 46
Charge(s)	AWL (AA Sec 15(1)	AWL (AA Sec 15(1)
Sentence	Two Years Imp. with H.L.	22 mos. Imp. with H.L. DWI
Date of Sentence	10 May 45	25 Jul 46
Confirmation - (a) Authority		W.B.K GORDON, Col.
(b) Date		2 Aug 46

PART III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act (xxxx

CANADIAN ARMY

CENTRAL REGISTRY Army
CONF. SEC.
SEP 24 1946
File 235-B-1941
Chgd. to
Referred to

T.36-10-282 (A2)
HQ MD 2
21 Sep 46

OC 2 DD

OC 86 MDB

The Secretary (Infm)
DND (Army)

REMISSION OF SENTENCES

1 The DOC MD 2 has reviewed the sentences of the following soldiers this date, and has remitted the sentences eff 26 Sep 46;

D 82014	Pte ALLAN A G
A 69297	Pte BARTLEY C W
D 7154	Pte BOURDAGES P
H 76092	Pte BOURGET J P
C 5241	Pte BRUNTON J T
A 22523	Pte CAREY T
D 106029	Pte DEMERS A
D 57449	Pte GIBEAULT G
C 4296	Pte GILMOUR D E
F 60012	Pte HANDRAHAN J F
B 139185	Pte HOGUE A
G 684	Pte STACKHOUSE J C
F 58774	Pte STATES L A
D 86426	Pte STEPHEN D S
E 9141	Pte TALBOT G
A 1891	Pte TALBOT J F
M 16617	Pte WARD A
B 21190	Pte WEBSTER G I
A 19509	Spr WHITTLE F
L 26466	Gnr ZAYONCE S

2 Att hereto (to 2 DD only, is Appx "G" to CARO 5193 and Form "L" authorizing the remission and release of the a/m soldiers.

3 May the said remission now be promulgated to these SUS, Parts IV and V of Appx "G" completed and returned to this HQ.

4 2 DD will be responsible for transporting soldiers from #86 MDB on 26 Sep 46.

for (N S Cuthbert) Lt.Col.
AA&QMG MD 2.

LRB/EW

HQC 55-B-1941 Adm 3(b)3

OTTAWA, 18 Sep 46.

District Officer Commanding,
Military District No 2,
TORONTO, Ont.

D-7154 Gnr BOURDAGES P

Herewith AFA 3104 for the m/n soldier, relating to sentence awarded by FGCM on 10 May 45, as requested per your TA 6168 UNCLAS DATED 13 Sep 46.

GLC

(E.G. Weeks)
Major-General
Adjutant-General

GLC/PB

25

40

6

CLEAR

ARMY MESSAGE

(INCOMING)

PLACE FROM

DATE & TIME

RECEIVED SEP 14 1946 383

33 CIB TL 51

TORONTO ONT 131545

SECY

OTTAWA ONT

TA 6168 UNCLASSIFIED RETEL HQC 55-B-1941 ADM 3 B 3 DATED 10 SEPT 46 REFERS D 7154 GNR BOURDAGES P STOP FORWARD AFA 3104 FOR FGCM OF 10 AUG 45

DOC MD TWO

131637C

131617C

56336

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE
& RELOCK AND RETURN TO ARMY SIGNAL
OFFICE ATTENTION OF ARMY SIGNAL
OFFICER

BRANCH	TIME	SIGNATURE

39

COPY 1

M.F.H. 344 300M-10-44 (5869)
H.Q. 1772-39-2100 K.P. 20293

CRAIN PRINTERS LIMITED-HE

H.Q.C. 55-B-1941 (Adm 3b3)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

OTTAWA, Canada
10 September, 1946.

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

D.7154 Gnr BOURDAGES, P.

Further to Memo 1449 Unclas dated 26 Aug 46, herewith AFA 3104 and copy of CMHQ letter concerning the m/n SUB.

2. It will be noted that CMHQ has recommended that discharge with ignominy under the provisions of CARO 1029(9) should be carried out.

AdG

(A.G. ADAMS),
Major-General,
Adjutant-General.

Encl 2/

Note:

Recommendation by CMHQ on 12 Nov 45 does not apply to back sentence by FGCM awarded on 25 Jul 46.

AdG Capt
Admin 3(b)3

10/9/46.

38

THIS COPY FOR:

H.Q.C.55-B-1941
M.D.10/Bourdages, P/1

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. D.7154 Name BOURDAGES, Paul

Rank Pte. Unit N o. 4 (Gen Rft) Wing No. 1 Cdn Repatriation Depot, att. No. ~~3 Cdn Mil Prison & Det Barracks, CAO~~

Charge A.A. 15(1)/ WOAS AWL

Date of Crime 25 Sep 45

Date of Arrest 26 June 46 Charge Signed 16 July 46

Orders for D.C.M. FG Comd. 1 Cdn Repat Depot

Place and Date of Trial In the Field 25 Jul 46

Sentence To be imprisoned with hard labour for 22 months, to be discharged w/ignominy from His Majesty's Service and to be put under stoppages of pay in the amount of 4/

Date of Confirmation 29 Jul 46

Date of Promulgation 1 Aug 46

Entered in Records of J.A.G. as No. 5143

Date 27 Aug 46

Balance of sentence remitted by Conf. Auth. 26-9-46

MEMO

Reviewed at CMHQ, also at NDHQ

37

S.S. Stephens, Capt.
for Judge Advocate-General

HQC 55-B-1941 (JAG/D-7)

Office of the Judge Advocate-General

27 Aug 46

Canadian Military Headquarters,
2 Cockspur St.,
London S.W.1, England.

(Attention Major-General i/c Administration)

Field General Court-Martial
D.7154 Pte. Bourdages, Paul

Receipt is acknowledged of your 10/Bourdages, P/1, dated 15 Aug 46 under cover of which you forwarded original proceedings of FGCM 25 Jul 46 together with original AF A3104 in respect thereof.

(R.J.Orde) Brigadier
Judge Advocate-General.

MM

36

AIR MAIL

Quote No. 10/Bourdages, P/1

CANADIAN MILITARY HEADQUARTERS

LONDON

15 Aug 46

CENT. REGISTRY Army
COMM. SEC.
36262
AUG 23 1946
File. C.55-13-1941
Chgd. to
Referred to

CONFIDENTIAL

The Secretary,
Department of National Defence (Army),
Ottawa, Canada.

D 7154 Pte Bourdages, P.

1. You are referred to this HQ letter of even file dated 22 Aug 45 wherein the previous record of the m/n soldier was duly set forth. It was then directed that this soldier be returned to Canada in custody under his sentence of 10 May 45 with a recommendation that he be discharged on grounds of misconduct.

2. A further sentence of 22 months imprisonment with hard labour and discharge with ignominy has now been awarded this soldier by FGCM 25 Jul 46 for an absence without leave, whilst undergoing sentence, from which he was apprehended after 274 days (AA Sec 15(1)). This latter sentence will run concurrently with the unserved portion of his previous sentence of 10 May 45.

3. If he earns full remissions for good conduct while serving his concurrent sentences, the earliest date on which he should be released is 14 Oct 47.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. In view of this soldier's very poor record of service since enlistment and the fact that he was recommended for discharge on grounds of misconduct in Aug 45, it is considered his present long illegal absence further confirms that he is an incorrigible and should therefore be required to serve his concurrent sentences of imprisonment with hard labour in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered this soldier must have realized that his escapade whilst undergoing sentence would result in a severe penalty.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of FGCM 25 Jul 46 together with original AF A3104 in respect thereof, on which this direction has been endorsed.

for (J.C. Murchie) Lieutenant-General
Chief of Staff
Canadian Military Headquarters

Encs 2

Copy to: OIC Records

35

Entered as No. 3743 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 22 day of August 1946

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.7154 Pte Paul BOURDAGES

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 2 YEARS IMPRISONMENT WITH HL beginning on (date) 10 May 46 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To be imprisoned with hard labour for twenty-two (22) months, to be degraded with ignominy from his rank and to be put under stoppages of pay in the amount of $1/p cost of return to his unit. 25 Jul 46 (Sgd) C.E. Woodrow Lt-Col
Date awarded. President. (RP 45, 50.)

(Sgd) Judge-Advocate, if any.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~
(1. AA 57A. Delete if not used.)

(Sgd) W.K. Gordon Col

Date 29 Jul 46 Commanding 1 Cdn Repat Depot Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused D-7154 Pte Bourdages, P. Date. 1 Aug 46 Signature of Offr.

D.O. #61 d/2 Aug 46 (E.O. Snelgrove) Adjutant, Capt. No. 3 Cdn Mil Pris & Detn Bks.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 140 C40-2-22

RECEIVED AUG 10 1946 CMHQ

CFAP96 (In lieu of AFA3) 40/P & S/1698 (61144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convening Order Col. M.B.K. GORDON, DSO ED Comd 1 Cdn Repat Depot dated 23 Jul 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.7154	Pte	Paul	BOURDAGES	4 (Gen Rft) Wing, 1 Cdn Repat Depot

PROCEEDINGS REVIEWED 12 Aug 46 C.H. Tait Maj

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 25 Jul 46

REVIEWING OFFICER, JAG ENGLAND M.H.Q.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1140 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter? Ans~~ ..... No. 69158 Sgt Rimstad, RA shorthand writer? Ans. Nosir

~~The Interpreter is sworn.~~(1) Do you object ~~to~~ The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans Nosir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	C.E. WOODROW OBE ED	4 Incr "A"
Member	Capt	G.E. DAVIDSON	1 Cdn Rep Dep
Member	Lieut	R. WOOLMAN	1 Cdn Rep Dep
~~Judge-Advocate~~			1 Cdn Rep Dep
Prosecutor	Lieut	R.L. MUNSON	3 CMP&DB
Defending Offr	Capt	R.E. RUSSELL	3 CMP&DB

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~A~~) plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 8

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without autay from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(~~s~~), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO SIR (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(~~s~~), and in mitigation of punishment ?(1) Ans. Defending Officer's plea in extenuation attached (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Ord

CHARGE SHEET

The accused, D-7154 Pte Paul BOURDAGES, of No. 4 (Gen Rft) Wing, 1 Cdn Repatriation Depot, attached to No. 3 Cdn Mil Prison & Detn Barracks as a soldier undergoing sentence, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
AA SEC 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

While in custody at No. 3 CMP & DB undergoing sentence did absent himself without leave from 0700 hours 25 Sep 45 until apprehended by Civil Police at Caterham, at 2250 hrs hours 26 Jun 46, thereby incurring costs of return to his Unit in the amount of £0-4-11.

Total time absent: 274 days, 14 hours, 50 minutes.

16 July 46

(H.F. Germen) Major
Commandant
No 3 Cdn Mil Prison & Detn Bks.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
23 Jul 46

(M.B.K. Gordon) Colonel
Comd
1 Cdn Repat Depot

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FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-7154	Pte		Paul	BOURDAGES	4 (Gen Rft) Wing, 1 Cdn Repat Depot Att 3 CMP&DB

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~XXXX~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 23 JUL 46 endorsed by me, ~~XXXXXXXXXXXXXXXX~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[and XXX it is XXXXXXXXXXXXXXX

MEDICAL OFFICERS REPORT
(KR (Can) 557)

This is to certify that I have this morning medically examined

No D-7154 Rank Pte NAME BOURDAGES, P.

and that in my opinion he is (fit) ~~[illegible]~~ fit

to undergo trial by Court-Martial.

Station Bramsott No 3 C.M.P. & D.B.

Date 25 Jul 46

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J B Frank Capt.
~~[illegible]~~ RCAMC
Medical Officer
No 3 Cdn Mil Pris & Detn Bks.

Exhibit A
Ed

SUMMARY OF EVIDENCE IN THE CASE OF; D-7154 Pte Paul BOURDAGES, No. 4 (Gen Rft) Wing, 1 Cdn Repat Depot, attached to No. 3 Cdn Mil Prison & Detn Barracks as a soldier undergoing sentence, a soldier of the Canadian Army Overseas, taken at No. 3 Cdn Mil Prison & Detn Barracks.

BY DIRECTION OF THE COMMANDANT THE SUMMARY IS TAKEN ON OATH.

First Witness for Prosecution

Capt. E.O. Snelgrove, Adjutant No. 3 Canadian Military Prison & Detention Barracks, an Officer of the Canadian Army Overseas, having been duly sworn states:-

I am Capt. E.O. Snelgrove, on strength of No. 3 Canadian Military Prison & Detention Barracks. I produce the following documents pursuant to Overseas Routine Order No. 5352, which have been read over and shown to the accused and which are attached hereto as Exhibit "A", "B" and "C".

Exhibit "A" - Record of the Declaration of a Court of Inquiry.

Exhibit "B" - Certificate of apprehension AF 0.1618.

Exhibit "C" - CMHQ 100:55 Expense Voucher

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS.

E O Snelgrove Capt.
(E. O. Snelgrove) Adjutant
No 3 Cdn Mil Prison & Detn Bks.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:- Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

Bourdages P. Pte
(D-7154 Bourdages, P)

I hereby certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused at No. 3 Canadian Military Prison & Detention Barracks on the 16 Jul 46 and the rules of procedure 4 (c),(d),(e),(f) and (g) have been complied with.

L.R. Munson Lieut.
(L.R. Munson)
Officer Detailed to take the Summary

In the Field
16 July 46

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Plea attached to E
Ord

PLEA OF MEDIGATION - SUS BOURDAGES D-7154

The accused joined the Army Dec 1939 and came to England in the same month with the 1st Anti-tank Regt. He served in Sicily and Italy where he was wounded. He convalesced in Africa and was re-boarded, his catagory being lowered due to his wounds. He was not permitted to return to Action. The accused hopes to be discharged in England where he has obtained suitable employment but feels DWI would impair his being employed and wishes to have you take this point into consideration.

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Exhibit "A"

RECORD of the Declaration of a Court of Inquiry assembled at S C.M.P. & D.B. on the 22 nd day of October 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D.7154 Pte BOURDAGES, P.

DECLARATION

The Court declare that No. D.7154 Pte Bourdages, P., 1 Con Repat Depot att S C.M.P. & D.B. as a soldier undergoing sentence illegally absented himself without leave from S C.M.P. & D.B. at 0700 hrs on the 25 th day of September, that he is still so absent, and that on the 17 Oct 45 he was deficient, and that he is still deficient of the following articles :- He has not been reported as apprehended nor reported to this unit nor been ~~ascertained to this Unit and is still~~ absent without leave this date

ARTICLES	No.	VALUE Vocab Price	VALUE Assessed Value	ARTICLES	VALUE
Overalls, trousers denim	1	2 51	1 88		
Boots ankle prs	1	5 82	4 36		
Berets khaki	1	1 20	90		
Braces prs	1	32	24		
Shirts flannel khaki	1	2 40	1 80		
Jerseys pullover	1	1 79	1 34		
Towels hand	2	68	51		
Spoons MS dessert	1	09	07		
Razors safety sets	1	06	05		
Brushes shaving	1	37	28		
Socks worsted prs	1	46	35		
		$ 15 70	$ 11 78		

President

Capt H.J. Fitzallen
C. Pro C. S C.M.P. & D.B.
Member

Signed at S C.M.P. & D.B.

Capt E.O. Snelgrove
C. Pro C. S C.M.P. & D.B.
Member

this 22 nd day of Oct 1945

Signature of Commanding Officer (W. Cooper) Lt-Col. Commanding S C.M.P. & D.B.

Certified true copy E. Snelgrove Capt
Signature of Officer having custody of original record

3/60B MFB 375-AFB 115 40/P&S/392 (6610)

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The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the _____ Police in connection with the apprehension of _____ and are payable to _____

_____ {Superintendent or Officer i/c Police Station at _____

Date _____

AUTHORITY for the PAYMENT of a REWARD. (*For Army use only.*)

The Command Paymaster _____ is hereby authorised to pay to _____ being the person recommended by the Committing Magistrate, a reward of _____ for the apprehension of _____

_____ (O.C. Unit) Officer Commanding.

Date _____

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

Army Form O.1618

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*16371) Wt.82176/1077 70,000 11/40 A.& E.W.Ltd. Gp.698 Forms/O.1618/52
(17558) Wt.47497/1833 10,000 3/41 "

[illegible] RETURN OF § Herbert Henry [illegible] who apprehended at Caterham (hour) 10.50 on the 26th day of June, 1946 and was committed to confinement at [illegible] on the [illegible] day of [illegible] as a Deserter (or Absentee without leave) from the [illegible] Bn. of the Headley Detention Barracks.

Regiment of Royal Canadian Artillery.

Age 26 years. Height 5 feet 8½ inches

Complexion Fresh. Hair Light brown Eyes Blue.

Marks Bullet wound rt. shoulder. In uniform or plain clothes Plain clothes.

Probable date and place of attestation	8/12/1939. Montreal.
Probable date of desertion or beginning of absence and from what place	25/10/1945. Headley Detention Barracks.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	P.C.No.32. Maynard. Police Station, Caterham.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	* At 10.50 p.m., on the 26th June, 1946, P.C. Maynard and other officers saw the above named at 84, Eldon Road, Caterham. He said to him "I have reason to believe you are a deserter from the Canadian Forces" He replied "Yes, that is right". He was then taken in custody.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he†

the before-mentioned Corps.

Frank H. Elliott — Signature of Committing Magistrate.
The Lawnes — Residence of Committing Magistrate.
Walsingham. Surry — Post Town of Committing Magistrate.
8-7-46 — Date of Signature
Bourdeaux P. — Signature of Prisoner
Mary Maynard P.C. 32 — Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature of Magistrate.
Residence of Magistrate.
Post Town of Magistrate.
Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form C.[illegible]

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of

Regiment at on by

who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

Exhibit "C"

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No. D-7154 Rank Gnr Name Bourdages, P. Unit 3 CMP & DB

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from Oxted

Date	Particulars	Amount		
8 July 46	Escorts return fare from LONDON To Oxted	0	3	3
8 July 46	Prisoners single fare to LONDON From Oxted	0	1	8
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0	4	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

F. H. Thomson Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55
40/P & S/483 (6762)

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NO 3 CANADIAN MIL PRISON & DETN BARRACKS

Commandant
No. 3 CMP & DB
Canadian Army Overseas

Statement by the accused as to whether he desires to have an Officer assigned by the convening Officer to represent him at the trial.

Yes, Sir.

Bourdages P Pte
(D.7154 Bourdages, P.)

LIST OF WITNESSES FOR THE PROSECUTION

Capt. E.O. Snelgrove C Pro C

LIST OF WITNESSES FOR THE ACCUSED

Nil.

LIST OF EXHIBITS

"A" - Record of the Declaration of a Court of Inquiry.

"B" - Certificate of apprehension. Army Form O.1618.

"C" - CMHQ 100:55 Expense Voucher.

Lieut.
(L.R. Munson)
Officer Detailed to take the Summary

In the field
16 Jul 46

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Exhibit "B"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
D-7154	Pte.	Bourdages P.	4(Gen Rrt)Wing, 1 Cdn Repat Depot att to No. 3 CMP & DB

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment.
For A.A. Sec 15 (1)	times	Two (2) times
For A.A. Sec 40	times	Five (5) times
For	times	times
For	times	times
For	times	times

Number of instances of [illegible] sentence.

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for 2 years IHL beginning on the day of 10 May 45

4. The accused has been in continuous custody since the present charge was first placed in custody and [illegible] days of which [illegible] days have been spent in custody.

5. The present age of the accused according to his ~~service~~ record of service is 31 Years

6. The date of his ~~enlistment~~ attestation specified in his ~~service~~ record of service is 12 Dec 39

7. The service which the accused [illegible]

8. The accused is [illegible]

9. The accused is [illegible]

10. The accused is [illegible] for the purpose of [illegible]

11. [illegible] The accused [illegible] of [illegible]

12. [illegible] dated [illegible]

Wt.57637/1519 20M. 5/44. P. Ltd. T11-3.

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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-7154 *Rank* Pte. Name Bourdages of 4(Gen Rft)Wing 1 Cdn Repat Depot, att to 3 CMP & DB Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
F.G.C.M.	6 Oct 42	AWL, A.A. Sec 15 (1)	90 days det'n	
F.G.C.M.	10 May 45	AWL, A.A. Sec 15 (1)	2 Years Imp HL	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 day of July. 46

(E. O. Snelgrove) No. 3 CMP & DB Capt.&Adj.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

13. THE ACCUSED WAS CONSIDERED AT OTTAWA, ONTARIO, CANADA, AND ACCORDING TO THE PROVISIONS OF PARAGRAPH 1 (1) (a) OF PC 2400 DATED 17 SEPT 1943 THE ACCUSED WAS DECLARED A DEFAULTER.

DATE OF DECLARATION

No. D-7154 Name BOURDAGES P. Sqn, Battery, or Company Corps RCA Date of enlistment 13-12-39 GC Badges Service or Proficiency Pay Particulars "C" 3/17 MFH 6 (AFB 122) 40/P&S/136 (7010)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. TWO Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Gnr		(1)AA Sec.15(1) AWL from 0630 hrs 14 Feb 44 until 1600 hrs 15 Jun 44 (TTA-122 days 9 hrs 30 mins)	S of E	Imprisonment with hard labour for two years	10 May 45	FGCM	
				(2)AA Sec.15(1) AWL from 0945 hrs 24 Jul 44 until 1915 hrs 16 Apr 45 (TTA-266 days 9 hrs 30 mins)					
				"Certified to be a true copy from the Regtl Books in my Custody."			13 Jul 46		
				E. O. Snelgrove Capt. & Adj. (E. O. Snelgrove) No. 3 Cdn Mil Prison & Detn Bks.					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12 Jan 43	Gnr		WOAS neglect to the prejudice of good order and military discipline, etc, failed to report to office on time. AA Sec 40.	BSM Rafton Gnr Fall	7 days CB	12 Jan 43	Maj W. Wilkinson.	
Field	15 Jul 44	Gnr		AA 40 - while a prisoner failed to obey an order	7 days prison diet		18 Jul 44	Lt Col. H.E. Wright	

"Certified to be a true copy from the Regtl Books in my Custody."
13 Jul 46

E.O. Snelgrove Capt. & Adj.
(E. O. Snelgrove)
No. 3 Cdn Mil Pris & Detn Bks.

No. D-7154 Name BOURDAGES P. | Sqn, Battery, or Company | Corps RCA | Date of enlistment 13-12-39 OC | Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (7910)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. One | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No entries from previous sheet destroyed 12 Jun 40 on completion of six months service.					
Field	3-8-40	Gnr		AWL from 2359 hrs 3-8-40 until 2140 hrs 5-8-40	TSM Cookman	Forf 28 days pay.	6-8-40	J.A.G. Major	
Field	31-1-41	Gnr		AWL from 2230 hrs 31-1-41 until 0730 hrs 3 Feb 41.	Sgt Lawrence Sgt Barraclough	10 days CB	6-2-41	J.A.G. Major	
Field	11-5-41	Gnr		AA 40 - Improperly dressed	L/C McEwan L/C McCulloch	4 days CB	23-5-40	J.A.G. Major	
Field	15-1-42	Gnr		AA 40 - failed to get up for PT	Sgt Lawrence	4 days CB	15-1-42	GA White Major	
Field	14-8-42	Gnr		AA 40 - Dirty revolver		4 days CB	6-9-42	GA White Major	
Field	29-8-42	Gnr		AA 15(1)- AWL from 2300 hrs 29 Aug 42 until 1810 hrs 30 Sep 42. Absent 31 days 19 hrs 10 mins.	Doc	90 days detn	6 Oct 42	FGCM	Forf 32 days pay FR&I 149 [illegible](a) 6 days pay FR&I 149(1)(c)(ii)
				Released from Detn Bks 4-12-42, Remission 30 days.					

(P10)

HQC 55- B-1941 CMBR-6
3 Nov 45.
Case No. 0806

REVIEW OF SENTENCE
BY
COURTS MARTIAL BOARD OF REVIEW

1. No, Rank and Name: D.7154 Gnr BOURDAGES, P.

2. Unit at date of offence: 3 Cdn Rft Bn - Italy.

3. Charge: 1: AA Sec 15(1) AWL: In the Field - Italy - absent from 14 Feb 44 until he surrendered 15 Jun 44. (Absent: 122 days).

2: AA Sec 15(1) AWL: In the Field - Italy - absent from 24 Jul 44 until he surrendered 16 Apr 45. (Absent: 266 days.)

Plea: Guilty both charges.

4. Place and Date of Trial: (FGCM) (~~XXXXXXXXXXXX~~ -Italy - 10 May 45.

5. Finding: Guilty both charges.

6. (a) Sentence: Imprisonment for 2 years with hard labour.

(b) Date of sentence: 10 May 45.

7. Date of Confirmation: 10 May 45

8. Date of Promulgation: 12 May 45.

9. Being served at: To be ascertained. o/s in M.D._____

(N.B.- Discharged under RO 1029 ( ) for
wef).

CONDUCT

11. (a) Prior to conviction: Offence Date Sentence

(i) Civil Convictions

(ii) Courts-Martial one AWL for 31 days. 6 Oct 42 90 days det.

(iii) Summary Convictions 5 Offences AA 15(1)
5 " AA 40

(b) After convictions: Good. Earliest date of release with normal remission 9 Sep 46.

(c) Date of ~~enrolment~~/enlistment 12 Dec 39 Present Age: 26.

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12. Remarks: (Here note any petition of Representation other than in Item 10 but if Item 10 has been omitted, so state, and show here any mitigating circumstances.)

(a) Item 10 omitted.

(b) Arrived in Sicily Jul 1943 with 1st Anti Tank Regt. Fought throughout Sicilian Campaign and after landing in Italy was wounded in fighting around Foggia. After being wounded he acted as a Regimental Police for 2½ mos.

13. Recommendations: (State by whom made, e.g., CMHQ, DOO, Reviewing Offr., etc.)

CMHQ: Review 15 Aug 45. Recommend no remission.
Rev Offr: Recommend release 10 May 46 at which time one half sentence awarded will have been served.

Reviewed by W.A. MOSS, Major.

---

14. Recommendation of the Board:

For remission on 10 Apr 46
or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date NOV 1 2 1945

Maj.
Secretary
Courts-Martial Board of Review.

20

Quote No. HQC. 55-B-1941

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
13 September 45

Canadian Military Headquarters,
8 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial

D-7154, Bnr. P. Bourdages.

1. Receipt is acknowledged of your 10/Bourdages P/1 dated 22 Aug 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

for (R.J. Orde), Brigadier
Judge Advocate-General.

B.H:EJ

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THIS COPY FOR: H.Q. C. 55-B-1941
M.D. 10/Bourdages P/1

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

No. GS D-7154 Name BOURDAGES, Paul

Rank Gnr Unit ~~tri~~ No.2 Cdn NonEff Transit Depot CAO

Charge (1) AA 15 (1) WOAS AWL
(2) AA 15 (1) WOAS AWL

Date of Crime (1) 14-2-44 (2) 24-7-44

Date of Arrest (1) 15-6-44 (2) 16-4-45 Charge Signed 7-5-45

Orders for FGCM ~~D.C.M.~~ Brig. Comd Sec 1 Ech AFHQ

Place and Date of Trial In the field 10-5-45

Sentence Imp WHL 2 years

Date of Confirmation 10-5-45

Date of Promulgation 12-5-45

Entered in Records of J.A.G. as No. 4163

Date 11-9-45

Date of Sentence remitted by Conf. Auth. 26-9-46

MEMO

Reviewed at CMHQ

for Judge Advocate-General

10M-8-45(M-189)

18

SECRET
CONFIDENTIAL

AIR MAIL

Quote No. 10/Re

CANADIAN MILITARY HEADQUARTERS

LONDON 22 Aug 45.

C-55-B-1941

The Secretary,
Department of National Defence,
OTTAWA, Canada.

D-7154 Gnr Bourdages, P.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 10 May 45 for an absence without leave from which he surrendered after 122 days (AA Sec 15(1)) and an absence without leave from which he was apprehended after 266 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 9 Sep 46.

3. This soldier enlisted 12 Dec 39 at Montreal, P.Q., and he is now 26 years of age. Since enlistment he has been found guilty of 5 offences under AA Sec 15(1) and of 5 offences under AA Sec 40. He has had 1 previous FGCM, on 6 Oct 42, when he was awarded a sentence of 90 days detention for an absence without leave of 31 days (AA Sec 15(1)).

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an individual of about average intelligence who is inclined to be immature in his judgement and not well disciplined; that it is probable that the basis for his absence was a dread of returning to operational duty; and that he expresses himself as quite content with his present sentence.

6. In view of the length of this soldier's illegal absence in a theatre of operations and the fact that his previous record is not good, it is considered that he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier must have realized that his long absence in a theatre of operations might lead to his discharge and it is highly probable that he had that end in view.

7. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 10 May 45, together with original A.F. A3104 in respect thereof on which this direction has been endorsed.

for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters.

Enc. 2.

Copy to OIC Records.

4163

17

1/39B CMHQ 1000.77
40,PAS,B03 (3567)

Extracts entered in No. 563 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 13 day of [illegible] 19..

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 7154 GUNNER BOURDAGES P.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st CHARGE	GUILTY	GUILTY	
2nd CHARGE	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 paro 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1). W

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which 5 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two (2) years. W

(Sgd) ..... Judge-Advocate, if any. 10 May 45 Date awarded. (Sgd) W.J.M. Mogan Capt President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ pc

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Brig

Date 10/May/45 Commanding Offr. Can Tech. 1st Echelon Confirming Officer. AF169.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 7154 Gnr BOURDAGES P 2 Cdn ETO	12 May 45	[illegible] OC No 2 Cdn NE Co

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 54-2

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA31) 40/P & S/1698 (2664)

(Convened by Order of BRIG J.C. STEWART C.B.E. D.S.O. Comd CDN SEC TECH A.F.H.Q. dated 7 May 45

RECEIVED 5-JUN 1945 JAG BRANCH

ACCUSED.

(For the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D7154	GNR		PAUL	BOURDAGES	2 CDN N.E.T.D.

PROCEEDINGS REVIEWED R Taylor Lt 13 June 45. REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Field in ITALY on (dates) 10 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ W

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) ~~Do you object to~~ ..... as shorthand writer? Ans .....

~~The shorthand~~ writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	CAPT	W.J.M. MOGAN	(C.A.C.)	CDN SEC TECH A.F.H.Q.
Member	CAPT	H.R. PARK	(C.A.C.)	CDN SEC TECH A.F.H.Q.
~~Waiting member~~	~~CAPT~~	~~G.W.C. BRINKHURST~~	~~(C.I.C.)~~	~~CDN SEC TECH A.F.H.Q.~~
Member	LIEUT	G. CLERK	(C.I.C.)	2 CDN N.E.T.D.
Judge-Advocate				
Prosecutor	CAPT	D.C. RHODES	(C.I.C.)	2 CDN N.E.T.D.
Defending Offr	CAPT	T.B. HARRISON	(R.E.A.)	2 CDN N.E.T.D.

Questions by President: Is the Prosecutor a lawyer? Ans. NO Is the Defending Offr a lawyer? Ans. NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ~~NO~~ W before arraignment make(s) (no) (~~is~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. O-13

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML* p 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly. W
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. W

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans.....Do you intend to call witnesses on your behalf ? Ans.....Are they witnesses as to character only ? Ans.....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below. W

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

OFFICE [illegible] JUDGE ADVOCATE GENERAL

[illegible] COURT-MARTIAL

[illegible]

Charge(s)	1a (1)	1b (1)		
Plea	G.	G.		
Finding	G.	G.		

Sentence .....[illegible]

(21 Gp [illegible])

Received from CM ...5 Feb 45....

Passed to Rev Off'r 13 Feb 45....

Passed to Rev 1 ..13 Feb 45....

Passed to .....

Passed to.....

Returned to Rev Clerk.....

Record: File ~~Page 405~~ N.J. Brady/Capt.

.....14 Feb 45.....

ACCEPTANCE OF MILITARY REVIEW COURT

Pass ~~Confirm~~

~~---Approval conditional (Charge---~~

Date 14 Feb 45 "J.H. Taylor" -t.
(Reviewing Officer)

MILITARY CONDITION

Pass ~~Confirm~~

~~---Approval conditional (Charge---~~

Date 14 Feb 45 "W.J. Brady" Capt.

OBSERVATIONS:

1 In the case of pleas of guilty:- There is nothing in the record of the proceedings which required the Court to advise the accused to change his plea.

~~In the case of pleas of not guilty:- There is legal evidence to justify the finding.~~

2 No substantial injustice to the accused.

.....

3 Previous Review Sheet [illegible] - Mr. Sec 2 Mch A.F. [illegible] - No Comments.

4. Sum. of evid. - [illegible]

(Continue over if necessary)

W.J.ro.m.

CHARGE SHEET

The accus ed, D.7154 Gunner Paul BOURDAGES, No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas, is charged with:--

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 0630 hrs 14 Feb 44 absented himself without leave until about 1600 hrs 15 Jun 44.
(Total Absence: 122 days, 9 hrs, 30 mins).

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 0945 hrs 24 Jul 44 absented himself without leave until about 1915 hrs 16 Apr 45.
(Total Absence: 266 days, 9 hrs, 30 mins).

D J Burgoyne

In the Field
1 May 1945

(D.J. Burgoyne) Major
Commanding Officer
No. 2 Cdn N.E.T.D.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
Italy
7 May 45

J C Stewart

(J. C. STEWART) Brigadier
OIC Cdn Sec 1 Ech AFHQ

13

W.J.M.M.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2) 40/P&S/1097 (26653)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D7154	Gnr		Paul	BOURDAGES	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on *(date)* 7 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint ~~(a) three Offrs to form the Court,~~ (b) a Fd Offr as President, for the reasons I have attached hereto. **None available due to exigencies of the service.**

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Capt	W J M MOGAN (CAC)	Cdn Sec 1 Ech AFHQ

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	H R PARK (CAC)	Cdn Sec 1 Ech AFHQ
Lieut	G CLERK (CIC)	2 Cdn NETD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	G W C BRINKHURST (CIC)	Cdn Sec 1 Ech AFHQ

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 7 May 45

(Signed personally. RP 105 fn 2.)
(J. C. STEWART)
Brigadier (Rank.)
~~Commanding~~ OIC Cdn Sec 1 Ech AFHQ
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

12

W.J.M.

MEDICAL OFFICER'S CERTIFICATE.
(BR (Can) 557)

D.7154

I certify that I have this morning examined No.....
Rank GNR. NAME BOURNAGES, P. of 2 Cdn M.R.T.D. and
in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.
fm

In the Field
DATE 10 May 45.

Medical Officer.

11

W.O.M.

PLEA IN MITIGATION OF SENTENCE.

In the case of: D.7154 Gnr BOURDAGES, P.

Mr President, and Members of the Court:-

The accused enlisted 8 Dec 1939 in the 1st A/Tank Regiment, RCA, and came overseas with that regiment in the same month. He remained with that unit all the time it was in England and came out to Sicily in July 1943. He saw action throughout the Sicilian fighting and after landing in Italy he was ~~received~~ wounded in the fighting around Foggia. He went to hospital in North Africa, recovered from his wound, and was sent to the Artillery Reinforcement Battalion in North Africa. There he acted as R.P. for 2½ months, but became rather disatisfied because he was not sent to a forward unit. He went AWL but after awhile gave himself up to the same reinforcement unit then at Eboli, with the British Royal Artillery. There he was held for more than a month in the British Detention Compound awaiting a charge. After more than a month he slipped away on a sick parade on the second charge of AWL.

The record of the accused is fair considering the long period of time spent overseas, namely 5½ years. He has served in Sicily and Italy and has been wounded; and as the result of his hasty action has forfeited Rotational Leave. I ask the Court to take these points into consideration and be lenient in awarding sentence.

T.B. Harrison
..... Capt.
(T.B. Harrison) RCA.

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Ex "A"
W.J.M.M.

SUMMARY OF EVIDENCE

In the case of D.7154 Gunner BOURDAGES, P., No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS
For the
PROSECUTION.

A.104046 Cpl. Wells, H.K., having been duly sworn, states:-

"I am A.104046 Cpl. Wells, H.K., employed as clerk in the Legal Office, No. 2 Cdn. N.E.T.D. and as such I have custody of regimental documents. I present a certified true extract from X-List RCA (Sect. "B") Part II Order No. 83 dated 23 Jun 44 (Appended hereto as Exhibit "A"); a certified true extract from X-List RCA (Sec. "B") Part II Order No. 97 dated 24 Aug 44 (Appended hereto as Exhibit "B") and a certificate in accordance with the Army Act, Sec.163(1)(jj) purporting to be signed by H.A.Archer, Capt.DAPM 76 Sec. SIB, CMP.(Appended hereto as Exhibit "C") all these documents pertaining to D.7154 Gnr Bourdages, P."

H.K. Wells
(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) pages, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

R.D. Russell
(R.D. Russell) Capt.
Officer detailed to take Summary of Evidence.

In the Field.
1 May 45.

9

Ex "E"
W.J.M.M.

PART II ORDER EXTRACT FORM

99/20/.....

.....19.....

EXTRACT FROM: Unit "X"-List RCA (Section 'B')

Part II Order No. 83 dated 23 Jun 44

Absent Without Leave

AWL from 0630 hrs 14 Feb 44. Ret from AWL 1600 hrs 15 Jun 44.
D7154 Gnr Bourdages, P. X-4 List (3 Bn)

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF D.7154 Gnr BOURDAGES, P.

(R. D. Hutsell) Capt.
Officer detailed to take Summary of Evidence.

[redacted]

Certified true extract
Date of certification:

(B D Sword) Capt
Officer having custody of the original
Cdn Sec 1st Echelon AFHQ

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

8

FCH—6
40/P & S/1276 (3209)

T

Ex "F"
W.J.M.M.

PART II ORDER EXTRACT FORM

99/20/.....

.....19.....

EXTRACTS FROM: Unit X-List R C A (Section 'B')

Part II Order No. 97 dated 24 Aug 44

Strength Decrease

SOS X-4 List (6 Bn) as deserter 17 Aug 44 having been declared illegally absent from 0945 hrs 24 Jul 44 by a Ct of Inq.
Deficiencies in kit in the amount of 36.52

D7154 Gnr Bourdages, P.

THIS IS EXHIBIT "B" REFERRED TO BY ME IN THE CASE OF D.7154 Gnr BOURDAGES P

(R. D. Mutsell) Capt.

~~Officer detailed to take Summary of Evidence.~~

Certified true extract
date of certification: 25 Aug 44

(B D Sword) Capt
Officer having custody of the original
Cdn Sec 1st Echelon AFHQ

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

7

THIS IS EXHIBIT "C" REFERRED TO BY ME IN THE CASE OF D.7154 Gnr BOURDAGES P

(R. D. Rutsell) Capt.
Officer detailed to take Summary of Evidence.

Certificate in accordance with the Army Act Sec. 163 (1) (jj)

I certify that

No D7154 Rank Gnr. Name BOURDAGES, Paul.

of the 27th. Battery, 1st. A/T. Regt., ROYAL CANADIAN ARTILLERY,

was arrested at ROME at 19.15 Hrs.,

on the 16th. day of April, 1945.

Signature of P. M., A. P. M., or other Officer into whose custody the above named person was taken on arrest. } Rank Captain.

Appointment (if any) D.A.P.M.

Commanding 76 Section, S.I.B., C.M.Police.

Date 18th. April, 1945.

Ex "D"
W.J.M.M.

6

Ex "B" J.M.M.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D.7154	Gnr	Paul BOURDAGES	# 2 Cdn N.Z.T.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 627, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

~~XXXXXXXXXXXXXXXX~~ JM

		*Since Enlistment.	
For A.A. Sec 15(1)	times	2	times.
For A.A. Sec 40	times	5	times.
~~For~~	~~times~~		~~times.~~
~~For~~ JM	~~times~~		~~times.~~
~~For~~	~~times~~		~~times.~~

~~XXXXXXXXXXXXXXX

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D7154 Rank Gunner Name BOURDAGE, Paul of 2 Cdn NETD. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	Field 29 Aug 42	AA Sec 15(1) AWL from 2300 hrs 29 Aug 42 until 1810 hrs 30 Sep 42. Absent: 31 days 19 hrs 10 mins.	90 days Detention	Released 4-12-42. Remission earned 30 days.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of May 1945

Capt & Adjt.
(J.M.Reid) Officer i/c
Regtl Books & Records, 2 Cdn NETD.

In the rank of years.
In the rank of years
In the rank of years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

N.B.—The accused has served as a non-commissioned officer continuously without reduction, to the present date.

Date of Promotion.

MFM 6
(AFB 122)
40/P&S/130 (3428)

No D.7154 Name BOURDAGE R. | Sqn, Battery, or Company | Corps RCA | Date of enlistment 13-12-39 | Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No entries from previous sheet destroyed 12 Jun 40 on completion of six months service.					
Field	3-8-40	Gnr		AWL from 2359 hrs 3-8-40 until 2140 hrs 5-8-40	TSM Cookman	Forf 28 days pay.	6-8-40	J.A.G. Major	
Field	31-1-41	Gnr		AWL from 2230 hrs 31-1-41 until 0730 hrs 3 Feb 41.	Sgt Lawrence Sgt Barraclough	10 days CB	6-2-41	J.A.G. Major	
Field	11-5-41	Gnr		AA 40 - Improperly dressed	L/C MeEwen L/C McCulloch	4 days CB	23-5-40	J.A.G. Major	
Field	15-1-42	Gnr		AA 40 - Failed to get upfor PT	Sgt Lawrence	4 days CB	15-1-42	GA White Maj	
Field	14-8-42	Gnr		AA 40 - Drity revolver		4 days CB	6-9-42	GA White Maj	
Field	29 Aug 42	Gnr		AA 15(1) - AWL from 2300 hrs 29 Aug 42 until 1810 hrs 30 Sep 42. Absent 31 days 19 hrs 10 mins.	Doc	90 day detn	6 Oct 42	FGCM	For 32 dys pay FR&I 149(1)(a) 6 days pay FR&I 149 (1)(c)(ii)
				Released from Detn Bks 4-12-42, Remission earned 30 days.					

(PTO)

Ex "C"
W.J.M.M.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12 Jan 43	Gnr		WOAS neglect to the prejudice of good order and military discipline, etc, failed to report to office on time. AA Sec 40.	BSM Rafton Gnr Fall	7 days CB	12 Jan 43	Maj W Wilkinson.	
Field	15 Jul44	Gnr		AA 40 - While a prisoner failed to obey an order 7 dys prison diet "Certified to be a true copy from the Regtl Books in my Custody." 1 May 45. ..... Capt & Adjt. (J.M.Reid) Officer i/c Regtl Books & Records. No. 2 Cdn N.E.T.D.			18Jul44	LtCol H.E. Wright.	

I, D.7154 Gunner Paul BOURDAGES, request that my Commanding Officer appoint ..... Capt T. B. Hanson ..... to defend me at my forthcoming trial by Field General Court Martial.

DATE 3 May 45 ..... Bourdages P. .....
(P. Bourdages).

ACCUSED'sRECEIPT FOR HIS COPY OF SUMMARY OF EVIDENCE AND CHARGE SHEET.

I, D.7154, Gunner Paul BOURDAGES, acknowledge receipt of a copy of Summary of Evidence and Charge Sheet in connection with my forthcoming trial by Field General Court Martial.

DATE 3 May 45 ..... Bourdages P. .....
(P. Bourdages).

LIST OF WITNESSES.

In the case of D.7154 Gunner Paul BOURDAGES, No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas:--

---

FOR THE PROSECUTION

1. A.104046 Cpl Wells, H.K. -- 2 Cdn NETD.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS.

1. Exhibit "A" -- Certified true extract from X-List RCA (Sect. "B") Part II Order No. 83 dated 23 Jun 44.
2. Exhibit "B" -- Certified true extract from X-List RCA Sect. "B" Part II Order No. 97 dated 24 Aug 44.
3. Exhibit "C" -- Certificate in accordance with the Army Act, Sec 163 (1)(jj) purporting to be signed by R.A. Archer, Capt. DAPM 76 Sec. STB. CMP.

CONFIDENTIAL

H.Q.C. 55-B-1942

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BRIDEAU, LUDGER E-6152 PTE.

-L-CPL.-

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					NEW FILE	CR	6-9-45
SEP 1 9 1945				JAG	With Papers C.R. SEP 23 1945	OK	
				JAG	To note, etc.		25-9-45
				Admin		OK	
SEP 26 1945	26 9/45	PA		JAG	With Papers C.R. OCT 9 1945		22-10-45
				Admin	To note		22 Oct 45
SEP 27 1945							
OCT 22 1945				CMBR	To note, etc		
OCT 24 1945	23 10/45	PA	AC	JAG	With Papers C.R. NOV 12 1945		13 Nov 45
				Admin	To note		14 9/45
NOV 13 1945							
DEC 12 1945	12 12/45	PA	AC	CMBR	With Papers C.R. DEC 17 1945		
				JAG			17 12/45
				CMBR	To note, etc		19 Dec 45
DEC 18 1945				Adm	To note		
DEC 18 1945					For Requisition C.R. MAR 29 1946		
DEC 20 1945	20 12/45	PA		DOL			
JUN 12 1946	11/6/46	PA		JAG	DRB		

CONFIDENTIAL
H.Q.C. 55-B-1942

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to see same.

2. Central Registry should be notified whenever a file is passed direct to another branch.

3. Correspondence letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1942
(JAG/D-6)

OTTAWA, 18 December,

5

District Officer Commanding
Military District No 7
ST JOHN, NB

B-6152, Pte Ludger BRIDEAU
No 7 District Depot, CA

Receipt is acknowledged of your J/38mB-2597 (JAG) dated 14 Dec 45, under cover of which you forwarded for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

/Jm

E. L. M.
for (R J Orde) Brigadier
Judge Advocate General

Noted
[illegible]
[illegible]

IN REPLY PLEASE QUOTE No. J/38-B-2597 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

SAINT JOHN, N.B., 14 Dec 45.

CENTRAL REGISTRY Army
CONF. SEC.
15404
DEC 16 1945
File
Chgd. to
Referred to 22 C.

Secretary,
Department of National Defence,
OTTAWA, ONTARIO.

REMISSION OF SENTENCE
E-6152 Pte. Ludger BRIDEAU
No. 7 District Depot, C.A.

Your file HQC 55-B-1942 (JAG/D) dated 24 Sep 45.

2. The marginally-named soldier's case was reviewed at this Headquarters and the balance of his sentence remitted effective 6 Dec 45.

3. Herewith original copy of "Remission of Sentence" form together with M.F.M. 288 for custody, please.

noted
19 Dec #5
a an & mod
emBR-5

(D.R. Agnew) Brigadier,
District Officer Commanding,
Military District No. 7.

NAT. DEF. 8-442
(500M-4-44 (4322)
H-Q. 1773-39-767

FORM OF REMISSION, COMMUTATION OR MITIGATION
OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-B-1942 (JAG/D)
DISTRICT FILE No. J/38-B-2597 (JAG)

PART I

No. E-6152 Rank Private Name Ludger BRIDEAU
Unit No. 7 District Depot, C.A.

PART II

Date of Trial 30 Aug 45
Charge (x WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

Sentence: Detention:- Two (2) Years -- Stoppages:- $16.53
Date of Sentence: 30 Aug 45
Confirmation: (a) Authority:- N/A
(b) Date :- N/A

PART III - REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit xxxxxxxxxxxxxxxxxxxxxx the balance of the period of detention awarded E-6152 Pte. Ludger BRIDEAU - Effective 6 Dec 45

Signed at Saint John, N.B. this 4th day of December, 1945.

S. R. Agnew
(D.R. Agnew) Brigadier.
(Appointment) (District Officer Commanding, M.D. No. 7.)
To be signed by the remitting authority personally.

PART IV - PROMULGATION

Remission xxxxxxxxxxxxxxxxxxxxxxxxxx promulgation and extracts taken at
No.71 Military Detention Bks this 6th day of December 1945
Saint John, N.B.

Thos E. Seyfried Col
(2) (Officer i/c Documents)
(1) Unit, attachment and appointment to be stated. DAA&QMG

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-6152 Rank Pte Name Ludger BRIDEAU
The sentence of Two years detention
awarded by Standing xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx Court-Martial on the
30 Aug 45 has been remitted effective 6 Dec 45

UNIT No 7 District Depot C.A.

Certified true extract of Daily Order Part II of
No. 292, para 28(a) Place Fredericton, N.B. Date 8 Dec 45

H. F. Nickerson Capt
Adjutant (H.F. Nickerson)
No 7 District Depot C.A.

x Strike out and initial words not applicable.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-6152 (Number) Private (Rank) Ludger BRIDEAU (Name in full)

No.7 District Depot C.A. (Unit) (Attachment (if any))

Sentenced to undergo detention for 2 years: stoppages $16.53.

on 30th.Aug.45 at Fredericton N.B.

being served at 71 Military Detention Barracks Saint John N.B. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 years 4 mos. 27 Nov.1941

Medical grade or category 18 1111121 Basic Training Completed

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... (date)) for reasons given in paragraph X.

Place .....

..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... (Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 285
(Army Form A-3104)
28M—9-45 (1950)
H.Q. 1773-29-2015

Part V

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) with the previous sentence of ..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
4 Dec 45	BALANCE OF SENTENCE REMITTED W.E.F. 6 Dec 45.	D.R. Agnew (D.R. Agnew) Brigadier D.O.C., M.D. #7.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
DESERTION: in that he at Valcartier P.Q. on 11 Jul.42 did absent himself from A-13 CITC from 0800 hrs. on 11 Jul.42 until he was apprehended by the military authorities at Landry Office N.B. at 1810 hrs. on 7 Aug.45 dressed in civilian clothes: cost of apprehension and return to his corp being $16.53.	11 Jul.42	30 Aug.45
E.J. Skene Capt.& Adjutant (E.A. Skene) Signature of Officer making entry No.7 District Depot C.A.		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
20 Sep.45	That the sentence be remitted and now to be discharged with ignominy 1029-8	(W.A. McDougall) Lt.Col. O.C. No.7 District Depot C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
21 Sep 45	B.F. for review 30 Nov 45.	(W.A. McDougall) Lt. Col. T/DOC., M.D. #7.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55- B-1942 (CMBR-5)/ N
16 Nov 45.
Case No._____

REVIEW OF SENTENCE
BY
COURT MARTIAL BOARD OF REVIEW

1. Rank, No. and Name: E-6152 Pte. (L/Cpl) BRIDEAU, L

2. Unit at date of offence: A-13 C.I.T.C.

3. Charge: AA Sec 12 (1) (a) DESERTION
AWL from 0800 hrs 11 Jul 42 until apprehended at 1810 Hours 7 Aug 45 dressed in civilian clothes.
Length of absence -3 yrs. 1 month.

Plea: Not guilty

4. Place and Date of Trial: 7 D.D. Fredericton, N.B. 30 Aug 45.
~~(FGCM)~~ ~~(DGCM)~~ (SCM)

5. Finding: Guilty

6. (a) Sentence: 2 yrs. detn.

(b) Date of Sentence: 30 Aug 45.

7. Date of Confirmation: N/A

8. Date of Promulgation: N/A

9. Being served at: 71 MDB in MD 7

(N.B. - Discharged under RO 1029( ) for

Remitted by DOC 6 Dec 45 to MD 7 according to report on Service monthly sentences

A.M. Lamoy
11 Dec 45
CMBR-5

28

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	NIL		
(ii) Courts-Martial:	NIL		
(iii) Summary Convictions:	NIL		

(b) After conviction: Poor
Expected date of release 29 Dec 46

(c) Date of ~~XXXXXXXXX~~/enlistment: 27 Nov 41 Present Age: 27

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.
(b) WRITTEN STATEMENT
He asked for a pass to go home and received only a 24 hour pass which wasn't enough. His wife and child had no home and he decided to stay and assist. After a few months he was too frightened to come back. He asked for assistance from Ottawa through veterans of the first War. He was all ready to surrender when apprehended. There was no plea in mitigation.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Officer, etc.

REVIEWING OFFICER

Since his conduct after conviction is rated "poor" I recommend that he serve 10 mos. of his sentence and be released 29 Jun 46.

Reviewed by A. M. Stephenson
A.M.Stephenson, Major

---

14. Recommendation of the Board:

Date----------

Secretary- Courts-Martial Board of Review.

IN REPLY PLEASE QUOTE

No. J/38-B-2597 (Pro)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

C R
C55-B-1942

Saint John, N.B. 6 November 1945

CORR. SEC.
8644
NOV 12 1945

Secretary
N.D.H.Q.
Ottawa, Ont.

C55-B-1942

Jrb

Director of Records
A. G. Branch
NOV 9 1945
Nat. Defence H.Q.
Ottawa, Canada

E 6152 Pte. BRIDEAU L.
No. 7 District Depot

The marginally noted soldier was discharged from Saint James Military Hospital, Saint John, and re-admitted to No. 71 Military Detention Barracks, Saint John on 4 Nov 45.

Thos E Guy Lt. Col.
for (D. R. Agnew) Brigadier
District Officer Commanding
Military District No. 7

TEG

26

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

CR. 55-B 1942

IN REPLY PLEASE QUOTE
No. J/42-13-6

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Saint John, N.B. 15 October 1945

Director of Records
A. G. Branch
OCT 17 1945
Nat. Defence HQ
Ottawa, - Canada

3977
OCT 19 1945
Forwarded to PRS

Secretary
N. D. H. Q.
Ottawa, Can.

E. 6152 Pte. BRIDEAU L.

465-B-11, 946

The marginally noted soldier, presently undergoing detention at No. 71 Military Detention Barracks, Saint John, N. B. was admitted to Saint James Military Hospital, Saint John, N. B. 12 Oct 45.

Thos E Guy Lt. Col.
for (D. R. AGNEW) Brigadier
District Officer Commanding
Military District No. 7

TEG

Noted.
AAG
CAW
23/10/45. CMBR-3

25

N.D. 23
(M—10-44 (5769)
E.Q. 1772-101-23

glc

H.Q.C. 55-B-1942 (JAG/D)

24 September, 1945.

District Officer Commanding,
Military District No. 7,
Saint John, NB

Standing
.....Court-Martial

B.6152 - Pte. (L/Cpl.) Ludger BRIDEAU,
No. 7 D.D., C.A.

J/38-B-2597 (JAG)

Receipt is acknowledged of your dated 21 September, 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

2. The explanation for delay has been noted.

EKM
for (R.J. Orde) Brig.,
Judge Advocate-General.

Notes for Chief Staff
26 a 45 A.G.

24

IN REPLY PLEASE QUOTE No. J/38-B-2597 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

343376

SAINT JOHN, N.B., 21 Sep 45.

CENTRAL REGISTRY
SEP 24 1945
File C 55-B-1942
Chgd. to
Referred to JAG.

Secretary,
Department of National Defence,
OTTAWA, ONTARIO.

STANDING COURT-MARTIAL
E-6152 Pte (L/Cpl.) Ludger BRIDEAU
No. 7 District Depot, C.A.

Reference H.Q.C. 55-B-1942 (JAG/D-7) dated 13 Sep 45.

2. Having served their purpose, the proceedings of the marginally-noted Standing Court-Martial are returned herewith for custody, please.

3. In explanation for delay in bringing this soldier to trial, the following is submitted:-

Apprehended 7 Aug 45. Records wired N.D.H.Q. for documents on 8 Aug 45. Documents received at this Headquarters 13 Aug 45, and forwarded to Unit same date. On 20 Aug 45 unit advised certified true extracts of Part II Orders were not yet received. On 22 Aug 45 Records wired N.D.H.Q. for Certified extracts of Part II Orders and same were received at this Headquarters 25 Aug 45 and forwarded to Unit same date. Trial was held 30 Aug 45, the first available date.

(W.A. McDougall) Lt.-Col.,
T/District Officer Commanding,
Military District No. 7.

Encl.

NAT. DEF. B. 440
250M-4-44 (4320)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 7 District Depot, C.A.

on the 30th day of August 1945 at 1040 hours,

for the trial of: No. E-6152 Private (L/Cpl) Ludger BRIDEAU
Number Rank Full Name

No. 7 District Depot, C.A.
Unit

PRESIDENT: Lt. Col. W.C. McQuade, V.D. -- Headquarters, M.D. 7

PROSECUTOR: Captain H.F. Nickerson - No. 7 District Depot, C.A.
Rank Full Name Unit

DEFENDING OFFICER: Major F.W. Fullerton - No. 7 District Depot, C.A.
Rank Full Name Unit

FINDING: THE COURT FIND THAT THE ACCUSED IS GUILTY OF THE CHARGE.

SENTENCE: THE COURT SENTENCE THE ACCUSED TO UNDERGO DETENTION FOR TWO (2) YEARS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $16.53 IN RESPECT OF THE COST OF APPREHENSION AND RETURN TO HIS CORPS.

23

Signed at Fredericton, N.B. this 30th day of August 1945.

W.C. McQuade LtCol.
President,
Standing Court-Martial.
M.D. 7

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-1296

Extracts entered as No. 3954 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 6 day of Sept 1945

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to G-51146 Cpl. Morais, A.E., No. 7 District Depot, C.A. as interpreter ?

Answer: No Sir.

Question to the accused. Do you object to G-1576 Cpl. Pickard, W.M., Headquarters, MD 7 as shorthand writer ?

Answer: No Sir.

The shorthand writer and interpreter ~~xxxxxx~~ are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No Sir, the accused was sent up for trial by his Commanding Officer.

The accused is arraigned upon ~~xxx~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes Sir.

Question to the accused. Are you guilty or not guilty of the ~~xxxx~~ charge against you, which you have heard read ?

Answer: Not guilty Sir.

~~xxxxxxxx xxxxxxxx~~ ~~xxxxxxx

"B-2"

CHARGE SHEET

The accused, No. E 6152 Pvt/Cpl. Rudger BRIDEAU, No. 7 District Depot C.A. a C.S. soldier of the Canadian Army placed on Active Service is charged with:

Charge
Sec 12(1)(a)
Army Act

MEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Valcartier, P.Q. on the 11th July 1942 did absent himself from A-13 C.I.T.C. from 0800 hours on the said 11th July 1942 until he was apprehended by the military authorities at Laundry Office, N.B. at 1810 hours on the 7th August 1945 dressed in civilian clothes; cost of apprehension and return to his corps being $16.53.

Lt-Col.
(W.A. McDougall)
Officer Commanding
No. 7 District Depot C.A.

Fredericton, N.B.

29 August 1945

21

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Captain F.L. Bowser, No. 7 District Depot, C.A.

being duly sworn, is examined by the Prosecutor.

Question Captain Bowser will you identify yourself to the Court?

A. I am Captain F.L. Bowser, Officer in charge of Records, No. 7 District Depot, C.A.

Q. Do you recognize the accused Captain Bowser?

A. I recognize the accused as L/Cpl. Brideau, L.

Q. I hand you a document Captain Bowser, will you tell the Court what it is please?

A. This is a certified true extract of Part II Order No. 167 dated 15 Jul 42 of A-13 C.I.T.C., Camp Valcartier, P.Q. It refers to the accused and is certified as a true extract by Captain Kerr, Officer having custody of Regimental Part II Orders kept by the Officer in charge of Records at N.D.H.Q.

PROSECUTOR:- I offer as evidence Sir, certified true extract of Part II Order No. 167 dated 15 Jul 42 of A-13 C.I.T.C., Camp Valcartier, P.Q. as it refers to the accused Private (L/Cpl.) Brideau, L.

PRESIDENT:- Certified true extract of Part II Order No. 167 dated 15 Jul 42 of A-13 C.I.T.C., Camp Valcartier, P.Q. received by the Court, read by the President, marked with the identifying letter "P", signed and attached to the Proceedings as an exhibit.

Q. I hand you a document Captain Bowser, will you tell the Court what it is please?

A. This is a certified true extract of Part II Order No. 184 dated 4 Aug 42 of A-13 C.I.T.C., Camp Valcartier, P.Q. It relates to the accused and is certified as a true extract by Captain W. Kerr, Officer having custody of Regimental Part II Orders kept by the Officer in charge of Records, N.D.H.Q.

PROSECUTOR:- I offer as evidence Sir, certified true extract of Part II Daily Order No. 184 dated 4 Aug 42 of A-13 C.I.T.C., Camp Valcartier, P.Q. as it refers to the accused Private (L/Cpl.) Brideau, L.

PRESIDENT:- Certified true extract of Part II Daily Order No. 184 dated 4 Aug 42 of A-13 C.I.T.C., Camp Valcartier, P.Q. received by the Court, read by the President, marked with the identifying letter "G", signed and attached to the Proceedings as an exhibit.

The Court observe that in this Part II Order the accused is described as A/Cpl. and not as stated in the Charge Sheet.

Q. Captain Bowser I hand you a document, will you tell the Court what it is please?

A. This is M.F.M. 216, Certificate of Apprehension by or Surrender to Service Authorities. It refers to the accused Private (L/Cpl.) Brideau, L. and is purported to be signed by C.E. Bass, Cpl. G-48755, N.C.O. in charge of Caraquet, N.B. Detachment, No. 39 Coy. Canadian Provost Corps, C.A.

PROSECUTOR:- I submit in evidence Sir, M.F.M. 216, Certificate of Apprehension by or Surrender to Service Authorities as it refers to the accused Private (L/Cpl.) Brideau, L.

PRESIDENT:- M.F.M. 216, Certificate of Apprehension by or Surrender to Service Authorities received by the Court, read by the President, marked with the identifying letter "H", signed and attached to the Proceedings as an exhibit.

Q. Captain Bowser I hand you this document, will you tell the Court what it is please?

A. This is M.F.B., Absentees and Deserters, certificate of cost of transportation. It refers to the accused Private (L/Cpl.) Brideau, L. and is purported to be signed by Captain J.C. VanHorne, Officer Commanding No. 39 Coy. Canadian Provost Corps.

PROSECUTOR:- I submit in evidence Sir, M.F.B. 1481, certificate of cost of transportation as it refers to the accused Private (L/Cpl.) Brideau, L.

PRESIDENT:- M.F.B. 1481, certificate of cost of transportation, in the amount of $7.20 received by the Court, read by the President, marked with the identifying letter "I", signed and attached to the Proceedings as an exhibit.

Q. Captain Bowser I hand you a document, will you tell the Court what it is?

A. This is M.F.B. 1481, certificate of cost of transportation as it refers to the accused, Private (L/Cpl.) Brideau, L. and is purported to be signed by E.M. Lingley, Lieut., Assistant Officer in charge of Supplies, R.C.A.S.C., Fredericton, N.B.

PROSECUTOR:- I submit in evidence Sir, M.F.B. 1481, certificate of cost of transportation as it refers to the accused Private (L/Cpl.) Brideau, L.

PRESIDENT:- M.F.B. 1481, certificate of cost of transportation, in the amount of $9.33 received by the Court, read by the President, marked with the identifying letter "J", signed and attached to the Proceedings as an exhibit.

PROSECUTOR:- I have no further questions of this witness, Sir.

THE DEFENDING OFFICER DECLINES TO CROSS EX-EXAMINE

THE WITNESS WITHDRAWS

PRESIDENT:- Your next witness Captain?

PROSECUTOR:- I have no further witnesses Sir.

PRESIDENT:- Then the case for the Prosecution is closed?

PROSECUTOR:- Yes Sir.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion -- No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. A written statement, Sir.
(See next page.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No Sir.

~~QUESTION TO THE ACCUSED.~~ ~~Do you intend to call any witness at the closing address?~~

~~ANSWER~~

THE DEFENDING OFFICER DECLINES TO MAKE A CLOSING ADDRESS

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS.

Lt Col Buckner
Pres A.G.R.

STATEMENT OF E 6152 L/Cpl. BRIDEAU, L.

I asked for a pass to my home near Tracadie but all I got was a pass for one day. This was not near enough to give me anytime with my wife and family. My wife and child had no home so I decided to stay with them for a while to assist. After a few months of being away I got too frightened of the possible punishment to return so I asked for assistance in my case from Ottawa through the return soldiers of the First War. I had always intended to return and was just visiting my mother-in-law prior to returning when the provost took me. Had they been an hour later I would have been in uniform and on my way back to my unit.

Ludger Brideau

16

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No Sir.

Question to the accused. Do you wish to address the Court?

Answer. No Sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

DAILY ORDERS PART II

No. 167

by

Place

Commanding

Date 15 Jul 42

CENTRE D'INSTRUCTION SUPERIEURE D'INFANTERIE #A-13.

(Last Order issued No. 166 , 14 Jul 42)

SECTION "B"

19. ABSENCES SANS PERMISSION

Les sous-mentionnes sont absents sans permission aux heures et dates indiquees a la suite de leurs noms.

E-6152 Sdt. Brideau, L. (R22R AC) 0800hrs, 11 juil.42

(Signature illegible)
(J.A.TESSIER) Capitaine & Adjudant,
CENTRE D'INSTRUCTION SUPERIEURE D'INFANTERIE #A-13,
CAMP VALCARTIER, P.Q.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE AUG 24 1945

Prepared by: EM
and
Checked by:

14

DAILY ORDERS PART II

by

Commanding

No. 184

Place

Date 4 aout 42

CENTRE D'INSTRUCTION SUPERIEURE D'INFANTERIE #A-13

(Last Order issued No. 183 , d/ 3aout.42)

SECTION "B"

10. ABSENCE SANS PERMISSION (21 jours et plus)

Le sous-mentionne est absent sans permission a 0800hrs, le 11 juil. 42 et est encore absent apres 21 jours.

E-6152 A/Cpl Brideau, L. (R22R AC)

(Signed) L.S. Coughlin. Lieut.,
for (J.A. TESSIER) Capitaine & Adjudant,
CENTRE D'INSTRUCTION SUPERIEURE D'INFANTERIE #A -13,
CAMP VALCARTIER, P.Q.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE AUG 23 1945

Prepared by:
and
Checked by:

13

[illegible]

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, G. 48755 Cpl. C. E. Bass N.C.O. 1/c Caraquet N.B. Det. No. 39 Coy.C.Pro.C. (CA)
(Number) (Rank) (Name)

hereby certify that E. 6152 L/Cpl. BRIDEAU Ludger
(Number) (Rank) (Name in full)

of the Military District No. 5 Quebec.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~[illegible]~~ G 28840 G 48755 (Number) L/Cpl. Cpl. (Rank)

R. J. Melanson Caraquet N. B. Detc. No. 39 Coy.C.Pro.C. (CA)
C. E. Bass N.C.O. 1/c Caraquet N.B. Det. No. 39 Coy. C.Pro.C.(CA)
(Name) (Unit or appointment)

at Landry Office, Gloucester Co. N.B. 1810 hrs.
(Place) (Hour)

on the 7th day of August 19 45

Strike out words not applicable } as a ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was ~~[illegible]~~ ~~[illegible]~~ (dressed in civilian clothes).

Dated at Caraquet, N. B. this 8th day of August 19 45

C.E. Bass G 48755 Cpl.
(Signature, Number, Rank, Unit or appointment)
G 48755 Cpl. C. E. Bass
N. C. O. 1/c Caraquet N.B. Det. No. 39 Coy.C.Pro.C. (CA)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6900)
H.Q. 1772-39-1935

12

M.F.B. 1481
[redacted]—10-43 (2206)
[redacted]2-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Captain (Rank) J.C. Van Horne (Name) o.c. No. 39 Coy C Pro C C.A. (Unit)

Strike out word not applicable — hereby certify that I (~~am~~) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Caraquet N.B. (Place) to Landry Office Glou. Co. N.B (Place) and return to Bathurst N.B. (Place) for the purpose of escorting

Full description of soldier being escorted — E. 6152 (Number) L/Cpl. (Rank) BRIDEAU Ludger (Name in full) Military District No. 5 Quebec. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (~~the transport warrants issued~~) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
7 Aug. 45	Transportation supplied by D.N.D. vehicle 71-301 travelling a distance of 120 (one hundred twenty) miles @ 6¢ per mile -- $7.20	
	TOTAL	$ 7.20

Dated at St. John N.B. this 11th day of August A.D. 19 45.

J.C. Van Horne, Capt o.c. No. 39 Coy C. Pro C

Signature, rank, unit, attachment (if any) and appointment of officer (~~issuing transport warrants~~) (authorizing transportation)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

21

M.F.B. 1481
[illegible]—10-43 (2206)
[illegible]2-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. E.M. Lingley, Asst. O.i/c Supplies, RCASC. Fredericton, N.B.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Fredericton, N.B. (Place) to Bathurst, N.B. (Place) and return to Fredericton, N.B. (Place) for the purpose of escorting

Full description of soldier being escorted — E 6152 (Number) L/Cpl. (Rank) Brideau, L. (Name in full)
No. 7 District Depot. C.A. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
8 August, 1945	ESCORT G-4581 Sgt. Middlebrook, B. No. 7 District Depot. C.A. Transport Warrant No. D-68154, issued 8 August, 1945, providing one return second class fare from Fredericton, N.B. Bathurst, N.B. via Canadian National Railways.	6.22
8 August, 1945	ALLEGED ABSENTEE E6152 L/Cpl. Brideau, L. No. 7 District Depot. C.A. Transport Warrant No. D-68154, issued 8 August, 1945, providing one single second class fare from Bathurst, N.B. to Fredericton, N.B. via Canadian National Railways.	3.11
	TOTAL	$ 9.33

Dated at Fredericton, N.B this 8 day of August, A.D. 1945.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)
Strike out description not applicable

E.M. Lingley Lieut.
Asst.O.i/c Supplies, R.C.A.S.C. Fredericton, N.B.

10

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

M.F.B. 355
75M—5-43 (145)
H.Q. 1773-39-620
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E 6152	L/Cpl.	Ludger BRIDEAU No. 7 District Depot C.A.	

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.
~~or~~
~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for No ~~days in civil custody, and~~ 24 ~~days in military Air Force custody, making a total of~~ 24 ~~days in custody, of which~~ No ~~days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27 yrs 1 mo

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 27 Nov 41

7. ~~The service which the accused is allowed to reckon towards discharge is~~ Served in N.R.M.A. from 28 Aug 41 to 26 Nov 41

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or state possession of or entitled to~~) ~~State any air force~~ military decoration or reward

10. (~~If the accused is a warrant officer~~) ~~The accused before he was made a warrant officer last held Air Force the regimental rank of~~

9

29 - 8

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the~~ [redacted] ~~of~~ Permanent Force ~~unit~~ ~~dated~~ ~~, and in his regiment (or corps) the rank of~~ ~~dated~~ ~~.~~

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In the rank of L/Cpl. 1 mo 4 days ~~years~~ 7 Jun 42 Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30 th day of Aug 45 H Bowser Captain
(F.L. Bowser)
Officer i/c Records
No. 7 District Depot C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. E 152 Name BRIDEAU, L. Sqn., Battery, or Company } Corps R 22 R A.R. Date of enlistment } 19-6-41 G.C. Badges } Tradesmen's Rates of Pay }

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 1 Signature O.C. Company, etc. } Sgd: ? Capt Character }

M.F.M. 6 (A.F.B.122) 75035—12-42 (7537) H.Q. 1773-59-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy					
				H Bowser	Captain				
				(F.L. Bowser)					
				Officer I/C Records					
				No. 7 District Depot C.A.					

(P.T.O.)

PRECIS OF EVIDENCE

in the case of

The accused, No. E 6152 L/Cpl. Ludger BRIDEAU, No. 7 District Depot C.A. a G.S. soldier of the Canadian Army placed on Active Service.

Charge:

DESERTION

To prove the charge the following evidence is available:

DOCUMENTARY

✓ Certified true extract of Part II Order, A-13 C.I.T.C. No. 167 d/15 Jul 42

✓ Certified true extract of Part II Order, A-13 C.I.T.C. No. 184 d/4 Aug 42

✓ M.F.M. 216

✓ M.F.B. 1481 (d/11 Aug 45)

✓ M.F.B. 1481 (d/8 Aug 45)

H.F. Nickerson Captain
(H.F. Nickerson)
Officer detailed to take
Precis of Evidence
No. 7 District Depot C.A.

Fredericton, N.B.

29 August 1945

7

I do hereby appoint Captain H.F. Nickerson, No 7 District Depot C.A. as Prosecuting Officer at the trial by Standing Court-Martial of E 6152 L/Cpl. Ludger BRIDEAU, No. 7 District Depot C.A. vice Captain J. Herschorn, Permanent Prosecutor, M.D. No. 7, who is ill.

Lieut-Col.
(W.A. McDougall)
Officer Commanding
No. 7 District Depot C.A.

Fredericton, N.B.
29 Aug 45

6

I, E 6152 L/Cpl. Brideau, L., desire to have an officer assigned to represent me at my trial by Standing Court-Martial.

Ludger Brideau

I do hereby detail Major F.W. Fullerton, No. 7 District Depot C.A. as Defending Officer for E 6152 L/Cpl. Ludger BRIDEAU.

Lieut-Col.
(W.A. McDougall)
Officer Commanding
No. 7 District Depot C.A.

Fredericton, N.B.
29 August 1945

5

MEDICAL OFFICER'S REPORT

I certify that No. E 6152 L/Cpl. Brideau, L. ..... of No. 7 District Depot, C.A. is in a good state of health and is fit to undergo trial by Court-Martial.

..... (D.E. Campb
Lieut
Medical Officer
No. 7 Coy., R.C.A.M.C.
Att: No. 7 District Depot, CA

Fredericton, N.B.

Date: 30 Aug 45

4

H.Q.C.55-B-1942 (JAG/D-7)
Your J/38-B-2597

13 Sep 45

The District Officer Commanding,
Military District No. 7, Saint John, N.B.

STANDING COURT-MARTIAL

E-6152 Pte (L/Cpl) Ludger Brideau,
No. 7 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused was 24 days in military custody awaiting trial. May an explanation of this delay be forwarded, please.

Judge Advocate General.

LJR/MM

8M-7-45(M-188)

THIS COPY FOR H.Q. C. 55-B-1942
M.D. J/38-B-2597

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E-6152 Name Ludger BRIDEAU

Rank Pte.(L/Cpl.) Unit No. 7 D.D. C.A.

Charge AA 12 (1) (a) WOAS DEsertion.....

Date of Crime 11-7-42

Date of Arrest 7-8-45 Charge Signed 29-8-45

Orders for D.C.M.

Place and Date of Trial No. 7 DD. C.A. 30-8-45

Sentence Detention 2 years. Stoppages $16.53.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39514

Date 6-9-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 7	No. 7 D.D. C.A.
ABSENT	SENTENCE
3 yrs. 1 mo.	Det. 2 yrs.

2

R. J. Ryan Lt.
for Judge Advocate General

10M-9-45(M-189)

QUOTE No. J/38-B-2597 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

R205

REGISTERED

SAINT JOHN, N.B. 1 Sep 45

C-55-B-1942

Judge Advocate-General
Department of National Defence
OTTAWA, ONTARIO

RE:-STANDING COURT-MARTIAL
No. E-6152 Private (L/Cpl.) Ludger BRIDEAU
No. 7 District Depot, C.A.

Herewith for review, Proceedings of the Standing Court-Martial held for the trial of the marginally-named soldier in accordance with C.A.R.O. 4565.

(W.C. McQuade) Lt. Col.
President, Standing Courts-Martial, MD 7

Encl.

NAT. DEF. B. 440
2500M-4-44 (4320)
H.Q. 1772-39-767

39514

H.Q.C. 55-B-1943

CONFIDENTIAL

CONFIDENTIAL
H.Q.C. 55-B-1943

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BROWN, E.G. C-4694 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				ADMIN	NEW FILE	CR	6-9-45
SEP 10 1945	10/9/45	PA	m	JAG	To note	wol	7-9-45
SEP 17 1945	17.9.45	PA	wol	Admin	For Reconsideration SEP 10 1945		
				CMBR	For Reconsideration OCT 29 45		
OCT 31 1945				JAG	20 7/10 E pls	ABO	31-10-45
NOV 1 - 1945	1 11/45	PA	ABO	CMBR	with minute (3) pls	EKM	1 Nov 45
NOV 6 - 1945	7/11/46	PA	ABO	CMBR	For Reconsideration C.R. JAN 4 1946		
JAN 7 1946				WCB	For Acquisition C.R. MAR 30 1946		
DEC 17 1943	13/12/45	PA	AG	WCBr	405-B-10-45	GW	MAY 13 1946

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

COPY

BOMBER AIR MAIL 10/Brown E.G/1
CONFIDENTIAL CANADIAN MILITARY HEADQUARTERS

London 28 Aug 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.4694 Pte Brown E.G.

1. The m/n soldier is now serving a sentence of 6 months imprisonment and discharge with ignominy awarded by FGCM 24 Jul 45 for an absence without leave from which he was apprehended by the civil police after 120 days (AA Sec 15(1)).

2. The earliest date on which his sentence of imprisonment should terminate if he earns full remissions for good conduct while serving this sentence is 23 Nov 45.

3. This soldier enlisted 14 Dec 39 at Picton, Ont., and he is now 25 years of age. Since enlistment he has been found guilty of 11 offences under AA Sec 15(1). He has had 5 FGCsM in addition to the one mentioned in para 1 above. On 11 Mar 41 he was awarded a sentence of 8 months detention for an absence without leave of 62 days (AA Sec 15(1)) and an absence without leave of 60 days (AA Sec 15(1)). On 28 Oct 41 he was awarded a sentence of 1 year detention for an absence without leave of 32 days(AA Sec 15(1)). On 7 Jan 43 he was awarded a sentence of 9 months detention for an absence without leave of 38 days (AA Sec 15(1)). On 18 Nov 43 he was awarded a sentence of 1 year detention for an absence without leave of 54 days (AA Sec 15(1)). On 10 Nov 44 he was awarded a sentence of 120 days detention for an absence without leave of 68 days (AA Sec 15(1)).

4. This soldier was medically reboarded on 10 Nov 43 and placed in Pulhems Grades M2, S5 on a diagnosis of "psychopathic personality, inadequate". He has been certified as fit to undergo detention.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an irresponsible, impulsive and unreliable individual who has been constantly either absent or in detention since June 1940; that he has always been dependent, emotionally unstable, indecisive and completely chaotic in his thinking; that his motivation is very poor; and that he is of no use to the army whatsoever.

6. From this soldier's record which includes 6 FGCsM, all for long absences as well as the report outlined in para 5 above, it is clear that he is incorrigible and of no use to the army whatsoever. It is consequently considered that his present sentence including discharge with ignominy is appropriate and fully deserved and that he should be required to serve his sentence of imprisonment in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered highly probable that this soldier has deliberately misconducted himself in order to obtain his discharge.

7. It has accordingly been directed, pursuant to P.C.1304/44 that this soldier be returned to Canada in custody under sentence. Herewith original A.F.A.3104 in respect of the FGCM held 24 Jul 45 on which this direction has been endorsed.

(E.G.Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters

Enc.1.
Copy to OIC Records

COPY

BOMBER
CONFIDENTIAL

AIR MAIL
CANADIAN MILITARY HEADQUARTERS

10/Brown E.C/1

London 28 Aug 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.4694 Pte Brown E.C.

1. The m/n soldier is now serving a sentence of 6 months imprisonment and discharge with ignominy awarded by FGCM 24 Jul 45 for an absence without leave from which he was apprehended by the civil police after 120 days (AA Sec 15(1)).

2. The earliest date on which his sentence of imprisonment should terminate if he earns full remissions for good conduct while serving this sentence is 23 Nov 45.

3. This soldier enlisted 14 Dec 39 at Picton, Ont., and he is now 25 years of age. Since enlistment he has been found guilty of 11 offences under AA Sec 15(1). He has had 5 FGCsM in addition to the one mentioned in para 1 above. On 11 Mar 41 he was awarded a sentence of 8 months detention for an absence without leave of 62 days (AA Sec 15(1)) and an absence without leave of 60 days (AA Sec 15(1)). On 28 Oct 41 he was awarded a sentence of 1 year detention for an absence without leave of 32 days(AA Sec 15(1)). On 7 Jan 43 he was awarded a sentence of 9 months detention for an absence without leave of 38 days (AA Sec 15(1)). On 16 Nov 43 he was awarded a sentence of 1 year detention for an absence without leave of 54 days (AA Sec 15(1)). On 10 Nov 44 he was awarded a sentence of 180 days detention for an absence without leave of 68 days (AA Sec 15(1)).

4. This soldier was medically reboarded on 10 Nov 43 and placed in Pulhems Grades M2, S5 on a diagnosis of "psychopathic personality, inadequate". He has been certified as fit to undergo detention.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an irresponsible, impulsive and unreliable individual who has been constantly either absent or in detention since June 1940; that he has always been dependent, emotionally unstable, indecisive and completely chaotic in his thinking; that his motivation is very poor; and that he is of no use to the army whatsoever.

6. From this soldier's record which includes 6 FGCsM, all for long absences as well as the report outlined in para 5 above, it is clear that he is incorrigible and of no use to the army whatsoever. It is consequently considered that his present sentence including discharge with ignominy is appropriate and fully deserved and that he should be required to serve his sentence of imprisonment in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1028. It is considered highly probable that this soldier has deliberately misconducted himself in order to obtain his discharge.

7. It has accordingly been directed, pursuant to P.C.1204/44 that this soldier be returned to Canada in custody under sentence. Herewith original A.F.A.3104 in respect of the FGCM held 24 Jul 45 on which this direction has been endorsed.

Enc.1.
Copy to OIC Records

(E.C.Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters

IN REPLY PLEASE QUOTE

No. K. 55-B-8381-C (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ontario, 27th. Oct. 1945.

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario

5982
OCT 30 1945
File C55-B-1943
Origin. to CMBR 29-10-45
Referred to Jag.

REMISSION OF SENTENCE
C-4694 Pte. BROWN, E.G.
3 District Depot, C.A.

Herewith enclosed Remission of Sentence in respect to the m/n soldier, together with A.F. A3104.

for H. C. Drech Capt
F. L. Armstrong, Brigadier,
District Officer Commanding,
Military District No. 3

ENCLS.
WCI/D.

CMBR
To note attached remission and PA on file which is in use at your office.

JAG

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION
OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-B-1943 Adm.2(b)

District File No. K. 55-B-8381-C

PART I

No. C-4694 Rank Private Name BROWN, E. G.

Unit 3 District Depot, C.A.

PART II

Date of Trial: 24th. July, 1945

Charge(s): Absence Without Leave (AA Sec. 15 (1)

Sentence: Imprisoned ~~with hard labour~~ for 6 months and discharged with ignominy

Date of Sentence: 24th. July, 1945

Confirmation - (a) Authority: F. J. Rutherford, Brig.,

(b) Date: 24th. July, 1945

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally-named soldier after the 24th. day of October, 1945 and direct that the accused be relieved of all consequences thereof after the said 24th. day of October, 1945 , and that all records be amended accordingly.

Signed at Kingston, Ontario, this 1st day of October 1945.

(F.L.Armstrong) Brigadier
District Officer Commanding,
Military District No.3.

PART IV

PROMULGATION

Remission promulgated and extracts taken at Kingston, Ontario

this 24 day of October 1945

R E Bowley Lieut

(R.E.Bowley) Lt.
Asst Adjt. No. 3 District Depot, CA

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. C.4694 Rank Pte Name BROWN, E.G.

is remitted the unexpired portion of his sentence after the 24th day of October, 1945 and is to be relieved of all consequences thereof after the said 24th day of October, 1945. All records to be amended accordingly

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II of 3 DD

Date: 24 October 45

No. 64 Place Kingston, Ontario

R E Bowley Lieut

(R E Bowley) Lt
Asst Adjt. No. 3 District Depot, C.A.

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. C 4694 Pte. BROWN, E.G. Unit 1 Cdn Repat Depot

Sentenced to six(6) months imprisonment and to be discharged from his Majestys Service with ignominy. on 24 Jul 45

Age on, and date of, enlistment 19 yrs 11 mo. 4 Dec 39 Term of service 5 yrs 8 months

FIRST TRIAL.

For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

(For action on review, see paragraph VI.)

Superior Military Authority (4).

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on .....and sentenced to .....

and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of .....and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*22948) Wt.36636/311 60,000 11/42 A.& E.W.Ltd. Gp.698 Forms/A.3104/11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	NO REMISSION-RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	for (Beverley Matthews), Brig-Gen, Deputy-Adjutant General, Canadian Military Headquarters 27 AUG 1945	
Oct.25 1945	Remit wef. 24th.Oct. 1945	D.O.C., M.D.	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. WOAS/AWL in that he absented himself without leave from 0700 hrs 18 Feb 45 ~~to~~ until being apprehended by Civil Authorities at ~~XXX~~ AIRDRIE, SCOTLAND at 0800 hrs 18 Jun 45. Time Absent 120 days 1 hour Cost of Apprehension and return to Unit 25-1-11 A.A. Sec. 15(1) Capt G.H. Milson Signature of Officer making entry.	18 Feb 45	24 Jul 45
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
	Recommended that sentence be carried out without any special remission	G.A.H. Gordon Col.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
4 Aug 45	Recommend that sentence be carried out without any usual remission for good conduct	D.H. Rutherford Brig.

DEPARTMENT OF NATIONAL DEFENCE

- Army -

FILE NOS: KS 674 (A)
AND PERSONAL FILES

TO: /CR(C)/

KINGSTON, Ont, 5 Oct 45.

Pls, PA on:

HQC 55-B-1943
for WOT

Colonel,
D Adm.

Commandant, 89 Military Detention Barracks, BARRIEFIELD, Ont
AJAG, MD 3 Kingston, Ont
Officer Commanding, 3 District Depot, Kingston, Ont
District Paymaster, MD 3 Kingston, Ont
District Medical Officer, MD 3, Kingston, Ont
DAPM, MD 3 Kingston, Ont
District Records Officer, MD 3 Kingston, Ont
DS & TO MD 3 Kingston, Ont
DAQMG, MD 3, Kingston, Ont
Officer Commanding, 3 Ordnance Depot, RCOC, Kingston, Ont
OIC 2nd Echelon (Central) MPO 315, Brockville, Ont.

SUS EX ITALY AND UNITED KINGDOM GO 131/44

89 Military Detention Barracks.

1. Under HQS 8536-6 Vol 2 Adm 3(b)2 dated 27 Apr 45 and HQS 8536-6 Vol 2 Adm 3(b)SC(A) dated 1 Jun 45 National Defence Headquarters authorized the despatch of certain soldiers under sentence from Italy and the United Kingdom to 89 Military Detention Barracks, Fort Henry, Barriefield, Ontario.

2. Under HQC 9039-1-1 Adm 3 dated 15 Jun 45 National Defence Headquarters lays down the policy to be followed in the remission and suspension of sentences of soldiers under sentence in order that the situation in regard to accommodation at 89 Military Detention Barracks at Fort Henry may be alleviated.

3. Consequently it has been decided that the undermentioned soldiers under sentence who have served one-half of their sentence and whose home district is Military District No 3 will be granted a remission of the unexpired portion of their sentence and despatched to District Depot 3 for the purpose of discharge.

MILITARY DISTRICT No 3		SENTENCE	RECOM AS TO DISCH BY CMHQ	DECISION AS TO DISCH BY DOS MD 3
C.5290	Pte BALE E H	2 yrs imp HL	RO 1029(8)	RO 1029(8)
C.20880	Pte BERTRAND G	1 yr imp	RO 1029(8)	RO 1029(8)
C.4694	Pte BROWN E G	6 mos imp ign	RO 1029(9)	RO 1029(9)
C.73690	Pte LAWSON H	2 yrs detn	RO 1029(8)	RO 1029(5)(c)(i)
C.102000	Pte ROLLAND D R	18 mos imp HL	RO 1029(8)	RO 1029(5)(c)(i)
C.9675	Gnr STEVENS L W	18 mos imp HL	RO 1029(8)	RO 1029(8)
C.101465	Pte SUMMERS G G	2 yrs imp	RO 1029(8)	RO 1029(5)(c)(i)
C.6100	Pte TWAITES K B	2 yrs detn	RO 1029(8)	RO 1029(5)(c)(i)
B.139103	Pte GRUBIC G P	2 yrs imp HL	RO 1029(8)	RO 1029(8)

4. The above soldiers with the exception of Pte GRUBIC will be despatched to No 3 District Depot under suitable escort to be arranged by the Commandant, 89 Military Detention Barracks.

(2) JAG:
Have you FGCM Proceedings, pls.?
W.A. Stilwell
CMBR
31/10/45

(3) C.M.B.R.
No proceedings forwarded by C.M.H.Q. See paras 7 of folio 1.
1-11-45
for JAG

It is requested that after arrival at 3 District Depot the Officer Commanding, 3 District Depot, will arrange the soldiers' discharges. In this connection this Headquarters has shown opposite the name of the soldier to be discharged the recommendation as to how discharge is to be carried out by CMHQ and directly opposite this the decision of the District Officer Commanding, MD 3, as to how this discharge is to be carried out, which in some cases does not agree with the recommendation of CMHQ.

6. The recommendation of the District Officer Commanding, MD 3, has been made after careful review of Army Form A3104, the Review Sheet, the conduct of the soldier under sentence while in detention, the seriousness of the offence committed while on Active Service and whether or not the soldier has been wounded in the Front Line or rendered effective service in the Front Line and that his offence while serious before the cessation of hostilities, the reason for exemplary punishment does not exist to the same extent now and it is felt that an injustice would be done by having such personnel discharged under RO 1029(8) and forfeit gratuities they have earned. However, according to instructions from National Defence Headquarters the exact paragraph of RO 1029 under which the soldier under sentence is to be discharged is at the discretion of the GOC-in-C, Pacific Command, or the District Officer Commanding where the discharge of the soldier under sentence is to be carried out.

7. In cases where the District Officer Commanding MD 3, has recommended the discharge and remission of sentence where less than one-half of the sentence has been served, it is considered after review of all the relevant circumstances that in the interests of justice such soldier should be discharged and sentence remitted. The suggestion from National Defence Headquarters which states that a soldier's sentence may be remitted after he has served one-half of his sentence has been taken as a guiding principle and not as a hard and fast rule, it being considered that the suggestion of National Defence Headquarters in these cases may be varied when circumstances so warrant.

8. In the case of soldiers who have been sentenced to discharge with ignominy this is considered a material part of the sentence of a judicial tribunal and therefore the District Officer Commanding, MD 3, while recommending a reduction in the length of sentence to be served concurs in the other part of the sentence under which such soldier is discharged with ignominy under RO 1029 para 9.

9. The sentences of the above mentioned soldiers under sentence will be remitted effective the date of discharge.

10. In regard to Pte GRUBB, it is advised that this soldier is an inmate of Kingston Military Hospital and is suffering from Tubercular Peritonitis, which gives him a medical grading of 18-5111111, and he has been certified unfit to undergo detention. Therefore although his home District is 2 District Depot his sentence will be remitted and he will be discharged in District Depot 3, the same as the others, in order that after discharge he may be admitted to a DVA Hospital.

11. The AJAG, MD 3, will prepare the necessary Order of Release and forward it to the Commandant, 89 Military Detention Barracks.

12. The above mentioned soldiers will cease attachment to 89 Military Detention Barracks and be struck off strength 3 District Depot effective the date of discharge and transportation will be furnished to their homes.

4

13. The Commandant, 89 Military Detention Barracks, will a rrange with the Officer Commanding, 3 District Depot, as to when the above mentioned soldiers under sentence may be despatched to 3 District Depot for discharge.

14. The Officer in charge, 2nd Echelon (General) Brockville, will be requested by wire to forward the documents of the above mentioned soldiers immediately to 3 District Depot.

15. In cases where the Army Form A3104's and Review Sheets are not available at this Headquarters National Defence Headquarters will be requested by wire to forward same to this Headquarters who in turn will forward them to the Officer Commandin g 3 District Depot.

16. After sentence has been remitted and the soldier discharged the necessary entry will be made in Army Form A 3104 and returned to this Headquarters from where it will be despatched to National Defence Headquarters, attention of Major Parlee, Administration Branch.

" W K MacGregor " Major"
for (W K MacGregor) Major,
DAAG MD 3.

Copy to:

Secty, DND

DOC MD 2

OCm 2 DD (as to Pte GRUBIC)

,w

3

HQC 55-B-1943
Adm 3(b)2.

CONFIDENTIAL

Ottawa, Ont, 17 Sep 5

District Officer Commanding,
Military District No 3,
Kingston, Ontario.

G-4694 - Pte BROWN E G

X/UK W950.

1. Further to RANKS 6918 dated 10 Sep 45 and letter of this HQ numbered 8536-6, Vol 4, 13 Sep 45:

2. Enclosed herewith CMHQ letter and AF A3104 with ref to the above SUS.

3. This SUS is to be discharged under CARO 1029(9).

4. The procedure outlined in R922(b), 28 May 45, will apply in the disposal of this SUS.

(A E Walford)
Major-General,
Adjutant-General.

(Encl 2)

WOP:mw

2

AIR MAIL

Quote No. 10/Brown, E.G./1

CANADIAN MILITARY HEADQUARTERS

LONDON

28 Aug 45.

C. SS. B. 1943

~~SECRET~~
CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C-4694 Pte Brown, E.G.

1. The m/n soldier is now serving a sentence of 6 months imprisonment and discharge with ignominy awarded by FGCM 24 Jul 45 for an absence without leave from which he was apprehended by the civil police after 120 days (AA Sec 15(1)).

2. The earliest date on which his sentence of imprisonment should terminate if he earns full remissions for good conduct while serving this sentence is 23 Nov 45.

3. This soldier enlisted 14 Dec 39 at Picton, Ont., and he is now 25 years of age. Since enlistment he has been found guilty of 11 offences under AA Sec 15(1). He has had 5 FGCsM in addition to the one mentioned in para 1 above. On 11 Mar 41 he was awarded a sentence of 8 months detention for an absence without leave of 60 days (AA Sec 15(1)) and an absence without leave of 62 days (AA Sec 15(1)). On 28 Oct 41 he was awarded a sentence of 1 year detention for an absence without leave of 32 days (AA Sec 15(1)). On 7 Jan 43 he was awarded a sentence of 9 months detention for an absence without leave of 38 days (AA Sec 15(1)). On 18 Nov 43 he was awarded a sentence of 1 year detention for an absence without leave of 54 days (AA Sec 15(1)). On 10 Nov 44 he was awarded a sentence of 120 days detention for an absence without leave of 68 days (AA Sec 15(1)).

4. This soldier was medically reboarded on 10 Nov 43 and placed in Pulhems Grades M2, S5 on a diagnosis of "psychopathic personality, inadequate". He has been certified as fit to undergo detention.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an irresponsible, impulsive and unreliable individual who has been constantly either absent or in detention since June, 1940; that he has always been dependent, emotionally unstable, indecisive and completely chaotic in his thinking; that his motivation is very poor; and that he is of no use to the army whatsoever.

6. From this soldier's record which includes 6 FGCsM, all for long absences as well as the report outlined in para 5 above, it is clear that he is incorrigible and of no use to the army whatsoever. It is consequently considered that his present sentence including discharge with ignominy is appropriate and fully deserved and that he should be required to serve his sentence of imprisonment in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1009. It is considered highly probable that this soldier has deliberately misconducted himself in order to obtain his discharge.

7. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original A.F.A3104 in respect of the FGCM held 24 Jul 45 on which this direction has been endorsed.

for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters.

Enc. 1

Copy to CIC Records

1/39B CMHQ 1000.77
40/P.S./803 (3567)

H.Q.C. 55-B-1944

CONFIDENTIAL

H.D.B. 5070
25M—3-45 (6000)
H.Q. 301-1-60

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BRCZINA, JOHN B-624660 FUS.

CONFIDENTIAL
H.Q.C. 55-B-1944

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
SEP 8 - 1945	Completed			JAG	NEW FILE	CR	6-9-45
SEP 25 1945	25/9/45	P.A.	E.L.M.	JAG	With Papers C.R. SEP 22 1945		
					Per Resolution G.R. NOV 12 1945		
DEC 26 1945	26/12/45	PA	GLB		Recommendation		DEC 15 1945
JAN 3 1946	3/1/46	PA	ELM		Per Resolution G.R. DEC 28 1945		
				DRB	Per Resolution G.R. AUG 8 1946		
OCT 24 1946	23/10/46						11 Aug 46.

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. T-20-B-13668 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
21st December, 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

16955

Remission of Sentence
B-624660 - Pte. John BROZINA
(St J Fus) No. 2 District Depot, C.A.

Reference RANKS 1493 Restricted dated 19th December, 1945, and H.Q.C. 55-B-1944 (JAG/D-6) dated 18th December, 1945, and further to this Headquarters' T-20-B-13668 (AJAG) dated 14th December, 1945.

2. Receipt of RANKS 1493 Restricted dated 19th December, 1945, is hereby acknowledged.

3. It is advised that on the 22nd November, 1945, the District Officer Commanding, Military District No. 2, remitted the balance of the sentence of detention awarded the marginally-named soldier, effective 11th December, 1945.

Burrell Mc Singer Capt

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 440

HQC 55-B-1944
(JAG/D-6)

OTTAWA, 18 December, 5

District Officer Commanding
Military District No 2
TORONTO, Ontario

B-624660, Pte John BROZINA
(St J Fus) No 2 District Depot, CA

Receipt is acknowledged of your T-20-B-13668 (AJAG) dated 14th December, 1945, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

E. L. M.

for (R J Orde) Brigadier
Judge Advocate General

/jm

C.M.B.R.
The attached proceedings are sent to you to note and P.A. on the file, which is charged to you.
18/12/45
E. L. M.
for JAG.

T-20-B-13668 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
14th December, 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

15306
DEC 15 1945
Referred to AGE

Remission of Sentence

B-624660, Pte. John BROZINA,
(St. J. Fus.) No. 2 District Depot, C.A.

Reference H.Q.C.55-B-1944 (JAG/D-5) dated 25th September, 1945.

2. Herewith completed Appendix "C" to C.A.R.O. 5913.

3. Also enclosed herewith N.F.M. 288 with respect to the marginally-named, for disposal, please.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY C.M.

NDHQ File No. H.Q.C. 55-B-1944
District File No. T-20-B-13668

PART I

No. B-624660 Rank Private Name John BROZINA,
Unit (St. John Fusiliers) No. 2 District Depot, C.A.

PART II

Date of Trial 27th August, 1945.
Charge(s) DETENTION (Army Act, Section 12(1)(a)
Sentence Detention (7 months)
Date of Sentence 27th August, 1945.
Confirmation - (a) Authority N/A (S.C.M.)
(b) Date --

23 NOV 1945

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (superior military authority under Section 57A of the Army Act (xxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B.624660 - Fus. BROZINA, John.
(Number, Rank, Name in full)

(St.J.Fus.) No. 2 District Depot, C.A.
(Unit, Attachment (if any))

Sentenced to Seven months detention.

on 27th day of August 1945 at Stanley Bks., Toronto, Ontario

being served at No. 61 Detention Barracks, Brampton, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 years of age; Enlisted 8 Dec 42

Medical grade or category YOB P U L H E M S
22 1 1 1 1 1 2 1 - 28 Aug 45.

STATE OF TRAINING

The documents show that B.624660 - Fus. BROZINA.J. has completed both his Basic and Advanced training.

for reasons given in paragraph A.

Place .....

..... Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... Confirming Authority

Date .....

M.F.M. 288
(Army Form A-3104)
15M—6-45 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
22 Nov 45	Remit effective 11 Dec 45.	Arthur E Potts A. E. POTTS, Maj.-Gen. D.O.C. M.D. No. 2	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE Sec.12(1)(a) Army Act.	B.624660 - Fus. BROZINA,J.,an N.R.M.A. soldier of the C.A.,placed on Active Service is charged with:- WHEN ON ACTIVE SERVICE,DESERTING HIS MAJESTY'S SERVICE:- in that he:-absented himself from the St.John Fusiliers (M.G.) C.A. at 1800 hrs 26 Dec 44 until he voluntarily surrendered to the Military Authorities at No. 2 District Depot C.A. at 0900 hrs 13 Aug 45. dressed in military uniform.	26 Dec 44	27 Aug 45
	A W Hagyard Lt. Asst.Adj., (A.W. Hagyard) No. 2 District Depot, C.A. Signature of Officer making entry		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
17 Sept	Consideration for remission of sentence of sentence is not recommended in this case. On completion of sentence to be available for routine duties.	A H Hollinrake Col

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
3 Oct 45	Review 11 Dec 45.	A H Hollinrake (O.S.Hollinrake) Colonel T/D.O.C. M.D. 2.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: HQC 55-B-1944 Adm 3(a)

PLACE

DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 2
TORONTO ONT

OTTAWA ONTARIO 19 DEC 45

RANKS 1493 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REFERS B 624660 FUS BROZINA J (.) OMER

RECOMMENDS IMMEDIATE RELEASE (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: OMER

JAG

GDB/MA

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER

SIGNED: Major-General
Adjutant-General

IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.

DEGREE OF PRIORITY: IMMEDIATE

TIME OF ORIGIN: 8/20

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

PAGE 1

B-1944 (NDHQ-7) MGT
26 Nov 45 1475

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: B-624660 Fus BROZINA J.

2. Unit at date of offence: St. John Fusiliers (MG) CA

3. Charge: AA 12(1)(a) - DESERTION (When on active service deserting His Majesty's Service at Sussex, N.B., on 26 Dec 44. Absenting himself at 1800 hours 26 Dec 44 until he voluntarily surrendered to Military authorities at Toronto, Ont. at 0900 hours 13 Aug 45 dressed in Military uniform. (Absent 7 months 18 days).

Plea: Not guilty

4. Place and Date of Trial: Stanley Barracks, Toronto, Ont. 27 Aug 45
(XXXX) XXXXX (SCM)

5. Finding: Not guilty of desertion, but guilty of AWL.

6. (a) Sentence: 7 months detention

(B) Date of Sentence: 27 Aug 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 61 MDB Brampton

Encl. 2
1493

(N.B.- Discharged under RO 1029( ) for
wef)

22

PAGE 3

COMDUCT

11. (a) Prior to conviction

	Offence	Date	Sentence
1) Civil Convictions:	NIL		
2) Courts-Martial:	NIL		
3) Summary Convictions:	AWL	6 Sep 42	3 days CB

(b) After Conviction: good expected date release 13 Jan 46

(c) Date of enrolment xxxxxxxxxx 8 Sep 42 Age: 24

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show any mitigating circumstances)

(1) Item 10 omitted.

(2) Defending Officer in mitigation said that the accused had served from Sep 42 to Dec 44 in the artillery, and was then transferred to infantry. The accused felt that he had insufficient infantry training for combat service.

13. Recommendations: (State by whom made, e.g., CMAO, DOC, Reviewing Offr, etc.)

Reviewing Officer: Recommend immediate remission.

Reviewed by (A.D. CROWE) Capt

Immediate Release

Date DEC 1 5 1945

A. A. Stilwell. Maj
Secretary
Courts-Martial Board of Review

21

H.Q.C' 55-B-1944 (JAG/D-5)

25 Sep 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing
B-624660 Fus. John Mario MARCHINA,
(St. J. Fus.) No. 2 District Depot, CA.

T-20-B-13668 (AJAG)

Reference is acknowledged of your
dated 5 September 194 , under cover of which you
returned to this office Standing Court-Martial.
of the marginally noted

for (R.J. Orde) Brigadier,

Judge Advocate-General.

Capt. O'Neil

19

IN REPLY PLEASE QUOTE No. T-20-B-13668 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
21st September, 1945.

CONFIDENTIAL

343182

CENTRAL REGISTRY Army
CONF. SEC.
SEP 22 1945
File C55-B-1944
Chgd. to
Referred to Jay

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-624660, Fus. John BROZINA,
(St. J. Fus.) No. 2 District Depot, C.A.

Reference H.Q.C. 55-B-1944 (JAG/D-3) dated 7th September, 1945,

2. Herewith returned Proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. Pursuant to H.Q. 55-1-41 FD 74 (Admin) dated 16th January, 1945, it is advised that it is considered the Proceedings disclose no administrative matter requiring action.

(A.E. Potts)
Major-General

D.O.C. M.D. 2.

18

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 27th day of August, 1945 at 1410 hours,

for the trial of: B.624660, Fus. John BROZINA
Number Rank Full Name

(ST. J. FUS.) No. 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major R. D. Evans, H.Q., M.D.2.

PROSECUTOR: Major N. M. Menzies, E.D., H.Q., M.D.2.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ or DEFENDING OFFICER: Capt. K. G. Singleton (RRofC) No. 2 DD, CA.
Rank Full Name Unit Attachment, if any

FINDING:

Not guilty of desertion, but guilty of absence without leave.

SENTENCE:

To undergo detention for seven months.

Signed at Toronto, Ontario, this 27th day of August, 1945.

(Major)

President,
Standing Court-Martial.

Extracts entered as No. 39[illegible] in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 7 day of Sep 1945

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2290

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to M.36367, SM R. Gostick, No. 2 Det., CMSC CA HQ MD 2, acting as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

16

B2. [illegible] Engrs.
President, S.C.M.

B-2

5

CHARGE SHEET

The accused, No. B-624660, Fusilier John BROZIKA, (St.J.Fus) No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:-

CHARGE
Sec. 12 (1) (a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:

- in that he -

at Sussex, N.B. on the 26th day of December, 1944, absented himself from the Saint John Fuliliers (M.G.) C.A. at 1800 hours on said 26th day of December, 1944, until he voluntarily surrendered himself to the Military Authorities at No. 2 District Depot, C.A., Toronto, Ontario, at 0900 hours on the 13th day of August, 1945, dressed in military uniform.

[illegible] Colonel.
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
23rd August, 1945.

15

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No. B.58203, L/Cpl. R. N. HEWER, H.W.E., No. 2 DD, CA, being duly sworn, is examined by the Prosecutor.

Question

Q Cpl. Hewer, what is your position in No. 2 District Depot?

A Sir, I am an N.C.O. of the Home War Establishment.

Q Do you know the accused?

A I recognize Fus. Brozina, sir.

Q Have you any information to give the Court regarding the accused?

Yes, sir. I produce M.F.B. 375, being a certified true copy of the record of the declaration of a court of inquiry assembled at Fredericton, N.B., on the 30th day of January, 1945, signed by Capt. E. A. Skene, officer having custody of original record.

Q To whom does that document refer?

A To the accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection, Capt. Singleton?

THE DEFENDING OFFICER: No objection, sir.

(MFB 375 dated at Fredericton, N.B., 30 Jan 45, is marked Exhibit "F," sgnd by the Pres., pertinent portions read, and att'd to the proceedings.)

THE WITNESS: (cont'd) I further produce M.F.M. 216, being certificate of surrender, signed by Col. O. S. Hollinrake, Commanding Officer, No. 2 District Depot, C.A.

Q To whom does that document refer?

A To the accused, sir.

THE PRESIDENT: (To Def. Off.) Have you any objection, Capt. Singleton?

THE DEFENDING OFFICER: No objection, sir.

(MFM 216 dated at Toronto, Ont., 14 Aug 45, is marked Exhibit "G," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: (cont'd) I have no further evidence, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to say nothing at all.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Prosecutor makes a closing address which is recorded but not transcribed.

The Defending Officer declines to make a closing address.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer.

THE DEFENDING OFFICER: In plea of mitigation, sir, Brozina served from September, 1942, to December, 1944, in the Artillery; then was transferred into the Infantry. Brozina felt that he had insufficient infantry training for combat service. He has only one minor entry on his M.F.M. 6. He voluntarily surrendered in military uniform.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

F. W. Brown Capt
President SCM

Exhibit "A" 15

RECORD of the Declaration of a Court of Inquiry assembled at Fredericton, N.B.

on the 30th day of January 19 45, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 6²4660 Fus
BROZINA J No 7 District Depot, CA Fredericton, N.B.

DECLARATION

The Court declare that No. B 6²4660 (Regt'l No.) Fusilier (Rank)

BROZINA J (Full Name) No 7 District Depot, C.A., (Unit) Fredericton, N.B.

illegally absented himself without leave Saint John Fus (M.G.) CA

at Sussex, N.B. (Place) at 1800 hours on the 26th day of December 1944,

that he is still so absent, and that on the 30th January 1945 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
SEE ATTACHED LIST			

(SGD) H.F. Nickerson Capt., (Name) No 7 District Depot, (Unit) CA (Rank) President

Signed at Fredericton, N.B. (Name) (Rank) (Unit) Member

this 30th day of January 19 45 (Name) (Rank) (Unit) Member

Signature of Commanding Officer (SGD) W.A. McDougall Lt-Col., (Name) No 7 District Depot, (Unit) CA (Rank)

Certified true copy E. A. Skene Capt., (Name) (Rank) (Unit)
(E.A. Skene Capt.) (Signature of Officer having custody of original record)
Offr I/C M.B. 68
No 7 District Depot, CA

M.F.B. 375
A.F.B. 118
150M—10-43 (6530)
H.Q. 1773-39-257

10

KIT DEFICIENCIES FOR B 624660 BROZINA JOHN

Clo. Div. "A"

A 250	Anklets	1	$ .74	
A 4800	Caps	1	1.05	
A 9420	Dressing	1	.22	
A 13000	Gloves	1	.66	
A 13700	Greatcoats	1	15.54	
A 21450	Mitts	1	.93	
A 24000	Overalls	1	2.52	
A 27750	Rubbers	1	.62	
Total			$22.28	
75% of $22.28 acc. to C.A.R.O. #3464			$16.71	$16.71

Clo. Div "B"

B 450	Blouses	2	$13.00	
B 700	Boots	2	11.64	
B 1800	Caps	2	1.40	
B 3300	Drawers	2	.84	
B 3550	Drawers	2	2.80	
B 6400	Jerseys	1	1.65	
B 7800	Puttees	1	.97	
B 7950	Shirts	3	4.62	
B 8000	Shirts	2	3.26	
B 8350	Shirts	2	.86	
B 8600	Shirts	2	2.40	
B 8700	Shoes	1	2.29	
B 8750	Shoes	1	4.84	
B 8850	Socks	4	1.84	
B 10200	Trousers	2	13.10	
Total			$65.51	
75% of $65.19 acc. to C.A.R.O. #3464			$49.13	$49.13

Clo. Div. "C"

C 100	Bags	1	$ 1.27	
C 200	Belts	1	.35	
C 650	Braces	1	.28	
C 700	Brushes	1	.14	
C750	Brushes	1	.21	
C 800	Brushes	1	.11	
C 850	Brushes	1	.17	
C 900	Brushes	1	.39	
C 950	Brushes	1	.42	
C 1000	Brushes	1	.09	
C 1050	Cans	1	.41	
C 1100	Combs	1	.04	
C 1300	Forks	1	.08	
C 1350	Holdall	1	.22	
C 1400	Housewives	1	.35	
C 1450	Knives	1	.99	
C 1500	Knives	1	.18	
C 1650	Neckties	1	.19	
C 1850	Razors	1	.42	
C 2200	Spoons	1	.08	
C 2250	Sticks	1	.04	
C 2400	Towels	2	.62	
Total			$ 7.05	
75% of $7.05 acc. to C.A.R.O. #3464			$ 5.29	$ 5.29

9

Sect. "1A"

1A2500	Belts	1	$ .76	
1A3300	Bottles	1	.62	
1A3450	Braces	1	.35	
1A3500	Braces	1	.33	
1A6950	Carriers	1	.37	
1A15280	Frogs	1	.12	
1A15800	Haversacks	1	2.29	
1A17550	Helmets	1	2.39	
1A18000	Covers Camouf.	1	.26	
1A23600	Packs	1	2.26	
1A24800	Pouches Basic	2	2.06	
1A29300	Straps	1	.31	
1A29350	Straps	1	.31	
1A29500	Straps	2	.23	
1A30300	Tins	1	.57	
Total			$13.28	
75% of $13.28 acc. to C.A.R.O. #3464			$ 9.96	$9.96

Sect. "A-2"

Capes A. Gas	1	$ 4.43	
Eyeshields A. Gas	6	1.04	
Ointment A. Gas Mk VI	2	.52	
Outfits A. Dim	1	.03	
Resp. A. Gas:-Comp	1	5.97	
Total		$11.99	
75% of $11.99 acc.to C.A.R.O. #3464		$ 8.99	$8.99

Sect. "J"

1J18900 Sheets	1	$ 2.38	
Total		$2.38	
75% of $2.38 acct. to C.A.R.O. #3464		$1.79	$1.79

Sect "K"

Blankets ($4.07 each)	2	$ 8.14	
Total		$ 8.14	
75% of $8.14 acc. to C.A.R.O. #3464		$ 6.11	$6.11
Grand Total of Clo. Div. A, B,C, Sect 1A,A-2, J,K,... ..			$97.98

Dated 30 January 1945.

8

G. [illegible] Engineer
Provost S.C.M.

Exhibit "G" 21

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. O.S. Hollinrake, Commanding Officer, No. 2 District Depot CA(A
(Number) (Rank) (Name) (Unit)

hereby certify that B.624660 Pte. BROZINA J.
(Number) (Rank) (Name in full)

of the St. John Fus., Appraisal Wing, No. 2 D.D.
(Unit and attachment, if any)

Strike out words not applicable } ~~XXX APPREHENDED~~ (SURRENDERED) by (surrendered to) B.90824 Sgt. Rowell, R.E.
(Number) (Rank)

(Name) Duty N.C.O.
(Unit or appointment)

at No. 2 District Depot, Toronto at 0900 hrs
(Place) (Hour)

on the 13th day of August 1945

Strike out words not applicable } ~~XXXXXXX~~ (ABSENT) (or absentee without leave), and that at the time of his arrest he was wearing military ~~XXXXX~~ (CLOTHING) uniform ~~XXXXXXXXXXXXXXXX~~ (CLOTHS)

Dated at Toronto, Ont. this 14th day of August 1945

R.E. Rowell
B.90824 Sgt. Rowell, R.E.

O.S. Hollinrake
(Signature, Number, Rank, Unit or appointment) Col.
(O.S. Hollinrake) Col.,
Commanding Officer, No. 2 District Depot CA(A)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

1

Y- Letter Major
Crucified. S.C.M.

Y 23

M.F.B. 253
75M—5-43 (145)
H.Q. 1772-39-420
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B- 624660	Fusilier	John BROZINA (St. J. Fus.)	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and Casualty Regimental and Squadron Diary~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~or Forces Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	AWL 1	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct or~~ ~~There are no entries in the conduct sheets of the accused or~~ ~~Where the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted ~~or~~.

~~Previous convictions of the accused by a court-martial or a civil court, or summary awards under Section 47 of the Army Act or Air Force Act, and dispensations with trial under Section 76 of the Army Act or Air Force Act in the form annexed to this statement.~~

3. The accused is not under sentence at the present time ~~or~~.

~~The accused at the present time is under sentence for a term of years beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~Air Force~~ 14 days in military custody, making a total of 14 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 years, 2 months.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 8th September, 1942.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

~~9. The accused is in possession of or entitled to wear the military or air force decorations or medals, or military or air force decorations or medals, or military or air force distinction or rewards.~~

~~10. The accused has warrant officer or Air Force rank. The accused before dress was made a warrant officer held the rank of~~

6

~~11. (In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of .....dated ....., and in his regiment (or corps) the rank of .....dated .....

Permanent Force
unit

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused Number.....Rank.....

Air Force

Name.....of.....

Unit
Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~23rd~~ 27th. day of August, 1945. Moyles Capt. & Ad
No. 2 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

No. B-624660 Name BROZINA, John

Sqn., Battery, or Company: 33 AA Bty A/Tk

Corps R.C.A.

Date of enlistment: 8-9-42

Sheet No.

G.C. Badges:

Tradesmen's Rates of Pay: 1.50

Signature O.C. Company, etc.: J.C.R. Manning Major

Character: Good

M.F.M. 1 (A.F.R.127) 750M—12-42 (7527) 4H Q 1773-39-1542

Place	Date of offence	Rank	Cause of drunkenness	No. and date of last drunk	Period not reckoning towards freedom from extra fine	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
North Bay	6 Sep 43	Pte.				AWOL from 0800 hrs. 6 Sept. 43 until 08hrs. 7 Sept. 43 Absent 1 day 1 hrs. 15. A.A. Sec. 15(1)	Cpl. Hills Boo Svid.	3 days CB	7 Sept. 43	W.P.Davey Capt.	2 days Auto Forf of pay FR&I 149 (1)a
								"J.C.R. Manning Major			
								" Charles S. Ward		Capt."	
Petawawa Camp											

CERTIFIED TRUE COPY

No. 2 District Depot, C.A.

Capt. & Adj.

(P.T.O.)

No. B-624660 Name BROZINA, John | Sqn., Battery, or Company: 33 AA Bty | Corps: R.C.A. | A/Tk | Date of enlistment: 8-8-42 | G.C. Badges | Tradesmen's Rates of Pay: 1.60

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.: J.C.R. Manning Major | Character: good

(A.F.B.132) 250M—12-42 (7357) H.Q. 1773-29-1002

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
North Bay	6 Sep 43	Pte.		AWL from 0800 hrs. 6 Sept, 43 until 0915 hrs. 7 Sept, 43 Absent 1 day 1 hrs. 15 min A.A. Sec. 15(1)	Cpl. Hills Doc Evid.	3 days CB	7 Sept, 43	W.P. Davey Capt.	2 days Auto Forf of pay FR&I 149 (1)a
						"J.C.R. Manning	Major		
						" Charles S. Ward		Capt."	
Petawawa Camp									

Veteran Major
Pensioner C.M.

CERTIFIED TRUE COPY

McEwen
Capt. & Adj.
No. 2 District Depot, C.A.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No B.624660 Fus. John BROZINA

of No.2 D.D. is in a good state of health,

and is fit to undergo trial by Court martial.

R Stubbings Capt.
Medical Officer, RCAMC
Attached to No.2 District Depot, CA(A)
Toronto, Ontario.

Station Exhibition Barracks,
Toronto, Ontario.

Date 27 Aug 45

M. F. B. 246

15M—10-42 (5503)
H.Q. 1772-39-480

K S Evans Major
President, S.C.M.

4

H.Q.C. 55-B-1944 (JAG/D-3)
Your File T-20-B-13668

7 Sept 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

STANDING COURT-MARTIAL

B-624660, Fus. John BROZINA,
(St. J. Fus.) No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

M./MT

3

THIS COPY FO

H.Q. C. 55-B-1944
M.D. T-20-B-13568

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B-624660 Name John Brozina

Rank Fus. Unit (St. J. Fus.) No. 2 D.D. C.A.

Charge AA 12 (1) (a) WOAS DESERTION.....

Date of Crime 26-12-44

Date of Arrest 13-8-45 Charge Signed 23-8-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks, Toronto 27-8-45

Sentence Detention 7 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39515

Date 6-9-45

MEMO Guilty AWL

M.D. 2 (St.J.Fus.) No. 2 D.D. C.A.

ABSENT SENTENCE

7½ mos. Det. 7 mos.

for Judge Advocate-General

10M-3-45(M-189)

IN REPLY PLEASE QUOTE No. T-20-B-13668 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
3 Sep 45 1945

CONFIDENTIAL

C-S-S-B-1944

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL

B-624660, Fus. John BROZINA,
(St. J. Fus.) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

R.D. Evans Major

(R.D. Evans) Major
Permanent President
Standing Courts-Martial.

1

39-35

NAT. DEF. B. 442
3500M 4 44 (4329)
H.Q. 1172 39-767

H.Q.C. 55-B-1945 CONFIDENTIAL

M.F.R. 2078
35M—3-43 (8695)
H.Q. 561-1-57

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BANVILLE, EMILE E-626792 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1945

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 12 1945				JAG	NEW FILE	CR	10-9-45
		PA			Papers O.K. SEP 28 1945		
SEP 28 1945	28/9/45	PA			Admin	To note explanation	E.L.M. 27-9-45
SEP 29 1945							
NOV 1 - 1945	1/11/45	PA	AG	CMBR	Disposition C.R. NOV 1 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-1945 (JAG/D-5)

27 Sept 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

Standing
.....Court-Martial
E-626792 Pte. Emile Panville

M.1-B-17869 (J)

Receipt is acknowledged of your dated 14 September 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. The explanation or delay in this case has been noted.

E L M

LCC:jd

for (R.J. Orde), Brigadier,
Judge Advocate-General.

CANADA

IN REPLY PLEASE QUOTE
No. M.1-B-17869(J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

R 15

Montreal, Que., 24th September, 1945.

REGISTERED

343831

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY
SEP 26 1945
File C55-B-1945
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL
E-026732 Pte. Emile BANVILLE,
Le Regiment de Chat., C.A.,
attached to No. 4 D.D., C.A.

Reference your HQC.55-B-1945 (JAG/D-4) dated 12 Sep 45.

2. Hereunder, for your information, an explanation as to why the accused spent 49 days in custody awaiting trial:

26 Jun 45	Apprehension of the accused and wire sent for his documents.
29 Jun 45	Remanded for Standing Court-Martial.
5 Jul 45	Application for Standing Court-Martial received at this Headquarters but information given that MFB 355 and MFM 6 have been requested together with Part II Orders extracts.
20 Jul 45	Part II Orders extracts received but MFB 355 and MFM 6 still missing.
11 Aug 45	MFB 355 and MFM 6 received at this Headquarters.
14 Aug 45	Trial of the accused.

3. It will be noted that there has been a delay of approximately 45 days between the request for documents and receipt of same.

4. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

Enc.

(H.J.Renaud), Major-General,
for District Officer Commanding,
Military District No. 4.

M.F.B. 239
1000M—4-41 (125)
H.Q. 1772-39-194

MEDICAL OFFICER'S REPORT

I certify that No. E-526792 Pte. BANVILLE. E.
Regt. de Chateauguay, C.A.,
of att. No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

W.T. Fisher Lt.
W.T. Fisher Lt. Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 14th August 1945

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-39-460

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A., Montréal-sud, Que.

le 14ième jour de août 1945 à 1120 heures,

pour le procès de E-626792, Pte. Emile BANVILLE, Le Régiment de Chateauguay, C.A.,
Matricule Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. Belleau, Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux, District Militaire No. 4.
Grade Nom et prénoms

Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. L.R. Hamelin, C.I.C., C.A.,
Grade Nom et prénoms

XXXXXXXXX

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, E-626792, Pte. Emile BANVILLE, Le Régiment de Chateauguay, C.A., attached to No. 4 District Depot, C.A. coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La cour condamne l'accusé, E-626792, Pte. Emile BANVILLE, Le Régiment de Chateauguay, C.A., attached to No. 4 District Depot, C.A. à la détention pendant quatre-vingt-dix (90) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $3.25, coût des articles perdus.

Signé à Montréal-sud, Que. ce 14ième jour de août 1945

(L.J.E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 3958 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 10 day of Sep 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det.,CMSC, C.A., Quartiers-généraux, District Militaire No. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du premier chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur les deux chefs d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J.E. Bellemare Major, Pris. CM. "B2"

5

CHARGE SHEET

The Accused, E-626792, Private Emile BANVILLE, Le Regiment de Chateauguay, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE ABSENTING HIMSELF WITHOUT LEAVE,
Sec. 15 (1),
Army Act.

in that he,

at Sorel, Quebec, at 2359 hours on 26 December, 1944, absented himself without leave from his Unit, Le Regiment de Chateauguay, C.A., until he was apprehended by the Military Police at Montreal, Quebec, at 0240 hours on 26th June, 1945, dressed in civilian clothes.

SECOND CHARGE LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NE-
Sec. 24 (2), CESSARIES,
Army Act.

in that he,

at No. 4 District Depot, C.A., Montreal South, Quebec, on 26th June, 1945, was deficient of the following articles, viz:-

		100%	75%
SECTION "C"			
Brass Cleaning	1	.04	.03
Brush Button	1	.11	.08
Brush Cloth	1	.17	.13
Brush Hair	1	.39	.29
Brush Shoe Polishing	1	.21	.16
Towels Hands	2	.62	.46
Blacking Tin	1	.04	.03
SECTION "A-1"			
Braces Right	1	.35	.26
Frog Web Bayonat	1	.12	.09
Haversack	1	2.29	1.72
		$4.37	$3.25

Representing 100% Voc. Rate $4.37

TOTAL representing 75% Voc. Rate $3.25

Signed at
Montreal South, Quebec,
30th June, 1945.

(S.Echenberg) Colonel,
Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au premier et au deuxième chefs d'accusation, il est déclaré coupable ~~des deux accusations~~ desdites accusations.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement ~~à l'accusation~~ aux accusations dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~XXXX

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Ma mère est veuve et elle a de la misère; c'est moi qui est soutien de famille...qui lui aide, c'est alors pour ça que j'ai resté chez nous pour lui aider.

J'ai essayé d'avoir une pension additionnelle de l'armée, mais je n'ai pas réussi. Elle en avait déjà une, mais elle n'arrive pas. Il y a des comptes à payer. J'ai deux petits frères qui vont au collège et elle ne peut pas arriver à tout payer les comptes.

J'ai assigné $20.00 par mois de ma paie depuis que je suis entré dans l'armée et ma mère retire $60.00 par mois ce qui lui fait $80.00. Elle doit payer $15.00 par mois pour chaque petit frère à part de les habiller. Le loyer est de $18.00 par mois. J'ai aussi une soeur à la maison, mais quoiqu'elle travaille elle ne paie pas de pension.

Quand j'étais là, j'ai travaillé et je gagnais $20.00 à $25.00 par semaine, je faisais différents travaux.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur (Par l'entremise de mon officier défenseur).

PAR L'OFFICIER DEFENSEUR:

"Monsieur le président -

"Je soumets à la cour le cas tel que le soldat BANVILLE "l'a présenté et je demanderais aussi la clémence de la "cour considérant la bonne conduite de l'accusé."

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

'F' 13

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT LE REGIMENT DE CHATEAUGUAY, C.I.C.

PART II ORDERS

By

Lt.-Col. R. Ste. Marie

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 83

STATION Sorel, Que.

DATE 28 Dec 44

"Last Order Issued No. 82 dated 26 Dec 44

SUB No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
			SECTION "B" OTHER RANKS			
7(h)	ABSENT WITHOUT LEAVE					
			Absent without leave from 2359 hrs		26 Dec 44	
			E-626792 Pte. SANVILLE, E.			

CERTIFIED TRUE COPY

(C.A. Brosseau) Lt.-Col.,
District Records Officer,
Military District No. 4.

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

(R.Ste. Marie) Lt.-Col.

LE REGIMENT DE CHATEAUGUAY, C.I.C.
Officer Commanding or Adjutant

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-39-254

"G"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. POULIOTTE, O.C. Composite Provost Companies M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that E-626792 Private BANVILLE, Emile
(Number) (Rank) (Name in full)

of the Le Regt. de Chateauguay Sorel, Que.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by [redacted] D-137084 Corporal
(Number) (Rank)

ROCHON, R. Composite Provost Companies M.D. 4
(Name) (Unit or appointment)

at Montreal, Que. at 0240
(Place) (Hour)

on the 26th day of June 19 45

Strike out words not applicable } as a [redacted] absentee without leave), and that at the time of his arrest he was [redacted] (dressed in civilian clothes).

Dated at Montreal, Que. this 26th day of June 19 45

JPG...

(R.W. POULIOTTE) Major
(Signature, Number, Rank, Unit or appointment)
O.C. Composite Provost Companies M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6900)
H.Q. 1772-39-1936

An "R" Recruit called under N.R.M.A.

24 6

ARTICLE	QUANTITY					
Towels, hand	2	2				
Unit or Corps titles, prs.						
Attachments, brace						
Bag, ration						
Belts, waist						
Bottles, water						
Braces, WE (Right)						
(Left)						
Carriers, cartridge						
Carriers, waterbottle						
Cases, binoculars						
Cases, pistol						
Covers, breech, rifle						
Initials of Soldier	EB	EB				
Initials of QM or Rep.	CG					

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ARTICLE	QUANTITY					
Cover, mess tin						
Frogs, web, bayonet	1	1				
Haversack	1	1				
Helmet, steel	1	1				
Net camouflage helmet	1	1				
Packs	1	1				
Pockets Compass						
Pouches, amm, pistol						
Pouches, basic	2	2				
Pouches, utility { Front / Rear						
Slings, rifle, web	1	1				
Straps, shoulder, haversack { left / right	2	2				
Straps, web, supporting	3	3				
Tins, mess, TP	1	1				
Initials of Soldier	EB	EB				
Initials of QM or Rep.	CG					

22 4

ARTICLE	QUANTITY					
Badges, arm, drab, Royal Arms						
Badges, arm, drab, Royal Arms in Wreath						
Bags, kit, universal	1					
Braces	1					
Brass, cleaning	1					
Brush, button, brass	1					
Brush, clothes	1					
Brush, hair	1					
Brush, shaving	1					
Brush, shoe, blacking						
Brush, shoe, polishing	1					
Brush, tooth	1					
Cap, comforter	1					
Chevrons						
Initials of Soldier	EB					
Initials of QM or Rep.	CG					

9 21

ARTICLE	QUANTITY					
Rifle No. [illegible] (Regt'd No.)	1	1	1			
Bayonet No. ..... w/scabbard	1	1	1			
Bottles, oil	1	1	1			
Pullthroughs, single	1	1	1			
Rods, cleaning, pistol (Regt'd No.)						
Carbine, Mach. (.....)						
Magazines, Carbine						
Pistol Revolver (Regt'd No.) No. (.....)						
Ctges, SA, revolver .380 in.	40	40				
Ctges, SA, .303 in Mk VII						
Hats, Sun Wester	1					
Jacket, Poloka	1					
Trousers "	1					
Puttees, Pr. Cuff	1					
Initials of Soldier	EB	EB	EB			
Initials of QM or Rep.	CG	CG				

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ARTICLE	QUANTITY					
Veil, face, camouflage						
Yoke						
Cloth Identity Tags	2					
Glove Lan. Clan Pale	4					
Capes, A/G	4					
Respirators, A/G, complete with haversack	4					
Outfits, A/D	4					
Ointment, A/G						
Eyeshields, A/G, pk of 6	4					
Detectors, Individual prs						
Wallet, A/G						
Blanket						
Mug, drinking	1	1	1			
Sheet, ground	2					
Initials of Soldier	EB		EB			
Initials of QM or Rep	CG					

ARTICLE	QUANTITY					
Combs, hair	1	1				
Discs, identity, sets, with cord	1	1				
Dressing, field	1	1				
Fork, NS Table	1	1				
Holdall	1	1				
Housewife, complete		1				
Knife, clasp	1	1				
Knife, table		1				
Lanyard, knife	1					
Razor, safety, with blade		1				
Patches, distinguishing, prs	2	2				
Shorts, gymnasium						
Spoons, NS dessert	1	1				
Vest, cotton, gym						
Initials of Soldier	EB					
Initials of QM or Rep	CG					

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ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY					
Belts, waist, leather, brown or web 1½"	1	1				
Boots ankle, felt, prs						
Boots, insoles, prs	4					
Boots, lumberman's rubber prs	4					
Buttons, G.S., large	4	4				
Buttons, G.S., small	4	4				
Brushes Bean						
Cap, winter, melton cloth	4					
Coat waterproof		1				
Rung Steel Spot	1	1				
Helmet, sun						
Jackets, Khaki drill	1	1				
Jackets, serge, drab, O.C.			1			
Initials of Soldier	EB	EB	EB			
Initials of QM or Rep	CG	CG	CG			

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ARTICLE	QUANTITY					
Jacket sweater, or jersey pullover	1	1	1			
Overalls, combination	4	1	4			
Overalls, blouses, denim						
Overalls, trousers, denim						
Shirts, Angola, drab or flannel khaki	4	2	2			
Shoes, canvas, prs	1	1	1			
Socks, prs	4	4	4			
Trousers, battle-dress, prs	2	2	2			
Vests, woollen Shirts	4	2	2			
Badges, cap	1	1	1			
Badges, arm, drab, crowns						
Badges, arm, drab, crown in wreath						
Badges, arm, Tank Bn						
Badges, shoulder, "CANADA", prs	4	4	4			
Initials of Soldier	EB	EB				
Initials of QM or Rep	CG	CG				

30 12

ARTICLE	QUANTITY				
Cadets Jaylin Shoulder					
" Armbanner					
Badges, shoulder, Canada, drill, prs.					
Blacking, tins					
Boot dressing, tins					
Bootlaces, prs.					
Badge Maus					
Protectors, ear					
Sponge, pipeclay					
Lanyard, pistol					
Silver cat					
Buttons Shot					
Gun metal Mbs					
Goggle Air Student					
Initials of Soldier					
Initials of QM or Rep.	CG				

1

3. Items withdrawn from soldier will be marked off by an "X" in ink, over the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner

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CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	
Battle Dress, trousers	
Cap or bonnet	
Boots, ankle	
Gloves	
Facepiece, respirator	
Greatcoat	
Helmet steel, lining	
Overalls, combination	
Jersey, pullover	
Shirts, Angola, drab	
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

OVERSEAS—Militia Book M. 1 Part III
40/P & S/1894 (2570)
CANADA —M.F.C. 300
750M 11-43 (2570)
Form 1772-39-1043
E.P. 95282

7

CERTIFIED TRUE COPY

CANADIAN ARMY CLOTHING AND EQUIPMENT STATEMENT

Regt'l. No. E-626792

Rank PTE

Name BANVILLE E.

Date of Attestation

Original Unit Station

(Illegible) Major
Quartermaster #4 DD, CA

Home Address (Reserve Unit)

Personnel only CA att'd #4 DD, CA

ARTICLE	QUANTITY					
Anklets, web, prs.	1	1				
Blouses, Battle-dress	2	2	2 1			
Bonnet, tam-o'shanter	2	2	2			
Boots, ankle, prs.						
Boots, rubber, high, prs.						
Boots, leather, high, prs.						
Bonnet, drab, Irish	2	2	1			
Cap, field service		1				
Cap, mechanic						
Cap, tank battalion						
Drawers, Cellular (cotton) short, prs.	2	2	2			
Drawers, Woollen, prs.	2	2	2			
Gloves, knitted, drab, prs.	1	1	1			
Greatcoat, drab	1	1				
Initials of Soldier	EB	EB				
Initials of QM or Rep.	CG	CG				

ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.	1	1				
Muffler, khaki	1	1				
Necktie, black	2	1				
Pin, collar, safety	1	1				
Puttees, prs.	1	1				
Rubbers, prs.	2					
Overshoes	1					
Shirts, khaki, cotton	3	3				
Shirts, undercotton	2	2				
Shoes, leather, black, prs.	1					
Socks, black, prs.	2	1				
Trousers, khaki drill, prs.	1	1				
Trousers, khaki drill, short, prs.						
Trousers, serge, drab, N.P. prs.			1			
Initials of Soldier	EB	EB	EB			
Initials of QM or Rep.	CG	CG	CG			

H.R. Bellman Major.
Pers. Cdt

M.F.B. 355
50M—9-43 (3992)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-626792	Pte.	Emile BANVILLE	Regt. de Chat., C.A., att'd to No. 4 D.D. C.A.

1. The following is a fair and true summary of the entries in the Field ~~Regimental and General Conduct sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	~~times~~
For	~~times~~	times
For	times	times
~~Number of instances of gallantry or distinguished conduct~~		times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 49 days in military custody, making a total of 49 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his enrolment ~~record of service~~ is 23 years, 7 months.

6. The date of his enrolment specified in his enrolment is 25th August, 1942.

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no military decoration, ~~or air force reward (or is in possession of or entitled to). State if air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

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~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....

Permanent Force unit .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army / Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit / Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th AUGUST 1945. P. Paradis, Lieutenant, R. de Mais., C.A. , att'd to No. 4 District Depot, C.A , Ass't Officer i/c Records, No. 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

M.F.M. 6

ORIGINAL DESTROYED BY FIRE

Date of Birth 8 Jan 22

Date of enlistment or enrolment 25 Aug 42

Sheet No. ..... of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Reg. No. D-626792 Name BANVILLE Emile

Corps .....

Signature O.C. Company, etc. .....

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY P. Paradis, Lieutenant, R. de Mais., C.A., att'd to No. 4 District Depot, C.A.? Ass't Officer 1/c Records, No. 4 District Depot, C.A.					

(P.T.O.)

M.F.M. 6—500M—8-44 (5386)
H.Q. 1772-39-1659

5

7

Pte. CMP

H.Q.C.55-B-1945 (JAG/D-4)
Your M.1-B-17869

12 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL
E. 626792 Pte. Emile Banville,
Le Regt. de Chat., C.A.,att.No. 4
District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 49 days in custody awaiting trial. May an explanation of this delay be furnished,please.

(R.J.Orde) Brigadier
Judge Advocate-General.

JOGR/MM

THIS COPY FOR: H.Q. 55-B-1945
M.D. M.1-R-17869

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E-~~3~~26792 Name RANVILLE, Emile

Rank Pte Unit Le Regt de Chat, CA, att No 4 DD CA

Charge (1) AA 15(1) AWL

(2) AA 24(2) Losing by neglect

Date of Crime (1) 26-12-44; (2) 26-6-45.

Date of Arrest (1) 26-6-45. Charge Signed 30-6-45.

Orders for D.C.M.

Place and Date of Trial No 4 DD CA; 14-8-45.

Sentence Det 90 days; stoppages $3.25

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39584

Date 10-9-45

MEMO

MD 4 - att No 4 DD CA

Absent	Sentence
6 mos;	det 90 days.

W. Kolesar, Capt
for Judge Advocate-General

10M-8-45(M-189)

B/S

CANADA

In reply quote No. M. 1-B-17869 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
1st September, 1945

C.55-B-1945

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT-MARTIAL
E-626792, Pte. Emile BANVILLE,
Le Régiment de Chateauguay, C.A.,
attached to No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 14th August, 1945

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. BELLEAU) Major,
Headquarters, Military District No. 4,
President - S.C.M.

ENC.

57584

M.F.A. 1326
1,000M—5-42 (9995)
H.Q. 1772-39-2009

H.Q.C. 55-B-1946

CONFIDENTIAL

M.F.R. 3019
25M—2-45 (6695)
H.Q. 301-1-50

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BOWEN, W.A. M-1881 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1946

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes")		
SEP 1 4 1945	14 9 45	P.A.		JAG	NEW FILE	CR	10-9-45
				Admin	1 [illegible]		12-9-45
				JAG	[illegible]		
SEP 2 2 1945	24.9.45	PA		Admin			22.9.45
SEP 2 4 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

465-B-35, 832

IN REPLY PLEASE QUOTE

No. W. 15-26-8(DAPM)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

District Headquarters, M.D. 10
Winnipeg, Manitoba 17 SEP 45.

C1 Cor

343038

65-B-1946

The Secretary
Department of National Defence
OTTAWA, Ont.

M-1881 Pte. BOWEN, W. A.
Intern. Camp 100, Neys Ont.

1. Reference CARO 4567 para 16 and further to this HQ letter numbered as above dated 4 Sep 45.

2. It is advised the m/named soldier undergoing detention at No. 73 MDB WPG was discharged from Fort Osborne Military Hospital M.D.10 effective 16 Sep 45.

(R. O. G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

Dominion Archives
A. G. Branch
SEP 1945
Nat. Defence Headquarters
Ottawa, Canada

CENTRAL REGISTRY
PERS. SEC.
SEP 21 1945
File
Chgd. to
Returned to

SEP 21 1945
File
Chgd. to
Returned to

C5-5-B-14

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

IN REPLY PLEASE QUOTE

N.W. 15-26-8 (DAPM)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

District Headquarters, M.D.10
Winnipeg, Manitoba 4 Sep 45 194

Directorate of Records
A.G. Branch
SEP 6 1946
Nat. Defence - Canada
Ottawa

C.R.
C-55-B-1946

The Secretary,
Department of National Defence,
OTTAWA

M-1881 Pte. BOWEN, W.A.
V G of C

1. In accordance with CARO 4567 para 16 it is advised that the m/named soldier undergoing sentence at No. 73 MDB WPG was admitted to Fort Osborne Military Hospital effective 31 Aug 45.

(R. O. G. Morton) Brigadier,
District Officer Commanding,
Military District No 10..

N.D. 23
1500M-2-42 (3466)
H.Q. 1772-101-23

H.Q.C. 55-B-1947

CONFIDENTIAL

M.F.B. 3078
3151—2-45 (6000)
H.Q. 301-1-40

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BEDARD, MARCEL D-649467 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1947

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and write here "With Minute")		
SEP 12 1945	Cancelled			JAG	NEW FILE	CR	10-9-45
				JAG			
OCT 4 - 1945				CMBR	Simple & pass to [illegible]	[illegible]	4-10-45
OCT 5 - 1945	6/10/45	OA	DZ	ICM	Route	[illegible]	5 Oct 45
OCT 6 - 1945				JAG			
OCT 15 1945	16/10/45	RA	[illegible]	Edmon	To note & pln, pb & PA	[illegible]	15-10-45
OCT 16 1945							

NOTICE

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2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1947 (JAG/D-4)

15 Oct 45

District Officer Commanding,
Military District No. 4,
Montreal, Que.

~~Standing~~ Court-Martial
D-649467 Pte. Marcel BEDARD
St. John Fusiliers, C.A., attached to
No. 4 District Depot, C.A.

Receipt is acknowledged of your M. ~~1-B-15424~~ (J) dated 1st October, 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

Your explanation of the delay in this case has been noted.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

/MT

IN REPLY PLEASE QUOTE No. M. 1-B-15424 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
October 1st, 1945.

REGISTERED

CENTRAL REGISTRY Army
CONF. SEC.
649
OCT 3 1945
File 655-B-1947
Chgd. to
Referred to JAG

The Secretary
Department of National Defence
O T T A W A, Ontario.

STANDING COURT MARTIAL
D-649467, Private Marcel BEDARD,
St. John Fusiliers, C.A., attached to
No. 4 District Depot, C.A.

Reference your H.Q.C. 55-B-1947 (JAG/D-4), dated 12th September, 1945.

2. Hereunder, for your information, an explanation as to why the accused spent 47 days in custody awaiting trial:

28-6-45	Apprehended by Military Police at Vaudreuil. Received at DD 4. Wire for Status. Wire to Fredericton, N.B. for escort.
3-7-45	Authority received from NDHQ to TOS m/n for disciplinary action and disposal.
4-7-45	Documents and Part II Orders requested.
5-7-45	Status received.
6-7-45	Documents received.
9-7-45	Remanded to Commanding Officer. Proceedings forwarded to this Headquarters with note stating that Part II Orders would be forwarded upon receipt.
10-7-45	Part II Orders received and forwarded but incorrect.
12-7-45	Request for corrected Part II Orders.
30-7-45	Tracer for request of Part II Orders.
6-8-45	Corrected Part II Orders received and forwarded.
9-8-45	Trial of the accused scheduled to take place after various postponements requested by the Prosecutor as to Part II Orders. However, request was made by the accused to postpone his trial until the 13th August, 1945, which request was granted.
13-8-45	Trial of the accused.

Over please.

NAT. DEF. B. 440
2500M-4-44 (43211)
H.Q. 1771-19-767

3. Returned, herewith, for custody, proceedingsof the marginally-noted Standing Court-Martial, together with Form of Remission duly completed.

J.A. Simonsen Capt

(E.J. Renaud), Major-General,
District Officer Commanding,
for Military District No. 4.

enc.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE
BY COURT-MARTIAL

N.D.H.Q. File No HQC.55-B-1947 (JAG/D-4)

District File No M.1-B-15424

PART I

No D-649467 Rank Private Name Marcel BEDARD
Unit St. John Fusiliers, C.A., attached to No. 4 District Depot, C.A.

PART II

Date of Trial 13th August, 1945
Charge(s) Absence without leave and losing by neglect
Sentence Det. 60 days. Stop. of pay: $84.12
Date of Sentence 13th August, 1945
Confirmation - (a) Authority: Major-Gen. E.J. Renaud, D.D.O., M.D. No. 4
(b) Date : 13th August, 1945

PART III

REMISSION

I, the undersigned, being the competent military authority under Sec. 57 (2) of the Army Act, do hereby remit (commute) (mitigate)x the sum of $59.12.

Signed at Montreal, this 18th day of Sep. 1945
(Appointment) E.J. Renaud, Major-Gen. DOC, MD 4
to be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission(commutation) (mitigation)x promulgated and extracts taken at Montreal, South, Que. this 27th day of September 1945
(1)

Ass- Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., attached to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D-649467 Rank Private Name BEDARD, Marcel
The sentence of ~~Confin.~~ Stoppages per in the amt. $84.12 awarded by District Court-Martial on the 13th August, 1945 has been Remitted the sum of $59.12 on the 18 September 1945 by D.O.C. UNIT Military District No.4, Montreal, Que.

Certified true Extract of Daily Orders Part II of No. 233 Place Jacques Cartier Barracks, Montreal, South, Que. Date 27 September 1945.
Adjutant

x Strike out and initial words not applicable.

(J.M. CHARLEBOIS) Capt.-Adjt. General List, C.A., attached to No.4 District Depot, C.A.

MEDICAL OFFICER'S REPORT

I certify that No. D-649467. Pte. BEDARD, M.
1st Bn., St. John Fus., C.A.,
of Att'd. No. 4. DD. is in a good state of health,
and fit to undergo Trial by Court martial.

J Bernier Capt RCAMC.
(J.Bernier) Capt. Medical Officer

Jacques Cartier Barracks, No. 4.Dist. Coy. RCAMC.
Station MONTREAL SCUT QUE. Att'd. No. 4.Dist. Depot, C.A.

Date 19 JUL 45.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-39-480

MEDICAL OFFICER'S REPORT

I certify that No. Pte D-649467 BEDARD.M.
of St. John Fusiliers, C.A. Att'd No. 4 D.D. is in a good state of health,
and fit to undergo Trial by Court martial.

H. Hazell

H. HAZELL, Lt. Medical Officer
No. 4 District Coy RCAMC
Att'd No. 4 District Depot C.A.

Station Montreal South, Que. J.C. Barracks,

Date 13 Aug.45.

M. F. B. 246
50M—12-42 (3222)
H.Q. 1773-39-460

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot,C.A.,Montréal-Sud, P.Q.

le 19ième jour de juillet 19 45 à 16.00 heures,

pour le procès de D-649467 (Matricule) Private (Grade) Marcel BEDARD (Nom et prénoms)

St.John Fusiliers, C.A., attached to No.4 District Depot,C.A. (Unité) (Détachement, le cas échéant)

PRÉSIDENT: Major P.E. Gelly, Quartiers Généraux, District Militaire No. 4.

PROCUREUR: Capitaine (Grade) H. Primeau (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité) (Détachement, le cas échéant)

~~OFFICIER DÉFENDEUR~~ AVOCAT Mtre (Grade) Louis René Beaudoin (Nom et prénoms)

Membre du Barreau de la Province de Québec. (Unité) (Détachement, le cas échéant)

SENTENCE:

Signé à ..... ce ..... jour de ..... 194....

.....
Président de la cour martiale permanente.

M.F.B. 1486A
20M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Question à l'accusé — Vous opposez-vous à être jugé par moi, en qualité de président de la cour?

Réponse — Non, monsieur.

Question à l'accusé — Vous opposez-vous à D-625377, Cpl. H. Turcot, No. 4 District Depot, C.A., attached to Headquarters, Military District No. 4 comme sténographe?

Réponse — Non, monsieur.

LE STENOGRAPHE EST DUMENT ASSERMENTE.

o-o-o-o-o

LE PROCUREUR S'ADRESSE A LA COUR:

"Dans cette cause, je demande un ajournement parce que les documents qu'on m'a fournis cet après-midi ne sont pas en ordre.

L'AVOCAT DE L'ACCUSE déclare n'avoir pas d'objection à ce que cet ajournement soit accordé.

Sur l'application soumise par le Procureur, à 1605 heures, le 191ième jour de juillet 1945, la COUR ajourne le procès de l'accusé à 1030 heures, le 301ème jour de juillet 1945.

o-o-o-o-o

Le 301ème jour de juillet 1945, à 1030 heures, la cour se rassemble conformément à l'avis d'ajournement; est présent le même président que lors de l'ajournement.

A la demande de l'accusé, vu que son avocat n'est pas présent, à 1030 heures, le 301ème jour de juillet 1945, la cour ajourne à 1000 heures, le 91ème jour d'août 1945.

o-o-o-o-o

Le 91ème jour d'août 1945, à 1000 heures, la cour se rassemble conformément à l'avis d'ajournement; est présent le même président que lors de l'ajournement.

A la demande de l'accusé, vu que son avocat n'est pas présent, à 1000 heures, le 91ème jour d'août 1945, la cour ajourne à 1500 heures, le 131ème jour d'août 1945.

A
(page 2)

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A., Montréal-sud, Que.

le 13ième jour de août 1945 à 1500 heures,

pour le procès de D-649467, Pte. Marcel BEDARD, St.John Fusiliers, C.A.,
Matricule Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. Belleau, Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4.
Unité Détachement, le cas échéant

~~OFFICIER DEFENSEUR~~ Mtre. Louis René Beaudoin,
~~XXX~~ AVOCAT
Grade Nom et prénoms

Membre du Barreau de la Province de Québec.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-649467, Pte. Marcel BEDARD, St.John Fusiliers, C.A., attached to No. 4 District Depot, C.A. coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La cour condamne l'accusé, D-649467, Pte. Marcel BEDARD, St.John Fusiliers, C.A., attached to No. 4 District Depot, C.A., à la détention pendant soixante (60) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $3.60, coût de transport et de retour à son unité -- et $80.52, coût des articles perdus.

Signé à Montréal-sud, Que. ce 13ième jour de août 1945

(L.J.E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39590 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 10 day of Sep 1945

B

(page 2)

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.* Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det. CMSC, C.A., Quartiers-généraux, District Militaire No. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est ~~sont~~ dûment assermenté~~s~~.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

~~*Question à l'accusé.* Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

(L'accusé s'étant avoué coupable sur les deux chefs d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

H.C. Belleau Major
Pres. C.M.

'B2'

CHARGE SHEET

The Accused, D-649467, Private Marcel BEDARD, St. John Fusiliers, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE Sec. 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Sussex, New-Brunswick, at 1000 hours 27th December, 1944, absented himself without leave from his Unit 1st Battalion St. John Fusiliers (MG), C.A., until he was apprehended by the Military Police at Vaudreuil, Quebec, at 0020hours on 28th June, 1945, dressed in civilian clothes, the cost of transportation in returning him to this Unit being in the amount of $3.60

SECOND CHARGE Sec. 24 (2), Army Act.

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAl NECESSARIES,

in that he,

at No. 4 District Depot, C.A., Montreal South, Quebec, on 7th July, 1945, was deficient of the following articles, viz:-

		100%	75%
SECTION "A"			
Anklets Web pr	1	.74	.56
Gloves Woollen pr	1	.66	.50
Greatcoat drab	1	15.54	11.66
Overall Combination	1	2.52	1.89
Dressing First Field	1	.13	.10
Cap Winter Melton	1	1.05	.79
Overshoes pr	1	2.04	1.53
Mitts Pullover	1	.93	.70
SECTION "B"			
Blouses Battle Dress	2	13.00	9.76
Boots Ankle pr	2	11.64	8.74
Cap Field Service	2	1.70	1.06
Drawers Cotton Short	2	.84	.64
Drawers Woollen pr	2	2.80	2.10
Jersey Pullover	1	1.65	1.24
Shoes Canvas pr	1	2.29	1.72
Socks Woollen pr	4	1.84	1.40
Trousers Battle Dress pr	2	13.10	9.84
Muffler Khaki	1	.93	.70
Puttees drab pr	1	.97	.73
~~Shirts Woollen~~	~~2~~	~~2.40~~	~~1.80~~
Shirts Undercotton	2	.86	.64
Shoes Leather Black pr	1	4.84	3.63
SECTION "C"			
Bag Kit	1	1.68	1.26
Brace pr	1	.28	.21
Brass Cleaning	1	.04	.03
Brush Button	1	.11	.08
Brush Cloth	1	.17	.13
Brush Hair	1	.39	.29
Brush Shaving	1	.42	.32
Brush Polishing	1	.21	.16
Brush Tooth	1	.09	.07
Cap Comforter	1	.41	.31
Comb Hair	1	.04	.03
Fork Table	1	.08	.06
Holdall	1	.22	.17
Housewife	1	.35	.26
Knife Table	1	.18	.14
Razor Safety	1	.42	.32
Spoon Table	1	.08	.06
Towels Hands	2	.62	.46
Belt Waist	1	.25	.29

CHARGE SHEET (CONTINUED)		100%	75%
Necktie Black	1	.19	.14
Pin Collar Safety	1	.06	.05
Socks Black pr	2	.56	.42
Blacking Tin	1	.05	.04
Boot Dressing Tin	1	.05	.04
Boot Laces pr	2	.06	.05
SECTION "D"			
Badge Cap	1	.09	.07
Badges CANADA	4	.20	.16
SECTION "A-1"			
Bag Ration	1	.04	.03
Belt Waist	1	.76	.57
Bottle Water	1	.62	.47
Braces WE Right	1	.33	.25
Braces WE Left	1	.35	.26
Carrier Cartridge	2	1.22	.92
Carrier Waterbottle	1	.37	.28
Cover Breech	1	.36	.27
Frog Web	1	.12	.09
Haversack	1	2.29	1.72
Helmet Steel	1	2.39	1.79
Pack	1	2.26	1.69
Sling Rifle	1	.24	.18
Straps Sh. Hav.	2	.62	.46
Straps Supporting	2	.28	.22
Tin Mess Rect.	1	.57	.43
SECTION "A-2"			
Respirator A.G.	1	3.96	2.97
Eyeshields A.G.	1	.90	.68
SECTION "J-1"			
Sheet Ground	1	2.38	1.79
		~~$109.21~~ 106.81	~~$82.32~~ 80.52

Representing 100% Voc. Rate ~~$109.21~~ 106.81

TOTAL representing 75% Voc. Rate ~~$82.32~~ 80.52

Signed at
Montreal South, Quebec,
9th July, 1945.

(S. Schenberg) Colonel,
Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au premier et au deuxième chef~~s~~ d'accusation, il est déclaré coupable ~~de ladite accusation~~ desdites accusations.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement ~~à l'accusation~~ aux accusations dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (Voir CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d). Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Je me suis absenté du camp parce que mon père était malade. Il n'était pas capable de marcher. J'ai été travailler chez monsieur Jean-Paul Dunberry, boucher de Vaudreuil Village, Que. pour aider à mon père. Le même boucher est encore disposé à m'employer.

A l'appui de mes affirmations, je soumets un certificat du docteur D. Bellemare de Dorion, Que. en date du 26 juillet 1945 (Voir CC-5).

Je désire aussi soumettre une copie de demande de libération de l'armée en date du 26 juillet 1945; cette demande est faite à "Industrial Selection and Release Board" par monsieur Dunberry (Voir CC-7).

Monsieur Dunberry est prêt à m'employer immédiatement à $25.00 par semaine. C'est le salaire que je gagnais durant mon absence et que je donnais à mon père qui était dans le besoin.

Je suis le seul qui puisse aider à mon père et si ce n'eut été de sa maladie je n'aurais pas quitté l'armée. Ma présence est présentement requise à la maison. Mon père a 45 ans. Chez nous, il y a une famille de six enfants, dont trois garçons et une fille est mariée; mes deux petits frères ont 12 ans et 7 ans et vont encore à l'école.

Avant d'entrer dans l'armée, je travaillais sur un transport à Ville St-Pierre, je conduisais un camion.

Dorion, le 26 juillet, 1945

Monsieur le Commandant,

Cher Monsieur,

Monsieur Alphonse Bédard a souffert pendant longtemps d'ulcères variqueux aux deux jambes. Il a dû même abandonner de conduire son auto, et il était cocher de son métier. Son état s'est amélioré mais sa capacité de travail n'en reste pas moins considérablement réduite.

C'est pourquoi il aurait grandement besoin de son fils.

D. D. Bellemare

CC - 7

APPLICATION TO INDUSTRIAL SELECTION AND RELEASE BOARD

DEPARTMENT OF LABOUR—NATIONAL SELECTIVE SERVICE

FOR RELEASE OR DISCHARGE OF ENLISTED PERSONNEL

Surname	Christian Names	Home Address	Date of Birth	Age
BEDARD.	Marcel.	Vaudreuil Village	4 Juil.1924	21

Date of Enlistment	Regimental Number	Rank	Branch of Service	Overseas or in Canada	Education
Aout, 1943	D.- 649467	Private	St.John Rus.	Canada.	Commercial.

At Time of Enlistment		Years of Experience	Employed this Firm		Married or Single
Position held or title of job performed	Rate of Pay		Total Years	This Job	
Pointe-Claire Quarry	$ 25.00	2	2	2	Single.

Indicate position or title of job for which release of employee is requested	Rate of Pay	Approximate Date Required	Dependents		
			Children	Others	Total
Helper- burcher,	$ 25.00	Immediatly	0	0	0

Description of work to be performed:—

For helping to cut hte meat and kill the animals.

Indicate any special trade or technical qualifications and training:—

Have worked for me during the past years.

Indicate to what extent employee's service will contribute to:—(1) Increased employment? (2) Increased production? (3) Facilitate reconversion or expansion?

For increased production.

IMPORTANT—Will release of this man result in lay-off of any person No. (Yes or No)

Firm Name Jean Paul Dumberry. Plant Vaudreuil. Dept.

Address Vaudreuil Village. City Co. Vaudreuil. Prov. Québec.

In support of this application I declare that to the best of my knowledge and belief the above particulars are true.

Dated at Vaudreuil Village. Signature of Officer Jean Paul Dumberry

this 26 th. day of July, 194 3 Title of Officer Owner

N.S.S. (M) 133

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur (Par l'entremise de mon avocat - Voir E-3)

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

EXPOSE DE L'AVOCAT DE LA DEFENSE AU NOM DE L'ACCUSE

Voici, monsieur le Juge, pour ajouter aux documents déjà produits et pour compléter le cas qui est devant vous...l'absence sans permission du soldat BEDARD... je certifie qu'il ne se serait jamais absenté s'il n'eut été de la maladie de son père.

Je crois qu'il a fait des instances afin de pouvoir obtenir une exemption de son service, je ne sais pas s'il s'est mal expliqué ou si ses explications n'ont pas été comprises; cependant, je crois que votre Seigneurie peut juger à peu près le calibre intellectuel de l'accusé.

Il a resté à la maison, mais il ne s'est pas absenté volontairement dans les circonstances, c'est que son père était malade et il était obligé de rester pour aider à son père, et je crois qu'il aurait pu obtenir une exemption sur "compassionate ground" s'il avait su comment en faire la demande. Je comprends qu'il s'est fait justice lui-même, mais il ne faut pas oublier qu'il était soutien de famille chez lui, et, par conséquent, je crois que le tribunal devrait prendre ces faits en considération en autant que les documents ont été produits.

De plus si l'accusé a été examiné et est considéré capable au point de vue médical de subir son procès, je crois que si on l'examinait comme il faut...il n'a pas l'air trop fort...je me demande ce qui en résulterait. C'est un peu là le but de l'ajournement, parce que l'armée leur dossier n'est pas complet.

J'ai cru par la suite qu'étant donné les sentences distribuées que ce ne serait pas un mal qu'il passe quelques jours de plus au dépôt police. Si ce n'est pas une détention de l'armée, c'est tout de même une détention parce qu'il est constamment sous garde, et, par conséquent, je crois que les 47 jours qu'il a déjà passé au dépôt police devraient être considérés comme une période de détention suffisante étant donné les difficultés chez lui.

Dès que sentence sera passée, je me permettrai d'aller faire des instances afin qu'il puisse continuer à aider à ses parents. Dans le cas de cet individu-là comme dans bien d'autres, la situation devient assez embarrassante quand il s'agit de partir en permission, même illégalement, et revenir ensuite dans l'armée passer quelques jours à l'ombre pour venir se faire sentencer afin de régler son cas.

Alors je crois que dans les circonstances les 47 jours qu'il a déjà passé au dépôt police devraient être suffisants. J'aime à plaider devant vous comme si je plaidais devant une cour finale. Je ne voudrais pas être obligé de faire des requêtes pour que vos jugements soient corrigés; je n'ai pas la même compréhension ni la même expérience que vous, et, cependant nous obtenons dans la plupart des cas certains résultats...et je me demande si on n'en obtiendrait pas sur les demandes que nous faisons dans ce plaidoyer. J'aimerais que vous nous donniez une décision qui serait finale et qui ne nous donnerait pas d'issues de faire corriger par des documents additionnels que nous pourrions produire.

Je comprends que nous pourrions venir ici avec une foule de documents, mais je crois que les documents que nous avons produits sont signés par des personnes sérieuses, entre autre - le docteur Bellemare qui est un vieux praticien.

Vous avez devant vous un cas qui est absolument clair. Il y a une absence mais d'autre part cette absence jusqu'à un certain point est justifiée, et j'aimerais que votre décision soit finale. Je soumets, votre Seigneurie, que les 47 jours qu'il a déjà passé là devraient être suffisants. Ce n'est pas un individu qui peut faire du trouble, d'ailleurs vous pouvez le juger d'après son physique.

Je comprends que les officiers ont fait le même entraînement, mais seulement il y avait pour eux une certaine ambition...il y avait les "pips" qu'il y avait au bout.

Je désire faire vous faire remarquer que je suis en même temps son représentant au Fédéral et je connais la position de sa famille et je suis convaincu que s'il avait moindrement connu la procédure qu'il fallait suivre dans le temps, il n'aurait pas eu besoin de s'absenter sans permission. Je crois pertinemment qu'il serait sorti de l'armée.

Je demanderais, votre Seigneurie, toute la clémence possible et je soumets respectueusement que les 47 jours qu'il a passé au dépôt police devraient être suffisants afin de lui permettre d'aller aider à ses parents.

'F' 27

DAILY ORDERS PART II

by

LT-COL F.D. MARSH
Commanding

No. 14

Place Sussex, N.B.

Date 30 Dec 44

1st BN. SAINT JOHN FUSILIERS (MG)C.A.

(Last Order issued No. 13 , d/29 Dec 44)

"B" - OTHER RANKS

10. ABSENT WITHOUT LEAVE

(b) A.W.L. from 1000 hrs 27 Dec 44

D-649467 Fus. BEDARD M.

(Signed) M.B. Levitt, Lt.,
for (H.M. CASHABACK) LT & ADJT.,
for (F.D. MARSH) LT-COL.,
Commanding,
1 BN SAINT JOHN FUSILIERS (MG) CA.

CERTIFIED TRUE EXTRACT
SIGNED R. Stock, Lt.
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE JUL 19 1945

Prepared by: MC
and
Checked by: [illegible]

"G"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major (Number) R.W. POULIOTTE, (Rank) O.C. Composite Provost Companies M.D. 4 (Name) (Unit)

hereby certify that D-649467 (Number) Fusilier (Rank) BEDARD, Marcel (Name in full)

of the St-John Fus. Sussex, N.B. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~[illegible]~~ D-71071 (Number) Lance-Corporal (Rank)

ROYLE, S.C. (Name) Composite Provost Companies M.D. 4 (Unit or appointment)

at Vaudreuil, Que. (Place) at 0020 (Hour)

on the 28th day of June 19 45

Strike out words not applicable } as a ~~deserter or~~ absentee without leave), and that at the time of his arrest he was ~~[illegible]~~ ~~military or civilian uniform~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 28th day of June 19 45

PG...

(R.W. POULIOTTE) Major (Signature, Number, Rank, Unit or appointment)

O.C. Composite Provost Companies M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (8000)
H.Q. 1772-39-1936

An "R" Recruit called under N.R.M.A.

M.F.B. 1481
[illegible]10-43 (2296).
[illegible] 771-39-1851

"H"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major (Rank) R.W. Pouliotte (Name) O.C. Composite Provost Companies M.D. 4 (Unit)

Strike out word not applicable — hereby certify that I ~~(issued~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Montreal, Que (Place) to Vaudreuil, Que. (Place)

and return to Montreal, Que. (Place) for the purpose of escorting

Full description of soldier being escorted — D-649467 (Number) Pus. (Rank) BEDARD Marcel (Name in full)

St Johns Fusilliers. (Unit) Sussex, N.B. (Attachment, if any)

Strike out phrase not applicable — alleged to be a ~~deserter or~~ an absentee without leave, the facts, date and particulars of ~~such transport warrants issued~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
28-6-45	Montreal, Que to Vaudreuil, Que and return.	
	Total mileage covered by DND Vehicle No. 54-458 was 60 miles.	
	60 miles @ 0.06 per mile.	3.60
	Total mileage incurred by a Provost Patrol to apprehend the a/m absentee	
	TOTAL	$ 3.60

Dated at Montreal, Que this 28th day of June A.D. 19 45

(R.W. Pouliotte) Major R.W. Pouliotte Maj

Signature, rank, unit, attachment ~~(issuing transport warrants)~~ and appointment of officer (authorizing transportation)

O.C. Composite Provost Companies M.D. 4

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

40

ARTICLE	QUANTITY [redacted]				
Towels, hand	2				
Unit or Corps titles, prs.					
Attachments, brace					
Bag, ration					
Belts, waist					
Bottles, water					
Braces, WE (Right)					
(Left)					
Carriers, cartridge	2				
Carriers, waterbottle					
Cases, binoculars					
Cases, pistol					
Covers, breech, rifle	1				
Initials of Soldier	MB				
Initials of QM or Rep.	CG				

7

[redacted] ARTICLE	QUANTITY				
Cover, mess tin					
Frogs, web, bayonet					
Haversack					
Helmet, steel N.C.P.					
Net camouflage helmet					
Packs					
Pockets Compass					
Pouches, amm, pistol					
Pouches, basic					
Pouches, utility { Front / Rear					
Slings, rifle, web					
Straps, shoulder, haversack { left / right					
Straps, web, supporting					
Tins, mess, TP					
Initials of Soldier	MB				
Initials of QM or Rep.	CG				

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ARTICLE	QUANTITY [redacted]				
Badges, arm, drab, Royal Arms					
Badges, arm, drab, Royal Arms in Wreath					
Bags, kit, universal					
Braces					
Brass, cleaning					
Brush, button, brass					
Brush, clothes					
Brush, hair					
Brush, shaving					
Brush, shoe, blacking					
Brush, shoe, polishing					
Brush, tooth					
Cap, comforter					
Chevrons					
Initials of Soldier	MB				
Initials of QM or Rep.	CG				

9

[redacted] ARTICLE	QUANTITY				
Rifle No. 124 876 (Regt'd No.) (.....)					
Bayonet No. ..... w/scabbard					
Bottles, oil					
Pullthroughs, single					
Rods, cleaning, pistol (Regt'd No.)					
Carbine, Mach. (.....)					
Magazines, Carbine					
Pistol Revolver (Regt'd No.) No. ..... (.....)					
Ctges, SA, revolver .380 in.					
Ctges, SA, .303 in Mk VII					
Initials of Soldier	MB				
Initials of QM or Rep.	CG				

44

10

ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY
Belts, waist, leather, brown or web 1½"	1
Boots ankle, felt, prs.	
Boots, insoles, prs.	
Boots, lumberman's rubber prs.	
Buttons, G.S., large	
Buttons, G.S., small	
	1
Cap, winter, melton cloth	1
Coat waterproof	1
Overshoe pr.	1
Helmet, sun	
Jackets, Khaki drill	
Jackets, serge, drab, O.C.	1
Initials of Soldier	MB
Initials of QM or Rep.	CG

3

ARTICLE	QUANTITY
Jacket sweater, or jersey pullover	1
Overalls, combination	1
Overalls, blouses, denim	
Overalls, trousers, denim	
Shirts, Angola, drab or flannel khaki	
Shoes, canvas, prs.	1
Socks, prs.	4
Trousers, battle-dress, prs.	2
Vests, woollen	
Badges, cap	1
Badges, arm, drab, crowns	
Badges, arm, drab, crown in wreath	
Badges, arm, Tank Bn.	
Badges, shoulder, "CANADA", prs.	4
Initials of Soldier	MB
Initials of QM or Rep.	CG

42

8

ARTICLE	QUANTITY
Veil, face, camouflage	
Yoke	
	1
	1
Capes, A/G	
Respirators, A/G, complete with haversack	1
Outfits, A/D	1
Ointment, A/G	
Eyeshields, A/G, pk of 6	6
Detectors, Individual prs.	1
Wallet, A/G	
Blanket	1
Mug, drinking	1
Sheet, ground	1
Initials of Soldier	MB
Initials of QM or Rep.	CG

5

ARTICLE	QUANTITY
Comb, hair	1
Discs, identity, sets, with cord	1
Dressing, field	1
Fork, NS Table	1
Holdall	1
Housewife, complete	1
Knife, clasp	
Knife, table	1
Lanyard, knife	
Razor, safety, with blade	1
Patches, distinguishing, prs.	
Shorts, gymnasium	
Spoons, NS dessert	1
Vest, cotton, gym.	
Initials of Soldier	MB
Initials of QM or Rep.	CG

ARTICLE	QUANTITY					
Anklets, web, prs.	1					
Blouses, Battle-dress	2					
Bonnet, tam-o'shanter	1					
Boots, ankle, prs.	2					
Boots, rubber, high, prs.	1					
Boots, leather, high, prs.	1					
Bonnet, drab, Irish	1					
Cap, field service	2					
Cap, mechanic	1					
Cap, tank battalion						
Drawers, Cellular (cotton) short, prs.	2					
Drawers, Woollen, prs.	2					
Gloves, knitted, drab, prs.	1					
Greatcoat, drab	1					
Initials of Soldier	MB					
Initials of QM or Rep.	CG					

ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.	1					
Muffler, khaki	1					
Necktie, black	1					
Pin, collar, safety	1					
Puttees, prs.	1					
Rubbers, prs.	1					
	2					
Shirts, khaki, cotton	3					
Shirts, undercotton	2					
Shoes, leather, black, prs.	1					
Socks, black, prs.	2					
Trousers, khaki drill, prs.	1					
Trousers, khaki drill, short, prs.						
Trousers, serge, drab, N.P. prs.	1					
Initials of Soldier	MB					
Initials of QM or Rep.	CG					

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CLOTHING SIZES RECORD

ARTICLE	[redacted]ZES
Anklets	
Battle Dress, blouse	
Battle Dress, trousers	
Cap or bonnet	
Boots, ankle	
Gloves	
Facepiece, respirator	
Greatcoat	
Helmet steel, lining	
Overalls, combination	
Jersey, pullover	
Shirts, Angola, drab	
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

OVERSEAS—Militia Book M. 1 Part III
40/P & S/1894 (2570)
CANADA —M.F.C. 500
750M 11-43 (2570)
H.Q. 1777-30-1643
[redacted]

CERTIFIED TRUE COPY

CANADIAN ARMY CLOTHING AND EQUIPMENT STATEMENT

Regt'l. No. D-649467

Rank PTE

Name BEDARD M.

Date of Attestation 14-9-43

Original Unit 4 DD Station Montreal

Home Address (Reserve Unit Personnel Only) (R. Mitchell) Major
VRC, CA Att'd #4 DD, CA.
Quartermaster #4 DD, CA.

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12

ARTICLE	[redacted]
	1
Badges, shoulder, Canada, drill, prs.	—
Blacking, tins	1
Boot dressing, tins	1
Bootlaces, prs.	2
	1
Protectors, ear	—
Sponge, pipeclay	—
Lanyard, pistol	—
	1
	1
	1
	1
Initials of Soldier	MB
Initials of QM or Rep.	CG

1

3. Items withdrawn from soldier will be marked off by an [redacted] ink, over the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner

H.E. Bellemare Major.
Pres. Con.

M.F.B. 355
50M—9-42 (5992)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-649467,	Private	Marcel BEDARD,	1st Bn. St.John Fus.CA,att'd 4 DD.,C.A.,

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery Conduct Sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	times	1 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ ~~Nil~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~Nil~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3. The accused is not under sentence at the present time. ~~Nil~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement ~~awaiting~~ Air Force trial on the present charges, for nil days in civil custody, and 47 days in military custody, making a total of 47 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment ~~attestation paper is~~ is 21 years (4th July, 1924.)

6. The date of his ~~enlistment~~ enrolment ~~attestation~~ specified in his ~~enrolment~~ enrolment ~~attestation paper~~ is 14th September, 1943.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State the air force decoration or reward.~~ military

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

50

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank~~ Permanent Force unit .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th August 1945. ~~Capt.~~

(P.PARADIS) Lieutenant,
Regt. Mais. CA., att'd to
No. 4 District Depot, C.A.,
Ass. Officer i/c Records,
No. 4 District Depot, CA.,

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

No. D-649267 Name HEDARD Marcel

Sqn., Battery, or Company

Corps St. John Fus.

Date of enlistment 14-9-43

G.C. Badges

Tradesmen's Rates of Pay

M.F.M. 6 (A.F.B.122) 750M—12-43 (7537) H.Q. 1772-39-1652

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 1

Signature O.C. Company, etc. (Sgd)F. Gaudette, Capt.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sherbrooke,	28 Dec 43	Pte.		A.W.L. de 0700 hrs 28 dec 43 à 0840 hrs 4 Jan 44. Abs. 7 jrs 1 hr 40 mins (Sec. 15-1 A.A.	Documentaire	8 days' pay 14 days' CB	5 Jan 44	Lt. Col.E. J.Nantel	Auto Forf 8 days pay Fr&I 149

CERTIFIED TRUE COPY

(P.PARADIS) Lieutenant,
Regt.Mais. CA., att'd to
No. 4 District Depot, CA.,
Ass. Officer i/c Records,
No. 4 District Depot, CA.

(P.T.O.)

H.Q.C.55-B-1947 (JAG/D-4)
Your M.1-B-15424

12 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D-649467 Pte. Marcel Bedard,
St.John Fus., C.A.,att.No. 4 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 47 days in custody awaiting trial. May an explanation of this delay be furnished,please.

(R.J.Orde) Brigadier
Judge Advocate-General.

JOGR/MM

THIS COPY FOR: H.Q. C.55-B-1947
M.D. M.1-B-15424

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. B-649467 Name BEDARD, Marcel

Rank Pte Unit St John Fus, CA, att No 4 DD CA

Charge (1) AA 15(1) AWL

(2) AA 24(2) Losing by neglect...

Date of Crime (1) 27-12-44; (2) 7-7-45.

Date of Arrest (1) 28-6-45. Charge Signed 9/7/45

Orders for D.C.M.

Place and Date of Trial No 4 DD CA; 13-8-45.

Sentence Det 60 days; stoppages $84.12

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39586

Date 10-9-45.

The sum of $84.12 remitted by Imp Bank 18-9-45

MEMO

MD 4 - att No 4 DD CA

Absent	Sentence
6 mos;	det 60-days.

W.H. Olver capt
for Judge Advocate-General

10M-8-45(M-189)

LJEB/S

CANADA

In reply quote No. M. 1-B-15424 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
28th August, 1945

C.55-B-1947

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT-MARTIAL
D-649467, Pte. Marcel BEDARD,
St.John Fusiliers, C.A., attached
to No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Reports dated 19th July and 13th August, 1945, respectively

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. BELLEAU) Major,
Headquarters, Military District No.4,
President - S.C.M.

ENC.

39586

M.F.A. 1328
1,000M—3-43 (9995)
H.Q. 1772-89-2209

H.Q.C. 55-B-1948

CONFIDENTIAL

M.F.S. 1078
2551—2-45 (6000)
H.Q. 301-1-10

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BOYER, HARRY RAOUL B-59594 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1948

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes")		
SEP 12 1945				JAG	NEW FILE	CR	10-9-45
				Admin	memo. pls	[illegible]	12-9-45
				A.G.	Ev/ Memo pls	N.R.	13 Sep/45
				D/Adm	ret'd pls.	E.L.P.	17 Sep 45
SEP 18 1945				JAG	Ev/ min ify pls.	N.R.	18 Sep/45
SEP 20 1945		PA		JAG	Papers C.R. OCT 6 - 1945		
OCT 9 - 1945							
OCT 10 1945		P.C.		Admin	Cir BT 20/9/45	CR	9/10/45
				JAG	Papers C.R. DEC 5 1945		
DEC 7 - 1945							
DEC 8 - 1945				CMBR	Le minute pls		
DEC 10 1945				Admin	to write		7-12-45
JAN 7 1946				CMBR	Papers C.R. JAN 4 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1948
(JAG/D-6)

OTTAWA, 6 December, 5

District Officer Commanding
Military District No 3
KINGSTON, Ontario

B-59594, Pte Harry Raoul BOYER
3 Bn 1 Cdn Inf Regt CAPF

Receipt is acknowledged of your K.55-B-9327 (JAG) dated 30th Nov 1945, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MVM 288, in respect of the m/n soldier.

E.R.M.

/Jm

for (R J Orde) Brigadier
Judge Advocate General

Notified parties 10 Dec

IN REPLY PLEASE QUOTE
No. K. 55-B-9327 (JAG)

CONFIDENTIAL

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON, Ont, 30th. Nov. 1945.

13106
DEC 4 1945
File
Start to B. 1946
Referred to JAG

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario

REMISSION OF SENTENCE
B. 59594 Pte. Harry Raoul BOYER
3 Bn. 1 Cdn. Inf. Regt. CAPF.

Herewith enclosed Remission of Sentence, together with M.F.M. 288 in respect of the m/n soldier.

for F. L. Armstrong, Brigadier,
District Officer Commanding,
Military District No. 3

ENCLS.
WCI/D.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No

District File No K.55-B-9327(JAG)

PART I

No. B.59594 Rank Pte. Name Harry Raoul BOYER

Unit 3 Bn 1 Cdn Inf Regt (48th Highrs) CAPF

PART II

Date of Trial: 31 Aug 45 (S.C.M.)

Charge(s): Striking a Superior Officer (AA Sec 8(2)
"Guilty of charge except that he did not strike the face of R.S.M. Black, but that he offered violence to R.S.M. Black"

Sentence: Detention: 6 months

Date of Sentence: 31 Aug 45

XXXX

PART IV

P R O M U L G A T I O N

Remission promulgated and extracts taken at BARRIEFIELD, Ontario.

this 26th day of NOVEMBER 1945.

(J.H.M. Essery) Captain
Commandant
Officer i/c Documents
Military Detention Barracks No. 63
(1)

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II No. 113 d/29 Nov 45.

No. B-59594 Rank Pte. Name BOYER, H.R.

Granted 90 days remission of sentence by order of the D.O.C.
M.D. No. 3 1 Dec 45.
Auth: K.55-B-9327 (JAG) d/21 Nov 45.

Certified true Extract of Daily Orders Part II of A-21 CO & EME TC

No. 113 d/29Nov45 Place Barriefield Camp Date 29 Nov 45.

.....Capt. & Adjutant
for COMMANDANT
A-21 CO & EME TC

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B 59594 Pte Harry Raoul BOYER
Number Rank Name in full

3 Bn 1 Cdn Inf Regt (48 Highrs) CAPF CA
Unit Attachment (if any)

Sentenced to undergo detention for six months

on 31 Aug 45 at Kingston, Ontario

being served at # 63 Military Detention Barracks
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 years on 3 Oct 41

Medical grade or category

FIRST TRIAL—PART II

To Adjutant-General, Ottawa
Superior Military Authority

For details of offence, see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on 30 Nov 45) for reasons given in paragraph X.
date

Place Kingston, Ontario,

Date November, 1945

F.L. Armstrong, Brigadier,
District Officer Commanding,
Military District No. 3.
Confirming Authority

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority

M.F.M. 285
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
21 Nov 45	to remit with effect 1 Dec 45	(F.L.Armstrong) Brigadier, D.O.C.,M.D.#3	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA Sec 8 (2) When on active service striking his superior officer in that he at Barriefield Camp, Ontario, on the 13 Aug 45 when checked by R.S.M. Black J.L. A 21 C.O. & E.M.E.T.C., C.A., struck with his fist the face of the siad R.S.M.Black. Paul LaForaine Major Signature of Officer making entry	13 Aug 45	31 Aug 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
2 Oct 45	Finding and senttence promulgated to B 59594 Pte Harry Raoul BOYER.	Paul LaForaine Major

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
8 Oct 1945	Pursuant to the suggestion contained in H.Q.S.9039-1-1 Adm. 3 - 15 Jun 45 I will review this sentence 30 Nov 45	

(F.L.Armstrong) Brigadier
DOC MD#3

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

H.Q.C. 55-B-1948 (JAG/D-5)

9th October, 1945.

District Officer Commanding,
Military District No. 3
Kingston, Ontrio.

Standing
B.59594 Pte. Harry Raoul Boyer,
3 Bn. 1 Cdn. Inf. Reg. (48th Highrs)
.....Court-Martial

4 October 5 K.55-B-9327 (JAG)

Receipt is acknowledged of your
dated 194 . Standing under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

LCC:jb

(R.J. Orde), Brigadier,

Judge Advocate-General.

HQ IN REPLY PLEASE QUOTE No. K.55-B-9327(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 4 Oct 45.

CENTRAL REGISTRY Army
OCT 6 1945
File J55-B-1948
Referred to JAG

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B.59594 Pte. Harry Raoul BOYER,
3 Bn. 1 Cdn. Inf. Reg. (48th Highrs.)

Reference H.Q.C.55-B-1948 (JAG/D-4) dated 19 Sep 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

W. C. Finch Capt
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

NAT. DEF. B. 440
3000M - 12-45 (2243)
H.Q. 1172-29-267

MEDICAL OFFICER'S REPORT

G. H. Sowsley, Major
President, Standing Court-Martial

I certify that No. B-59594 Pte. Boyer, H.R.
of #1 Cdn. Inf. Regt. is in a fit state of health,
and able to undergo Trial by Court martial.

J. V. Christie Lt.
Medical Officer
(J.V.Christie) Lieut, RCAMC (CA)
(C.A.) Attached CO & EME TC
Barriefield, Ont.

Station Barriefield Camp, Ont.

Date 31-Aug-45

M. F. B. 246
25M—9-41 (1743)
H.Q. 1772-39 480

56

WHEREAS it appears to me, the undersigned, a Competent Military Authority by virtue of Section 70(1)(ee) of the Army Act, GO 93 of 1925, Order-in-Council PC 9229 dated the 12th December 1944, and RP 53A, that the Finding of the within Standing Court-Martial is invalid and that the said Court-Martial must have been satisfied of the facts establishing the offence specified in the Finding hereinafter substituted, I hereby substitute for the Finding of the said Standing Court-Martial, the following Finding:-

> "The accused, No B-59594, Pte Harry Raoul BOYER, 3rd Bn 1st Cdn Inf Regt (48th Highrs) CAPF, is Not Guilty of "When on Active Service, Striking his Superior Officer" but is Guilty of "When on Active Service, Offering Violence to his Superior Officer".

(A E Walford),
Major-General,
Adjutant-General.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Kingston, Ontario,

on the 31st day of August, 1945, at 1000 hours,

for the trial of: B.59594 Private Harry Raoul BOYER,
Number Rank Full Name

3 Bn. 1 Cdn. Inf. Regt. (48 Highrs) CAPF.
Unit Attachment, if any

PRESIDENT: Major J.E. Dowsley, E.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Capt. J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut. G.M. Hendry, 3 Bn. 1 Cdn.Inf.Regt.(48th Highrs) CAPF.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty of the charge with the exception that he did not strike the face of R.S.M. Black, but that he offered violence to R.S.M. Black.

SENTENCE: To undergo detention for six months.

Extracts entered as No. 29785 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 10 day of Sep 1945

Signed at KINGSTON, Ontario, this 31st day of August, 1945.

President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter?~~

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC, CA, as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

CHARGE SHEET "B2"

J. E. Dowley, Major
President, Standing Court-Martial

3 Bn 1 Cdn Inf Regt (48th Highrs) CAPF

The accused, B-59594, Pte. Harry Raoul BOYER, a G.S. soldier of the Canadian Army, placed on Active Service is charged with:

CHARGE
Sec. 8(2)
Army Act

WHEN ON ACTIVE SERVICE STRIKING HIS SUPERIOR OFFICER.

~~N.A. Sec. 8 (2)~~

in that he at Barriefield Camp, Ontario, on the 13 Aug 45, when checked by R.S.M. Black J.L. A-21 C.O. & E.R.E.T.C. CA, struck with his fist the face of the said R.S.M. Black.

Barriefield Camp, Ontario.
28 Aug 45.

(J. Goodman) Capt.
Prosecutor Courts-Martial
No.3

PROOFS OF EVIDENCE.

B-59594, Pte. Harry Raoul BOYER, 3 Bn 1 Cdn Inf Regt (48th Highrs) CAPF.

CHARGE - STRIKING A SUPERIOR OFFICER.

Evidence available to prove the charge:

(1) B-85021, R.S.M. J.L. Black, A-21 C.O. & E.R.E.T.C. who will state that at approximately 0010 hrs he stopped the accused, who was out of his hut after "lights out" to check his carrying a mattress. The accused, to avoid answering tried running away and on being caught struck him in the face with his fist.

(2) B-164505, Pte. Marquis D.A., 3 Bn 1 Cdn Inf Regt (48th Highrs), will state he saw the above R.S.M. and accused struggling.

(3) L-51393, Cp 1. McDermid A., A-21 C.O. & E.R.E.T.C. will give evidence of the accused carrying a mattress and as to his sober condition.

(4) B-159033, Pte. Hodgson G.A. A-21 C.O. & E.R.E.T.C. who will give evidence of seeing a soldier carrying a mattress and R.S.M. Black pursuing him and the soldier swinging at R.S.M. Black.

NOTIFICATION OF TRIAL

H.Q.
M.D. 3
Kingston, Ont.

1. The above accused will be present for Standing Court-Martial at the Armouries, Kingston, Ont., at 1000 hours 31 Aug 45.

2. May Capt. J. Goodman be nominated as prosecutor, please.

Barriefield, Ont.
28 May 45.

(R.R.C. Payne) Lt-Col.
Officer Commanding
3 Bn 1 Cdn Inf Regt (48th Highrs)

for

53

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B.85071 R.S.M. (WO.I) J.L. BLACK, A.21 C.O. & E.M.E.T.C., C.A., being duly sworn, is examined by the Prosecutor.

Question

Mr Black, where are you stationed?

A.21 C.O. & E.M.E.T.C., Barriefield.

Q. That is the Training Centre?

Yes, sir.

Q. How are you employed?

As Camp Regimental Sergeant Major.

Q. And where were you on the 13th of August, 1945?

Patrolling the Camp with the Camp Duty Officer. I was on 5th Avenue.

Q. Patrolling the Camp. About what time was that?

From ten o'clock, 2200 hours on the 12th until 0200 hours on the 13th.

Q. What was the idea of you patrolling the Camp? What was the purpose?

There were some disturbances in the Camp that night and it was necessary to put on an extra patrol.

Q. What was the disturbance?

There were several fires and the telephone wires had been cut.

Q. Causing the disturbance?

Yes, sir.

Q. Was there anything particular about these fires?

Two of the fires we had were caused by mattresses being placed together and the mattresses set on fire.

Q. And you say you had several occurrences like that?

Five fires all told, sir.

Q. And you were patrolling the Camp you say?

Yes, sir.

Q. Do you know the accused?

Not previous to the time I accosted him. That was at 0010 hours on the 13th of August.

Q. You accosted him?

I stopped him at that time.

Q. What was he doing?

He was coming along 5th Avenue and he was carrying a mattress at the time.

Q. And did this particularly worry you?

At the corner of 3rd Street and 5th Avenue.

Q. I asked, did this worry you?

He was carrying a mattress.

Q. Did that worry you?

Due to the things taking place that night.

Q. What did you do?

I stopped him and asked him why he was out of his quarters at that time of night and what was he going to do with the mattress.

Q. And what did he say?

He made some reply, but it wasn't clear. I couldn't understand him. I warned him I was taking him to the guard room.

Q. And how were you dressed at the time?

I had on my serge suit and forage cap, sir.

Q. Was there any insignia on your serge suit?

Yes, sir, the rank on both arms.

Q. What rank is that?

The coat of arms, sir.

Q. Signifying the rank of a Warrant Officer?

Warrant Officer Class I.

Q. How were you dressed again?

In my serge suit.

Q. Trousers and tunic similar to an officer's uniform?

The same dress as an officer.

Q. What kind of cap were you wearing?

A forage cap.

Q. What time was this again?

0010 hours.

Q. What was the night, ... This would be after dark would it not?

Yes, sir, early in the morning, after dark. The area was very well lit up due to the fact there was quite a bit of excitement. The barracks were all lit and the outside lights were on. Major Gilmour had given instructions ...

Q. Don't tell me the instructions. What was the result of the instructions?

The barracks were lit up and the outside lights were lit.

Q. The area was quite well lit?

It was quite well lit.

Q. Continue on. What happened after you asked the accused this question?

I got no answer. I warned the accused I was taking him to the guard room and he made no reply. He threw the mattress down at his feet, turned and ran a distance of about seventy-five yards in behind C.19 kitchen. It was blind and he couldn't proceed any farther. He turned around and I was so close to him he couldn't dodge to get past.

Q. What happened?

When he found he couldn't get past he struck a blow which hit me on the side of the head.

Q. What did he strike with?

His clenched fist.

Q. And he struck you on the side of the face?

Yes, sir.

Q. What happened after that?

I came to grips with the man and had to put him down on the ground to hold him as he resisted. The piquet then came forward and said it was all right, they were there, so I got the man to his feet and he still tried to get away. Another soldier came over and grabbed him by the other arm and we put him in the jeep.

Q. You placed him in custody?

He was taken to the guard room and placed in custody.

Q. This assault, did you do anything to provoke it at all?

After warning him he was being taken to the guard

room he turned and ran and I had to run after him. There was nothing other than that.

Q. You say you are the Regimental Sergeant Major of the Camp. Was there any knowledge the accused had of that fact?

There are several R.S.M's in Camp. The only knowledge he might have would be my dress.

Q. And you say the light was sufficient he should have recognized you as a superior officer?

He should have recognized I was a superior officer by my dress.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q. Mr Black, where were you when you saw the accused first?

On 5th Avenue and 3rd Street.

Q. You were on 5th Avenue were you?

Yes, sir.

Q. How far away was the accused from you when you first accosted him?

I let him come almost up to me before I halted him. I saw him about a distance of twelve yards away. I waited until he came up to me before I spoke.

Q. Had you just reached the corner when you saw him or was he coming up along ...

He was coming from the west going east. I was going in the opposite direction, sir, at the time.

Q. You first noticed him about twelve yards away?

About twelve yards away, sir.

Q. Could you see him very clearly when talking to him?

Yes, sir.

Q. You could distinguish his features quite plainly?

Yes, sir.

Q. When you first spoke to him did you order, as I understand it you ordered him to halt to explain why he was carrying the mattress. Is that correct?

That is correct, sir.

Q. You state he did not answer you clearly?

He did not.

Q. He made some remark?

He mumbled or muttered a reply. I couldn't make

out what he was saying.

Q. Did you tell him who you were?

No, sir. I told him I was taking him to the guard room. I didn't define my rank or why I was in the area at all.

Q. In other words you took it for granted your dress would be sufficient to establish the fact you were his superior officer?

Thats right, sir.

Q. You hadn't seen this man previously?

No, sir.

Q. When he answered you or when he gave an answer and you told him you were taking him to the guard room he dropped the mattress and immediately ran away?

Thats correct, sir.

Q. You pursued him until you had him cornered in the north end of H hut C.19?

Right, sir.

Q. Is it correct that there were no lights at the north end of hut C.19, or do you remember?

I couldn't state whether there were lights in C.19 or not.

Q. Did Pte Boyer, when he attempted to run out of the blind alley, try to pass you on one side?

No, sir, it was almost impossible for him to pass me. I was close behind him and the wall was only a matter of a few inches to the side. He couldn't get between myself and the wall. It was more instinctive, as he turned and swung almost about the same time.

Q. In swinging around he couldn't help running into you?

No, sir, it was a blow.

Q. You were so close to him, in swinging around he couldn't evade hitting you, is that correct?

Put that question again?

Q. I will state it this way. You had him right in the corner, when he saw where he was he checked himself, swung around and tried to run out. He couldn't evade running into you?

He couldn't get away from where he was at the time. There wasn't room for him to get far.

Q. You blocked his way out?

Thats right, sir.

Q. Did you lay hands on him previous to delivering this blow?

No, sir.

Q. After you grasped him did he struggle to get loose?

Yes, sir. It was more of an effort to break away.

Q. Could you see him clearly while he struggled?

Yes, sir, I did.

Q. Quite clearly?

Yes, sir, quite clearly.

Q. Did you at any time up until the end of the struggle get any impression as to the man's state of sobriety or otherwise?

Only in speaking to him. The fact that he didn't speak clearly might have given me the impression that he was not sober, but the way the man ran my impression then was that he was quite sober.

Q. Now this blow which you state you received, was it a direct punch or a glancing stroke?

A blow may be direct, sir, but it may only land in a glancing manner. The fact I moved my head made it a glancing blow. It was aimed directly.

Q. Your impression is that it was aimed directly?

It was aimed directly, yes sir.

Q. You were both moving and struggling at the time were you not?

I had stopped him, I saw the soldier turn around.

Q. Pte Boyer was on the move was he not?

He was on the move because he turned and still tried to get away.

Q. After you overpowered him you were assisted by the guards?

Two piquets and one other soldier.

Q. Were they armed?

The piquets were armed.

Q. With rifles?

With rifles and fixed bayonets. No ammunition.

Q. At any time between the time when you overpowered the man and the time you turned him over to the custody of the provost, were the guards ordered or did they cock their rifles?

Yes, sir, they did.

Q. Did you order them to do that?

I ordered the escort to cock rifles. The accused was still continuing to struggle violently.

Q. The rifles were cocked?

Yes, sir.

Q. Did the escort accompany you and Pte Boyer to the guard room?

No, sir, they did not.

Q. Had Boyer quietened down by the time he was turned over to the provost?

He had quietened down.

Q. And at the time you turned him over did he appear to be sober?

He was perfectly sober. He adjusted his dress outside the guard room.

Q. He was completely sober when you turned him over to the guard room?

Yes, sir.

The Prosecutor declines to re-examine.

The witness withdraws.

SECOND WITNESS FOR THE PROSECUTION) B.159030 Craftsman G.A. HODGSON, A.21 C.O. & E.M.E.T.C., C.A., being duly sworn, is examined by the Prosecutor,-

Q. Pte Hodgson, where are you stationed?

A.21 C.O. & E.M.E.T.C., sir.

Q. Where is that located?

Barriefield Camp.

Q. And what are your duties there?

I am a mechanic.

Q. Do you recall the 13th of August, 1945?

That was on the morning of Monday, isn't it.

Q. Do you recall it?

I was on a jeep driving that night.

Q. What were you doing?

I was driving the Camp Duty Officer, Major Gilmour.

(R.S.M. Black enters the Court room for purpose of identification)

Q. Do you know the soldier I am pointing to?

That is Sgt-Major Black.

Q. Where is he stationed?

A.21.

Q. What is his job?

As far as I know he is Camp R.S.M.

(R.S.M. Black withdraws.)

Q. Do you know the soldier to your right and rear sitting without his hat?

No, sir.

Q. You don't?

No, sir.

Q. Did you ever see him before?

Not till the other day, sir. Not until he was questioned the other day in the guard house.

Q. Will you tell the Court what took place this night?

I was driving around Camp and at 5th Avenue and 3rd Street I turned around my jeep and was coming back when I heard this familiar voice. I heard the Sgt-Major holler "Halt" many times. I had been driving around with him all that evening up to that time. When I turned around and heard the word "halt" I noticed the movements right away.

Q. Did you recognize the Sgt-Major?

Yes, he was the only one in dress uniform that night.

Q. How was he dressed?

With a peaked cap.

Q. Such as the President is wearing?

Yes, sir.

Q. And what uniform was he wearing?

Real dress officers uniform.

Q. And you were able to distinguish that quite clearly?

Yes, my lights showed on his rank.

Q. Tell us what you saw?

Coming back I was supposed to pick up Major Gilmour. Coming back I stopped when I saw this bit of commotion. There was a mattress lying on the road and Sgt-Major Black had taken after this chap. I couldn't tell who the chap was or who he might be but the Sgt-Major tackled him.

Q. What do you call a tackle?

Just jumped on him and brought him down.

Q. Who did that?

Sgt-Major Black.

Q. Sgt-Major Black put this soldier down?

Yes, sir.

Q. Was it a soldier?

Yes, sir.

Q. Is that all you saw?

Well the idea was this soldier seemed to put up a battle.

Q. What do you mean?

You could see a clear blow. If it didn't hit, it came awful close.

Q. You saw this soldier swing at the Sgt-Major?

Yes, sir.

Q. What happened then?

Two guards came out of a hut. Sgt-Major Black got an armlock on him and they put him in another vehicle and went away and I went on with Major Gilmour.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q. Pte Hodgson?

Thats right, sir.

Q. How far away were you from C.19 where this struggle took place, while it was going on?

I would be about from the officer's table to that wall or the length of this room. I was on the road where it happened.

Q. Could you see clearly what was taking place?

I could see because the lights were put on at the front and rear of the huts.

Q. That is the hut next to C.19?

Thats right.

Q. The lights of C.19, were they on?

They were all on at that time on account of this disturbance.

Q. The lights of C.19?

Yes, sir.

Q. You could see the figures clearly?

You could tell it was a soldier. You couldn't tell who they were. But I knew before that it was Sgt-Major Black in there.

Q. Did you see one soldier grasp the other?

I saw the arm swing from underneath.

Q. Did you see one soldier grasped by another one?

Yes, sir, thats right.

Q. Did you see or did you feel that the soldier who had been seized struggle and try to break loose?

I think he struggled until he realized who the Sgt-Major was. That is my strong belief and feeling.

Q. You feel he did not recognize the R.S.M.?

As far as I could see he did not recognize him.

Q. Until he came in contact with him?

Thats right.

Q. You said something about lying in the road in your evidence?

No, I don't think I said that, sir.

Q. Where was he lying when you came up to him?

I drove up and they were off the road about the length of this room and were struggling.

Q. Back in the corner of one hut?

Yes, sir.

Q. Did you recognize Sgt-Major Black?

Yes, sir, I had been driving him around up to that point. He was on the road and I went up to turn around.

Q. And one soldier was putting up what you describe as a determined battle and you saw Sgt-Major Black jump on him and bring him to the ground?

Not much of a battle. Till he realized who it was he did put up a struggle.

Q. Now I am going to ask you a question. This striking, you saw the man swing his arm did you?

Yes, sir.

Q. You have been in the Army how long?

About eighteen months, sir.

Q. You know a swing in a fight when you see one?

Yes, sir, I do.

Q. This swing you saw, did it look like a real punch or a sort of a swing a man would make when turning his body around?

I couldn't state that clearly, sir. It was just dark enough I wouldn't want to state definitely.

The Prosecutor declines to re-examine.

QUESTIONED BY THE COURT

Q. Will you just repeat the incident again. You came along with the jeep; was Sgt-Major Black with you?

I just drove Major Gilmour down the road to where a former fire had been. I got further up the road and met Sgt-Major Black on 3rd Street and I turned around and was going to pick them all up again. I believe he got off to speak to a Sergeant.

Q. Was he out of the jeep when you first saw this?

Yes, sir. He was down the street about the distance of a hut when he hollered. I heard him.

Q. Then what happened?

He took after this chap across the road.

Q. Did the chap run when he hollered?

Yes he did.

Q. How far away was he when he ran?

When he hollered?

Q. When he hollered and the chap ran?

Well it would be about the length of the front of the hut.

Q. About one hundred feet?

You would be safe in saying a hundred feet.

Q. And what did the chap have?

He had a mattress.

Q. What happened to the mattress?

It fell on the ground.

Q. Then what happened?

He ran into the corner of the hut and the Sgt-Major took a fairly distinctive flying tackle at him.

Q. How far did he have to run to get into the corner of the hut?

Just the length of this room or something like that. I think the Sgt-Major was pretty well on the run before he even hollered "halt" if you know what I mean.

Q. Was it dark up in there?

It was dark all except these lights across the road.

Q. When they went up in the angle of the hut how were you able to see them?

I drove up to see it happen.

Q. Did there seem to be a scuffle there before you arrived?

No, everything was just sort of closing in when I got there.

Q. Were you there at the same instant the two appeared to close in?

Approximately the same time, sir.

The Defending Officer declines to cross-examine on the evidence arising from the questions by the Court.

RE-EXAMINED BY THE PROSECUTOR THROUGH THE COURT

Q. When Sgt-Major Black called "halt," where was Sgt-Major Black and where was the accused?

This accused was just coming around the corner of the hut.

Q. And where was Sgt-Major Black?

I believe he was at the side of the road talking to a Sergeant.

Q. How far away was Sgt-Major Black from the accused?

If you know the huts ....

Q. I don't. You will have to describe it to the Court.

Anything between 75 and 100 feet he was away.

Q. When he hollered "halt"?

Yes, sir.

Q. Were they speaking together before that?

No, sir.

The witness withdraws.

THIRD WITNESS FOR THE PROSECUTION) B.164505 Private D.K. MARQUIS, 3 Bn. 1 Cdn. Inf. Regt. (48th Highrs) CAPF, being duly sworn, is examined by the Prosecutor:-

Q. Pte Marquis, you are stationed with the 3 Bn. 1 Cdn. Inf. Regt. (48th Highrs) CAPF?

Yes, sir.

Q. Do you know the accused soldier sitting to your right without his hat?

Yes, sir.

Q. How do you know him?

I first saw him the night of August 12th.

Q. That is the first you saw him?

Yes, sir.

Q. Where did you see him?

Well I helped guard him after Mr Black had captured him.

Q. Did you see anything of the capture at all?

No, sir. I was in hut C.22 and I came out and saw Mr Black with an armlock on the accused.

Q. And what was the accused doing?

He was doing nothing at the time I saw Mr Black with an armlock on him.

Q. What was the purpose of the armlock?

Just to hold him.

Q. Why did he have to hold him?

I don't know. He wasn't trying to get away.

Q. He wasn't trying to get away?

No, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q. Pte Marquis, I understand you did not arrive in time for the struggle itself?

Yes, sir.

Q. But you were one of the men that assisted Mr Black to guard the accused afterwards?

Yes, sir.

Q. Did you have a rifle?

Yes, sir.

Q. Was the bayonet fixed?

Yes, sir.

Q. Did R.S.M. Black order you to cock your rifle that night?

Yes, sir.

Q. This was after you had subdued the man?

Yes, sir.

Q. Was it your impression Pte Boyer would have heard that order to cock your rifle? Was it given clearly?

Yes, sir, I believe he heard it at the time and he said "You don't need to do that, sir."

RE-EXAMINED BY THE PROSECUTOR

Q. Did the accused say "you don't need to do that, sir"?

Yes, sir.

Q. Why did he address him as "sir"?

Because of his rank.

Q. You saw his rank clearly?

He had his uniform on that looks like an officer's uniform.

Q. Did it appear to you that the accused knew who he was?

I imagine he must have.

Q. He addressed him as "sir" did he?

Yes, sir.

QUESTIONED BY THE COURT

Q. When was the order given to cock rifles? Before the affair or after the affair?

After he had been taken. After Mr Black had put the armlock on him and had him on his feet.

The Prosecutor and Defending Officer decline to examine on the evidence arising from the question by the Court.

The witness withdraws.

FOURTH WITNESS FOR THE PROSECUTION) L.51398 Corporal A.A. McDERMID, A.21 C.O. & E.M.E.T.C., C.A., being duly sworn, is examined by the Prosecutor,-

Q. Cpl McDermid, where are you stationed?

At A.21 Barriefield, sir.

Q. What are your duties there?

Regimental Police, sir.

Q. Do you recall the 13th of August, 1945?

I do, sir, yes.

Q. Do you know the accused?

I do.

Q. Did you see him on that date?

I did, sir.

Q. At what time?

He was turned over to me by Sgt-Major Black at 0020 hours on August 13th.

Q. In what condition?

At the time he was improperly dressed. He had no head-dress.

Q. Anything else you noticed about him?

He was carrying a mattress.

Q. Anything else you noticed about him?

Nothing, not particularly that I can answer.

Q. What was his behaviour?

Very good, sir.

Q. Did he appear to be sober?

In my opinion I would say he was.

Q. Are there any factors which might lead someone else to believe he was not? That is what I am after.

Not that I can recall, no.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q. Cpl McDermid, how long have you been employed as provost corporal?

As provost corporal, about four months.

Q. And I see you have been in the Army over three years?

I have, sir, yes.

Q. Your statement is Pte Boyer seemed sober when he was given into your custody?

Thats right, sir.

Q. From your experience, from personal experience in the Army with men and as a provost corporal can you think of anything which might have a sobering influence on a man under the influence of alcohol than a good scare?

No I cant say I can.

Q. If you had to sober a man up, if you could scare him do you figure that would be the quickest way to do it?

I believe it would, sir.

Q. The morning after Pte Boyer was admitted did he say anything to you about having lost any of his kit?

No he did not, sir, not that I recall.

Q. He didn't eh! You had removed his personal belongings in accordance with Kings Regulations?

I did, sir, yes.

Q. Did he say anything to you about losing his watch or thinking he had lost his watch and asking you if you had seen it?

I don't recall that, sir, no.

Q. Pte Boyer was carrying a mattress when given into your custody?

Yes, sir.

Q. As a matter of record do you remember whether that was a new or old mattress?

That is a thing I couldn't say, sir.

The Prosecutor declines to re-examine.

The witness withdraws.

The Prosecutor has no further witness to call.

The Prosecution is closed.

MOTION - NO CASE

The defence submits that a prima facie case has not been established by the prosecution with respect to the charge:

Sir, the Defence would like to make a motion to the effect the Prosecution has not established a case within the meaning of the Act inasmuch as they have not proved Pte Boyer wilfully struck a man he knew at the time the alleged blow occurred was a superior officer.

Answer by the Prosecutor:

The Defence has raised the question of no case. In short no case means just that. There is no case for the Prosecution. I don't think that is tenable just by a first glance at the evidence. There is A Camp Sergeant-Major who states the circumstances of the night, method of dress, what doing to show what happened. His story is backed up by another soldier who says he saw the struggle and the result of that. In addition thereto the accused was seen in the vicinity right at the time when the soldier said he saw the struggle. Now on top of that there are factors which point to--I don't say how good a case--there is a case and with that there is a call upon the Defence to defend himself.

Reply by the Defending Officer:

In respect to the statement of the Prosecutor, I should like to point out that R.S.M., or that evidence was produced to the effect the R.S.M. had shouted at the

man several times, the man had not deviated from his course, but apparently kept walking towards him, but when surprised and detected by the R.S.M. he was unable to make any coherent reply. The evidence is to the effect that the accused did not recognize his assailant until after he had been personally overpowered by Mr Black, that his conduct after he was discovered and overpowered leaves nothing to be desired. He went quietly to the guard room and told the R.S.M. it would not be necessary to have the rifles cocked. The man desired to evade capture, particularly, as suggested, he was more than a little under the influence of alcohol at the time he was accosted by the R.S.M. and naturally tried to evade him and although it is possible in the force of the struggle he could not free himself he swung away, probably of the two the accused was the one who least felt it under the circumstances.

The Court disallows the submission of the defence and its decision is announced to the accused.

The Court proceeds with the trial.

D

~~The Prosecutor has no further witness to call.~~
~~The Prosecution is closed.~~

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I will give evidence as a witness under oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. Yes, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No, sir.

The Defending Officer makes an Opening Address. (not attached

FIRST WITNESS FOR THE DEFENCE) B.59594 Private Harry Raoul BOYER, 3 Bn 1 Cdn Inf Regt (48th Highrs) CAPF, being duly sworn, is examined by the Defending Officer:-

Q. You are B.59594 Pte Boyer, H.R.?

Yes, sir.

Q. On the evening of the 13th of August, the evening on which the alleged offence occurred, where did you go?

To the wet canteen.

Q. When did you go there?

Approximately 6:15 that evening.

Q. And when did you leave?

At closing time.

Q. When was that?

9:30.

Q. Three hours and a quarter. Were you drinking there?

Yes, sir.

Q. Beer?

Yes, sir.

Q. Drinking steady all evening?

Rather steady, sir.

Q. How many glasses of beer do you think you had during the course of that three hours?

A dozen glasses, sir.

Q. Who were you with?

Jack Rock and G. Crawford. They are two private soldiers attached to the 3 Bn. 1 Cdn. Infantry Regiment.

Q. Had you seen them before?

Yes, sir, I have known them for quite some time.

Q. Where did you last see them before?

Prior to meeting in the canteen, in Toronto at No. 2 District Depot.

Q. When?

About five days prior to this Sunday when meeting in the canteen.

Q. And the last time previous to that?

When we got our embarkation leave, disembarkation leave.

Q. On the evening of the 13th August a false notice was issued to the effect V-J Day had arrived. Had you heard that?

Yes, sir, I did.

Q. You were celebrating a little were you?

Yes, sir.

Q. When you left the canteen at closing time did you feel completely sober?

No, sir.

Q. How did you feel?

I felt in a more or less happy mood.

Q. Will you tell the Court what you were doing walking down through camp with a mattress under your arm?

Prosecutor: These are very leading questions.

DEFENDING OFFICER CONTINUES EXAMINATION

Q. At the time, about the time at which Mr Black states he encountered you did you have a mattress with you?

Yes, sir.

Q. Where were you going with it?

I was returning the mattress to hut C.11.

Q. Why?

C.11, sir, has all new mattresses and a few days before that we were billetted there and that night it was empty at the time so I took a mattress out of it up to my hut and was taking this other mattress back.

Q. You were taking a mattress to replace the one you had taken? During the course of operations Pte Hodgson states he heard Sgt-Major Black shout to you several times,

Prosecutor: He didn't say that.

Defending Officer: May we have the evidence of Pte Hodgson read.

(The evidence of Pte Hodgson is read by the Shorthand Writer)

DEFENDING OFFICER CONTINUES EXAMINATION

Q. Where was this man with whom you subsequently struggled when you first saw him?

I didn't notice him until he was practically right on top of me.

Q. You couldn't hear him shout?

No, sir.

Q. Did you see him coming up the road?

No, sir.

Q. Did he just suddenly appear right in front of you?

Yes, sir. You see I was carrying the mattress on my shoulder and it probably obstructed my view of the road.

Q. The mattress was probably hanging across your shoulder?

Yes, sir.

Q. In any case you did not see the R.S.M. approaching?

No, sir.

Q. Until he was right in front of you?

No, sir.

Q. And what did he say?

He said he was going to put me under close arrest.

Q. Was it light enough for you to see his face clearly?

Yes, sir.

Q. You could see his features?

Yes, sir.

Q. Had you seen him previously?

No, sir.

Q. Never seen him?

No, sir.

Q. Did you know he was R.S.M. Black?

No, sir.

Q. At that distance would you have recognized something just by sight?

Yes, sir.

(President warns Defending Officer regarding leading questions)

Q. Will you tell the Court what went on in your own words? Did you recognize this man who accosted you around midnight to be a N.C.O., Warrant Officer or Commissioned Officer of the Army?

You want to know if I could recognize him as being a N.C.O., Warrant Officer or Commissioned Officer, is that it?

Q. Yes, did you recognize that you were in the presence of authority?

No, sir, I did not.

Q. Why?

Well, sir, it occurred so suddenly that when he accosted me I just dropped the mattress, wheeled around and ran.

Q. Why did you run? What reason did you have for running?

The only reason I had, sir, all I can say, I am inclined to be nervous and when he startled me more or less I just turned around and ran.

Q. You didn't know, or did you know there was anyone around at all when he stopped you?

You mean?

Q. Anyone at all?

Other than the R.S.M.?

Q. Anyone at all?

No, sir.

Q. Did you attempt to make any answer to him when he asked you or shouted at you as to what you were doing?

I don't know, sir.

Q. You don't know?

No, sir.

Q. You couldn't make an answer?

No, sir.

Q. Did you attempt to make an answer?

He never gave me any time. As soon as he said close arrest that is when I turned around and ran. He was right in front of me before I noticed him. Then when he yelled at me I looked up and there he was so I just wheeled around and beat it.

Q. Then you didn't get a clear look at him for a long time or did you?

Just a glancing look. I don't know whether I would have recognized him afterwards by just taking that one look at him.

Q. You say you are inclined to be nervous. Will you explain that a bit. Have you ever had any treatment for this nervous condition?

I was twice left out of battle, that is called L.O.B., on account of nervousness.

Prosecutor: Is this a plea of insanity at this time?

Defending Officer: No.

DEFENDING OFFICER CONTINUES EXAMINATION

Q. This nervous condition, can you tell the Court. Well you say you are inclined to jump due to nervous shock when suddenly surprised?

Yes, sir.

Q. When this person whom you state was unknown to you accosted you what did you do?

I ran to the back of hut C.19.

Q. You ran into the back of the hut?

Well right up to it, sir.

Q. Will you describe it?

Sir, it was a mistake. Instead of running around the end, I ran into the back of this hut, kitchen 19. I didn't notice the wall until practically right on top of it.

Q. Why did you run in there instead of around the end? Was it very well lighted?

Well it couldn't have been, sir.

Q. You realized you were up against a wall. What did you do?

I wheeled around and attempted to get out.

Q. What did you find when you turned around?

That was when the Sgt-Major grabbed me.

Q. Did you know him to be a Sgt-Major then?

No, sir.

Q. Or personally?

No, sir.

Q. Could you see his face clearly?

In there?

Q. Yes?

No, sir.

Q. What did you do when you saw him standing there?

I attempted to dodge around him, sir.

Q. How far was he?

Well he was close enough to tackle me, to reach me.

Q. How far was that?

I would say three or four feet. Four feet, sir.

Q. You state you attempted to get around one side of him?

Yes, sir.

Q. What did he do?

He grasped me, sir, and threw me to the ground.

Q. When he grasped you did you try to fight him or break away?

I tried to break away.

Q. You did?

Yes, sir.

Q. Could you see him clearly as you struggled to get away?

Yes, sir, I could pretty clearly.

Q. Did you attempt to strike him a blow?

(President warns Defending Officer regarding leading questions)

DEFENDING OFFICER CONTINUES EXAMINATION

Q. In Mr Black's evidence he states that he was struck. Pte Hodgson was present and says he cant say as to a swing. Will you make a statement to the Court concerning R.S.M. Black's allegation that he was struck? Do you understand me?

I believe so, sir. No, sir, I did not strike R.S.M. Black a blow.

Q. He states he felt a blow or thinks he felt a blow. What have you to say about that?

I don't see how he could have felt a blow, unless it happened he ran his head into my shoulder when he threw me down.

Q. Did you have any suspicion still as to the identity of your opponent?

No, sir.

Q. You are quite sure of that?

That is when he had the armlock on me?

Q. Before that?

No I was not directly sure of his identity. I knew by then that he was an officer, or warrant officer of some rank.

Q. When did you realize that?

That is when he grasped me.

Q. When he had the armlock on you?

Yes, when he had me down. It only took a matter of seconds to throw me down.

Q. And at what point did you say you identified him?

At approximately that time.

Q. At approximately which time?

At the time he threw me down and had the armlock on me.

Q. Was Sgt-Major Black assisted by anyone?

He called for the piquet.

Q When did he call?

I believe when he had the armlock on me.

Q. When the piquet arrived were they armed?

They had rifles with bayonets fixed.

Q. You could see that clearly?

Yes, sir.

Q. How close were they to you?

They took charge of me right there.

Q. Was there anything said or done about cocking rifles?

Yes, sir, Sgt-Major Black gave the piquet the order to cock the rifles.

Q. Did you say anything at that time?

Well I told Sgt-Major Black it would not be necessary for them to cock rifles, I would go down on my own free power.

Q. Did you know who he was at that time?

Yes, sir.

Q. At the time you entered the guard room how were you feeling? I am speaking as regards your state of sobriety.

State of surprise?

Q. State of sobriety. How did you feel? Sober or otherwise?

I didn't feel very good. The knowledge that I was in the guard room kind of took the wind out of me and when I went to bed I fell asleep immediately.

Q. How did you feel by the time morning came?

I felt pretty shaky in the morning, sir.

Q. Did you say anything to any of the provost staff about your kit and personal belongings?

I asked the provost corporal if he had seen my watch.

Q. What did he say?

He told me that it was in the little bag where he kept the personal belongings.

Q. They took your personal belongings away when you went to the guard room. They have to do that.. Didn't you remember having them taken away?

I wasn't sure whether they had or not.

Q. Did the provost corporal make any remark when you spoke about your personal belongings as to whether you might or might not be completely sober when taken into custody?

He said that I had been drinking, sir.

Defending Officer: Can the Court take judicial notice of the fact that there was a celebration and disturbance on the night of August 13th because of the false announcement over the radio?

President: The Court can take judicial notice of the fact there was a false announcement, but not the celebration.

Defending Officer: I wish to produce a calendar to show that there was no moon on that night, the evening of August 13th.

President: It would be easier to have this witness prove that.

DEFENDING OFFICER CONTINUES EXAMINATION

Q. Pte Boyer, was there any moonlight that night?

No, sir.

Q. Are you sure of that?

I didn't notice any moon, sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Pte Boyer, did I understand you to say that you were in the wet canteen from 1815 hours until 2130 hours?

Yes, sir.

Q. And you drank a quantity of beer there?

Yes, sir.

Q. And you say about twelve glasses?

Approximately twelve glasses.

Q. Would that be about three quarts of beer?

Something like that.

Q. Do you drink beer often?

Quite a bit, sir.

Q. And is three quarts of beer an unusual amount of beer for you to drink over a period of something like three hours?

I think that all depends.

Q. I am just asking you a simple question. Is that an out of the ordinary amount of beer for you to drink in three hours, three quarts of beer?

That is about the average amount.

Q. You just drank beer, I understand?

Yes.

Q. And you say that you became intoxicated with three quarts of beer?

I didn't say that I became intoxicated.

Q. Are you saying it?

I told in my defence ...

Q. What do you say now? Did you or did you not become intoxicated? Your defending officer cannot help you. Look at me.

I was not intoxicated.

Q. This was Sunday night?

Sunday night.

Q. The canteen closes at 2130 hours, is that right?

Q. And did you drink any beer after that?

Yes, sir.

Q. Where did you get it?

One of the lads, I am not sure who he is, had his water bottle full of beer.

Q. Just a water bottle?

Only the one water bottle.

Q. How much of that water bottle did you drink?

I think between three of us we drank it.

Q. And that water bottle contained a pint of beer. It is an ordinary canteen?

Yes.

Q. About a pint of beer?

Something like that.

Q. And you split that in three. Would what you drank from that water bottle make you intoxicated?

No, sir.

Q. Now when did you drink this one water bottle? Right after the canteen closed?

It was in the Legion Writing Room I believe it is and some of the boys were playing the piano and singing.

Q. You drank that right after the close of the canteen?

Not right after.

Q. Within half an hour or so?

Approximately.

Q. The occurrence for which you are here today occurred sometime after midnight, is that correct?

Yes, sir.

Q. There was an elapse of some two hours, is that right?

Right.

Q. With what beer you drank, and you say you drank no more after that, you would have become somewhat more sobered up if you were intoxicated, is that right?

Possibly.

Q. More than likely isn't it. We all drink you know so what is your answer?

Pardon, sir.

Q. What is your answer to that?

Yes, sir.

Q. At 2400 hours of that day, 12th August, and on into the 13th of August, you weren't drunk were you?

No, sir.

Q. And I suggest what beer you drank didn't effect your mental condition or physical condition?

Yes, sir, it did.

Q. You still say it did?

You can still be feeling good and not be drunk to a high degree.

Q. What did you do? Just tell me what you did after you left the wet canteen?

I went to hut C.11.

Q. What time was that?

I'm not positive of the time.

Q. About?

Around probably 10:30.

Q. Where had you been to 10:30. You say the canteen closed at 9:30. Where had you been to 10:30?

In this other room playing the piano and talking to the boys, and then some of the boys decided to go out.

Q. At what time?

I don't know what time.

Q. Did you go with them?

No, sir.

Q. Where did you go?

To C.11.

Q. You were in the canteen or writing room from 9:30 to 10:30?

Approximately.

Q. You went to hut C.11. Is that where you slept?

No, sir.

Q. What hut do you sleep in?

C.18.

Q. Why did you go to C.11?

To get me one of those new mattresses.

Q. How far is it from hut C.11 to C.18?

It is up one block, down about eight huts.

Q. Less than a quarter of a mile?

Yes, quite a bit less.

Q. Does it take an hour and a half to walk from C.11 to C.18?

No, sir.

Q. You went to hut C.11 to get a mattress at 10:30. Now just explain what you did from 10:30 to midnight?

I went back to the hut and sat around, sir.

Q. What hut?

C.11. I sat around there and smoked a while.

Q. Were you by yourself?

No, sir. Lots of the boys were coming in off pass that night and I just fooled around generally.

Q. Did you sit in hut C.11 all that time?

C.18.

Q. You went and got your mattress at C.11 at 10:30 and came back to C.18 right away?

Yes, sir.

Q. What did you do after you sat around C.18?

I decided to take the mattress back.

Q. You decided to take the mattress back?

I had a pass that evening, sir.

Q. I'm not asking you that. You came back to C.18 after a mattress and decided to take a mattress back to C.11?

Yes.

Q. Why did you want to do that?

I was on my way down to the guard room to turn in my pass and thought I would just drop in the mattress.

Q. You wanted a new mattress?

Yes, sir.

Q. You went and got it?

Yes.

Q. Now you went to take the mattress back?

The old one.

Q. You were going to take the mattress back?

Yes, sir.

Q. And then going down to the guard room to turn your pass in?

Yes, sir.

Q. What time was that?

I never checked on the time.

Q. Was it after midnight?

It could have been.

Q. And was there any disturbance around there?

I heard of some, sir.

Q. What did you hear?

I heard some fires going on and ...

Q. You had nothing to do with the fires I presume?

No, sir.

Q. Wouldn't you think the best place to be would be in your hut if there was any disturbance going on?

Yes, sir.

Q. Then why did you leave?

On account of this pass.

Q. Now what pass was this?

It was a pass issued Saturday noon until Monday morning at 0600 hours.

Q. Did you go on leave?

I just went down to Kingston Saturday afternoon and Sunday morning.

Q. What did you do with the pass?

I still have it.

Q. Did you turn it in?

I intended to go out that night and changed my mind.

Q. You kept the pass and came in the gate did you?

Yes thats right.

Q. And where is the pass now?

I don't know unless it was turned in with my personal belongings.

Q. Did you turn it in?

No, sir.

Q. Where were you going to turn it in?

At the guard house.

Q. What guard house was that?

The guard house I was being held in.

Q. The guard house for the east gate of the camp?

Yes, sir.

Q. You say you don't know where your pass is now?

No, sir, I don't.

Q. You don't know whether it was turned in or not?

No, sir.

Q. What would happen if I bring somebody to say the pass was not turned in?

I could prove I had a pass by the Orderly Room.

Q. We are not denying that, but I would like to know your intention of turning the pass in after twelve o'clock?

If I did not turn the pass in I would be marked absent without leave.

Q. But you were in the hut and you could have reported to your corporal?

That doesn't make any difference.

Q. Now you do admit while you were carrying a mattress somebody stopped in front of you and said "halt"?

Yes, sir.

Q. When he stopped in front of you how far would you be?

Approximately this distance.

Q. About three feet apart?

Four feet.

Q. Three or four feet apart and you say you saw the face of the person?

I had a quick glance at his face, sir.

Q. He said "halt" and you ran?

I dropped the mattress and ran, sir.

Q. You must have known somebody in authority stopped you?

No, sir.

Q. Now tell me why, if you thought someone in authority had not stopped you you would have to run?

Well, sir, ...

Q. If an ordinary soldier stopped you ... You are not afraid of an ordinary soldier are you?

No, sir.

Q. Why would you have to run from an ordinary soldier?

That was the reaction I had.

Q. How long have you been in the Army?

Four years approximately.

Q. Overseas and everything like that. You know you don't have to run for an ordinary soldier?

Sir, when talking about overseas and like that, in the lines you do get those reactions.

Q. Yes, but you are not in the lines?

Not in the lines now, but I was.

Q. Somebody yells "halt"; you realize it is someone in authority; and unless you are doing something wrong you don't run. If you do something wrong you run don't you?

Yes, sir.

Q. And you must have realized it was somebody in authority is that right?

No, sir, I did not.

Q. You say you saw the face of the person who stopped you?

Yes, sir.

Q. You heard the evidence of the Sgt-Major that he was wearing an officer's hat?

Yes, sir.

Q. You heard the evidence of Hodgson that the Sgt-Major was wearing an officer's hat?

Yes, sir.

Q. I suggest if you saw the face you saw the hat?

Yes, sir.

Q. You knew then it was someone in authority who had stopped you?

I didn't realize it at the time, sir.

Q. You didn't want to find out then did you?

No, sir.

Q. You say then you did run?

Yes, sir.

Q. After dropping the mattress, and you say it was necessary for the person stopping you to chase you?

I didn't say it was necessary to chase me.

Q. You ran didn't you?

Yes, sir.

Q. If he hadn't chased you and caught you you wouldn't have stopped?

If he hadn't chased me and caught me, no sir I wouldn't have stopped.

Q. I again suggest then you knew someone in authority was the person who accosted you?

I didn't realize it at that time, sir.

Q. Now there was a struggle, is that correct?

Yes, sir.

Q. You heard Pte Hodgson say he saw you swing from the shoulder. He didn't say you hit the soldier?

I heard that, sir.

Q. You heard Sgt-Major Black say he was struck?

Yes, sir.

Q. What have you to say about that?

I did not strike him, sir.

Q. Did you realize that you did strike?

No, sir, I didn't realize that.

Q. It is quite possible you did?

Not to my knowledge, sir.

Q. You say you don't realize this and you don't realize that. Is it quite possible you don't realize you struck?

Not intentionally, sir.

RE-EXAMINED BY THE DEFENDING OFFICER

Q. Pte Boyer, what changed your mind about going out that night?

From going to Kingston, sir?

Q. Yes.

Well for one thing the boys were saying they were going on the loose, or intending to go on the loose. That is why I didn't go. I had no intentions of going absent without leave at that time.

Q. You made a statement to the effect that even if you had not been pursued you wouldn't have stopped running. What do you mean by that?

It was my intentions to get to the hut as soon as I could. I just wanted to be there, that is all.

Q. Had you any tangible reason, any real reason or just this impulse of yours?

It was the impulse.

Q. Have you ever felt an impulse like that before?

To get away from something, is that it?

Q. Yes.

Sometimes I have, sir.

Q. What sort of times?

Well it is something that you cant, you haven't got much power over, somebody drops something you jump automatically or duck.

Q. You mean to say once you start running you couldn't stop, or something like that?

Yes, sir, that would be it till I kind of come more or less cool headed, you might say, or level headed.

Q. You were drinking in the canteen and evidence has been given as to how much you had to drink and you were asked whether or not you felt that when you left the canteen or later, that you were intoxicated. Now in the Army, intoxicated means so drunk you are incapable of performing your duty ...

Prosecutor: No it does not.

(President reads from M.M.L., Paragraph 42, Chapter III, page 24)

DEFENDING OFFICER CONTINUES RE-EXAMINATION

Q. When you picked up this mattress, the new one, and carried it out of the sleeping quarters and while talking to your friends, would you say that you were still at that time under the influence of the beer you had?

Yes, sir, I would.

Q. How much?

To the extent I was feeling pretty good. If that is what you call a degree of intoxication.

Q. A mild degree of intoxication I suppose. How would you describe your ability to consume liquor?

I cant stand much liquor.

Q. What do you mean by much? By liquor do you include beer?

I include beer as an intoxicating drink. I pass out easily for one thing. Another, I can still be intoxicated and still be on my feet with no knowledge of anything I am doing.

Q. Has that happened on previous occasions?

Yes, sir.

Q. How often?

A half dozen times. Six times.

Q. By what time did you have to have that pass turned in in the morning?

0600 hours.

Q. What time was reveille?

I am not certain of the time, sir. 0630 hours.

Q. It isn't before 0600 hours?

Oh no, sir, absolutely not.

Q. In other words, if you had remained in your hut how would you have managed to get that pass to the guard room in time to prevent yourself from being A.W.L.?

Unless I happened to wake up by 5:30 in the morning I would be unable to do that.

Q. Pte Hodgson, in his evidence, says he saw one soldier take a swipe at the other one. In the course of your struggle in the corner of the hut did you feel a blow, or can you make a statement as to whether or not a blow was struck at you?

Yes, sir. The following day in the guard room

when I was shaving I remarked to some of the chaps in there--I believe there was a guard in there--that the side of my jaw was sore and when I was shaving was the first time I noticed it. The pressure on my jaw caused it to pain.

Q. Had you been engaged in any scuffle prior to setting out? No one had struck you while you were in the canteen?

No, sir.

Prosecutor: This is re-examination for the purpose of questioning anything brought out by the Prosecutor in cross-examination, and yet the Defence is bringing in new evidence.

President: The Prosecutor will be given the opportunity to cross-examine due to the fact new evidence has been introduced.

ADJOURNMENT: At 1210 hours on the 31st day of August, 1945, the Court adjourned until 1400 hours on the 31st day of August, 1945.

REASSEMBLY: On the 31st day of August, 1945, at 1400 hours, the Court is re-opened.

The Accused, Pte Boyer, takes his place as a witness.

DEFENDING OFFICER CONTINUES RE-EXAMINATION

Q. Pte Boyer, you are charged with striking your superior officer, Mr Black. You heard the evidence of the Prosecution brought against you, namely the statement by Mr Black of the blow, the statement of Pte Hodgson who saw one soldier swing at another. Can you present anything additional which might help to clarify the situation, or any additional point?

Sir, when I tried to dodge around, and the time he grasped hold of me, I don't ..... I believe, Mr Black .....

President: I might advise you the manner in which you give evidence before the Court is also considered. Evidence of a hesitating manner does not carry the same weight as straightforward evidence.

Witness: Yes, sir. There is nothing I could add to what already has been said. Not to what I have already said.

CROSS-EXAMINED BY THE PROSECUTOR

Q. I understand you were returning a mattress from your hut C.18?

Yes.

Q. To hut C.11?

C.11 is across from the M.I.R.

Q. You are quite certain of those huts?

Well I am certain the hut I live in is C.18.

Q. How are you certain about hut C.11?

Well I believe that is the hut across from the M.I.R. on the corner.

Q. You are quite certain it is C.11?

Not exactly, sir. But I am pretty sure it is C.11. It is across from the M.I.R.

Q. Another question as to your pass. You say in order to avoid being marked A.W.L. you were returning a pass some time after midnight to the guard room?

Yes, sir.

Q. Otherwise you would be marked A.W.L.?

From 0600 hours.

Q. Your pass was good to 0600 hours that Monday morning, is that right?

Yes, sir.

Q. And at what time is roll call?

On morning parades, sir?

Q. Yes.

0800 hours, sir.

Q. When is reveille?

I am not sure of reveille, sir, but I believe it is 0630 hours.

The Defending Officer declines to re-examine.

The witness resumes his seat.

SECOND WITNESS FOR THE DEFENCE) B.46640 Private C.A. CRAWFORD, 3 Bn. 1 Cdn. Inf. Regt. (48th Highrs) CAPF, being duly sworn, is examined by the Defending Officer,-

Q. You are B.46640 Pte Crawford, C.?

Right, sir.

Q. Do you recognize the soldier sitting on your right in battle dress?

I do, sir.

Q. Who is he?

Pte Boyer.

Q. Have you ever seen him before?

Yes, sir, he was in my unit twenty-two months, together in Jamaica, West Indies.

Q. You mean in the same unit?

He was in the same battalion.

Q. Do you know him very well?

Yes, sir,he was in the same platoon.

Q. For twenty-two months?

Yes, sir.

Q. Were you in the wet canteen on the evening of the 13th of August?

Yes, sir, I was.

Q. Were you alone?

No, sir.

Q. Who were you with?

Pte Boyer was with me and Pte Rock.

Q. What were you doing?

We had a few beers. That was the first time I met Pte Boyer in two and a half years, sir.

Q. Sort of a re-union?

Yes, sir.

Q. Now in the course of the twenty-two months with Pte Boyer I think it is only fair to assume you know him quite well and I should like to ask you a question. What is your impression of Pte Boyer's nervousness?

He is very nervous. If you came up behind him

and touched him he would jump up in the air.

Q. Have you ever seen anything like that happen?

A lot of times it happened in Camp. The boys would do something and he would jump up in the air.

Q. Did you serve overseas with him?

No I didn't, sir.

Q. What sort of a fellow is he with regard to holding his beer?

He is a very good fellow.

Q. He held his beer pretty well?

He held his share of the beer.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Pte Crawford, how long were you in the canteen?

From about 6:30 until it closed.

Q. And where did you go then?

I went back to the hut, changed my clothes and went down town.

Q. What hut do you stay in?

We stay in C.21.

Q. Do you know what hut Boyer stays in?

He was staying in "E" something. I don't know what number it was.

Q. He doesn't stay in the same hut as you do?

He was in the same hut, but we moved that day.

Q. What hut were you in? Were you in hut C.21?

C.21.

Q. You had moved?

Yes, sir.

Q. Where had you moved from?

"E".....

Q. Did Boyer move?

No he didn't move.

Q. He remained in hut "E"?

Yes, sir.

Q. How long was Boyer with you that evening?

He was with us the whole time in the canteen, sir.

Q. Did he go with you when you left?

We walked over as far as the dry canteen.

Q. What happened then?

He went in to listen to the piano in the dry canteen.

Q. Is that the last you saw of him?

Yes, sir.

Q. What would you say as to his condition when you left him?

He was in good condition.

Q. He wasn't drunk was he?

No, sir.

The Defending Officer declines to re-examine.

The witness withdraws.

THIRD WITNESS FOR THE DEFENCE) B.45792 Private J.W. ROCK, 3 Bn. 1 Cdn. Inf. Regt. (48TH Highrs) CAPF, being duly sworn, is examined by the Defending Officer,-

Q. Pte Rock, do you recognize the soldier sitting on your right without a hat?

Yes, sir.

Q. Who is he?

Pte Boyer.

Q. Have you ever previously seen him?

Pardon, sir.

Q. Have you know him previous to this day?

Yes, sir. I have known him for a good long time.

I was with him about three weeks ago.

Q. Well, how long have you known him altogether?

Since about the fall of 1941.

Q. In the Army?

Yes, sir.

Q. How well did you know him?

I was in the same platoon with him.

Q. For about how long?

We were there for about twenty-two months.

Q. I take it you came to know him pretty well as members of the same platoons do?

Yes, sir.

Q. I would like to ask you what your impression is as to his nervous stability. Have you ever noticed anything as to his nervous temperament?

I would say he was on the nervous side.

Q. How do you mean?

Well, just nervous.

Q. Nervous more than the ordinary soldier?

More than some I would say he was.

Q. Where were you on the evening of August 13th?

I was drinking in the wet canteen.

Q. Were you alone?

No, sir.

Q. With whom were you with?

Pte Boyer, Crawford, and a couple of more around the table at different times.

Q. How long were you there?

Since it opened. It opened around six and we were there until it closed.

Q. Were you drinking?

Yes, sir.

Q. Was Pte Boyer drinking?

Yes, sir.

Q. Beer?

Yes, sir.

Q. What would you say as to his drinking? How much?

About eight or nine glasses.

Q. Did you leave the canteen together?

Yes, sir.

Q. Where did you go?

To the dry canteen.

Q. At the time you arrived there what was your impression as to his condition?

Well, we were feeling good. I never paid much attention.

Q. You were feeling pretty good yourself were you?

Yes, sir.

Q. Had you all had approximately the same amount of beer?

Approximately yes.

Q. What is your impression, your personal knowledge of Pte Boyer as to his ability to consume beer without interfering with his powers of judgment? Do you understand me?

Yes, sir. Well he can drink about the same as I can I guess. I cant say how much he can drink.

Q. He wouldn't become thoroughly intoxicated on eight glasses of beer?

No.

Q. But you were feeling good were you?

Yes, sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Pte Rock, how long were you with the accused after you left the wet canteen on this evening you mentioned?

Half an hour.

Q. Did you go to the dry canteen with him?

Yes, sir.

Q. And how long were you there?

That is where I met him.

Q. How long did you stay there?

I figure about half an hour.

Q. Where did you go then?

Back to the hut for a few minutes.

Q. What hut?

Our hut.

Q. What hut is that?

E.11.

Q. That was on the 12th of August, Sunday?

Sunday.

Q. Was that Boyer's hut too, E.11?

I am not sure whether we moved that day or not. We moved to E.21. I cant say now for sure which day we did move.

Q. Well, you say you went to your hut?

Yes, sir.

Q. You and Pte Boyer were together ?

After leaving the dry canteen I cant remember where he went.

Q. You said you went to your hut?

Crawford and I went to our hut.

Q. What about Boyer?

I lost track of him.

Q. He didn't go to the hut?

I couldn't say.

Q. Does Boyer stay in your hut?

We were in the same hut.

Q. You and Boyer?

I forget if we moved that day or whether he moved and we didn't or what it was.

Q. When you left from the Canteen you splitup at the dry canteen?

Yes, sir.

Q. Do you know where he went?

No, sir.

Q. You say you drank about eight or nine glasses of beer?

About that, maybe more. I never kept track.

Q. That would be about three quarts of beer; less than that wouldn't it. About two quarts. Do you get drunk on two quarts of beer?

I was feeling good.

Q. Would you hit a Sgt-Major on two quarts of beer?

I wouldn't think so.

Q. Was Boyer drunk?

I couldn't pass judgment on whether a man was drunk or not.

Q. You know what a drunken man is?

I wasn't paying attention.

Q. You know what a drunken man is?

Yes, sir.

Q. A man staggers, his speech is thick, things like that, then he was drunk?

I wouldn't say drunk, but he was feeling good.

Q. Did you drink beer with him in the dry canteen?

No beer there, sir. We were playing the piano.

Q. There is evidence that there was some beer drunk there. What have you to say about that?

We had some beer.

Q. At the dry canteen?

Yes, sir.

Q. Did you drink with him?

I don't remember if I had any or not.

The Defending Officer declines to re-examine.

The witness withdraws.

The Defending Officer makes a Closing Address. (not attached)

The Prosecutor makes a Closing Address. (not attached)

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Sir, all I have to say on behalf of my defence is that under ordinary circumstances it would never have happened. I could have explained reasonably well to the R.S.M. my actions. I know I have a lot of crimes on my crime sheet, but I have no insubordinate crimes. That is all, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

1 Y²

M.F.B. 355
75M—5-43 (141)
H.Q. 1772-39-620
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-59594	Pte.	BOYER, Harry Raoul	3 Bn 1 Cdn Inf Regt (48th Highrs)

1. The following is a fair and true summary of the entries in the Field ~~Regimental and Squadron, Battery~~ Service and General Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For A.W.L. - 3	times	A.W.L. - 9	times
For 20 Oct 44 Drunk (Admonished) 1 Nov. 44 Drunk Fine $5.00	times	4 Oct 41 Drunk 14 dys C.B. Damages $4.00	times
For 14 days C.B.	times	3 Feb 42 Drunk 4 dys C.B. Fined $5.00	times
For	times	16 Jun 42 Drunk Fined $10.00	times

~~Number of instances of gallantry or distinguished conduct.~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 15 ~~Air Force~~ days in military custody, making a total of 15 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 Sept 1918

6. The date of his ~~commission~~ attestation specified in his ~~report of service~~ attestation paper is 30 Oct 41 ~~30 Oct 41~~

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. ~~The accused has not been or is entitled to an air force decoration or air force reward (or is in possession of or entitled to) State any air force decoration or reward.~~ military military C.V.S.M. & Maple Leaf

10. ~~If the accused is a warrant officer.~~ ~~The accused before he was made a warrant officer last held~~ ~~Air Force~~ ~~the regimental rank of .....~~

4

104

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit .....dated....., and in his regiment (or corps) the rank .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 31st day of Aug 1945.

3 Bt Ken Inf Bde

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

H.Q.C.55-B-1948(JAG/D-4
Your K.55-B-9327

19 Sep 45

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

Standing Court-Martial
B.59594 Pte. Harry Raoul Boyer,
3 Bn 1 Cdn Inf Regt (48th Highrs) CAPF., C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. The accused was charged under A.A.8(2) of "When on Active Service, Striking his Superior Officer". He pleaded Not Guilty to the charge and the Court found him "Guilty" with the exception that he did not strike the face of R.S.M. Black, but that he offered violence to R.S.M. Black. He was sentenced to six months detention.

3. The form of the Finding made by the Court was irregular having regard to A.A.56(4A) and it was considered necessary that the provisions of R.P. 53A be invoked.

4. It will be noted, by the endorsement attached to page "A" of the proceedings, that the Adjutant-General, pursuant to his powers, has substituted a new Finding for the Finding made by the Court-Martial. It will also be noted that the Sentence passed by the said Court was not disturbed.

5. The substituted Finding is legal and in order. It should be promulgated to the accused in the same manner as in the case of a District Court-Martial.

6. When the proceedings have served your purpose, may they be returned to this office for custody.

JOGR/MM

(J.R.J.Orde) Brigadier,
Judge Advocate-General.

TO: AG

MEMORANDUM

Department of National Defence
H.Q.C. 55-B-1948 Adm 3(b)3
OTTAWA, Ont., 15 Sep 45

B.59594 Pte BOYER, Harry Raoul
Special Finding under RP 53A

1. Ref memo to AG from JAG dated 12 Sep 45 at folio 60 hereunder.

2. This memo recommends that pursuant to PC 9229/44, AA Sec 70(1)(ee), RP 53A and GO 93/25, the Finding made by SCM should be substituted by a Special Finding as set out in the Endorsement on Page A of the proceedings at folio 55 herein.

3. The facts briefly are:

(a) This soldier was charged under AA Sec 8(2) - "When on Active Duty Striking a Superior Officer".

(b) Plea - Not Guilty

(c) The Court made the following Finding:

"Guilty of the charge with the exception that he did not strike the face of RSM Black but that he offered violence to RSM Black."

(d) The soldier was sentenced to undergo detention for 6 months.

4. The JAG has expressed the opinion that, having regard to AA 56 (4A) the said Finding is irregular and that the provisions of RP 53A may and should be invoked and that the Finding of Guilty under AA Sec 8(2) should be in the form as set out in the Endorsement on Page A of the proceedings at folio 55.

5. It is considered that the sentence as awarded should not be disturbed. The Court, after hearing all the evidence adduced, and fully appreciating the seriousness of the offence, awarded a sentence of 6 months' detention which is considered fair and just.

6. If you concur, may the Endorsement as to the Special Finding appearing at folio 55 be completed by you pls.

(J E MacDermid),
Colonel,
D Adm.

WBG:6293:SP

RECEIVED
A.G. CONTROL

WALFORD
SEP 15 1945

Wm
JAG.
1 Ref. upon memo at folio 60
2. Attn to folio 55 pls.
3. For your action
18 Sep 45 Col Wilson

MEMORANDUM

TO:

THE ADJUTANT-GENERAL

DEPARTMENT OF NATIONAL DEFENCE
H.Q.C.55-B-1948 (JAG/D-4)
OTTAWA, 12 Sep 45

STANDING COURT-MARTIAL
B-59594 Pte. Harry Raoul BOYER,
3 Bn 1 Cdn Inf Regt (48th Highlanders) CAPF, CA.

The m/n soldier was tried by Standing Court-Martial at the Armouries, Kingston, Ont., on the 31 Aug 45 on a charge under A.A.8(2) of "When on Active Service, Striking his Superior Officer".

2. The accused pleaded Not Guilty to the charge and the Court made the following Finding:

> "Guilty of the charge with the exception that he did not strike the face of R.S.M.Black, but that he offered violence to R.S.M.Black".

The Court sentenced the accused to undergo detention for six (6) months.

3. The form of the Finding made by the Court is irregular having regard to A.A.56 (4A) and it is therefore considered that the provisions of R.P.53A may and should be invoked and a Finding of Guilty under A.A.8(2) of "When on Active Service, Offering Violence to his Superior Officer ", should be substituted for the Finding of the Court.

4. If you concur, may an endorsement be attached to the proceedings in accordance with the draft endorsement attached hereto.

5. Your attention is directed to the fact that you are empowered to substitute a new Sentence if you see fit. In the event of you seeing fit to do so, there should be added to the Minute substituting the new Finding, the following paragraph:-

> "In substitution for the Sentence passed by the said Standing Court-Martial, I hereby impose the following Sentence:- "

6. After the proceedings have received your attention may the same be returned, please.

JOGR/MM

for (R.J.Orde) Brigadier,
Judge Advocate-General.

60

WHEREAS it appears to me, the undersigned, a Competent Military Authority by virtue of Section 70(1)(ee) of the Army Act, G.O. 93 of 1925, Order-in-Council P.C.9229 dated the 12th December 1944, and R.P. 53A, that the Finding of the within Standing Court-Martial is invalid and that the said Court-Martial must have been satisfied of the facts establishing the offence specified in the Finding hereinafter substituted, I hereby substitute for the Finding of the said Standing Court-Martial, the following Finding:-

"The accused, No. B-59594, Pte. Harry Raoul BOYER, 3rd Bn 1st Cdn Inf Regt (48th Highrs) C.A.P.F., is Not Guilty of "When on Active Service, Striking his Superior Officer" but is Guilty of "When on Active Service, Offering Violence to his Superior Officer".

(A.E.Walford),
Major-General,
Adjutant-General.

59

THIS COPY FOR: H.Q. C.55-B-1948
M.D. K.55-B-9327

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B-59598 4 Name BOYER, Harry Raoul

Rank Pte Unit 3 Bn 1 Cdn Inf Regt(48th Highrs) CAPF CA

Charge AA 8(2) NDAS, Striking his superior officer.

Date of Crime 13-8-45.

Date of Arrest Charge Signed 28-8-45.

Orders for D.C.M.

Place and Date of Trial The Armouries, Kingston: 31-8-45.

Sentence Det 6 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39585

Date 10-9-45.

MEMO Special Sing under R.P.59A Balance of sentence remitted by Conf. Auth.

MD 3 - 3 Bn 1 Cdn Inf Regt(48th Highrs) CAPF

~~Absxxxxxxxxxxxx-Sentence~~

W G Robertson 58

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No. K.55-B-9327

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Confidential

Kingston, Ontario, 7th September, 1945.

c.55-B-1948

The Judge Advocate-General,
Dept. of National Defence,
Central Chambers,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
B.59594 Pte Harry Raoul BOYER
3 Bn 1 Cdn Inf Regt (48th Highrs) CAPF

Herewith proceedings on the trial by Standing Court-Martial of the marginally named soldier.

J.E. Dowsley
(J.E. Dowsley) Major,
President of Standing Court-Martial.

57

N.D. 23
3 M.L.—11-43 (2979)
H.Q. 1772-101-23

Encl. 39555

H.Q.C. 55-B-1949

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

SUBJECT

FIELD GENERAL COURT-MARTIAL

BENJAMIN, H.L. D-82880 PTE.

CROSS REFERENCE

OVERSEAS COMBINED FILE

CONFIDENTIAL
H.Q.C. 55-B-1949

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
2 1945				ADMIN	NEW FILE	CR	10-9-45
SEP 14 1945	14.9.45			Jag	To note		11.9.45
				Admin			
SEP 24 1945				Jag	PER B.F. SEP 25 1945		
OCT 13 1945	13/10			J. A. G.	PER B.F. OCT 15 1945		
OCT 27 1945	26/10/45			Admin	With Papers C.R. OCT 26 1945		
	31/10/45						
OCT 31 1945							
JAN 7 1946	7/1/46				PER REQUISITION C.R. JAN 4 1946		
AUG 22 1946	21/Aug/46			DRB			
					Per Requisition C.R. AUG 7 1946		
1 1947	11/2/47			WGR	PER REQUISITION C.R. MAY 17 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

COPY
BOMBER
CONFIDENTIAL

AIR MAIL

10/Benjamin HL/1

CANADIAN MILITARY HEADQUARTERS

London 1 Sep 45

The Secretary,
Department of National Defence,
OTTAWA, Canada.

D.82880 Pte Benjamin H.L.

1. The m/n soldier is now serving a sentence of 6 months imprisonment with hard labour and discharge with ignominy awarded by FGCM 14 Jun 45 for the following offences: an absence without leave, while undergoing F.P., from which he was apprehended after 22 days, (AA Sec 15(1)), an absence without leave, while in Unit custody, from which he surrendered after 12 days (AA Sec 15(1)) and an absence without leave, when in Unit custody, from which he was apprehended after 4 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which his sentence of imprisonment with hard labour should terminate if he continues to do so, is 13 Oct 45.

3. This soldier enlisted 6 Jun 41 at Montreal P.Q. and he is now 27 years of age. Since enlistment he has been found guilty of 29 offences under AA Sec 15(1), of 2 offences under AA Sec 40 and of 1 offence under each of AA Sec 11 and AA Sec 19. He has had 1 previous FGCM, on 14 Mar 44, when he was awarded a sentence of 90 days detention for an absence without leave of 32 days (AA Sec 15(1)). He has had 2 civil convictions. On 14 Sep 44 he was sentenced to 1 months imprisonment with hard labour on a charge of theft. On 28 Dec 44 he was sentenced to 6 months imprisonment with hard labour on a charge of theft from the person.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an individual of average or better intelligence who is egotistical, impulsive and irresponsible; that he has no sense of social responsibility and no self discipline; that although superficially he appears to be ashamed of his misdemeanours nevertheless he is little inclined to assume any responsibility for them; that he states he has only drawn 3 full pays during his 4 years of service; and that he has been and will likely continue to be of absolutely no use to the army.

6. From this soldier's record of 33 military offences, 2 FGCsM and 2 civil convictions as well as the report outlined in para 5 above, it is clear that he is useless and incorrigible. It is consequently considered that his present sentence including discharge with ignominy is appropriate and that he should be required to serve his sentence of imprisonment with hard labour in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered that this soldier must have realized that his consistent misconduct would probably lead ultimately to his discharge and it is highly probable that he had that end in view.

7. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original A.F.A.3104 in respect of the FGCM held 14 Jun 45 on which this direction has been endorsed.

(E.G.Weeks) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc.1.
Copy ot OIC Records

COPY
NUMBER
CONFIDENTIAL

AIR MAIL

CANADIAN MILITARY HEADQUARTERS

10/Benjamin HL/1

London 1 Sep 45

The Secretary,
Department of National Defence,
OTTAWA, Canada.

D.88880 Pte Benjamin H.L.

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Enc.1.
Copy ot OIC Records

(E.C.Weeks) Major-General
In charge of Administration
Canadian Military Headquarters.

M-1-B-3951 ADIS

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

MONTREAL, Que. 24 Oct 45.

Army
5161
OCT 26 1945
1949
Referred to

Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM. CARO 5913
D82880 Pte BENJAMIN H L

Reference HQC 9039-1, Adm 3(b) 3, dated 8 Sep 45, pertaining to the marginally named soldier.

2. Attached hereto AF A3104 duly completed in respect to the marginally named soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

3. Also att is Form for Remission in respect to the marginally named.

(H.J. RENAUD) Major General,
D.O.C., M.D. No. 4.

Encl.

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. D.82880, Pte. Benjamin, H.L. Unit 2 C.I.T.R.
Sentenced to Imprisonment for six(6) months, on 14 June 45.
and discharge with ignominy.Stoppages of £0-10-2 & £2-16-1.
Age on, and date of enlistment 23 yrs. 6 June 41. Term of service Duration.

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20619) Wt.46075/276 100,000 2.42 A.& E.W.Ltd. Gp.693 Forms/A.3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION. RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 31 AUG 1945	
12 Oct 45	Sentence remitted wef 16 Oct 45 CARO 5913	(E.J. RENAUD) Major General, D.O.C., M.D. No.4	Released from detention the 16th October, 1945. (S.ECHENBERG) Colonel, Commanding No.4 D.D.,CA.

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
(1) A.W.L. 22 days, 7 hrs. 30 min.	29 Nov 44	14 June 45.
(2) A.W.L. 12 days, 6 hrs. 30 min.	6 May 45	14 June 45.
(3) A.W.L. 4 days, 25 min.	21 May 45	14 June 45.
(F.G. Wray) Major. Reg Adjt, 2 C I T R — Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
18 June 45	Presently serving sentence in Unit Det'n Bks.	(J.G.Bourne) Lt-Col. A/Comd, 2 CITR

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
22 Jun 45	I recommend sentence be served in full.	(K. G. BLACKADER) Brig Comd 13 Cdn Inf Trg Bde

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No.....
District File No. N.1-R-3951 A/DIA.....

PART I

No. D-82880 Rank. Pte. Name. BENJAMIN, H.L.
Unit. No. 4 District Depot

PART II

Date of Trial. 14 JUne 1945.
Charge(s). A.W.L.
Sentence. 6 months imprownment
Date of Sentence. 14 June 1945
Confirmation -- (a) Authority: ~~[illegible]~~
(b) Date : ~~[illegible]~~

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (~~commute~~)(~~mitigate~~)~~[illegible]~~ balance of term of detention

Signed at. MONTREAL. this 12 day of Oct 45
(Appointment) (R.J. REMAUD) Major General, DOC)
To be signed by the Remitting Authority M.D. No. 4 personally.

PART IV

PROMULGATION

Remission (~~commutation~~)(~~mitigation~~)~~[illegible]~~ promulgated and extracts taken at. Montreal. South, Que. this. 18th. day of. October. 1945... (1)

Ass. Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No. 4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-82880. Rank. Pte. Name. BENJAMIN, H.L. Field General
The sentence of. 6. months. imprownment. awarded by ~~District~~ Court Martial on the .14. June. 194.5. has been. remitted
on the. 16. October, 1945. by. D.O.C.
UNIT. Military. District. No. 4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A
No. 251. Place. Jacques. Cartier. Barracks, Date. 18. October. 1945.
Montreal South, Que.
Adjutant

(J.M.N. CHARLEBOIS) Capt. Adjt.,
General List, C.A., att'd to
No. 4 District Depot, C.A.

~~Strike out and initial words not applicable.

COPY

To:CR(C)
Pls PA on:
HQC 55-B-1949

W.O.

A/Colonel
D.Adm.

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

FILE NOS: K.S.674 (A)

AND PERSONAL FILES.

KINGSTON, Ontario. 6 OCTOBER 45.

Commandant, 89 Military Detention Barracks, BARRIEFIELD, Ont.
A.J.A.G. , M.D.3, KINGSTON, Ont.
Officer Commanding, 3 District Depot, KINGSTON, Ont.
District Paymaster, M.D.3, KINGSTON, Ont.
District Medical Officer, M.D.3, KINGSTON, Ont.
D.A.P.M., M.D. 3, KINGSTON, Ont.
District Records Officer, M.D.3, KINGSTON, Ont.
D.S.& T.O., M.D. 3, KINGSTON, Ont.
D.A.Q.M.G., M.D.3, KINGSTON, Ont.
Officer Commanding, 3 Ordnance Depot, RCOC, KINGSTON, Ont.
OIC 2nd Echelon (Central), MPO 315, BROCKVILLE, Ont.
Commandant, Ottawa Area Command, OTTAWA, Ont.
Officer Commanding, 33 Coy., C.Pro.C., OTTAWA, Ont.

SUS EX ITALY AND UNITED KINGDOM GO 131/44
89 Military Detention Barracks.

This Headquarters' letter numbered as above and dated 4 October 45 is amended by adding the following additions to paragraph 3.

MILITARY DISTRICT NO.2	SENTENCE	RECOM AS TO DISCH BY CMHQ	RECOM AS TO DISCH BY DOC MD 3
B.18767 Gnr. COONEY, B.E.	18 mos imp	RO 1029 (8)	RO 1029 (8)
B.67544 Pte. WICE, T.J.	2 yrs imp HL	RO 1029(8)	RO 1029 (8)
MILITARY DISTRICT NO.4			
D.82880 Pte. BENJAMIN, H.L.	6 Mos. detn HL ign	RO 1029(9)	RO 1029 (9)
MILITARY DISTRICT NO.7			
G.3928 Pte. OLSEN, M.R.	2 yrs.imp HL ign	RO 1029(9)	RO 1029 (9)

"W.K. MacGregor"
(W.K. MacGregor) Major,
D.A.A.G. M.D.3.

COPIES TO
Secretary, Dept of National Defence, Ottawa, Ont.
(Att Major Parlee, Administration Branch)

District Officer Commanding, MD 2, TORONTO, Ont.
Officer Commanding, 2 District Depot, TORONTO, Ont.

District Officer Commanding, MD 4, MONTREAL, P.Q.
Officer Commanding, 4 District Depot, MONTREAL, P.Q.

District Officer Commanding, MD 7, SAINT JOHN, N.B.
Officer Commanding, 7 District Depot, FREDERICTON, N.B.

"W.K. MacGregor" Major
for (F.L.Armstrong) Brig.
D.O.C. M.D.No.3.

WKM/V.

VER V CIA MRS 13 14 & 15

FROM COMMANDING TIMER KINGSTON 061107Z

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[illegible] MD 4 [illegible]

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GA 174 [illegible]

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CR(c) FA on file

C55-B. 1949

Admin 3(d)2

noted
JCS

HQC 55-B-1949
Adm 3(b)2

CONFIDENTIAL

14 Sep 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

D.82880 Pte BENJAMIN, H L
SUS XUK W/959

This SUS is returning XUK W/959 due Quebec, P Q 21 Sep 45.

2. Following medical examination he will be despatched to No 3 DD for committal to No 89 MDB.

3. Enclosed herewith CMH 2 letter and AF A3104.

4. It will be noted that this SUS is to be discharged under CARO 1029(9).

(A E Walford)
Major-General
Adjutant-General

Encl.

WCP:da

UNDER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Benjamin, HL/1

CANADIAN MILITARY HEADQUARTERS

LONDON 1 Sep 45.

C.55-B-1949

The Secretary,
Department of National Defence,
OTTAWA, Canada.

D-82880 Pte Benjamin, H.L.

1. The m/n soldier is now serving a sentence of 6 months imprisonment with hard labour and discharge with ignominy awarded by FGCM 14 Jun 45 for the following offences: an absence without leave, while undergoing F.P., from which he was apprehended after 22 days (AA Sec 15(1)), an absence without leave, while in Unit custody, from which he surrendered after 12 days (AA Sec 15(1)) and an absence without leave, when in Unit custody, from which he was apprehended after 4 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which his sentence of imprisonment with hard labour should terminate if he continues to do so, is 13 Oct 45.

3. This soldier enlisted 6 Jun 41 at Montreal, P.Q., and he is now 27 years of age. Since enlistment he has been found guilty of 29 offences under AA Sec 15(1), of 2 offences under AA Sec 40 and of 1 offence under each of AA Sec 11 and AA Sec 19. He has had 1 previous FGCM, on 14 Mar 44, when he was awarded a sentence of 90 days detention for an absence without leave of 32 days (AA Sec 15(1)). He has had 2 civil convictions. On 14 Sep 44 he was sentenced to 1 month imprisonment with hard labour on a charge of theft. On 28 Dec 44 he was sentenced to 6 months imprisonment with hard labour on a charge of theft from the person.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an individual of average or better intelligence who is egotistical, impulsive and irresponsible; that he has no sense of social responsibility and no self discipline; that although superficially he appears to be ashamed of his misdemeanours nevertheless he is little inclined to assume any responsibility for them; that he states he has only drawn 3 full pays during his 4 years of service; and that he has been and will likely continue to be of absolutely no use to the army.

6. From this soldier's record of 33 military offences, 2 FGCsM and 2 civil convictions as well as the report outlined in para 5 above, it is clear that he is useless and incorrigible. It is consequently considered that his present sentence including discharge with ignominy is appropriate and that he should be required to serve his sentence of imprisonment with hard labour in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered that this soldier must have realized that his consistent misconduct would probably lead ultimately to his discharge and it is highly probable that he had that end in view.

7. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original A.F.A3104 in respect of the FGCM held 14 Jun 45 on which this direction has been endorsed.

AR

Enc. 1
Copy to OIC Records

for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters.

1/39B CMHQ 1000-77 40/P & S/3310 (8147)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-82880 Pte Hobart Legrande BENJAMIN - CIC - 2 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd AA Sec 15(1)	GUILTY	GUILTY	
3rd AA Sec 15(1)	GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... ~~beginning on (date)~~ .....(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be put under stoppages of Pay until he has made good (1) £0-10-2 and (2) £2-16-1 the expense of his return to his unit. To be imprisoned with Hard Labour for six (6) months and to be dishonorably discharged with ignominy from His Majesty's service. 14 JUN 45

(Sgd) ..... Judge-Advocate, if any. (Sgd) ..... President. (RP 45, 50.)
Date awarded.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) ..... Commanding 13 C.I.T. Bde. Confirming Officer.

ENTERED ORDER No. ..... Date 16 June 45
DATE 21 Jun 45
BY

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.82880, Pte. Benjamin, H.L.	18 June 45.	..... Lt. (A.H.Krieger)
D 82880 Pte Hobart Legrande Benjamin		

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ 16 AUG 1945 5M-'49.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA2) 40/P & S/1698 (2864)

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 11 Jun 45

28 JUN 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82880	Pte		Hobart Legrande	BENJAMIN	CIC 2 CITR

PROCEEDINGS REVIEWED
30 Jun 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at the Fd in (country) ..... on (date) 14 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object~~ to ..... ~~as interpreter: Ans~~ .....
~~The Interpreter is sworn.~~(1) Do you object to H-13189 Pte GILBERTG as shorthand writer? Ans NO-SIR
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO-SIR(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L REDMAN VD	HQ CRU
Member	CAPT	W.E SCYTHES	1 CITR
Member	LIEUT	J.R WHITE	1 CITR
~~Judge-Advocate~~	Capt. detailed from 1 SCI TR did not report and Waiting Member took his place.		
Prosecutor	LIEUT	A.M TERHUNE	2 CITR
Defending Offr	LIEUT	J.M DUFF	2 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea .....(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-82880 Pte Hobart Legrande BENJAMIN - CIC - 2 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd AA Sec 15(1)	GUILTY	GUILTY	
3rd AA Sec 15(1)	GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... ~~beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be put under stoppages of Pay until he has made good (1) £0-10-2 and (2) £2-16-1 the expense of his return to his unit. To be imprisoned with Hard Labour for six (6) months and to be discharged with Ignominy from His Majesty's service. 14 JUN 45

(Sgd) ..... Judge-Advocate, if any. Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) D. Forin Col

Date 16 June 45

Commanding 13 C.I.T. Bde.

Confirming Officer.

ENTERED ORDER No. 174
DATE 21 June 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.82880, Pte. Benjamin, H.L.	18 June 45.	..... Lt. (A.H.Krigger)
D 82880 Pte Hobart Legrande Benjamin		

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 100. 5M-49.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S.1608 (3004)

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 11 Jun 45

JAG 1.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82880	Pte		Hobart Legrande	BENJAMIN	CIC 2 CITR

PROCEEDINGS REVIEWED

30 Jun 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at the Pd in (country) ..... on (date) 14 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions f.r conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object,~~ to ..... ~~as interpreter?~~ Ans .....

~~The Interpreter is sworn.~~(1) Do you object to H-13109 Pte GILBERT G as shorthand writer? Ans NO-SIR
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO-SIR(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN VD	HQ CRU
Member	CAPT	W.E. SCYTHES	1 CITR
Member	LIEUT	J.R. WHITE	1 CITR
~~Judge-Advocate~~	Capt. detailed from #3 CITR did not report and Waiting Member for his place.		
Prosecutor	LIEUT	A.M. TERHUNE	2 CITR
Defending Offr	LIEUT	J.M. DUFF	2 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see refs in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change~~ his ~~(their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so~~ informed, and he (they) ~~change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP* [redacted] *2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. To Give Evidence NOTE-ATT
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. By my Wife NOTE-ATT (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2) 70
(*1. When several accused tried separately see RP* [redacted] *One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 102, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The accused, D.82880, Pte. Hobart Legrande BENJAMIN, C.I.C., on strength of 2 Cdn Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
SEC. 15(1) ARMY ACT

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITH-
OUT LEAVE

in that he

In the Field, at 1100 hrs. 29 Nov 44, whilst undergoing Field Punishment, illegally absented himself without leave until he was apprehended at 1830 hrs. 21 Dec 44.

(Total Time Absent: 22 days, 7 hours, 30 min.)

Second Charge
SEC. 15(1) ARMY ACT

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITH-
OUT LEAVE

In that he

In the Field, at 1900 hrs. 6 May 45, whilst in Unit Custody, illegally absented himself without leave until he surrendered himself to the Corps Military Police, London, at 0130 hrs. 19 May 45, wearing civilian clothes, thereby incurring costs of return to his unit (London to Hassocks) in the amount of £0-10-2.

(Total Time Absent: 12 days, 6 hrs. 30 min.)

Third Charge
SEC. 15(1) ARMY ACT.

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITH-
OUT LEAVE

In that he

In the Field, at 1850 hrs. 21 May 45, whilst in Unit Custody, illegally absented himself without leave until he was apprehended at Manchester at 1915 hrs. 25 May 45, thereby incurring costs of return to his Unit in the amount of £2-16-1 (Manchester to London and London to Hassocks)

(Total time absent: 4 days, 25 min.)

In the Field.

6 June 45.

(J.G. Bourne) Lt-Col.,
A/Comd, 2 C I T R

To be tried by Field General Court Martial.

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
11 Jun 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82880	Pte		Hobart Legrande	BENJAMIN	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 11 Jun 45 endorsed by me, ~~for trial of my accuser~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior authority~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr President, for the reasons shown attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the man the Offr mentioned thereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd	3 CITR
Lieutenant	to be detailed by Comd	1 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd	1 CITR

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 11 Jun 45

(Signed personally. RP 105 fn 2.)
(K G Blackader)
Commanding 13 Cdn Inf Trg Bde
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (5143)

(See overleaf for oaths and notes for use on trial.)

MED OFFRS CERTIFICATE 2 CITR/A1

K.R.Can Para 557

I certify that I have this morning examined No. D 22 280 .....

..Pte..BENJAMIN.....H.L..... and in my opinion he

is FIT to undergo trial by Court-Martial.

Station: Laurentide Camp .....L. MacDonald.....Capt.
(RCAMC) Attached to 2 CITR

Date: 14 JUNE 45

E-3
MY

I should like to make this plea for mitigation of sentence on behalf of the defendant. He is of good family and has two years college education. He has four years service in the Canadian Army and has ability judging from the fact that at one time he was a corporal drawing C (clerks) trade pay. However now he is a man who has gone to pieces, due mainly to family troubles and this unfortunate association with another woman. I believe if as light a sentence as possible were given and he could participate in the far Eastern campaign, for which he has volunteered, he would prove himself a soldier and regain his self respect.

J. McDaffett
Defending Officer

E-1
MJ

I am married to a girl in Canada but the marriage was not successful. I asked her for a divorce but she refused.

In 1942 I became involved with a girl in the Waaf in this country and in Oct. 1943 a child was born. At the time I was a corporal drawing C trades pay as a clerk but had a debit balance in my pay book of $150. My promotion called for an extra assignment or deferment of $10 a month. The child's mother was sick and could not support herself, so I tried to have this $10 per month assigned to her. It was refused.

I was granted a 9 day leave and worked for a man in Reigate. Later with the same conditions existing I went A.W.L. and back to work. As a result I was subsequently court martialed.

During the trial, the president of the court, Lt/Col. Redman, advised me to have the woman take a court action against me. This was done in the

1944. The magistrate of the court ordered me to pay 10 shillings per week for the support of the child. However, due to the debit balance in my pay book, C.M.H.Q. did not see fit to O.R. the said judgement and ~~the~~ conditions were as bad as they had been prior to my court martial.

Subsequent A.W.L.s were for the same reason, that is namely to work, in order to support mother + child. In Dec. 1944 I was convicted in civil court on a theft charge and was sentenced to 6 months imprisonment. At the time of conviction I had been illegally absent for 22 days. On my release from prison I was turned over to the Canadian Provost Corp and escorted back to my unit, where I was remanded for an F.G.C.M.

All through the period of my imprisonment I had no word from the mother. When the opportunity presented itself, I broke unit custody and went to Birmingham, where I had last had contact with her, but she had moved. I traced them to two further addresses and then lost all trace of them. After an absence of 12 days I returned to London and surrendered myself to the Corp of Military Police and was returned to my unit on the 21 May 45.

Shortly after my arrival in the unit, I heard, from what I considered a reliable source, that the mother was in Manchester. I again broke unit custody and went to Manchester, where I was apprehended before I had an

opportunity to investigate the information I had received.

W. 82880

Pte. Benjamin N. L.

SUMMARY OF EVIDENCE

In the case of D.82880, Pte. Hobart Legrande BENJAMIN, CIC, on strength of 2 Cdn Infantry Training Regiment, a soldier of the Cdn. Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

.....

First Witness Prosecution. Lieut. A. W. Geddes, R.H.Q., 2 CITR, having been duly sworn, states as follows:-

"I am Lt. A.W. Geddes, RHQ, 2 CITR, and I produce the following as exhibits for the prosecution:-

Exhibit "A":- Certif. True Extract of 2 CITR Pt. II D.O. No. 6 dated 8 Jan 45, showing D.82880, Pte. Benjamin, H.L. illegally absented himself without leave from 1100 hrs. 29 Nov 44 and that he was apprehended at 1830 hrs 21 Dec 44.

Exhibit "B":- Certif. True extract of 2 CITR Pt. II D.O. No. 29, d/5 Dec 44, showing D.82880, Pte. Benjamin, H.L. was awarded 28 days F.P. on 27 Nov 44.

Exhibit "C": Certif. True Extract of 2 CITR, Pt. II D.O. No. 110, d/11 May 45, showing D.82880, Pte. Benjamin, H.L. AWL from 1900 hrs. 6 May 45, having escaped from Unit Custody.

Exhibit "D": Certif. under A.A. Sec. 163 (i) (j) showing D.82880, Pte. Benjamin, W.L. having surrendered himself to the Corps of Military Police, London, at 0130 hrs. 19 May 45, dressed in civilian clothes.

Exhibit "E": Expense Voucher showing costs of returning D.82880, Pte. Benjamin, H.L. from London to Hassocks in the amount of £0-10-2.

Exhibit "F": Certif. True Extract of 2 CITR Pt.II D.O. No. 123, d/26 May 45, showing D.82880, Pte. Benjamin, H.L. having escaped from custody at 1850 hrs. 21 May 45 and still absent at 1850 hrs. 22 May 45.

Exhibit "G":- Certif. in accordance with P.C. 2797, of 10 Apr 43, showing that D.82880, Pte. Benjamin, H.L. was arrested at Manchester at 1915 hrs. 25 May 45, by the Cdn Prov Corps.

Exhibit "H". Expense Voucher showing costs of returning D.82880, Pte. Benjamin, H.L. from Manchester to London in the amount of £2-9-3.

Exhibit "I":- Expense Voucher showing costs of returning D.82880, Pte. Benjamin, H.L. from London to Hassocks in the amount of £0-6-10.

Which above exhibits pertain to the accused herein."

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

A.W. Geddes .....Lieut.
(A.W.Geddes)

SUMMARY OF EVIDENCE

In the case of D.82880, Pte. Hobart Legrande BENJAMIN, CIC, on strength of 2 Cdn Inf Training Regiment, a soldier of the Cdn. Army Overseas.

(Continued)

.....

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) (F) have been complied with.

In the Field

6 June 45.

P. Saperia .....Lieut.
(P. Saperia)
Officer detailed to take the Summary of Evidence.

M

Last Order
No: 5
d/6 Jan 45

2 CANADIAN INFANTRY TRAINING REGIMENT
PART II DAILY ORDERS BY
A/COLONEL JA WILSON COMMANDER

This Order
No: 6
d/8 Jan 45

PARA: 8 (d)

D-82880 Pte BENJAMIN H L (C Fus)

Enclosure A

AWL from 1100 hrs 29 Nov 44. App at 1830 hrs 21 Dec 44. (Still in civil custody.

Certified True Extract

4 May 45
(Date)

(Sgd) J.L. HENSLOWE, Capt
For AJA BAXTER - Major
ADMIN OFFICER
2 CITR

J.L. Henslowe
(JL Henslowe) Capt.
Records Offr 2 CITR

2 CANADIAN INFANTRY TRAINING REGIMENT

PART II DAILY ORDERS BY

A/COLONEL JA WILSON COMMANDER

Last Order No: 28 d/4 Dec 44

This Order No: 29 d/5 Dec 44

PARA: 11 (1)

Exhibit B

D-82880 Pte BENJAMIN H L (C Fus) CHARGE: AA Sec 15 (1) AWL from 1330 hrs 15 Nov 44 until 2130 hrs 23 Nov 44. (Absent 9 days 8 hrs)

AWARDED: 28 days F P

FORFEITS: 9 days pay FR&I 149(1)(a)
28 days pay FR&I 149(1)(b)

TOT FORFEITURE: 37 days pay 27 Nov 44

(Sgd) J.L. HENSLOWE, Capt
For AJA BAXTER - Major
ADMIN OFFICER
2 CITR

Certified True Extract

8 May 45
(Date)

(JL Henslowe) Capt.
Records Offr 2 CITR

2 CANADIAN INFANTRY TRAINING REGIMENT
PART II DAILY ORDERS BY
A/COLONEL JA WILSON COMMANDER

Last Order
No: 109
9 May 45

This Order
No: 110
11 May 45

PARA: 11(k) ABSENT WITHOUT LEAVE

Exhibit C

D-82880 Pte BENJAMIN H.L. CIC

AWL from 1900 hrs 6 May 45 Still absent 1900 hrs 7 May 45

(Escaped Unit Custody)

Certified True Extract

.....12 May 45
(Date)

(Sgd) J.L. HENSLOWE, Capt
For AJA BAXTER - Major
ADMIN OFFICER
2 CITR

.....
(JL Henslowe) Capt.
Records Offr 2 CITR

CERTIFICATE UNDER THE ARMY ACT SECTION 163(1)(j) Exhibit D

Captain. F.C.Smith D/Assistant Provost Marshal, London District,

certify that No. D/82880 Rank Pte Name BENJAMIN. W.L. of the

2nd C.I.T.R. (Canadian Army) Regiment, surrendered himself to No. 5096578

Rank L/Cpl. Name HAWKINS.H. of the Corps of Military Police

at St. Pancras Rly Stn. Time 0130 hrs on the 19th day of May 1945.

as an absentee without leave. He was dressed in Civilian Clothes.

Station London District.

LONDON.

20th May, 1945.

Captain.,
D/ Assistant Provost Marshal,
London District.

Expense Voucher Re—:

Ref: KR & O (Can) 539

Exhibit E

Reg No. D-82880 Rank Pte Name Benjamin, H.L. Unit 2 C.I.T.R.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London to Hassocks

Date	Particulars	Amount		
21. May. 45	Escorts return fare from LONDON To Hassocks			
	Prisoners single fare to LONDON From		6	9
	Prisoners fare from London To Hassocks			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		3	5
	Total £	0	10	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Edmund A. Powers Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

MHQ 1000:55
11/P48/483(3639

Cy. "F"

Last Order
No: 122
D/25 May 45

2 CANADIAN INFANTRY TRAINING REGIMENT
PART II DAILY ORDERS BY
COLONEL DC CAMERON (DSO) A/COMD

This Order
No: 123
D/26 May 45

PARA: 7. ABSENT WITHOUT LEAVE

(a) AWL from 1850 hrs 21 May 45. Still absent 1850 hrs 22 May 45 (Escaped Unit Custody)

D82880 Pte BENJAMIN H L (CIC)

(Sgd) A. EDMONDSON Lieut
for F.G. WRAY Major
A/REGT ADJUTANT
2 CITR

Certified True Extract
5 Jun 45
(DATE)

A. Edmondson Lieut
A. EDMONDSON Lieut
Records Officer 2 CITR

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42 Exhibit G

I certify that No. D-82889 ...Rank. Pte. ....Name. . Benjamin, H.L. .....

Unit. . . No. 2. C.I.T.R. . (CWU) ....was Arrested at. . Manchester .....(place)

at. 1915 hrs. (Hour) on. 25-May-1945. (date) and that at the time of his arrest he was wearing xxxxxxxxxxxxxxxxxxxx (Civilian Clothes), Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

.....Capt.
(R.W. Kyle)
D.A.P.M. C.M.H.Q.

London
29-May-1945.

Expense Voucher Re—: Ref: KR & O (Can) 539

Established 14

Reg No. 187880 Rank Pte Name Benjamin, H.L. Unit 2C 11R

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Manchester

Date	Particulars	Amount		
28 May 45	Escorts return fare from LONDON To Manchester	1	8	2
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		7	0
	Total £	2	9	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

CMHQ 1000:55
40/P&S/483(3629

Expense Voucher Re—: Ref: KR & O (Can) 539

Enclosure I

Reg No. D-82880 Rank Pte. Name Benjamin, H.L. Unit 2 C.I.T.R.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London to Hassocks

Date	Particulars (½ Portion)	Amount		
30 May 45	Escorts return fare from LONDON To Hassocks		3	5-
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Hassocks		3	5-
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	—	6	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

CMHQ 1000:55
40/PAS/483(3639

LIST OF WITNESSES

In the case of D.82880, Pte. Benjamin, H.L., CIC, on strength of 2 C.I.T.R., a soldier of the Cdn. Army Overseas.

(For the Prosecution)

1. Lieut. A.W. Geddes, RHQ, 2 CITR.

(For the Defence)

Nil.

.....

LIST OF EXHIBITS

In the case of D.82880, Pte. Benjamin, H.L., CIC, on strength of 2 C.I.T.R., a soldier of the C.A.(O)

(For Prosecution)

Exhibit "A":- Certif. True Extract from 2 CITR Pt. II D.O. No. 6, d/8 Jan 45, showing accused AWL from 1100 hrs. 29 Nov 44 until appreh at 1830 hrs 21 Dec 44.

Exhibit "B":- Certif. True Extract of 2 CITR Pt. II D.O. No. 29, d/5 Dec 44, showing the accused having received 28 days F.P. on 27 Nov 44.

Exhibit "C":- Certif. True Extract of 2 CITR, Pt. II D.O. No. 110 d/11 May 45, showing accused having escaped Unit Custody at 1900 hrs. 6 May 45.

Exhibit "D":- Certif. in accordance with A.A. Sec. 163 (1) (1) showing accused having surrendered himself to the Corps of Military Police, London, at 0130 hrs. 19 May 45 dressed in civilian clothes.

Exhibit "E":- Expense Voucher showing costs of returning accused from London to Hassocks in the amt of £0-10-2.

Exhibit "F":- Certif. True Extract of 2 CITR Order No. 123 showing accused having escaped from custody at 1850 hrs. 21 May 45, and still absent at 1850 hrs. 22 May 45.

Exhibit "G":- Certif. in accordance with P.C. 2/97 of 10 Apr 42, showing accused arrested at Manchester at 1915 hrs. 25 May 45 by the Cdn. Prov. Corps.

Exhibit "H":- Expense Voucher showing costs of returning accused from Manchester to London in the amount of £2-9-3.

Exhibit "I":- Expense Voucher showing costs of returning accused from London to Hassocks in the amt of £0-6-10.

(For Defence)

NIL.

REQUEST FOR DEFENDING OFFICER

I, D.82880, Pte. Benjamin, H.L. hereby request that the Convening Officer appoint Capt. Mc Lellan to represent me at my forthcoming trial by F.G.C.M., should he be available.

H.L. Benjamin .....Pte.
(H.L.Benjamin)

In the Field.
6 June 45.

RECEIPT FOR DOCUMENTS.

I, D.82880, Pte. Benjamin, H.L. hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

In the Field.
6 June 45.

H.L. Benjamin .....Pte.
(H.L. Benjamin)

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D.82380	Pte.	Benjamin, H.L.	2 CITR.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15(1)	24	times.
AA Sec 15(2)	1	
For AA Sec 15(3)	1	times.
For AA Sec 19	1	times.
AA Sec 11	2	
For AA Sec 40	5	times.
AA Sec 22	2	

Date of first entry in Field Conduct Sheet 15 Apr 42

Date of last entry in Field Conduct Sheet 28 Dec 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence~~ for ~~beginning on the~~ ~~day of~~

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 20 days in military custody, *i.e.*, NIL days in open arrest, 20 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 27 years 2 mon.

6. The date of his attestation ~~calling up for military service~~ is 6 Jun 41.

~~7. The service which the accused is allowed to reckon is~~

8. The accused is in possession of‡ No decorations.

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(28594) Wt.42129/4399 42,000 11/44 A.& E.W.Ltd. Gp.693 Forms/F.2 6(War)/4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	14 Mar 44 In The Field	AA Sec 15(1)	90 days detention	26 days remission
Civil	Woolwich Police Stn.	Theft.	6 months H.L.	2mon. remission.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 14 day of Jun 45

Caporia Lt
Inst Sgt

No. D82380 Name BENJAMIN HL | Sqn, Battery, or Company | Corps C I C | Date of enlistment 6 Jun 41 GC | Badges N/A | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6Jul 44	Pte		2nd Charge: AA Sec 40 An act to the Pre. etc. on 6 Jul 44 made us of a document purporting to be a pass.	Documentary				
Field	6Jul 44	Pte		3rd Charge: AA Sec 40 Conduct to the Prej. etc. on 6 Jul 44 when app. at Wimbledon by CPC had no means of identification.	Documentar				
Field	6Jul 44	Pte		4th Charge: AA Sec 22 Attempting to escape from lawful custody at Wimbledon from CPC.					
Field		Pte		AA 40; AA 22; AA 15(3)		28 days Detn	11Jul44	Lt-Col LGC Lilley	Forf 2 dys pay. FD&I (Pto) 149(1)(a)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8Aug 44	Pte	✓	AA Sec 15(1) AWL 6 days, 12 hrs, 10 mins)	Documentary	Forf 14 days pay 149(2)	18Aug44	CH Whyte Colonel	Forf 7 days pay.
Field	22Aug 44	Pte	✓	AA Sec 15(1) AWL 11 days, 9 hrs, 50 mins.	Documentary	27 days detn	13 Sep44	HGJ Woods Lt-Col	Forf 12 days pay 149(1)
Field	2 Sep 44	Pte	✓	AA Sec 40 - Conduct to the Prej. etc. - improperly dressed on 2 Sep 44.	)))				(a) Forf 10 days pay. 149 (1)(c)
Field	15Nov 44	Pte	✓	AA Sec 15(1) AWL 9 days, 8 hrs	Documentary	28 days F.P. 28 days pay FR&I 149(1)(b)	27Nov44	Lt-Col J. Runcie	Forf 10 days pay. FR&I 149(1)(a)
Woolwich Police	Dec 44	Pte		Stealing a wallet, watch, etc. from a civilian.		6 mon H.L.	28 Dec 44	~~28xDec~~ ~~44~~	Remission 2 mon.

CERTIFIED TRUE COPY ..... (P. Saperia) Lieut. Officer having custody of original.

5 ~~May~~ 45

Exc

No. D82880 Name BENJAMIN HL | Sqn, Battery, or Company | Corps C I C | Date of enlistment 6 Jun 41 | GC Badges N/A | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/PAS/136 (5413)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17May 43	Pte	✓	(1) WOAS Neglected to obey a Gen Order - Improperly Dressed AA Sec 11 (2) Sed 40 - Neglect to the Pre. etc. - failing to comply with an order.	Documentary Evidence	7 days C.B. 3 days pay	19May43		3 days pay FR&I 149(2)
Field	7Jun 43	Pte	✓	AA Sec 15(1) AWL 5 days, 13 hrs, 15 mins.	A/Cpl Carey, T.P.	18 days pay	14Jun43	Lt-Col Lobbe	
Field	17Jun 43	Pte	✓	AA Sec 15(1) AWL 40 mins.	Cpl Huffman	14 days C.B.	18Jun 43	Lt-Col Lobbe	
Field	18Jun 43	Pte	✓	AA Sec 15(1) AWL 10 days, 30 mins	Cpl Huffman	Forfs 11 days pay. FR&I 149(1)(a)		Lt-Col Lobbe	Forfs 28 days FR&I 149
Field	1Aug 43	Pte	✓	AA Sec 15(1) AWL 7 days, 21 hrs, 1 min.	Cpl Gordon	7 days C.B.	10Aug43	H.B.Gooding Major	8 days pay FR&I 149

3/17 MFM 6 (AFB 122) 40/P&S/136 (1412)

No. D82880 Name BENJAMIN HL | Sqn, Battery, or Company | Corps C I C | Date of enlistment 6 Jun 41 GC | Badges N/A | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6Jul 44	Pte		2nd Charge: AA Sec 40 An act to the Prej. etc. Documentary on 6 Jul 44 made us of a document purporting to be a pass.					
Field	6Jul 44	Pte		3rd Charge: AA Sec 40 Conduct to the Prej. etc. Documentar on 6 Jul 44 when app. at Wimbledon by CPC had no means of identification.					
Field	6Jul 44	Pte		4th Charge: AA Sec 22 Attempting to escape from lawful custody at Wimbledon from CPC.		28 days Detn	11Jul44	Lt-Col LGC Lilley	Forf 2 dys pay. ~~RAI~~ (Pro) 149(1)(a)
Field		Pte		AA 40; AA 22; AA 15(3)					

No. DB2880 Name BENJAMIN H L Sqn, Battery, or Company | Corps C I C | Date of enlistment 6 Jun 41 | GC Badges N/A | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/F&B/130 (5413)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed after 6 months of service 6 Dec 41. Date of last entry 21 Oct 41. Cases of Drunkenness 1 Date of last instance 1/7/41.									
Field	15Apr 42	Pte		AA Sec 15(1) AWL		Forfs 19 days pay & 10 days detn			
Field	29May 42	Pte	✓	AA Sec 15(1) AWL		5 days CB & 10 days pay			
Field	25May 42	Pte	✓	AA Sec 15(1) AWL 30 mins.		7 days CB			
Field	5Jun 42	Pte	✓	(1) AA Sec 15(1) AWL 11 hrs30 mins (2) AA Sec 15(1) AWL 4 hrs, 30mins (3) AA Sec 19 Drunkenness.		Forfs 29 days pay			
Field	30Jun 42	Pte		AA Sec 15(1) AWL 9 hrs 45 mins.		11 days pay 10 days Detn			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29Jul 42	Pte		AA Sec 15(1) AWL 10 hrs 11 mins		Forfs 10 days pay			
Field	29Sep 42	Pte	✓	AA Sec 15(1) AWL		Forfs 33 days pay & 28 days 7 days CB.	F.P.		
Field	9Dec 42	Pte	✓	AA Sec 15(1) AWL 4 days, 11 hrs 45 mins.		Forfs 11 days pay 5 days pay 5 days F.P.			
Field	14Jan 43	Pte	✓	AA Sec 15(1)		14 days detn			
Field	30Dec 42	Pte	✓	AA Sec 15(1) AWL 1 day, 1 hr, 30 mins		16 days pay 10 days F.P.	19Apr43	Lt-Col Lobbe	3 days pay PM&I 149(1)(a)
Field	14Apr 43	Pte	✓	(1) AA Sec 15(1) AWL 1 hr (2) AA Sec 15(2) failed to appear for Orders at 1000 hrs 15 Apr 43 after being duly warned by CSM Campbell, D.A.					
Field	14Apr 43	Pte	✓	(3) AA Sec 15(1) AWL 2 days, 15 hrs	Cpl Wassilaskus				

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.82880 Pte BENJAMIN, Hobart Legrande - 4 CGPC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	~~Finding.~~ (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	~~Guilty~~	in spt that I was not
2nd			undergoing detention when I absented
3rd			myself. The Prosecutor stressed the
4th			seriousness of the offence.
5th			The Court accepted the Plea with exception
6th			Finding
			Guilty

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of ninety (90) days.

(Sgd) ..... Judge-Advocate, if any. 14 Mar 44 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and Sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

Date 16 ~~11~~ Mar 44 (Sgd) G. Francoeur (G. Francoeur) Brigadier Commanding "D" Group, Cdn. Rft. Units Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
D82880 Pte Benjamin H.L.	20 Mar 44	Bennett Lt Officer i/c Documents, Can N.E.T.D. (Lome Sect) Can Army Eng

PART II-00-64-0-20 MAR 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. GGG-26

CPA96 (In lieu of AFA9) 40/P & S/1608 (2884)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier G. Francoeur Comd "D" Gp., CRU dated 11 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	~~Full Christian Names.~~	Surname.	Unit.
D.82880	Pte	Lieut	Hobart Legrande	BENJAMIN	4 CGPC

PROCEEDINGS REVIEWED L.C. Dod Lieut Rev 3 1 Apr 44 REVIEWING OFFICER, BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 14 Mar 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 12.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.P. Redman, V.D.	H.Q. C.R.U.
Member	Capt.	W.L. McCullam	7 C.I.R.U.
Member	Lieut	R.L.C. Williams	2 C.I.R.U.
~~Judge-Advocate~~			
Prosecutor	Lieut	J.T. Weir	4 C.I.R.U.
Defending Offr	Lieut	C.N. Fullerton	4 C.I.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(no)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) ~~The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans..... Do you intend to call witnesses on your behalf ?

Ans..... Are they witnesses as to character only ? Ans.....

(1. RP [redacted] 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. TO GIVE evidence

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No Sir, only by my Defending Officer (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2) 7.0

(1. When several accused tried separately see RP [redacted]. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-82880 Private Hobart Legrande BENJAMIN, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, is charged with:

WHILE ON ACTIVE SERVICE

FIRST CHARGE
SECTION 15(1)
ARMY ACT

Absenting himself without leave,

In that He,

In the Field, While undergoing Detention, absented himself without leave from 1630 hours, 30 January 1944 until apprehended by the Civil Police, Redhill, at 1045 hours, 3 March 1944

Total absence: 32 days, 18 hours, 15 minutes.

J. H. Donnelly

Talavera Barracks,
Aldershot, Hants,
7 March 1944

(J.H. Donnelly) Capt.,
A/Officer Commanding,
4 Cdn Gen Pioneer Coy C.A.(O)

To be tried by Field General Court Martial.

G. Francoeur

(G. Francoeur) Brigadier
Commander
"D" Group, Cdn. Rft. Units

In the Field
10 Mar 44

MM

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname.	Unit.
D82880	Pte		Hobart Legrande BENJAMIN	4 CGPC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and dated (date) 10 Mar 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by CO	7 CIRU
A Lieutenant	to be detailed by CO	3 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 13 Mar 44

Commanding "D" Group, Cdn Rft. Units. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA2) 40/P & S/1697 (4931)

Medical Officer's Certificate. 40/
K.R. (Can.), para 557.

I certify that I have this morning examined No. B.82880.....
..Pte. Benjamin H.L..... of..No. 4. Pioneer Coy.....
and in my opinion, he is.....fit..... to undergo trial by Court Martial.
Station....Field.....
Date.....March 14-44..... (Sgd.).....
(Medical Officer)
(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 4

Trial of D.82880, Pte. H.L. BENJAMIN, 4 CGPC

Note E-1

The accused, being duly sworn, gives evidence as to character:-

I joined the Army on 6 Jun 41. I am an American citizen. Before joining the Army, I was a student at Albany State Teachers' College. I had completed my second year. I was a L/Corporal prior to coming overseas which I automatically lost on arrival in England. Overseas I attained the rank of Corporal. In July 1942 I was sent to C.B.H. as Educational Corporal. The war establishment had been filled, and I was returned to the holding unit. I went absent in June 1943 because I had a W.A.A.F. pregnant by me. I went to help her out. The child was born in October 1943. I was with her on leave at that time. During my leave I was working for an ammunition plant. After this I went A.W.L. frequently to make money to support this girl who had no money. I am married and could not get a divorce to help this woman. I always got a job at the same ammunition plant. On 15 Nov 43 I found this woman and child sick and without money. I went absent to make money for them. When I returned from my December absence on 20 Dec 43 I went to hospital for 39 days under close arrest. I lost my pay for that period and on 27 Jan 44 I was given 27 days detention. I heard I was going to be sent to N.E.T.D., and I felt my duty was to this woman over here. In January 1944 I was given a "B-2" category, emotional instability. I didn't want this category, and I have been trying since to get it raised so that I can get to a field unit. I have had two years in the teachers' college.

Plea in Mitigation of Punishment in the case of D-82880, Pte Benjamin H. L.

May it please the court to bear in mind the following facts in considering the evidence of the accused. The accused is highly educated but has a B-2 category for emotional instability. Up until June, 1943 he was never guilty of any serious crime against military law and had earned N.C.O. rank on 2 occasions. His more serious offences began when he became responsible for his girl-friend becoming pregnant and being discharged from the W.A.A.F. Being married in Canada and unable to obtain a divorce or support for his girl-friend and his child drove him to going absent without leave on numerous occasions to work in a factory and thereby earn money for his destitute girl friend and child for whom he felt responsible. His last A.W.L. for which he is now under charge resulted from the belief, honestly entertained, that he was going to be sent to N.E.T.P. and then back to Canada leaving those he loved and for whom he felt responsible behind him. Being emotionally unstable and burdened by domestic and financial troubles the accused, I submit, should be given as lenient a sentence as possible.

W. A. Fullerton Lt.
Defending Officer.

14 Mar. 44.

NOTE E-3

Exhibit A. J.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at IN the Field on the 20 day of February 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No.D-82880 Pte. Benjamin, H.L. 4 Canadian General Pioneer Company.

DECLARATION

The Court declare, That D-82880 Pte. Benjamin,H.L. illegally absented himself without leave from 1630 hrs 30 Jan 44 and that at 1630 hrs 2[illegible] Feb 44 he is still so absent and deficient his kit to the amount of £5-10-1½.

ARTICLE	NO	100%	75%
Blouses B.D.Serge	1	£1-3-6	0-17-7½
Bonnet Tam O'Shanter	1	0-2-8	0-2- 0
Boots Ankle Prs	2	2-8-10	1-16-7½
Drawers Cell Shorts Prs	2	0-3-10	0- 2-10½
Drawers Woollen Prs	2	0-10-9	0- 8-1
Shirts Angora Drab	2	0-18-2	0-13-7½
Shoes Canvas Prs	1	0- 2-11	0- 2-2½
Trousers B D Serge	1	1- 4-1½	0-18-1
Vests Woollen	1	0- 5-4½	0- 4-0½
Braces Pairs	1	0- 1-4	0- 1-0
Brushes Shaving	1	0- 1-8	0- 1-3
Brushes Tooth	1	0- 0-6	0- 0-4½
Combs Hair	1	0- 0-2	0- 0-1½
Fork Table	1	0- 0-4	0- 0-3
Holdall	1	0- 0-10	0- 0-7½
Knife Table	1	0- 0-8	0- 0-6
Razor Safety	1	0- 0-3	0-0 02½
Spoon N S Dessert	1	0- 0-4	0- 0-3
Singlets Gym	2	0- 3-2	0- 2-4½
Belt Waist WE Pat 37	1	0- 3-4	0- 2-6
Braces Left	1	0- 1-4	0- 1-0
Braces Right	1	0- 1-4	0- 1-0
Haversa ck WE Pat 37	1	0- 8-0	0- 6-0
Tins Mess	1	0- 1-7	0- 1-2½
Ointment A/Gas	1	0- 0-8	0- 0-6
Soc ks Worsted Prs	3	0- 5-0	0- 3-9
Towels	2	0- 2-10	0- 2-1½
		£8-13-6	£5-10-1½

Names of President and Members:

LIEUT. R.F. DIONNE (PRESIDENT)
LIEUT. G. CRAVEN (MEMBER)
LIEUT. J.L. MILLER (MEMBER)

Signature of Commanding Officer J.H. Dionne, Capt

Certified true copy [illegible]
Signature of Officer having custody of original record.

M.F.H. 375
G.T. & R.302

EXHIBIT "B"

Certificate in accordance with Section 163(1)(m) of Army Act.

I certify that the person whose description is given below, was arrested (~~or surrendered~~) at Redhill at 10.45am on the 3rd day of March 1944.

Regimental particulars of officer or soldier referred to above.

No. D.62880.

Rank. Private.

Name. BENJAMIN, H.L.

Unit. 4th Cdn. General Pioneer Coy.

Description.

Age. 28.

Height. 5'11".

Complexion. Fresh.

Hair. Brown.

Eyes. Blue.

Marks. Nil.

Signature of officer of police in charge of police station where the above-named person was taken, or placed in custody on arrest or surrender. G.A. Atkins Inspector. (In charge of Redhill Police Station).

ACKNOWLEDGEMENT BY THE ACCUSED

(i) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Talavera Barracks, Aldershot, Hants, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Talavera Bks
Aldershot, Hants,
this 7th day of
February 1944

H.L. Benjamin
(H.L. Benjamin)

(ii) I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at Talavera Barracks, Aldershot, Hants, preliminary to my Court-Martial.

(iii) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of..Lieut. McLAUGHLAN.....
.....T. CIRU.....if he is available.

Dated at Talavera Bks.,
Aldershot, Hants.,
this 7th day of
February 1944.

H.L. Benjamin

LIST OF WITNESSES

List of witnesses in the case of D-82880 Private Hobart Legrande BENJAMIN, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

1. Lieutenant George CRAVEN, Acting Adjutant, 4 Canadian General Pioneer Company, an Officer of the Canadian Army Overseas.

FOR THE DEFENCE

LIST OF EXHIBITS

List of Exhibits in the case of D-82880 Private Hobart Legrande BENJAMIN, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

EXHIBIT "A"

Certified true copy of the Court of Inquiry which relates to the accused.

EXHIBIT "B"

Certificate in accordance with Section 163(1)(m) of the Army Act purporting to be signed by the Police Officer in charge of the Police Station at Redhill, Surrey, relating to the accused.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D-82880 Private Hobart Legrande BENJAMIN, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS
FOR THE PROSECUTION

Lieutenant George CRAVEN, Acting Adjutant, 4 Canadian General Pioneer Company, an Officer of the Canadian Army Overseas, having been duly sworn states as follows:

I produce a Certified true Copy of the Court of Inquiry which relates to the accused, whom I now recognize. This document is marked as Exhibit "A".

I also produce a certificate in accordance with Section 163(1)(m) of the Army Act purporting to be signed by the Police Officer in charge of the Police Station at Redhill, Surrey, relating to the accused, whom I now recognize. This certificate marked as Exhibit "B"

The accused declines to cross-examine this witness.

G. Craven Lt.
(G. Craven) Lieut.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c),(e),(f) and (g) have been complied with.

J.L. Miller Lieut.
(J.L. Miller) Lieut.,
Officer detailed to take the Summary of Evidence.

Talavera Barracks,
Aldershot, Hants,
7 Mar 44

EXA
my

No. D-82880 Name BENJAMIN, H.L. Sqn, Battery, or Company | Corps C.A.C. | Date of enlistment 6 June 41 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc J. Daniel Capt

MFM 6 (AFB 122) 40/P&S/136 (3428)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Canada	6-6-41	Pte		A.A.Sec 15(1) AWL 2145 hrs 14 Jun 41 to 1120 hrs 16 Jun 41	----	3 days pay			
"	27-6-41	"		Breaking out of Bks.	---	14 " "			
"	1-7-41	"	1st	Admonished on case of drunkenness	Forfs	21 " "			
"	1-7-41	"		Breaking out of Bks while a defaulter and AWL	Forfs	21 days Det 21 days pay			
"	21-10-41	"		A.A. Sec. 15(1)	Forfs	~~12 Days Pay~~ ~~$1.20 Stoppage~~ ~~8 days Det~~			

Character

EX C

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-4-42	Pte		A.A. Sec.15(1) A.W.L.		Forfs 19 days pay & 10 days det.			
"	29-5-42	"		" " "		5 Days C.B. & 10 days pay.			
"	25-5-42	"		" " " 30 minutes		7 Days C.B.			
"	9-6-42	"		(1) " " AWL 11 hrs.30 mins. (2) " " AWL 4 " 30 " 2nd (3) " " Drunkenness		Forfs 29 days pay.			
"	30-6-42			A.A. Sec. 15(1) A.W.L. 9 hrs 45 minutes		Forfs 11 days pay 10 days Det.			
"	29-7-42			A.A. Sec. 15(1) A.W.L. 10 hrs 11 minutes		Forfs 10 days Pay			
"	29-9-42			A.A. Sec. 15(1) A.W.L.		Forfs 33 days pay 28 " F.F.			

No. 82880 Name BENJAMIN, H.L. | Sqn, Battery, or Company | Corps C.A.O. | Date of enlistment 6 June | GC Badges | Service or Proficiency Pay | MFM 6 (APR 132) 40/Pam/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Dec 42	Pte		A.A. Sec. 15(1) AWL 4 days 11 hrs. 45 mins.		7 days C.B. Forfs 11 days Pay			
"	14 Jan 43	"		A.A. Sec. 15(1)		5 days F.P. Forfs 5 days Pay			
"	30 Dec 42	"		A.A. Sec. 15(1) AWL 1 day 1 hr, 30 mins.		14 days Det Forfs 16 days pay			
				CERTIFIED TRUE COPY J.A. MARKONE - Lieut. 14 April 43 RECORD OFFICE - C.I.R.U.					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Apr 43	Pte.		(1) WOAS AWL in that he absented himself from quarters without leave from 2200 hrs 14 Apr 43 till 2300 hrs. 14 Apr 43 A.A.15(1) (2) WOAS AWL in that he failed to appear for Orders at 1000 hrs 15 Apr 43 after duly warned by CSM Lasrilashus Campbell R.A.	10 days F.P. Forf 10 days pay FMAI 149(2)	19-4-43	Lt-Col Lobbe	2 days pay FMAI 149 (1)(a)
"	17 May 43			(3) WOAS AWL in that he absented himself without leave while under open arrest from 1330 hrs. 18 Apr 43 to 0430 hrs. 19 Apr 43 A.A.Sec.15(1) Total 2 days 15 hrs. (1) WOAS Neglected to obey a Gen. Order - Improperly Dressed. (2) WOAS Neglect to the Prejudice Failing to comply with an order	Documentary Evidence -do- Documentary	7 Days C.B.	19-5-43		2 days Pay FMAI 149(2)

MPM 6
(APR 122)
40/P&S/136 (3490)

No D-82880 Name Pte. BENJAMIN H.L. | Sqn, Battery, or Company | Corps R.N.C. | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-6-43	Pte.		ROAS AWL from 2600 hrs 7 Jun 43 to 0930 hrs 12 Jun 43. Total Absence 5 days 13 hrs 15 min. A.A. Sec. 15(1)	A/Cpl. Carey T.P.	18 Days Pay	14-6-43	Lt-Col Loble	Forfeits 6 days pay KR&I 149(1)(a
"	17-6-43	"		ROAS AWL from 2300 hrs 17 June 43 until 2340 hrs 17 June 43. Total Absence 40 mins. A.A. Sec. 15(10	Cpl Huffman	14 days C.B.	18-6-43	-do-	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18-6-43	Pte.		WOAS AWL from 2300 hrs 18 Jun 43 to 2330 hrs 28 Jun 43. Absent 10 days 30 minutes A.A. Sec.15(1)	Cpl. Huffman Doc'y	Forfs 11 days pay FR&I 149(1)(a)		LT-Col Lohle.	Forfs 28 days pay FR&I 149(1)(b)
"	1-8-43	"		A.A. Sec. 15(1) AWL from 2359 hrs 1 Aug 43 to 2100 hrs 9 Aug 43	Cpl. Gordon	7 days C.B.	10-8-43	Major H.B. Goodings	8 days pay FR&I 149(1)(a)
"	13-10-43	A/ Cpl.		AWL from 2359 hrs 13 Oct 43 to 1630 hrs 14 Oct 43 Absent: 16 hrs 31 mins.	Doc'y	Reprimanded		Capt. J.H. Donnelly	1 day pay FR&I 149 (1)(a)
"	15-11-43	"		WOAS AWL 0930 hrs 15 Nov 43 to 1200 hrs 29 Nov 43 App. S.C. Police at Redhill Surrey. Absent 14 days 2 hours, 30 mins. A.A.Sec.15(1).	-do- Doc'y Sgt. McLaren	Reverted to Pte. wef 15 Nov 43 and 15 days pay plus cost of apprehension	1-12-43	Major H.B. Goodings	15 days pay FR&I 149(1)(a) LC-5-0 Cost of App. FR&I 172(8)

No D-82880 Name BENJAMIN, H.L. Sqn, Battery, or Company

Date of last entry in Company Conduct Sheet

No and date of last drunk

Corps C.A.O.

Period not reckoning towards freedom from extra fine

Date of enlistment

Sheet No 4

GC Badges

Signature OC Company, etc

Service or Proficiency Pay

MFM 6 (AFB 122) 40/P&S/136 (3488)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4-12-43	Pte		R.A. Sec. 15(1) AWL from 2359 hrs 4 Dec 43 to 1415 hrs 20 Dec 43 ABSENT: 15 days 14 hrs 16 mins. Close arrest 1416 hrs 20 Dec 44 to 2359 hrs 26 Jan 44	Cpl Hickey Cpl Thacker	27 days Det'n	27-1-44	Capt. J.H. Donnelly	Forfs 27 days pay FR&I 149 (1)(b) 16 days pay FR&I 149 (1)(a) 37 days pay FR&I 149 (1)(c)(ii)
				CERTIFIED TRUE COPY OF DOCUMENT IN MY CUSTODY. J.H. Donnelly, Capt., A/Officer Commanding, 4 Cdn Gen Pioneer Coy C.A.(O)					

(PTO)

STATEMENT AS TO CHARACTER & PARTICULAR OF SERVICE OF ACCUSED

1. The following is a fair and true summary of the entries in the Regimental Conduct sheet of the accused, exclusive of convictions by Court Martial or a Civil Court, and of cases in which trial has been dispensed with:

Number D-82880 Rank Private Name Hobart Legrande BENJAMIN

4 Canadian General Pioneer Coy

SINCE ENLISTMENT		WITHIN LAST 12 MONTHS
23	A.A. Sec. 15(1)	7
2	A.A. Sec. 10(4)	Nil
2	A.A. Sec. 19	Nil
2	A.A. Sec. 40	2

Number of instances of gallantry or distinguished conduct. Nil

2. The accused is not under sentence at the present time.

3. The accused has not been previously convicted by a Court Martial or a Civil Court.

4. The accused has been in confinement, awaiting trial on the present charges for 1 days in Civil custody and 10 days in military custody, making a total of 11 days in custody of which 0 days were spent in the hospital.

5. The present age of the accused according to his attestation paper is 25 years, 295 days.

6. The date of his attestation specified in his attestation paper is 6 Jun 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years, 275 days.

8. The accused is entitled to deferred pay or gratuity in respect of 2 years, 275 days.

9. The accused is entitled to reckon 2 yrs, 275 days service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decorations or military reward. Canadian Volunteer Service Medal & Clasp

SCHEDULE OF CONVICTIONS BY COURT-MARTIAL

Schedule of convictions by a Court-Martial or a civil court and of cases in which trial has been dispensed with of the accused.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

In the Field
Date: 14 Mar 44

I X B

Capt.
Officer Commanding,
4 Canadian General Pioneer Company.

H.Q.C. 55-B-1950 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BIEUZ, MICHAEL H-540134 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1950

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 15 1945	14/9/45			JAG	NEW FILE	CR	10-9-45
SEP 25 1945	24-9-45	R.A.	mm		With Papers C.R.		

If space for which referred cannot be expressed on one line, add minute to file and send "With Minute"

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1950 (JAG/D-7)

District Officer Commanding,
Military District No. 6,
Halifax, N.S.

24 Sept 45

Standing Court-Martial
H-540134 Pte. BIEUZ, M.
No. 2 Transit Camp, C.A.

Receipt is acknowledged of your H. B-5828 (JAG) dated 17 Sept. 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

EAM

/ET

for (R.J.Orde) Brigadier,
Judge Advocate General.

IN REPLY PLEASE QUOTE

No. H. B-5828 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, M. D. No. 6,
Halifax, N. S., 17 Sep 45. 194

CONFIDENTIAL 343022

CANADIAN MILITARY ARMY
COURT SEC.
SEP 21 1945
File 055-B-1950
Chgd. to
Referred to JAG

Secretary,
Department of National Defence,
Ottawa, Ontario.

Standing Court-Martial
H-540134 Pte. BIEUZ, M.
No. 2 Transit Camp, C.A.

Ref HQC.55-B-1950 (JAG/D-7) d/14 Sep 45.

2. Proceedings of the m/n Court-Martial have been duly reviewed and are herewith returned for safe custody.

3. The Finding in respect of the second charge has been struck out and initialed by the President.

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

N.D. 23
3 Mil—11-43 (2979)
H.Q. 1772-101-23

PROCEEDINGS OF A STANDING COURT-MARTIAL

NO.H-540134 PRIVATE BIEUZ, Michael,
No.2. Transit Camp, C.A.

DEBERT, N.S. 6 SEPTEMBER 1945.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No.2. TRANSIT CAMP, CA. DEBERT, N.S.

on the 6TH. day of SEPTEMBER 1945 at 1000 hours,

for the trial of: NO.H-540134 (Number) PRIVATE (Rank) BIEUZ, Michael, (Full Name)

NO.2 TRANSIT CAMP, C.A. (Unit) HEADQUARTERS, M.D. No.6. (Attachment, if any)

PRESIDENT: MAJOR R.F. BARNES, Permanent President, Standing Courts-Martial, M.D. No.6.

PROSECUTOR: LIEUT. H. SOLOMON, Permanent Prosecutor, District Courts-martial, (Rank, Full Name) Headquarters, M.D. No.6. (Unit) M.D. No.6. (Attachment, if any)

COUNSEL OR DEFENDING OFFICER: LIEUT, H.B. RAVENSDALE, (Rank, Full Name) No.2. Transit Camp, C.A. (Unit) (Attachment, if any)

FINDING: The Court find the accused No.H-540134 Private BIEUZ, Michael, No.2. Transit Camp, C.A. NOT GUILTY OF DESERTION but GUILTY of ABSENCE WITHOUT LEAVE on the ~~FIRST~~ CHARGE ~~and NOT GUILTY on the SECOND CHARGE.~~

SENTENCE: The Court sentence the accused No.H-540134 PTE. BIEUZ, Michael, No.2. Transit Camp, C.A. to UNDERGO DETENTION for NINETY (90) DAYS AND TO BE PLACED UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $3.43 IN RESPECT OF THE COSTS OF HIS RETURN TO HIS UNIT.

Extracts entered as No. 39607 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 11 day of Sept 1945

Signed at Debert, N.S. this 6th. day of September 1945

R.F. BARNES) Major. President, Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused.

Do you object to be tried by me as President of the Court ?

Answer:

No Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused.

~~Do you object to~~

Answer:

~~as interpreter~~ ?

Question to the accused.

Do you object to No.B.93703 CSM Warren J.F.

Answer:

as shorthand writer ?

No Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor.

Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer:

No Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused.

Is that your number, rank, name and unit ?

Answer by accused.

Yes Sir.

Question to the accused.

Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer:

NOT GUILTY SIR.

Question to the accused.

~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to

~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

Marked "B2" and signed by me.

R. T. Barnard
Major
Superintendent, C.M.

CHARGE SHEET

The accused, H-540134 Private Michael BIRUZ, No. 2 Transit Camp, C.A., a N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

CHARGE
Sec. 12(1)(a)
ARMY ACT.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he,

R. T. Barnard
Major
President S.C.M.

at Debert Military Camp, Nova Scotia, on the 19th day ~~of 19th~~ day of February, 1945, absented himself without leave from No. 2 Transit Camp, C.A., from 0820 hours, on the said 19th day of February, 1945, until surrendering to Military Authorities, at Halifax, Nova Scotia, at 0100 hours, on the 22nd day of August, 1945, dressed in Military Uniform, cost of surrender and return to unit -- $4.09.

A. E. Routier
(A.E. Routier) Col., R.C.A.,
Comd't, No. 2 Transit Camp, C.A.

4 Sep 45,
Debert Military Camp, N.S.

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No.B-631493 Private WALFISH, D. No.2. Transit Camp, C.A.

being duly sworn, is examined by the Prosecutor.

Question Q. Will you give your Regimental Number, Rank, name and Unit to the Court?

A. No.B.631493 Private Walfish D. No.2. Transit Camp, C.A.

Q. What is your capacity at No.2. Transit Camp?

A. Employed as a Clerk in the Legal Office and as such in charge of Records.

Q. I show you these documents will you tell the Court what they are?

A. MFB 375 Dated at Debert, N.S. 7 June 45.
Certified true extract of Part 11 Daily Order No.57 Training Brigade Group dated 23 Feb 45.
Certified True Extract of Part 11 Daily Order No.96 Training Brigade Group dated 28 March 45.
MFM 216 dated 22 Aug 45
Certified True Extract of Part 11 Daily Order No.176 No.2. Transit Camp, C.A. dated 28 Aug 45.
Certified True extract of Part 11 Daily Order No.176 No.2. Transit Camp, C.A. dated 28 Aug 45.
MFB 1481 dated at Debert, N.S. 23 Aug 45 in the amount of $12.27
The accused's portion of that being $3.43.

Q. To whom do those documents refer?

A. They refer to No.H-540134 Private Bieuz M.the accused here in Court this morning.

THE DEFENCE DECLINES TO CROSS-EXAMINE THIS WITNESS.

MFB 375 DATED AT DEBERT.N.S. 7 JUNE 45 IS READ BY THE COURT, MARKED EXHIBIT "G" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT OF PART II DAILY ORDER NO.57 TRAINING BRIGADE GROUP DATED 23 FEB 45 IS READ BY THE COURT, MARKED EXHIBIT "H" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT OF PART II DAILY ORDER NO.96 TRAINING BRIGADE GROUP DATED 28 MARCH 45 IS READ BY THE COURT, MARKED EXHIBIT "I" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

MFM 216 DATED 22 AUGUST 45 IS READ BY THE COURT, MARKED EXHIBIT "J" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT OF PART II DAILY ORDER NO.176 NO.2 TRANSIT CAMP C.A. DATED 28 AUG 45 IS READ BY THE COURT, MARKED EXHIBIT "K" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT OF PART II DAILY ORDER NO.176 NO.2. TRANSIT CAMP, C.A. DATED 28 AUG 45 IS READ BY THE COURT, MARKED EXHIBIT "L" SIGNEL BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

MFB 1481 DATED AT DEBERT N.S. 23 AUG. 45 IN THE AMOUNT OF $12.27 IS READ BY THE COURT, MARKED EXHIBIT "M" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. No Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No Sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No Sir.

Question to the accused. Do you wish to address the Court?

Answer. Defending Officer:- In mitigation of punishment I wish to say on behalf of the accused that he had a brother killed overseas last Summer and this was quite a shock to his mother and she has been ill since that time and he had several letters from his mother asking him if he could home before he went Overseas and he went home. His home is Fort William, Ontario.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Marked "G" and signed by me.

RECORD of the Declaration of a Court of Inquiry assembled at Debert Military Camp, N.S. on the 7 day of May 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H-540134 Pte. Bieuz, M.

DECLARATION

The Court declare that No. H-540134 (Regt'l No.) Pte (Rank) Bieuz, M. (Full Name) No. 2 Transit Camp (Unit) illegally absented himself without leave from No. 2 Transit Camp at Debert, N.S. (Place) at 0820 hours on the 19th day of February 1945, that he is still so absent, and that on the 7th day of May 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
As no M.F.C. 800 is available kit deficiencies cannot be determined.			

Sgd: A.K. Ware Capt. #2 T.C. President (Name) (Rank) (Unit)

Sgd: A.K. Brown Lieut. #2 T.C. Member (Name) (Rank) (Unit)

Signed at Debert Military Camp, N.S.

this 7th day of June 19 45

Sgd: P. Guthrie Lieut. #2 T.C. Member (Name) (Rank) (Unit)

Signature of Commanding Officer Sgd: A.E. Routier Col. RCA #2 T.C. (Name) (Rank) (Unit)

Certified true copy (H.F. Meldrum) Capt. & Adjt., No. 2 Transit Camp. (Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
200M—1-44 (35576)
H.Q. 1772-99-257

Marked "4" and signed by me.
MAJOR
PRESIDENT

DAILY ORDERS PART II

By
LIEUT COLONEL W.E. GILLESPIE
T/Officer Commanding
TRAINING BRIGADE GROUP

D.O. No 57
23 Feb 45
Debert, N.S.

(Last Order Issued No. 56 d/22 Feb 45)

NO 2 TRANSIT CAMP WING

SERIAL 402

112 ABSENT WITHOUT LEAVE

Absent without leave from 0820 hrs 19 Feb 45

H-540134 Pte BIEUZ M

Sgd: J.A. Brochu
(J.A. BROCHU) Lieut
Officer i/c Records
Trg Bde Gp.

CERTIFIED TRUE EXTRACT from Part II Order, No 57, Training Brigade Group, d/23 Feb 45.

(J.D. Guevremont) A/Capt.,
Officer i/c Records,
Central Records Office,
Camp Debert, N.S.

DAILY ORDERS PART II

By
BRIGADIER W.G. COLQUHOUN M.C.
Commanding
TRAINING BRIGADE GROUP

D.O. No. 96
28 Mar 45
Debert, N.S.

(Last Order Issued No. 95 d/27 Mar 45)

NO 2 TRANSIT CAMP WING
SERIAL 2587

88 ABSENT WITHOUT LEAVE

(a) AWL from 0820 hrs 19 Feb 45. (2nd posting)

H-540134 Pte BIEUZ M.

(b) AWL from 0820 hrs 19 Feb 45 (3rd posting)

H-540134 Pte BIEUZ M.

Sgd: J.D. Cockburn
(J.D. COCKBURN) Capt
A/Officer i/c Records
Trg Bde Gp.

CERTIFIED TRUE EXTRACTS from Part II
Order, No. 96, Training Brigade Group,
d/28 Mar 45.

(J.D. Guevremont) A/Capt.,
Officer i/c Records,
Central Records Office,
Camp Debert, N.S.

Marked "J" and
signed by me.

MAJOR
PRESIDENT, C.M.

APPENDIX "B"

Certificate in accordance with Order in Council P.C. 2797 dated 10th April, 1942, as published in General Order 127, 1942.

(Apprehension by or surrender to service authorities)

I, Colonel F.I. Andrew, No. 6 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that H. 540134 Pte. BIEUZ, M.
(Number) (Rank) (Name in full)

of the No. 2 Transit Camp, DEBERT, N.S.
(Unit and attachment, if any)

~~xxxxxxxxxxxxxxxxxx~~ (surrendered to M. 101375 Cpl. MOFFORD, F.M.
(Number) (Rank) (Name)

No. 6 District Depot, C.A.
(Unit of appointment)

at Halifax, N.S. at 0100
(Place) (Hours)

on the 22nd day of August, 1945.

~~xxxxxxxxxxxx~~ (or absentee without leave) and that at the time of his arrest he was wearing Military ~~(xxxxxxxx~~ uniform ~~(xxxxxxxxxx Civilian xxxxxxxx)~~

DATED at Halifax, N.S. this 22nd day of August 1945.

(Signature, Number, Rank, Unit or appointment) (F.I. ANDREW), Colonel,
O.C., No. 6 District Depot, C.A.

STRIKE OUT WORDS NOT APPLICABLE

NOTE: - Where the soldier, on surrender or apprehension, has been taken into the custody, of a unit or formation, this certificate must be signed by the Officer Commanding such unit or formation and not by an officer "Jr" him.

Where the soldier, on surrender or apprehension, has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the Officer, Warrant Officer, or Non-commissioned Officer in charge of such detachment.

M.F.M. 216.

"K"

DAILY ORDERS PART II
by
COL. A.E. ROUTIER, M.C., RCA
Commanding
No. 2 Transit Camp

D.O. No. 176
28 Aug 45
Debert, N.S.

(Last Order Issued No. 175 d/27 Aug 45)

2 AREA

11. ABSENCE WITHOUT LEAVE

(a) Surr to Mlty Auth at Halifax, N.S. at 0100 hrs., 22 Aug 45.
Ret to Unit at 2015 hrs., 24 Aug 45.

H-540134 PTE. BIEUZ, M.

(Sgd) H.H. Meldrum
(H.H. MELDRUM) CAPT AND ADJUTANT,
No. 2 Transit Camp.

CERTIFIED true extract from
Part II Order No. 176
No. 2 Transit Camp, d/28 Aug 45.

(H.H. Meldrum) Capt. & Adjt.,
No. 2 Transit Camp, C.A.

DAILY ORDERS PART II
by
COL. A.E. ROUTIER, M.C., RCA
Commanding
No. 2 Transit Camp

D.O. No. 176
28 Aug 45
Debert, N.S.

(Last Order Issued No. 175 d/27 Aug 45)

2 AREA

10. STRENGTH INCREASE

(a) Having been S.O.S. No. 2 Transit Camp 7 May 45
by a Ct. of Inq. held 19 Feb 45
for A.W.L. from 0820 hrs.,
T.O.S. (at $1.50 per diem) on surr from Des to
Mlty Auth at Halifax, N.S. at 0100 hrs., 22 Aug 45.

H-540134 PTE. BIEUZ, M.

(Sgd) H.H. Meldrum
(H.H. MELDRUM) CAPT AND ADJUTANT,
No. 2 Transit Camp.

CERTIFIED true extract from
Part II Order No. 176
No. 2 Transit Camp, d/ 28 Aug 45.

H H Meldrum

(H.H. Meldrum) Capt. & Adjt.,
No. 2 Transit Camp, C.A.

ABSENTEES AND DESERTERS

Marked "M" and signed by me. [illegible] Major, C.M.

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL ~~P.C.~~ 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. J.W. Bannister (Rank) (Name) A/C.S.& T.O. (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Debert, N.S. (Place) to Halifax, N.S. (Place)

and return to Debert, N.S. (Place) for the purpose of escorting

Full description of soldier being escorted — SEE BELOW. (Place)

(Number) #2 Transit Camp (Unit) (Rank) Debert, N.S. (Name in full) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Escorts: D-636558 Pte. Gignac, J.P.	
B-651519 Pte. Tremblay, J.W.A.	
Absentees: F-524318 Pte. Cormier, N.	
H-540134 Pte. Bieuz, M.	
H-605493 Pte. Bryzowski, J.J.	
~~XXXXXXXXXXXXXXXXXXXXXXXX~~	
The following transport warrants were issued by the Camp Supply & Transport Officer at Debert, N.S. on 23 August, 1945.	
T.W. D-53173	
Two return second class fares Debert, N.S. to Halifax, N.S. for escorts.....	$5.06
Tax.....	60
Meals .2.@.$1.00.....	2.00
T.W. D-53174	
Three second class fares Halifax, N.S. to Debert, N.S. for prisoners.....	3.81.
Tax.....	.60
TOTAL.....	$ 12.27

Dated at Debert, N.S. this 23rd day of August, A.D. 1945

J.W. Bannister

(J.W. Bannister), Lieut., A/C.S.& T.O.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~XXXXXXXXXXXXXXXXXX~~
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
125m—10-42 (6462)
H.Q. 1772-89-1881

Marked "Y" and signed by me.

M.F.B. 355
75M—5-43 (145)
H.Q. 1773-39-630
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or~~ unit)
H-540134	Private	Michael BIEUZ, No. 2 Transit Camp, C.A.	

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery,~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	1 times	A.W.L.	2 times
For	N.A.	times	Neglect to obey an order	1 times
For	N.A.	times	N.A.	times
For	N.A.	times	N.A.	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~ ~~or,~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~or,~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... or,~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 15 days in ~~Air Force~~ military custody, making a total of 15 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ M.F.M. 2 ~~attestation paper~~ is 26 years 2 months

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ M.F.M. 2 ~~attestation paper~~ is 13 May 43.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward. military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ..... Air Force~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of Aug. 19 41

F. S. Meldrum Capt Adjt 12 Trans Regt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. H40134 Name Gnr. Bieuz, M. Sqn., Battery, or Company } Corps R.C.A. Date of enlistment } 13 May 44 G.C. Badges } Nil Tradesmen's Rates of Pay } Nil

No. and date of last drunk } Nil Period not reckoning towards freedom from extra fine } Nil Sheet No. one Signature O.C. Company, etc. Sgd:G.L.Lesho Lieut Good Character Good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sydney, N.S.	1944 17 Jun	Gnr.		A.A. 15 (1) A.W.L. 2 days 12 hours	Sgt.LeBlanc, W.	9 days pay	21Jun44	L.R.Burrell Capt.	Aut.forf. 3 days pay Art. 149 FR&I
Sydney, N.S.	11 Jul	Gnr.		A.A. 40 Neglected to obey an order	Sgt.LeBlanc W.	7 days pay 7 days C.B.	11 Jul44	L.R.Burrell Capt.	Sgd:111.
Halifax, N.S.	31-12 -44	Pte.		A.A. Sec. 15(1) A.W.L. from 2200 hrs. 31 Dec. 44 until 1615 hrs. 29 Jan. 45. Time Absent 28 days, 18 hrs. 15 min.	Documentary	26 days pay F.R.&I. 149(2)	7 Feb 45.	Col. F.I. Andrews.	Forf. 29 days pay F.R.&I. 149 (1)(a)

CERTIFIED TRUE COPY

(H.H. MELDRUM) CAPT & ADJUTANT

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. H 540134 Pte. BIEUZ, M.

of No. 2 Transit Camp is in a good state of health,

and fit to undergo trial by Court martial.

T.A. Mc Lellan Capt.
T.A. Mc Lellan Capt, RCAMC
Medical Officer
Att No. 2 Transit Camp

Station Debert, N.S.

Date 6 Sep 45

M. F. B. 246
50M—12-43 (3223)
H.Q. 1772-39-480

H.Q.C. 55-B-1950 (JAG/D-7)

Your File H.B. 5828

14 Sept 45

District Officer Commanding,
Military District No. 6,
Halifax, N.S.

STANDING COURT-MARTIAL
H-540134, Pte. BIRUZ, Michael,
No. 2 Transit Camp, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The accused was found "Not Guilty of the second charge" but was apparently tried on one charge only. May the reference in the Finding to the "second charge" be stricken out and initialled by the President please.

3. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4564 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LJR/ET

(R.J. ORDE) Brigadier,
Judge Advocate-General.

THIS COPY FOR: H.Q. C.55-B-1950
M.D. H.R. 5828

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. H-540134 Name BIEUZ, Michael

Rank Pte Unit No 2 Transit Camp CA

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 19-2-45

Date of Arrest 22-8-45. Charge Signed 4-9-45

Orders for D.C.M.

Place and Date of Trial No 2 Transit Camp, CA; 6-9-45.

Sentence Det 90 days; stoppages $3.43

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39607

Date 11-9-45

MEMO ✓ Guilty AWL;

MD 6 - No 2 Transit Camp, CA

Absent	Sentence
6½ mos;	det 90 days.

R. A. Ryan Lt.
for Judge Advocate-General

10M-8-45(M-169)

In reply please quote H. B-5828 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

CONFIDENTIAL

Headquarters, M.D. No.6.
HALIFAX, N.S. 7 Sep. 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-B-1950

STANDING COURT-MARTIAL:

No.H-540134 PTE. BIEUZ, Michael.
No.2. Transit Camp, C.A.

1. Proceedings of the m/n Court are forwarded herewith for the consideration of the Judge Advocate General, in accordance with R. O. 4566.

(R.F. BARNES) Major
President Standing Courts-Martial
M. D. No. 6.

RFB/jfw.
Encl.

3967

H.Q.C. 55-B-1951 CONFIDENTIAL

B.F.B. 34/20
33M—2-45 (6096)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BRYZOWSKI, JOSEPH JOHN H-605493 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1951

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 16 1945				JAG	NEW FILE	CR	10-9-45
SEP 26 1945	25-9-45	Q.A.	m.m.		With Papers c.s. SEP 21 1945		

(If space for which referred names must be expressed on one line, add minute to file and With Minute)

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-B-1951 (JAG/D)

25 Sep 45

District Officer Commanding,
Military District No. 6,
HALIFAX, N.S.

Standing Court-Martial
H.605493, Pte. BRYZOWSKI, J.J.
No.2 T.C., C.A.

Receipt is acknowledged of your H.B-5829 (JAG) dated 17th September 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE
No. H.B-5829 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

343021 Headquarters, M. D. No. 6,
Halifax, N. S., 17 Sep 45. 194

Secretary,
Department of National Defence,
Ottawa, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
SEP 21 1945
File 8555-13-1951
Chgd. to
Referred to JAG

Standing Court-Martial
H-605493 Pte. BRYZOWSKI, J.J.
No. 2 Transit Camp, C.A.

Ref HQC.55-B-1951 (JAG/D-7) d/14 Sep 45.

2. Proceedings of the m/n Court-Martial have been duly reviewed and are herewith returned for safe custody.

(J.C. Stewart) Brigadier
D. O. C., M. D. No. 6

N.D. 23
3 Mil—11-43 (2979)
H.Q. 1772-101-23

PROCEEDINGS OF A STANDING COURT-MARTIAL

NO.H-605493 PRIVATE BRYZOWSKI, Joseph John.
NO.2 TRANSIT CAMP, C.A.

DEBERT, N.S. 6 SEPTEMBER 45

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at NO.2. TRANSIT CAMP, C.A. DEBERT, N.S.

on the 6TH. day of SEPTEMBER 1945 at 1000 hours,

for the trial of: NO.H-605493 (Number) PRIVATE (Rank) BRYZOWSKI, Joseph John. (Full Name)

NO. 2 TRANSIT CAMP, CA. (Unit) (Attachment, if any)

PRESIDENT: MAJOR R.F. BARNES, Permanent President Standing Court-martial, — Headquarters, M.D. No.6. M.D. No.6.

PROSECUTOR: LIEUT. H. SOLOMON, Permanent Prosecutor, District Courts-martial, — Headquarters, M.D. No.6. M.D. No.6.

(Rank) (Full Name) (Unit) (Attachment, if any)

COUNSEL OR DEFENDING OFFICER: LIEUT. H.B. RAVENSDALE, — No.2. Transit Camp, CA.

(Rank) (Full Name) (Unit) (Attachment, if any)

FINDING: The Court find the accused No.H-605493 Private BRYZOWSKI, Joseph John, No.2. Transit Camp, CA. NOT GUILTY OF DESERTION but GUILTY OF ABSENCE WITHOUT LEAVE on the FIRST CHARGE and NOT GUILTY on the SECOND CHARGE

SENTENCE: The Court sentence the accused No.H.605493 Private BRYZOWSKI, Joseph, John No.2. Transit Camp, C.A. to UNDERGO DETENTION FOR NINETY (90) DAYS AND TO BE PLACED UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $3.43 IN RESPECT OF THE COST OF HIS RETURN TO HIS UNIT.

Extracts entered as No. 39608 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 11 day of Sept 1945

Signed at Debert, N.S. this 6th. day of SEPTEMBER 1945

(R.F.BARNES) Major, President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused.

Do you object to be tried by me as President of the Court ?

Answer:

No Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused.

~~Do you object to~~

Answer:

~~as interpreter~~ ?

Question to the accused.

Do you object to No.B. 93703 CSM Warren J.F. as shorthand writer ?

Answer:

No Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor.

Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer:

No Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused.

Is that your number, rank, name and unit ?

Answer by accused.

Yes Sir.

Question to the accused.

Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer:

NOT GUILTY SIR.

Question to the accused.

Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

NOT GUILTY SIR.

Question to the accused.

~~Are you guilty or not guilty of the third charge against you, which you~~ have heard read ?

Answer.

Question to the accused.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

Marked "B2" and signed by me.
President, G.C.M.

R.V. Barnes

CHARGE SHEET

The accused, H-605493 Private Joseph John BRYZOWSKI, No. 2 Transit Camp, C.A., a N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

FIRST CHARGE
Sec. 12(1)(a)
ARMY ACT.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he,

at Debert Military Camp, Nova Scotia, on the 13th day of March, 1945, absented himself without leave from No. 2 Transit Camp, C.A., from 0630 hours, on the said 13th day of March, 1945, until surrendering to Military Authorities, at Halifax, Nova Scotia, at 0100 hours, on the 22nd day of August, 1945, dressed in civilian clothes, cost of surrender and return to unit — $4.09.

SECOND CHARGE
Sec. 24(2)
ARMY ACT.

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

at Debert Military Camp, Nova Scotia, on the ~~9th day of May~~ 25th day of Aug., 1945, was deficient of the following articles, viz:

R.V. Barnes
Major
Presiding
SCM

ARTICLE	CARO 1862	Less 25% CARO 3464	
CLOTHING DIVISION "A"			
Anklets, web, prs - 2	$1.48	$1.11	
Caps, winter melton - 1	1.05	.79	
Mitts, pullover leather - 1	.93	.69	
Overalls, combination - 1	2.52	1.89	
			$4.48
CLOTHING DIVISION "B"			
Berets, khaki - o	1.20	.90	
Jackets, khaki drill O.C. - 1	3.42	2.56	
Jackets, serge drab O.C. - 1	10.80	8.45	
Shoes, black leather prs - 1	4.84	3.63	
Trousers, serge drab N.P. - 1	4.33	3.25	
			$18.79
CLOTHING DIVISION "C"			
Belts, waist leather brown - 1	.35	.26	
Sticks, button - 1	.04	.03	
Brushes, boot polishing - 1	.21	.16	
Brushes, button - 1	.11	.08	
Brushes, cloth - 1	.17	.13	
Brushes, hair - 1	.39	.29	
Forks, table - 1	.08	.06	
Combs, hair - 1	.04	.03	
Holdalls - 1	.22	.16	
Knives, table - 1	.18	.13	
Pins, collar safety - 1	.06	.04	
Spoons, table - 1	.08	.06	
			$1

	CARO 1862	Less 25% CARO 3464	
Total Brought Forward			$24.70
SECTION "A - 1"			
Bags, ration - 1	.04	.03	
Straps, shoulder haversack - 1	.62	.48	.51
SECTION "A - 2"			
Bottles, oil - 1	.06	.06	.06
TOTAL AT REDUCED PRICE			$25.27

(A.E. Routier) Col., R.C.A.,
Comd't, No. 2 Transit Camp, C.A.

4 Sep 45,
Debert Military Camp, N.S.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No.D-631493 Private WALFISH, D. No.2. Transit Camp, CA.

being duly sworn, is examined by the Prosecutor.

Question

Q. Will you give your Regimental Number, rank, name and Unit to the Court?

A. No.D-631493 Private Walfish, D. No.2. Transit Camp, CA.

Q. What is your capacity at No.2. Transit Camp, CA.

A. Employed in the Legal Office as a clerk and as such in charge of records.

Q. I hand you these documents will you tell the Court what they are?

A. MFB 375 dated at Debert, N.S. 19 May 45.
Certified True Extract of Part 11 Daily Order No.138 No.2. Transit Camp, CA. dated 21 July 45.
MFM 216 dated at Debert, N.S. 22 Aug 45.
Certified True extract of Part 11 Order No.176 ~~[illegible]~~ No.2. Transit Camp, C.A. dated 28 Aug 45.
Certified True Extract of Part 11 Daily Order No.176. No.2. Transit Camp, Dated 28 Aug 45.
MFB 1481 dated at Debert NS. 23 Aug 45 in the amount of $12.27. The accused's portion of that is One third.

Q. To whom do those documents refer?

A. They refer to No.H-605493 Pte. Bryzowski, Joseph John the accused at present in Court and whom I now recognize.

Q. Do you produce those documents in evidence?

A. I do Sir.

THE DEFENCE DECLINES TO CROSS-EXAMINE THIS WITNESS.

MFB 375 DATED AT DEBERT. N.S. 19 MAY 45 IS READ BY THE COURT, MARKED EXHIBIT "G" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT OF PART II DAILY ORDER NO.138 DATED 21 JUL 45 IS READ BY THE COURT, MARKED EXHIBIT "H", SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

MFM 216 DATED AT DEBERT, N.S. 22 AUG 45 IS READ BY THE COURT, MARKED EXHIBIT "I" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT OF PART II DAILY ORDER NO.176 DATED 28 AUG 45. IS READ BY THE COURT, SIGNED BY THE PRESIDENT MARKED EXHIBIT "J" AND ATTACHED TO THE PROCEEDINGS.

CERTIFIED TRUE EXTRACT OF PART II DAILY ORDER NO.176 DATED 28 AUG 45 IS READ BY THE COURT, MARKED EXHIBIT "K" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

MFB 1481 DATED AT DEBERT N.S. 23 AUG 45 IN THE AMOUNT OF $12.27 IS READ BY THE COURT, MARKED EXHIBIT "L" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

THE WITNESS WITHDRAWS.

2ND.WITNESS Prosecution. No.F.76220 SERGT. HEBB, W.A. No.2.Transit Camp, C.A. having been duly sworn is examined by the Prosecution:-

Q. Will you give your Regimental Number, Rank, name and Unit to the Court?

A. No.F.76220 Sergeant Hebb, W.A. No.2. Transit Camp, C.A.

Q. What is your capacity at No.2. Transit Camp?

A. Storeman, "A" Wing Stores.

Q. On the 25th. of August 1945 did you have occasion to check a soldier's kit?

A. Yes Sir.

Q. Whose kit did you check on that date?

A. Private Bryzowski's.

Pres: Q. Was he present at the time that the kit was checked?

A. Yes Sir.

Q. Where is he now?

A. In this room Sir, (Indicating the accused)

Pros: Q. Did you know Private Bryzowski?

A. Just when I checked his kit Sir.

Q. Where was the kit when you checked it?

A. In Hut No.22 in "A" Wing.

Q. How did you check it?

A. By Inventory Sir.

Q. Against what did you check the kit?

A. Against M.F.B.375.

Q. Whose MFB 375?

A. Private Bryzowski's Sir.

Q. What was the result of your check?

A. That he was deficient in the amount of $25.27

Q. Did you make any check of this soldier's kit after 25 Aug 45.

A. No Sir.

THE DEFENCE DECLINED TO CROSS-EXAMINED THE WITNESS

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. No Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. Yes Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No Sir.

1ST.WITNESS
DEFENCE

LIEUT H.B.RAVENSDALE, No.2. Transit Camp, C.A. having been duly sworn states:-

Sir, I have personally checked MFC 800 of the accused on 5 September 45 and I found that the following articles have been turned in to the Quartermaster's Stores at No.2. Transit Camp by the accused:-

Caps Winter,	1	$1.05
Mitts Leather,	1 pr.	.93
Jackets Khaki Drill	1	3.42
Jackets Serge, O.C.	1	10.80
Shoes Blk. Leather	1 pr	4.84
Trousers Serge	1 pr.	4.33
Anklets, Web	1 pr.	.74.

THE PROSECUTION DECLINES TO CROSS-EXAMINE THE WITNESS.

THE WITNESS WITHDRAWS.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No Sir.

Question to the accused. Do you wish to address the Court?

Answer. No Sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Marked "G" and signed by me.

MAJOR
PRESIDENT, C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Debert Military Camp, N.S. on the 7 day of May 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H-605493 Pte. Bryzowski, J.

DECLARATION

The Court declare that No. H-605493 (Regt'l No.) Pte. (Rank) Bryzowski, J.J. (Full Name) No. 2 Transit Camp (Unit) illegally absented himself without leave from No. 2 Transit Camp at Debert, N.S. (Place) at 0630 hours on the 13th day of March 1945, that he is still so absent, and that on the 7th day of May he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
See attached sheet			

Sgd: A.K. Ware Capt., #2 T.C. (Name) (Rank) (Unit) President

Signed at Debert Military Camp Sgd: P. Guthrie Lieut. #2 T.C. (Name) (Rank) (Unit) Member

this 19 day of May 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer Sgd: A.E. Routier Col. RCA #2 T.C. (Name) (Rank) (Unit)

Certified true copy (H.H. Meldrum) Capt. & Adjutant No. 2 T.C.
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
200M—1-44 (3576)
H.Q. 1773-39-257

CLOTHING DIVISION "A"	QUANTITY	VOC. PRICE	RED. PRICE	
Anklets, web prs	2	1.48	1.11	
Caps, winter melton cloth	1	1.05	.79	
Dressing, first field	1	.22	.16	
Gloves, woollen khaki prs	1	.66	.49	
G eatcoats, drat	1	15.54	11.65	
Mitts, pullover leather prs.	1	.93	.69	
Overalls, combination	1	2.52	1.89	
				$16.78

CLOTHING DIVISION "B"				
Berets, khaki	1	1.20	.90	
Caps, field service	2	1.40	1.05	
Drawers, cotton short	2	.84	.63	
Drawers, woollen	2	2.80	2.10	
Jackets, khaki drill O.C.	1	3.42	2.56	
Jackets, serge drab O.C.	1	10.80	8.45	
Jackets, sweater	1	1.37	1.03	
Shirts, undercotton	2	.86	.65	
Shirts, woollen	2	2.40	1.80	
Socks, woollen prs.	4	1.84	1.38	
Shoes, leather black prs.	1	4.84	3.63	
Trousers, serge drab N.P.	1	4.33	3.24	
				$27.42

CLOTHING DIVISION "C"				
Belts waist leather brown	1	.35	.26	
Braces, prs.	1	.28	.21	
Sticks, button	1	.04	.03	
Brushes, boot polishing	1	.21	.16	
button	1	.11	.08	
cloth	1	.17	.13	
hair	1	.39	.29	
shaving	1	.42	.31	
tooth	1	.09	.07	
Caps, comforter	1	.41	.31	
Combs, hair	1	.04	.03	
Forks, table	1	.08	.06	
Hol alls	1	.22	.17	
Housewives, complete	1	.35	.26	
Knives, table	1	.18	.13	
Pins, collar safety	1	.06	.04	
Razors, safety sets	1	.42	.31	
Spoons, table	1	.08	.06	
Towels, hand	2	.62	.47	
				$ 3.38

SECTION "A-1"				
Bags, ration	1	.04	.03	
Straps, shoulder haversack	2	.62	.48	
				$ .51

SECTION "A-2"				
Bottles, oil	1	.06	.06	
Pullthrouths	1	.14	.14	
				$ .20

TOTAL AT REDUCED PRICES $48.29

Marked "H" and signed by me.

MAJOR
PRESIDENT, C.M.

DAILY ORDERS PART II
by
COL. A.E. ROUTIER, M.C., RCA
Commanding
No. 2 Transit Camp

D.O. No. 138
21 Jul 45.
Debert, N.S.

(Last Order Issued No. 137 d/20 Jul 45)

2 AREA

8. ABSENCE WITHOUT LEAVE

(a) AWL from 0630 hrs 13 Mar 45 (1st posting)

H-605493 Pte BRYZOWSKI, J.

(b) AWL from 0630 hrs 13 Mar 45 (2nd posting)

H-605493 Pte BRYZOWSKI, J.

(c) AWL from 0630 hrs 13 Mar 45 (3rd posting)

H-605493 Pte BRYZOWSKI, J.

(Sgd) P. Guthrie, Lt.
for (H.H. MELDRUM) CAPT AND ADJUTANT,
No. 2 Transit Camp.

CERTIFIED true extracts from
Part II Order No. 138
No. 2 Transit Camp, d/21 Jul 45.

(H.H. Meldrum) Capt. a/Adjt.,
No. 2 Transit Camp, C.A.

Marked "J" and signed by me.

APPENDIX "E"

Certificate in accordance with Order in Council P.C. 2797 dated 10th April, 1942, as published in General Order 127, 1942.

(Apprehension by or surrender to service authorities)

I, Colonel F.I. Andrew, No. 6 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that H.605493 Pte. BRYZOWSKI, J.J.
(Number) (Rank) (Name in full)

of the No. 2 Transit Camp, DEBERT, N.S.
(Unit and attachment, if any)

~~xxxxxxxxxxxxxxxxxx~~ (surrendered to) M.101375 Cpl. MORFORD, F.W.
(Number) (Rank) (Name)

No. 6 District Depot, C.A.
(Unit of appointment)

at Halifax, N.S.
(Place)

at 0100
(Hours)

on the 22nd day of August, 1945.

~~xxxxxxxxxxxxxxxx~~ (or absentee without leave) and that at the time of his arrest he was ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ (dressed in Civilian Clothes)

DATED at Halifax, N.S. this 22nd day of August, 1945.

(Signature, Number, Rank, Unit or appointment)(F.I. ANDREW), Colonel, O.C., No. 6 District Depot, C.A.

STRIKE OUT WORDS NOT APPLICABLE

NOTE: - Where the soldier, on surrender or apprehension, has been taken into the custody, of a unit or formation, this certificate must be signed by the Officer Commanding such unit or formation and not by an officer "Jr" him.

Where the soldier, on surrender or apprehension, has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the Officer, Warrant Officer, or Non-commissioned Officer in charge of such detachment.

M.F.M. 216.

Marked "J" and signed by me.
MAJOR
PRESIDENT, C.O.V.

DAILY ORDERS PART II
by
COL. A.E. ROUTIER, M.C., RCA
Commanding
No. 2 Transit Camp

D.O. No. 176
28 Aug 45.
Debert, N.S.

(Last Order Issued No. 175 d/27 Aug 45)

2 AREA

11. ABSENCE WITHOUT LEAVE

(b) Surr to Mlty Auth at Halifax, N.S. at 0100 hrs., 22 Aug 45.
Ret to Unit at 2015 hrs., 24 Aug 45.

H-605493 PTE. BRYZOWSKI, J.J.

(Sgd) H.H. Meldrum
(H.H. MELDRUM) CAPT AND ADJUTANT,
No. 2 Transit Camp.

CERTIFIED true extract from
Part II Order No. 176
No. 2 Transit Camp, d/28 Aug 45.

(H.H. Meldrum) Capt. & Adjt.,
No. 2 Transit Camp, C.A.

Marked "K" and signed by me.
PRESIDENT

DAILY ORDERS PART II
by
COL. A.E. ROUTIER, M.C., RCA
Commanding
No. 2 Transit Camp

D.O. No. 176
28 Aug 45.
Debert, N.S.

(Last Order Issued No. 175 d/27 Aug 45)

2 AREA

10. STRENGTH INCREASE

(b) Having been S.O.S. No. 2 Transit Camp 7 May 45
by a Ct. of Inq. held 13 Mar 45
for A.W.L. from 0630 hrs.,
T.O.S. (at $1.50 per diem) on surr from Des to
Mlty Auth at Halifax, N.S. at 0100 hrs., 22 Aug 45.

H-605493 Pte. BRYZOWSKI, J.J.

(Sgd) H.H. Meldrum
(H.H. MELDRUM) CAPT AND ADJUTANT,
No. 2 Transit Camp.

CERTIFIED true extract from
Part II Order No. 176
No. 2 Transit Camp, d/ 28 Aug 45.

(H.H. Meldrum) Capt. & Adjt.,
No. 2 Transit Camp, C.A.

Marked "L" and signed by me.
[illegible] President, C.M.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. J.W. Bannister (Rank) (Name) A/C.S.& T.O. (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Debert, N.S. (Place) to Halifax, N.S. (Place)

and return to Debert, N.S. (Place) for the purpose of escorting

Full description of soldier being escorted — SEE BELOW. (Number) (Rank) (Name in full)

#2 Transit Camp (Unit) Debert, N.S. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~XXXX

Marked "Y" and signed by me.

Prosecutor

M.F.B. 355
75M—5-43 (145)
H.Q. 1775-39-420
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or unit)~~
H-605493	Private	Joseph John BRYZOWSKI, No1 2 Transit Camp, C.A.	

1. The following is a fair and true summary of the entries in the field ~~Service and General~~ Conduct sheets ~~Regimental and Squadron, Battery or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	2 times	A.W.L.	3 times
For	Failing to appear	1 times	Failing to appear	3 times
For	N.A.	times	Neglect etc	2 times
For	N.A.	times	N.A.	times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ ~~Air Force Act~~ ~~A.F.A. 73~~ Section 47 of the Army Act ~~and dispositions with trial under~~ A.A. 73 are set out in the Schedule ~~(annexed to the prosecution)~~.

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 15 days in ~~Air Force~~ military custody, making a total of 15 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ M.F.M. 2 ~~attestation paper~~ is 24 years 6 months

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ M.F.M. 2 ~~attestation~~ ~~attestation paper~~ is 15 May 42.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of .....~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Air Force Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of September 45

H.T. Meggeson Capt. Qty. & Transport Officer

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

H 605493 BRYZOWSKI Joseph John — 102nd. C.A.(B).T.C.

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment 15-5-42 | G.C. Badges | Tradesmen's Rates of Pay | M.F.M. 6 (A.F.B. [illegible]) 750M—12-43 [illegible] H.Q. 1772-39-1052

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. One | Signature O.C. Company, etc. Sgd: Illegibile | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Patricia Bay	8-7-43			Furlough granted	T W A-475067				
Barriefield, Ont.	25Sep 43	Gnr.		Neglect to the prejudice - Dirty web on O.C.'s Inspection	R.S.M. Roche, J.O.	3 dys. C.B.	28 Sep 43	Sgd: C.W. Bell Capt.	
A-36 Barriefield, Ont	(29 Sep 43)			- - -

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	Signature of officer by whom award was made	Remarks
Arvida, Que	10-1-44			A.A. Sec. 40 During an inspection by Sgt. Rancourt Arfificer R.C.O.C. his rifle was found in bad order		Documentary 7 days' C.B.	11-1-44	Sgd: A.L. Brassard Maj. Major A.L. Brassard	
Arvida, Que.	17-2-44							Sgd: A.L. Brassard Maj.	
Brantfield Ont.	9 Jun 44	Gnr.		Failing to appear at a place of duty	Sgt. Oakes,R. Sgt.Whitfield A.	5 days C.B.	9 Jun 1944	Sgd: J.K. Ramsay Major (J.K. Ramsay) Major	
Westmount N.S.	Dec44	Gnr		A.W.L. 12 hours 15 minutes	Sgt. Springer	5 days C.B. 5 days Corr. drill	7 Dec. 1944	Capt. Johnston, KC	
Westmount	Dec 44	"		Failing to appear at place of duty	Sgt. McDonald	5 days C.B. 5 days Corr drill	7 Dec44	Capt Johnston, K.C.	
Westmount NS.	Dec11	Gnr		A.W.L. 1 day 55 minutes	Sgt. Springer		12Dec44	Capt Johnston, K.C.	Forf. 2 days pay

CERTIFIED TRUE COPY

MEDICAL OFFICER'S REPORT

I certify that No. H 605493 Pte. BRYZOWSKI, J. J.

of No. 2 Transit Camp is in a good state of health,

and fit to undergo Trial by Court martial.

T.A. McLellan Capt
T.A. Mc Lellan Capt RCAMC
Medical Officer
Att No. 2 Transit Camp

Station Debert, N.S.

Date 6 Sep 45

M. F. B. 246

50M—12-43 (3322)
H.Q. 1773-39-480

H.Q.C. 55-B-1951 (JAG/D-7)
Your File - H-B-5829

14 Sept. 45

District Officer Commanding,
Military District No. 6,
Halifax, N.S.

STANDING COURT-MARTIAL

H-605493, Pte. BRYLOWSKI, Joseph John,
No. 2 Transit Camp, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/ET

8M-7-45(M-188)

THIS COPY FOR H.Q.C.55-B-1951
M.D. H-B-5829

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. H-605493 Name BRYZOWSKI, Joseph John

Rank Pte Unit No 2 Transit Camp, CA

Charge (1) AA12(1)(a.) WOAS, Desertion

(2) AA 24(2) Losing by neglect...

Date of Crime (1) 13-3-45; (2) 25ØØ8--45

Date of Arrest (1) 22-8-45. Charge Signed 4-9-45

Orders for D.C.M.

Place and Date of Trial No 2 Transit Camp, CA ; 6-9-45.

Sentence Det 90 days; stoppages $3.43

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39608

Date 11-9-45

MEMO (1) Guilty AWL; (2) Not guilty.

MD 6 - No 2 Transit Camp, CA

Absent	Sentence
5 1/3 mos;	det 90 days.

L. J. Ryan Lt.
for Judge Advocate-General

10M-8-45(M-189)

In reply please quote H-B-5829 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

CONFIDENTIAL

Headquarters, M.D. No.6.
HALIFAX, N.S. 7 Sep 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.53-B-1951

STANDING COURT-MARTIAL:

No.H-605493 PTE. BRYZOWSKI, Joseph John.
No.2. Transit Camp C.A.

1. Proceedings of the m/n Court are forwarded herewith for the consideration of the Judge Advocate General, in accordance with R. O. 4566.

(R.P. BARNES) Major
President Standing Courts-Martial
M. D. No. 6.

RPB/jfw.
Encl.

3966

H.Q.C. 5F-B-1952 CONFIDENTIAL

M.F.D. 2170
33M—2-42 (6696)
H.Q. 207-1-58

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BAILER, EARNEST RUDOLPH M-612097 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1952

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 19 1945					(If remarks for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG	NEW FILE	CR	12-9-45
SEP 26 1945	26 9 45	PA	E.L.M.	JAG	Papers C.A. SEP 26 1945		
				CMBR	Recommendation NOV 10 1945		
				Adm 3	Recommendation	gas	DEC 19 1945
				JAG	request return		4-1-46
JAN 15 1946				JMR	Send & return to Admin 3	Jan	14-1-46
JAN 16 1946	16-1-46	Pa		Adm 3	Returned	JMR	15 Jan 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE

No. 22-A-2818
22-B-10608
22-B-9732
22-C-6349

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ Pacific Command
Vancouver BC 2 Jan 1946

784

JAN 7 1946
Referred to

Secretary
NDHQ
Ottawa Ont

K.602009 Pte ANDERSON C
M.612097 Pte BAILER E R
M.66230 Pte BUDNYK J
K.607320 Pte CASTAGNER J P

1. Herewith Forms of Remission together with MFsM 288 of the m/n soldiers for custody.

Major-General
GOC-in-C Pacific Command.

Noted
15 Jan 46
A. M. Lamy
EMBR-5

Encl. 8

COPY.

N.D. 23
750M—10-41 (2344)
H.Q. 1772-101-43

JAG

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

22-B- 10608

PART I

Case of M.612097 (Number) Private (Rank) Ernest Rudolph Bailer (Name in full)

A.16 Canadian Infantry Training Centre, C.A. (Unit) (Attachment (if any))

Sentenced to ~~eight~~ eleven months detention - stoppages of pay $27.68

on 6 September, 1945 at Calgary, Alberta

being served at No. 81 Military Detention Barracks (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years 2 months 17 MAY 44

Medical grade or category 22-1111121

FIRST TRIAL—PART II

To ADJUTANT-GENERAL (Superior Military Authority)

For details of offence see Part VII.

I have directed that the above-named be (~~XXX~~) committed to undergo his sentence, which I recommend should (not) be (suspended) ~~XXXX

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
24 Oct 45	No recommendation	(F M W Harvey) Brig.DOC MD #13	
14 Dec 45	No action. BF to Apr 46	Maj Gen GOC-in-C Pac Comd	
21 Dec 45	Bal of sentence remitted wef 21 Dec 45.	Maj Gen GOC-in-C Pac Comd	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE in that he at Calgary, Alberta, at 0730 hrs on the 8 JAN 45 absented himself from A.16 Canadian Infantry Training Centre, C.A., until he surrendered himself at Wetaskiwing, Alberta, to the Military authorities at 0030 hours on 2 SEP 45. Cost of apprehension and return to his Corps - $9.65 (Absent 236 days 17 hours)	8 JAN 45	6 SEP 45
2. LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES, in the amount of $18.03 deficiencies.	8 JAN 45	6 SEP 45

Signature of Officer making entry

(B.G.WEST) CAPT. & A.A.J.T.
A.16 C.I.T.C., C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
20 SEP 45	THAT SENTENCE BE SATISFIED	(LOUIS SCOTT)COLONEL COMMANDANT ~~A.16~~ CITC CA.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
21 Sep 45	SUSPENSION NOT RECOMMENDED	(F.M.W.Harvey)Brig. D.O.C., M.D. 13.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE:
OUR FILE: 22-B-~~15000~~ 19698

PART I

No. M.612097 ~~[illegible]~~ Rank Private Name BAILER Ernest Rudolph

Unit No 11 District Depot CA

Part II

Date of Trial 6 Sep 45

Charge(s) Sec 12 (1)(a) A.A. Desertion; Sec 24 (2) Losing by Neglect

Sentence 11 mos detention; stoppage of pay in amount of $27.68

Date of Sentence 6 Sep 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit (~~XXXXXXXXXXXXXXX~~ balance of sentence of detention effective 21 Dec 45, by direction of AG.

Signed at Vancouver, B.C., this 21st day of Dec 45

H. F. Lowry Lt
Major General
GOC-in-C Pacific Command

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission (~~XXXXXXXXXXXXXXXXXXXXXX~~ promulgated and extracts taken at No XI D.D. CA Vancouver, B.C. this 27th day of December 1945

H. Hannon Capt & Adjt
Officer i/c Documents

(1) Unit, attachment and appointment to be stated.

(1) No XI District Depot (CA)

Part V
Certified True Extract of Daily Orders Part II

No. M-612097 Rank Pte Name BAILER Ernest Rudolph

The sentence of 11 Mos Detention; stoppage of pay in the amount of $27.68 awarded by (~~XXXXXXXXXXXXXXXXXXXXXX~~ (Standing) Court-Martial on the 6th day of September 1945 has been remitted balance of sentance of detention effective 21 DEC 45 by direction of AG on the 21st day of December 1945 by GOC IN C PACIFIC COMMAND VANCOUVER, B.C.

Certified true Extract of Daily Orders Part II of No XI District Depot
No. 301 Place Vancouver BC Date 27 DEC 45

H. Hannon Capt &
No XI District Depot CA

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE, AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

H.Q.C 55-W-760
H.Q.C 55-R-738
H.Q.C 55-Z-87
H.Q.C 55-S-1580
FILE H.Q.C 55-B-2021
H.Q.C 55-B-1952
H.Q.C 55-B-1930
H.Q.C 55-D-1186
H.Q.C 55-S-1601

PLACE

GOC IN C
PACIFIC COMMAND
VANCOUVER BC

OTTAWA ONT

DATE 20 Dec 45

RANKS: 1568 RESTD

REVIEW REF AG 0267 D/18 OCT 45 EKKER (.) CMBR RECOMMENDS IMMEDIATE RELEASE OF M-610664 GNR WUDEL E J K-74812 PTE ROSS B W M-610077 TPR ZAZULAK A M-610861 PTE SCHMIDT E M-608560 FUS BOBRYK N M-612097 PTE BAILER E R M-610614 FRMN BEZUBIAK G J L-602278 PTE DAHLBY R E K-602653 PTE SPETCH R H (.) AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm Copies to: CMBR
JAC

GDB/JH

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER

IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.

DEGREE OF PRIORITY: IMMEDIATE

TIME OF ORIGIN: 1650

SIGNED: Major-General
Adjutant-General

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER

CONFIRMATION COPIES MUST NOT BE SENT BY MAIL

SINGLE FORM FOR CIPHER MESSAGE

1570

E.C 95 B-1952 (CMHQ 5) N
19 Nov 45.
Case No.

REVIEW OF PROCEEDINGS
BY
COURT MARTIAL ... PRISONER

1. Rank, No and Name: M-612097 Pte. BAILER, E R

2. Unit at date of offence: A-16 C.I.T.C.

3. Charge: AA Sec 12 (1) (a) DESERTION -
AWL from 0730 hours 8 Jan 45 until surrendering at 0030 hours 2 Sep 45.
Length of absence - 7 mos. 3 weeks

AA Sec 24 (2) LOSS OF KIT
Loss of kit to the extentof $18.03

Plea: (1) Not guilty
(2) Guilty

4. Place and Date of Trial: Calgary Alberta - 6 Sep 45
~~xxxxxx~~ ~~xxxx~~ (SGM)

5. Finding: (1) Not guilty of desertion but guilty of AWL
(2) Guilty

6. (a) Sentence: 11 mos. detn. and stoppages of pay $18.03
(b) Date of Sentence: 6 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: ~~81 MDB~~ 92 MDB in MD.. ~~13~~ Pac Comd.

10. Discharged under RO 1029( ) for
wof)

27

CONTINUE

11 (a) Prior to conviction: Offence Date Sentence

(i) Civil Convictions: NIL

(ii) Courts-Martial: NIL

(iii) Summary Convictions: AWL Jul 44 5 days CB

(b) After convictions Fair
Earliest date of release 16 Apr 46

(c) Date of enrolment ~~xxxxxxxxxxx~~ 17 May 44 Present Age: 22

---

12 Remarks: (Here note any Petition of Representation other than in Item 10 but if Item 10 has been omitted, so state and show here any mitigating circumstances.)

(1) Item 10 has been omitted.
(2) In an unsworn statement the accused says he is married. He and his wife had previously had a child but it had died and wife had now told him that she was pregnant again. His wife's mother is dead so there was no-one to be with her. The accused worried about his wife a great deal because of losing the previous baby and thought he should be with her all the time. Whilst AWL he worked in his home district at various jobs. He had a ¼-section of land, on which it was necessary to put in the crop in the spring and do the haying later. The baby was born 30 July. After a while the wife's sister came to stay with them and this enabled him to return to the army.
(3) In mitigation the Defending Officer states the accused has a medical category of M2.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Offr., etc.)

Reviewing Officer:
Recommend release after serving 5 months 5 Sep 46.

A. M. Stephenson
A.M.Stephenson, Major

---

14. Recommendation of the Board:

Immediate Release

Date DEC 19 1945

H. A. Stilwell. Maj
Secretary
Courts-Martial Board of Review

26

PA on file pls.
GBB.

7224

File
Chgd. to
Returned CMBR

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

22-B-10608

Headquarters, Pacific Command.
Vancouver, B.C.
1 November 1945

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks

M.612097 Pte. BAILER, E.R.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

ADMIN. TO NOTE & P. A.

Secretary
Courts - Martial Board of Review

NOV 6 1945

25

Headquarters,
Pacific Command.
(Attention O.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.BKS.

The transfer of the undr. S.U.S. has been completed with effect date stated hereunder;

No.	Rank	Name	Unit
M-812097	PTE.	BAILER, E.R.	A16 C.I.T.C.

Transferred from No. 81 M.D.Bks. at CALGARY, ALBERTA

to No. 92 M.D.Bks. at CHILLIWACK, B.C.

with effect 26 OCT. 45.

for Commandant
No. 92 M.D.Bks.

submitted in duplicate.

24

H.Q.C. 55-B-1952 (JAG/D-3)

26 Sep 45

District Officer Commanding,
Military District No. 13,
Calgary, Alberta.

Standing
M.612097 P.Court-Martial, R.

C.56-B-4749(JAR)

Receipt is acknowledged of your letter dated 22nd September 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

EFM
for (R.J. Orde) Brigadier,

Judge Advocate-General.

LCC/fdf

23

File: C.36-B-4749(JAR)

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

AIR MAIL
REGISTERED
CONFIDENTIAL

343654

The Secretary
Department of National Defence
OTTAWA, Canada

CENTRAL REGISTRY Army
COMP'T H.Q.C.
SEP 25 1945
File C55-B-1952
Chgd. to
Referred to

STANDING COURT-MARTIAL
M.612097 Pte. Bailer, E.R.

Reference H.Q.C. 55-B-1952(JAG/D-7) dated 14 Sep 45.

1. Returned herewith are the Proceedings of the marginally noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his unit (3 Sep 45) and trial (6 Sep 45)

is 2 days

The time between apprehension and trial is 3 days

3. [redacted]

4. Upon review, no remission has been ordered by the District Officer Commanding, Military District No. 13.

(F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13.

22

REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of M.612097 Pte. Ernest Rudolph BAILER

A.16 C.I.T.C., C.A.

Reviewed on 18th day of Sept. 1945

Decision Confirmed

(F.M.W. Harvey) Brigadier,
District Officer Commanding, M.D.13.

21

MEDICAL OFFICER'S REPORT

I certify that No. M.612097 Pte. Earnest Rudolph BAILER of A.16 Canadian Infantry Training Centre, C.A., Currie Barracks, Calgary, Alberta is in a good state of health, and is fit to undergo Trial by Court martial.

Medical Officer Capt.
R.C.A.M.C. - Attached A.16 C.I.T.C., C.A.

Station A.16 C.I.T.C., C.A.

Date 6 Sep 45.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-39-480

20

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Currie Barracks - Calgary

on the 6th day of September 1945 at 14.00 hours,

for the trial of: M61209 Pte. Earnest Rudolph Bailer
Number Rank Full Name

A. 16th Canadian Infantry Training Centre C.A.
Unit Attachment, if any

PRESIDENT: Lieut.-Col. Walter Kingsley Sull MC-V.D.
HQ. M.D. No. 13. C.A.

PROSECUTOR: Lieut. Edward Drewry Strangitharm A.16. C.I.T.C.-C.A.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. Norman Edward Glover A.16. C.I.T.C.-C.A.
Rank Full Name Unit Attachment, if any

FINDING:

The Court find the accused.
Not guilty of desertion but guilty of absence without leave in respect of the first charge
Guilty of the second charge.

SENTENCE: The Court sentence the accused.
To undergo detention for 11 months.
To be put under stoppages of pay until he has made good the sum of $9.65 in respect of cost of apprehension and return to his corps and until he has made good the further sum of $18.03. in respect of deficiencies of equipment, clothing and regimental necessaries.

Signed at Currie Barracks Calgary this 6th day of September 1945.

M.F.R. 1486
25M-6-44 (4828)
H.Q. 1772-39-2206

Extracts entered as No. 39694 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 13 day of Sept 1945.

President,
Standing Court-Martial.

19

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No. sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter?~~

Question to the accused. Do you object to M53148 W.O.II (A)W.O.I) S.M-NRG Gillowa CMSC. HQ MD. No. 13. CA as shorthand writer?

Answer: No. sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: The accused was remanded for trial by Standing Court Martial.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ first charge against you, which you have heard read?

Answer: Not guilty

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. Guilty

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

18

(The accused having pleaded guilty to the second charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

CHARGE SHEET

The accused, No. M.612097, Pte. Earnest Rudolph Bailer, A.16 Canadian Infantry Training Centre, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:-

First Charge
Section 12 (1) (a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Calgary, Alberta, at 0730 hours on the 8th January, 1945, absented himself from A.16 Canadian Infantry Training Centre, C.A., until he surrendered himself at Wetaskiwin, Alberta to the military authorities at 0030 hours on 2nd September 1945. Cost of Apprehension and return to his Corps--$9.65

Second
Charge
Sec. 24 (2)
Army Act.

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

at Calgary, Alberta, on 4th September, 1945, was deficient of the following articles, viz:--

		Vocabulary Rate	Less 25% CARO 3464
CLOTHING DIVISION "A"			
Anklets, Web, prs.	1	.74	.56
Greatcoats, Drab	1	15.54	11.66
Mitts, Pullover, leather prs.	1	.93	.70
Overshoes, prs.	1	1.36	1.02
CLOTHING DIVISION "B"			
Caps, Field Service	1	.70	.52
Drawers, Woolen, prs.	1	1.40	1.05
Shirts, cotton, khaki	1	1.54	1.16
Shirts, Woolen	1	1.20	.90
CLOTHING DIVISION "C"			
Caps, Comforter	1	.41	.31
CLOTHING DIVISION "D"			
Badges, Cap	1	.09	.07
SECTION "IB"			
Bottles, Oil	1	.08	.08
		Total.....	$18.03

(J.O.R. EVANS) Lt. Col.
COMMANDANT
A.16 Canadian Infantry Training Centre, C.A.

Calgary, ALBERTA
5 September 1945.

17

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

Lieut. E. D. Strongitharm, A.16 Canadian Infantry Training Centre, C.A.,

being duly sworn, ~~is examined by the Prosecutor.~~ states:

Question.

I am Lieut. E. D.Strongitharm, A.16 Canadian Infantry Training Centre, C.A., and I produce the following documents:

M.F.B. 375.

(M.F.B. 375 is read, marked "Exhibit F", signed by the President, and attached to the proceedings.)

M.F.M. 216.

(M.F.M. 216 is read, marked "Exhibit G", signed by the President, and attached to the proceedings.)

M.F.B. 1481.

(M.F.B. 1481 is read, marked "Exhibit H", signed by the President, and attached to the proceedings.)

I identify the accused as the person to whom these documents relate.

The Defending Officer declines to cross-examine.

The witness resumes his seat.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement

Question to the accused. Do you intend to call any witness in your defence?

Answer. No sir

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No sir.

UNSWORN STATEMENT OF THE ACCUSED

My name is Earnest Rudolph Bailer, No. M.16 -- M.612097. I got married in 1942, March 25th. My wife had a baby and we lost it -- it was three months old when it died in Metaskiwin coming to the hospital; then when I was home at Christmas my wife told me she was pregnant, and I come back after Christmas and I was worried about her all the time here because she lost the first baby, so I wanted to be with her. And we had no place to stay. Her mother is dead and I wanted to be with her until the baby was born and then I intended to come back to the army. And another thing I was working on the farm all the time for different farmers around the district and trying to make a living for my wife and keep myself going, and when spring came I had a quarter of land rented and I had to put the crop in there for the last two years and I hired a man to put the crop in and when we put the crop in, we put in the garden and when that was done, it was time for haying and we put up about 25 or 30 tons of hay and after that was through, I was cutting brush and clearing land and then my wife had to go to the hospital and the baby was born on the 30th of July. After the wife came home from the hospital, I stayed with her a couple of weeks until her sister came to stay and then I showed her sister what to do to take care of the place and I decided to come back to the army then. That was on September 2nd.

The Defending Officer makes a Closing Address.

The Prosecutor makes a Closing Address.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the second charge, is found guilty of the said charge[x].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes sir through my Defending Officer.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

Sir, in mitigation of punishment, I would like to point out to the Court that the accused is a young lad, 22 years of age, has only got a grade eight education with a PULHEMS profile of 2 under the M. This young lad has been in the army approximately 18 months and has only before the present time been A.W.L. for four hours, which for the army is a fair record. Now, as the accused said in his statement, he returned home at Christmas -- on his Christmas leave -- and found out that his wife was pregnant. Earlier in the year of 1944, they lost a young baby of three months. He returned to the army of his own accord with no intentions or thinking of going A.W.L., and began worrying about his wife, the condition she was in. He returned home and seeing his wife in not a very good state of health, the accused stayed close to her, working on a farm and around the country, trying to make enough money to stay home and look after her. There was no one else there. Her mother was dead. On the 30th of July his wife had a baby and the accused just stayed there long enough to look after his wife until her sister arrived. One week after her sister arrived, he returned to the army and surrendered himself. Now, a lad of this education, which at the present time is not considered a very high education, with an M-2, I would suggest to the Court that it is almost impossible for a man under those conditions to be able to weigh just exactly which is wrong or right, where his greatest responsibility lies, whether to his country, which he is serving, or to his wife. Knowing the trouble he had been through a few months before, it would have been rather difficult for any man, no matter what his education or what his PULHEMS, to judge clearly, and possibly the family ties in this lad's case won out and as soon as they were all straightened around, he returned to the army of his own accord. And in view of this, I wish the Court to be as lenient as possible with the accused.

//

Exhibit 7
Pres. 1/107.
President

RECORD of the Declaration of a Court of Inquiry assembled at **Calgary, Alberta.** on the **1st.** day of **February** 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. **M.612097 Pte Earnest Rudolph Bailer, A.16 Canadian Infantry Training Centre, C.A.**

DECLARATION

The Court declare that No. **M.612097** (Regt'l No.) **Pte.** (Rank) **Earnest Rudolph Bailer** (Full Name) **A.16 Canadian Infantry Training Centre C.A.** (Unit) illegally absented himself without leave **from A.16 Canadian Infantry Training Centre, C.A.** at **Calgary, Alberta** (Place) at **0730** hours on the **8th** day of **January, 1945.** that he is still so absent, and that on the **9th day of January, 1945.** he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	Vocabulary Rate	Less 25% CARO 3464
CLOTHING DIVISION "A"			
Anklets, Web, pairs	1	.74	.56
Caps, Winter, melton	1	1.05	.79
Greatcoats, Drab	1	15.54	11.66
Mitts, pullover, leather prs	1	.93	.70
Overshoes, pairs	1	1.36	1.02
CLOTHING DIVISION "B"			
Battle Dress Blouse Serge	1	6.50	4.87
Battle Dress Trousers " pr	1	6.55	4.91
Caps, Field Service, 2		1.40	1.04
Drawers, Woolen, prs.	1	1.40	1.05
Sweaters,	1	1.37	1.03
Shirts, Cotton, khaki	1	1.54	1.15
Shirts, Woolen	1	1.20	.90
Shoes, Leather Black prs	1	4.84	3.63
CLOTHING DIVISION "C"			
Braces, prs.	1	.28	.21
Sticks, Button	1	.04	.03
Caps, Comforter	1	.41	.31
Forks, Table	1	.08	.06
Housewives	1	.35	.26
Knives, Table	1	.18	.14
Spoons,	1	.08	.06
Towels, Hand	1	.31	.23
CLOTHING DIVISION "D"			
Badges, Cap	1	.09	.07
SECTION "1A"			
Braces, left	1	.35	.26
Haversack	1	2.29	1.72
Bottle, Oil	1	.08	.08
SECTION "2A"			
Anti-dimming	1	.15	.11
		Total.	$ 35.56

710

Exhibit "F" to Pres. 19

RECORD of the Declaration of a Court of Inquiry assembled at **Calgary, Alberta.** on the **1st.** day of **February** 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. **M.612097 Pte Earnest Rudolph Bailer, A.16 Canadian Infantry Training Centre, C.A.**

DECLARATION

The Court declare that No. **M.612097** (Regt'l No.) **Pte.** (Rank) **Earnest Rudolph Bailer** (Full Name) **A.16 Canadian Infantry Training Centre C.A.** (Unit) illegally absented himself without leave **from A.16 Canadian Infantry Training Centre, C.A.** at **Calgary, Alberta** (Place) at **0730** hours on the **8th** day of **January, 1945.**, that he is still so absent, and that on the **9th day of January, 1945.** he was deficient, and that he is still deficient of the following articles:—

ARTICLE	VALUE		
[illegible]	1	.08	.14
Shoes'	1	.18	.58
Knives' Dwfs	1	.22	.08
Horsehair	1	.08	.21
Forks' Dwfs	1	.14	.02
Cups' Confort	1	.08	.15
Spoons' Brass	1	.58	2.02
Shoes' Blk	1		.80
CFCMTNC DIVISION "C"	1	.34	1.12
Shoes' Tan Boot Blk	1	1.50	1.02
Spurs' Moojah	1	1.24	1.02
Spurs' Cordon Knmt	1	1.40	[illegible]
[illegible]			

"L.E. Ferrier" Lieut. A16 CITC CA President
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at **Calgary, Alberta.**

Member
(Name) (Rank) (Unit)

this **1st.** day of **February** 19**45**

Signature of Commanding Officer **"(LOUIS SCOTT)" Colonel A16 CITC CA**
(Name) (Rank) (Unit)

Certified true copy **Lt. & Asst. Adjt. A16 C.I.T.C. C.A.**
(Rank) (Unit)
(Signature of Officer having custody of original record)

A16 CITC CA

M.F.B. 375
A.F.B. 115
150M—10-42 (8530)
H.Q. 1773-26-267

9

Schedule "C"
Form of Certificate
President.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(~~APPREHENSION~~ SURRENDER TO SERVICE AUTHORITIES)

I, M-3I366. (Number) Sgt (Rank) Jesse HIND. (Name) 44-Coy, Canadian Provost Corps.C.A.(A) (Unit)

hereby certify that M-6I2097. (Number) Pte, (Rank) Earnest Rudolph Bailer. (Name in full)

of the A I6 . C.I.T.C. Currie Barracks Calgary Alberta. (Unit and attachment, if any)

Strike out words not applicable } ~~apprehended~~ (surrendered to) M-3I366. Sgt. (Number) (Rank)

Jesse Hind. (Name) No 44/-Coy Canadian Provost Corps.C.A.(A) (Unit or appointment)

at Wetaskiwin Alberta. (Place) at 0030 hrs. (Hour)

on the 2 nd day of September 1945.

Strike out words not applicable } ~~deserter~~ or absentee without leave and that at the time of his arrest he was wearing military (~~civilian~~) uniform (~~[illegible]~~).

Dated at Wetaskiwin this 2 nd, day of September 1945.

AW. N.R.M.A. soldier.

J. Hind

M-3I366. J. HIND. Sgt.
44/-Coy, Canadian Provost Corps, C.A.(A)
N.C.O.I/c of Detachment, Wetaskiwin.
Alberta.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
166M—11-42 (8906)
H.Q. 1772-39-1936

8

Schedule "H" to Order in Council

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieutenant (Rank) Ellen K. Edis, (Name) RCASC CA, C.S.&T.O., "etaskiwin (Unit) Alberta

Strike out word not applicable — hereby certify that I (issued) ~~xxxxxxxx~~ the hereinafter itemized transportation for escort

Complete — to proceed from Wetaskiwin, Alberta (Place) to Calgary, Alberta (Place)

and return to Wetaskiwin, Alberta (Place) for the purpose of escorting

Full description of soldier being escorted — M612097 (Number) Private (Rank) Earnest Rudolph Bailer (Name in full)

A 16 (Unit) C.I.T.C. Currie Barracks, Calgary, Alberta (Attachment, if any)

Strike out phrase not applicable — alleged to be ~~xxxxxxxx~~ an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~xxxxxxxxxxxxxxxxxxxx~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
M.D.13 Transportation Warrant No.C982183, dated 2 nd. September 1945, Covering one single second class fare from WETASKIWIN, Alberta, to CALGARY, Alberta, for absentee, No. M612097 Private Earnest Rudolph Bailer.....	$2.55
Also one meal ticket @ $1.00.....	1.00
M.D.13 Transportation Warrant No.C982183, dated 2 nd. September 1945, covering one second class fare from WETASKIWIN, Alberta to CALGARY, Alberta, and Return, for escort No.M6064 Private J. Bardell.....	$ 5.10
Also one meal ticket @ $1.00.....	$ 1.00
TOTAL	$ 9.65

Dated at Wetaskiwin, Alberta this 2 nd. day of September A.D. 19 45

Ellen Edis

(Ellen K. Edis) Lieut.

R.C.A.S.C. C.A.
C.S. & T.O. Wetaskiwin, Alberta

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~xxxxxxxxxxxxxxxx~~

Strike out description not applicable

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482

M.F.B. 1481
(25m—10-42 (6683)
H.Q. 1772-80-1881

7

25

M.F.B. 355
TEM. 4543 (145)
H.Q. 1772-30-430
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M.612097	Pte.	Earnest Rudolph BAILER	A.16 C.I.T.C. C.A.

1. The following is a fair and true summary of the entries in the field ~~Service and Conduct~~ ~~R.C.M.P. and Regular Forces~~ Conduct sheets ~~of Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	A.WL.	One times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~are~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by~~ ~~Air Force Act~~ ~~A.R. 48~~ ~~Previous convictions of the accused by a court martial or a civil court or summary awards under Section 47 of the "Army Act" and dispensations with trial under "A.R. 48" are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or~~

~~The accused is at the present time under sentence for ... beginning on the ... day of ...~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in ~~Air Force~~ civil custody, and 4 days in military custody, making a total of 4 days in custody, of which NIL days were spent in hospital.

NIL Days in Open Arrest
4 Days in Close Arrest

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ enrolment paper is 22 years 7 months.

6. The date of his ~~commission~~ ~~attestation~~ enrolment specified in his ~~record of service~~ ~~attestation paper~~ enrolment paper is 17 May 44

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or ~~is in possession of or entitled to~~ ~~State any uniform decoration or award~~).

~~Date of the accused's last warrant officer. The accused before he was made a warrant officer last held the rank of~~ ~~Air Force~~ ~~military~~

6

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Name..... of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		Nil		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of September 1945. Lieut

A/Adjutant A16 CITC CA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "G" signed by the president, and annexed to the proceedings.

M.F.M. 6

Date of Birth

Reg. No. M.612097 Name BAILER, Earnest Rudolph Corps C.I.C. "Z" a/Cr. President Date of ~~enlistment~~ or enrolment 17 May 44

Sheet No. One of *1, 2, 3, 4, 5

Signature O.C. Company, etc. C.G. Davidson, Major (Sgd)

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Camrose, Alberta.	4 Jun 44	Pte.		A.W.L. from 0130 hrs. 4 Jun 44 to 0600 hrs. 4 Jun 44 (4hrs. 30 mins) Sec. 15 (1) A.A.	L/C Howarth, H.G. Doc.	5 Days C.B.	5 Jun 44	Major G.E. Cleave	GEG (Sgd)
				CERTIFIED TRUE COPY OF MFM 6 concerning M.612097 Pte. Bailer, E.R. of which it purports to be a copy. (B.G. West) Capt. Adjt. A.15 Canadian Infantry Training Centre, CA.					

(P.T.O.)

5

27

M.F.M. 6—500M—4-44 (5386)
H.Q. 1775-99-1857

PRECIS OF EVIDENCE

in respect of the trial by Standing Court-Martial of

No. M.612097 Pte. Earnest Rudolph Bailer, A.16 Canadian Infantry Training Centre, C.A., an N.R.M.A. soldier of the Canadian Army placed on active service.

Charges--

1. Desertion

2. Losing by Neglect

To prove the first charge the following evidence is available.

Documentary - M.F.B. 375
M.F.M. 216
M.F.B. 1481

To prove the second charge the following evidence is available.

Documentary - M.F.B. 375

Verbal - No. M.37159 Pte. (A/C.Q.M.S.) Arthur Holmes, A.16 Canadian Infantry Training Centre, C.A., who will give evidence that he checked the kit of No. M.612097 Pte. Earnest Rudolph Bailer, against his M.F.B. 375 and his M.F.C. 800 on the 4th September, 1945 and found him to be deficient of the following articles:

		Vocabulary Rate	Less 25% CARO 3464
CLOTHING DIVISION "A"			
Anklets, Web, pairs	1	.74	.56
Greatcoats, Drab	1	15.54	11.66
Mitts, Pullover, leather, pairs	1	.93	.70
Overshoes, pairs	1	1.36	1.02
CLOTHING DIVISION "B"			
Caps, Field Service	1	.70	.52
Drawers, Woolen, pairs	1	1.40	1.05
Shirts, cotton, khaki	1	1.54	1.16
Shirts, Woolen	1	1.20	.90
CLOTHING DIVISION "C"			
Caps, Comforter	1	.41	.31
CLOTHING DIVISION "D"			
Badges, Cap	1	.09	.07
SECTION IB			
Bottles, Oil	1	.08	.08
		Total.....	$18.03

(J.O.R. EVANS) Lt. Col.
COMMANDANT
A.16 Canadian Infantry Training Centre, CA

CALGARY, ALBERTA.
5 September 1945.

H

H.Q.C.55-B-1952 (JAG/D-7)
Your C. 36-B-4749 (JAJ)

14 Sep 45

The District Officer Commanding,
Military District No. 13, Calgary, Alta.

STANDING COURT-MARTIAL

M. 612097 Pte. Ernest Rudolph Bailer,
A-16 C.I.T.C.,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate General.

LJR/MM

3

THIS COPY FOR:

H.Q.C. 55-B-1952
M.D. 36-B-4749

NFMA

MEMORANDUM ~~DISTRICT~~ STANDING COURT-MARTIAL

No. M-812097 Name Earnest Rudolph BAILER

Rank Pte. Unit A-16 C.I.T.C. C.A.

Charge (1) AA 12 (1) (a) WOAS Desertion.....

(2) AA 24 (2) losing by neglect.....

Date of Crime 8-1-45

Date of Arrest 8-9-45 Charge Signed 8-9-45

Orders for D.C.M.

Place and Date of Trial Curried Barracks, Calgary 8-9-45

Sentence Detention 11 mos. Stoppages $27.68

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39634

Date 13-9-45

MEMO Balance of sentence remitted by Conf. Auth. Guilty AWL

M.D. 13 A-16 C.I.T.C. C.A.

ABSENT SENTENCE

7 ½ mos. Det. 11 mos.

2

R.J. Ryan Capt.
for Judge Advocate-General

10M-8-45(M-189)

R216

C.36-B-4749 (JAJ)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -
Headquarters, M.D. 13
Calgary, Alberta.

AIR MAIL

REGISTERED

CONFIDENTIAL

7th September, 1945.

The Judge Advocate-General,
Department of National Defence,
Ottawa, Canada.

C.55-B-1952

Standing Court-Martial
No. M.612097, Pte. Earnest Rudolph Bailer
A.16 Canadian Infantry Training Centre, C.A.,

1. Enclosed are the proceedings of the marginally-noted Standing Court-Martial

(H.K. Jull) Lieut.-Col.,
President,
Standing Courts-Martial.

39634

H.Q.C. 55-E-1953 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BEAMER, H.D. B-267 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1953

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and "refer back" with Minute)		
				ADMIN	NEW FILE	CR	12-9-45
SEP 19 1945	13/9/45	PA	for	JAG	To note	wd	13.9.45
				Admin	For Registration G.R. DEC 29 1945		
				Audit	for review	4	11-1-46
JAN 12 1946	29/1/46	DR	EAM	JAG	Min II folio 2 per	WAM	12 Jan 46.
				CMR	With Papers C.R. JAN 24 1946	GK	
FEB 7 - 1946				JAG	Proceedings	WAS	25/1/46
JAN 31 1946	7.2.46	PA	4	Admin	Passed pls.	WED	31/1/46
FEB 21 1946	20/2/46	4	for	JGH	With Papers C.R. FEB 20 1946	GK	
				CLD	With Papers C.R. MAR 19 1946	GK	
MAR 20 1946 MAR 21 1946	21.3.46	Sup	3	Adm.		E.J.	19.3.46.
OCT 21 1946	21/10/46	PA	WAS	JRB	For Remarks SEP 16 1946		
AUG 1 1947	1/8/47	PA	JMM	WYR	For Remarks JUN 13 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. T-20-B-3724(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

H.Q. M.D. 2.

15 Mar 1946

CENTRAL REGISTRY Army
CONF. SEC.
12929
MAR 18 1946
File 6-53-B-19
Chgd. to
Referred to

The Secretary,
D.N.D. (Army)

Field General Court-Martial
B-267, Pte. BEAMER, H.D.

Enclosed herewith A.F. A. 3104 referring to the m/n SUS, whose sentence, with 1/3 remission earned, expired on 18 Feb 46.

for (C.C. Mann) Brig
DOC MD 2

Filed
DOC

Army Form A 3104.

117

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B-267 Pte Beamer, H.D. Unit 9 CBR Bn

Sentenced to 18 months detention on 19 Feb 45

Age on, and date of, enlistment 19 yrs - 16 Jun 41 Term of service duration

FIRST TRIAL.

For details of offence, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place ..... Confirming Authority.

Date .....

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place ..... Superior Military Authority (4).

Date .....

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place ..... Confirming Authority.

Date .....

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place ..... Superior Military Authority (4).

Date .....

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*22948) Wt.30686/311 60,000 11/42 A.& E.W.Ltd. Gp.698 Forms/A.3104/11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned in count towards remission, and signature of O.C. Troops or Detention Barracks
	No remission. DF, 1 Sep 45	E. L. Burns Major-General, GO I/c Cdn. Sec. : Ech. HQ. 21 Army Gp.	
		2 JUN 1945	
	NO REMISSION- RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	for (Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters	
		1 SEP 1945	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. A.A. 15(1) - AWL from 2330 hrs 9 Sep 44 until apprehended at 1500 hrs 16 Dec 44 (Absent 97 days 15 hrs 30 mins) A.A. 15(1) AWL when in arrest from 1810 hrs 24 Jan 45 until apprehended at 2040 hrs 1 Feb 45. (Absent 8 days 2 hrs 30 mins) Signature of Officer making entry. (J. C. McBride) Capt & A/Adjt. 9 CBR Bn		19 Feb 45
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
2 Mar 45	I recommend that the full sentence be served Accused committed to: Imprisonment in UK London Disciplinary Centre	(P.R.R. Williamson), Major A/Comd 9 CBR Bn

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
5 Mar 45	I recommend sentence be served in full followed by discharge for misconduct.	(V W Hugman) Lt-col A/Comd 2 CBRG (G S N Gostling) Brig Comd 2 Cdn Base Rft Gp

CB 1-4-8-2 (SCA)
and Personal File

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters Camp Borden
Camp Borden, Ontario
15 FEB 46.

District Officer Commanding
Military District No. 2
TORONTO, Ontario.

Officer Commanding
No. 2 District Depot
TORONTO, Ontario.

The Commandant
No. 86 M.D.B.
CAMP BORDEN, Ontario.

FEB 19 1946

R.267 Pte. BEAMER, H.D. - CARO 1029(8)
S U S -AUK at No. 86 M D B

The m/n soldier under sentence by Court Martial C/S and presently serving his sentence at No. 86 MDB will have completed two thirds of his sentence on 18 FEB 46 and will therefore be eligible for remission of the balance of his sentence in accordance with CARO 5913 para 9.

2. The Commander, Camp Borden, is prepared to remit the balance of sentence in this case and the DOC, MD #2 is requested to carry out this remission. In this connection Report on Conduct and AFA 3104 are enclosed for this soldier. May these forms be forwarded to NDHQ when they have served their purpose.

3. This SUS is being despatched to his Home District Depot in accordance with NDHQ letter HQC 9039-1-1 (Adm 3) dated 31 OCT 45 (R 863 A) for discharge as indicated after his name.

4. This SUS will be despatched to No. 2 DD Custody Barracks on 18 FEB 46 by vehicle supplied by A.19 CASC TC. Escort will be supplied by No. 48 Coy., C Pro C.

(J. F. Bingham) Brigadier,
T/Commander, Camp Borden.

c.c. to:

The Secretary
Department of National Defence
OTTAWA, Ontario.

The Commandant
A.19 C.A.S.C.T.C.
CAMP BORDEN, Ontario

Officer Commanding
No. 48 Coy., C.Pro.C.
CAMP BORDEN, Ontario.

THIS COPY FO

H.Q. C.55-B
M.D. 20/Ret.

GS

MEMORANDUM - ~~DISTRICT~~ FIELD GENERAL COURT-MARTIAL

No. B-267 Name BEAMER, Harry David

Rank Pte Unit 65 Coy, 9 CBRBn CAO

Charge (1) AA 15(1) WOAS, AWL

(2) AA 15(1) WOAS, AWL

Date of Crime (1) 9-9-44; (2) 24-1-45.

Date of Arrest (1)16-12-44; 2)1-2-45 Charge Signed 15-2-45.

Orders for ~~D~~ FG C.M. Brig Comd 2 CBRG

Place and Date of Trial In the field 19-2-45.

Sentence Det 18 mos.

Date of Confirmation 20-2-45

Date of Promulgation 22-2-45

Entered in Records of J.A.G. as No. 4637

Date 25-1-46

MEMO Reviewed at CMHQ, also at NDHQ

for Judge Advocate-General

10M-11-45 [M-425]

HQC 55-B-1953
(JAØ/D-6)

OTTAWA, 26 January, 6

Canadian Military Headquarters
2 Cockspur Street
LONDON, SW 1, England

Att - Maj Gen i/c Admin

Field General Court-Martial
B-257, Pte BEAMER, HD

Receipt is acknowledged of your 20-Ret Can Dis /1 dated 17 Jan 46, under cover of which you forwarded to this HQ proceedings in respect of the m/n FGCM.

E.L.M

(RJ Orde) Brigadier
Judge Advocate General

/jm

AIR MAIL

Quote No. 20/Met Can Dis/1

CANADIAN MILITARY HEADQUARTERS.

London

17 Jan. 46.

The Secretary,
Dept. of National Defence,
OTTAWA, Canada.

3762
C-55-B-1953

E.M.G. Proceedings- G.M.R.

1. Ref your cable JAG 981, d/14 Jan 46.

2. Herewith proceedings as requested for the u/m soldiers.

B.92782	Spr.	Agnew, W.
F-36113	Pte.	Banks, L.H.
B-267	Pte.	Beemer, E.D.
B-159109	Pte.	Cameron, D.H.
D-6 31	Pte.	Chard, W.F.
L-108448	RFM.	Christianson, C.P.
K-23490	Pte.	Couture, M.
D-59372	Pte.	Daigneault, G.
H-9309	Rfn.	Drury, A.D.
F-55616	Pte.	Francis, H.
G-2650	Pte.	Gibson, G.
F-87072	Pte.	Jackson, A.F.
K-37377	Pte.	MacDonald, G.A.
F-56576	Pte.	MacDonald, J.P.
G-49722	Pte.	Mazerolle, J.D.A.
F-30085	Pte.	McKenzie, J.H.
D-56842	Pte.	St-Laurent, A.
D-143116	Pte.	Vandermeerschen, L.
B-22678	Pte.	Vandervliet, H.

(JC. Murchie) Lieutenant-General
Chief of Staff.
CANADIAN MILITARY HEADQUARTERS.

Encl. 19
COPY.

Too late for CMBR
but date of release 18 Feb 46
H.A. Stilwell Maj
CMBR

25/1/46

4637

RECORDED AT CMHQ [illegible] SC – [illegible]

RECEIVED 29 APR 1945

CFA96 (In lieu of AFA91) 40/P & B/1698 (8144) 4/388

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier G.S.N. Gostling, ED Comd 2 CBRG dated 18 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
			Harry David	BEAMER	9 CBR Bn

PROCEEDINGS REVIEWED Capt Jacques de Stella 11 april 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date

D J Cdn. Sec 1 Fd HQ 31 Mar 45 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 19 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 22/133.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.G. MacKENZIE, MBE	FGH	X-9 List 3 Cdn METD
Member	Capt	C. LAGASSE	CIC	10 CBR Bn
Member	Lieut	D.N. PEAT	1 Cdn Para Bn	11 CBR Bn
Judge-Advocate				
Prosecutor	Lieut	A.T. MANN	CIC	9 CBR Bn
Defending Offr	LIEUT	R F McINTOSH	CAC	9 CBR BN

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B-267 Pte Harry David BEAMER before arraignment make(s) (no) (~~a~~) plea

.....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B + C.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG. Vol III P. 130.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. no (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.267 Pte. Beamer, Harry David, 65 Coy., 9 CBR Bn a soldier ofthe Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15(1)
A.A.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself without leave from 2330 hrs 9 Sep 44 until apprehended at 1500 hrs 16 Dec 44. (Total time absent 97 days, 15 hrs, 30 mins)

SECOND CHARGE
SECTION 15(1)
A.A.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself, when in arrest from 1810 hrs 24 Jan 45 until apprehended at 2040 hrs 1 Feb 45. (Total time absent 8 days, 2 hrs. 30 mins)

(H.W. Rick) Lt.-Col.,
Commanding,
9 Bn, 2 CBR Gp.

In the Field.
15 Feb 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(G.S.N. Gostling), Brigadier,
Commander
2 Canadian Base Reinforcement Group.

In the Field
18 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-267	Pte		Harry David	BEAMER	9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 18 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G.G. MacKENZIE, MBE	FGH X-9 List 3 Cdn RETD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	C. LAGASSE	CIC 10 CBR Bn
Lieut	D.N. PEAT	1 Cdn Para Bn 11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM
(Country.)

(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

(G.S.N. Goetling)

Dat 18 Feb 45

Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (8143)

(See overleaf for oaths and notes for use on trial.)

Plea for Mitigation of Punishment

B 267 Pte Beamer H. D. joined the RCD's 6 June 41 and came overseas with this unit. He was taken off strength on the eve of his units departure to Italy and transferred to ordnance. He arrived in France Italy 44 as an Ordnance reinforcement and as yet has not been posted to a unit. This is just one more case of a man being pushed around till he felt he wasnt wanted and I ask the court to take this into consideration when deciding punishment

[illegible]

MEDICAL OFFICERS CERTIFICATE

(KR(Can)Para 557)
CMHQ CL 173

I certify that I have this day examined B 267. (Number)

PTE (Rank) BEAMER H. D. (Name) and in my opinion he is

~~unfit~~ fit to undergo trial by Court Martial

Station FIELD. M. M. Wurmen Capt (Sgd) Medical Officer

Date 19-2-45 (Unit) 9 C.B.R. BN.

Ex D/16

SUMMARY OF EVIDENCE IN THE CASE OF
B-267 Pte Beamer H D, 65 Coy, 12 Bn 2 CBRGp

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION: Capt C W Bunting, 12 Bn, 2 CBRGp having been duly sworn states:-

I submit herewith AFB 115 Record of Declaration, ~~under S 163 (i) (J)~~ P.C. 1997 of 10 Aug 40 of Court of Inquiry and Certificate received by me pertaining to B-267 Pte Beamer H D, which are marked as exhibits "A" and "B" respectively and attached to the proceedings. ~~Thxx~~

The accused declines to cross-examine the witness.

C.W. Bunting Capt
C.W. Bunting

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused declines to make any statement or to give evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D) (E) and (F) have been complied with.

D.E. McFee Capt
D.E. McFee
12 Bn 2 CBRGp

IN THE FIELD IN BELGIUM
14 Jan 45.

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

B.267 Pte. Beamer, Harry David, 65 Coy, 9 CBR Bn.

The Commanding Officer directs that evidence be taken on oath.

FIRST WITNESS FOR PROSECUTION

Documentary. A Certificate of Arrest in Accordance with Army Act, Section 163 (i), (3). This certificate has been shown to the accused, marked by me as Exhibit "C" and attached hereto.

D.E. McFee Capt.
(D.E. McFee) Capt.
Officer detailed to take Summary of Evidence.

SECOND WITNESS FOR PROSECUTION

A.42212 L/Cpl. Carnegie, E.M., 9 CBR Bn sworn states:

On 24 Jan 45 at 1950 hrs. I releived the duty N.C.O. in charge of 9 Bn Detention Barracks (Annex). At that time I called the roll and all personnel were present and correct.

At 1800 hrs 24 Jan 45 I myself again checked the Cell Blocks and found no irregularities.

At 1810 hrs 24 Jan 45 I myself, again checked the Cell Blocks and at that time found a hole large enough to allow a man to escape. After placing a guard at the hole I had all the personnel placed in one room and I checked those present from the Roll Book. I re-checked the cells and the accused, whom I now recognize as Pte. Beamer, could not be found.

I then reported his absence immediately to Sgt. Penrose, N.C.O. in charge 9 Bn Detention Barracks.

The accused declines to cross-examine the witness.

E M Carnegie
(E.M. Carnegie) L/Cpl. A42212

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence onoath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused does not wish to make any statement or to give evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

D.E. McFee Capt.
(D.E. McFee) Capt.
Officer detailed to take Summary of Evidence.

In the Field.
15 Feb 45

LIST OF WITNESSES

in the case of

B.257 Pte. Beamer, H.D. 65 Coy., 9 CBR Bn

FOR PROSECUTION In the Summary of Evidence

1. Capt. C.W. Bunting Adj. 12 CBR Bn

In the Additional Summary of Evidence

2. Documentary.

3. A.42212 L/Cpl. Carnegie, E.M. HQ 9 CBR Bn

FOR DEFENCE In the Summary of Evidence

Nil

In the Additional Summary of Evidence.

Nil.

LIST OF EXHIBITS

in the case of

B.267 Pte. Beamer, H.D. 65 Coy., 9 CBR Bn

In the Summary of Evidence.

(A) AFB 115, Record of Declaration of Court of Inquiry.

(B) Certificate in Accordance with P.C. 2787 of 10 Apr 42

In the Additional Summary of Evidence.

(C) Certificate of Arrest in Accordance with Army Act, Section 163 (i), (j).

Exhibit "A" referred to in the Summary of Evidence in the case of B 267. Pte. Beamer. H. W. 65 Coy. 2 C B A Bn.

H. E. McFee. Capt.
Officer detailed to take Summary of Evidence.

RECORD of the Declaration of a Court of Inquiry assembled at in the field on the 3rd day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. B267 Pte BEAMER H.D. R.C.O.C. on strength of 12 Bn. 2 C.B.R.Group illegally absented himself without leave in the field at 2330 hrs on the 9th day of Sept 1944, and that he is still so absent, and that on the 10th Sept 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE (100%)		ARTICLES	VALUE (75%)	
Battle Dress B	1	5	25		3	94
Battle Dress T	1	5	39		4	02
Boots Ankle P	1	5	46		4	10
Socks Woolen P.	1		37			28
Berets	1	1	21			90
Drawers Cell.	1		43			32
Shirts Angora	1	2	03		1	52
TOTAL		20.14		TOTAL	15.08	

President
(D.F.Storey) Capt. 12 CBR Bn

Member
(G.F.H.Humble) Lieut 12 CBR Bn

Member
(L.Poulin) Lieut

Signed at in the field this 4 th day of Oct 1944

Signature of Commanding Officer (A.O.Wood) Lt-col. C.O.12 CBR Bn

Certified true copy [signature] Signature of Officer having custody of original record

M.F.B. 275
A.F.B. 118
25M—6-41 (7855)
H.Q. 1772-38-387

Exhibit "B" referred to in the summary of Evidence in the case of B 267, Pte. Beamer, H. W., 65 Coy., 9 C B R Bn.

H. E. McFee, Capt.,
Officer detailed to take summary of Evidence.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Jun 42

I CERTIFY that No. B-257 Rank Tpr. Name Beamer, H.P.

Unit No. 2. C.R.R.G. was arrested at PARIS (Place)

at 15.00 (hour) on 16-Dec-44 (date) and that at the time of his arrest he was wearing (military uniform) XXXXXXXXXXXXXXXXXXXX

Signature of Provost-Marshal, Assistant Provost Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

C. Beaulne Lieut.

D.A.P.M. Paris

(C. Beaulne.) Lieut.
D.A.P.M.. PARIS.

Field
16-Dec-44.

Exhibit "C" referred to in the
Additional Summary of
Evidence in the case of
B 267, Pte. Bremner, H. W.
65 Coy. 9th Bn.

J. E. M. Fox. Capt.
Officer detailed to take
Additional Summary of Evidence

CERTIFICATE OF ARREST IN ACCORDANCE WITH
ARMY ACT, SECTION 163(1) (JJ)

I certify that No. B.267 Rank PTE. Name BRAMER, H.D.

of R.C.A.S.C. No. 2 C.B.R.D. (unit) was arrested at LILLE (place)

at 20.40 hrs on 1 FEB. 45 (date). He was dressed in uniform ~~plain clothes~~

Date 1 FEB 45

Signature of Provost Marshal, APM or other officer into whose custody the above-named person was taken on arrest.

H. Jeffery Capt.,
(H. JEFFERY)
O.C. 242 H.Q. PROVOST COMPANY, C.M.P.

Beamer

Date FEB 16 1945

2 CBR G

1. I hereby acknowledge receipt of the copy of Charge Sheet and one copy of the Summary of Evidence delivered to me

Harry O. Beamer

2. (a) I request that Lt McIntosh if available, be appointed, OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

Harry O. Beamer

I hereby certify that Lt G. T. McIntosh was appointed to defend G-267 Pte Beamer H.D. at his forthcoming trial by Court Martial and that the said Lt G. T. McIntosh was notified that he was defending officer on FEB 16 1945

[illegible] Capt

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B 267	Pte	Beamer, H.D.	9 CBR Bn

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement, but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15(1)	one times	Six times.
For AA Sec 9(2)	Nil times	one times.
For NIL	times	NIL times.
For NIL	times	NIL times.
For NIL	times	NIL times.

~~Number of instances of gallantry or distinguished conduct~~ nil

or

~~There are no entries in the conduct sheets of the accused.~~ nil.

2. ~~The accused has not been previously convicted, or~~ nil

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ nil ~~beginning on the~~ nil ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 57 days in military custody, making a total of 57 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 yrs 5 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 16 Jun 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 8 mns

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 8 mns service.

9. The accused is entitled to reckon 3 yrs 8 mns service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

(*25800) Wt.34898/1730 20,000 10/43 A.& E.W.Ltd. Gp.698
(26906) Wt.55934/1499 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B 267 Rank Pte Name Beamer H D of 9 CBR Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	1 CORU 10 Jan 44	AA Sec 15(1) AWL 118 days 12 hrs 21 mins	to under godetn for a period of 9 months.	59 dys remission.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of Feb 45

CAPT. & ADJT.,
BN. 2 C.S.R. GP.

13. The accused has served as a non-commissioned officer continuously, without redaction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION—If any matter in any of the above four paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No. B 267 Name Beamer H D | Sqn, Battery, or Company "D" | Corps RCEME | Date of enlistment 16-12-41 | GC Badges | Service or Proficiency Pay 1.50

Sheet No 2 | Signature OC Company, etc | Character

3/17 M&M 6 (APH 122) 40/AAG/136 (5419)

Date of last entry in Company Conduct Sheet		No. and date of last drunk		Period not reckoning towards freedom from extra fine					
Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 16-12-41--------					
Field		Tpr	NIL	AA Sec 15(1) AWL 7 ds 11 hrs 30 mins.	L/Cpl Copeland J Cpl Carter SA Sgt Hamilton	7 days CB Admonished	7-8-41	H L Forsythe Capt	Forf 8 days pay FR&I
Camp Bordon	28-7-41	"		AA Sec 15(1) AWL 12 dys 1 hr 40 mins			8-11-41	D Fallquier Maj	Forf 13 dys pay FR&I
Camp Borden	28-10-41								
Field	23-9-42	Tpr		AA Sec 15(1) AWL from 1340 hrs 23-9-42 until 1430 hrs 23-9-42. (50 mins) in that he failed to appear on PT parade when ordered by his superior officer.	D-1565 Sgt Palleman B 39 Cpl Coulter O H	5 days CB	23-9-42	Savard Maj	
Field	20 Jun 43			AA Sec 9(2) WOAS disobeying a lawful command given by his superior officer in that he at 0910 hrs on the 20 Jul 43 when ordered to do up his strap on crash helmet	Lieut Harrison	5 days CB	22 Jul 44		

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21 Aug 43	Tpr		AA Sec 15(1) absent without leave from 0600 hrs 21 Aug 43 until 0830 hrs 21 Aug 43 (2 hrs 30 mins)	L/Cpl Taylor L/Cpl Jurden	7 dys CB	23 Aug 43	????????	
1 CORU	5 Sep 43	Pte		AA Sec 15(1) 118 days, 12 hrs 21 mins.	Documentary	To undergo Detn for nine months and stoppage of pay to amount s/d	10 Jan 44	FGCM	
				59 days remission of sentence	10 May 44				

CERTIFIED TRUE COPY OF DOCUMENTS NOW IN MY POSSESSION

J.H. Dibb Capt

Adjt, 12 Bn, 2 CBRGp

No. B-267 Name Beamer H D | Sqn, Battery, or Company | Corps RCEME | Date of enlistment 16-7-41 | GC Badges | Service or Proficiency Pay 1.50 | 3/17 MFM 6 (AFB 122) 40/PAS/136 (5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22 Jun 44	Pte		AA Sec 15(1) WOAS AWL from 2300 hrs 22 Jun 44 to 2330 hrs 17 Jul 44(Total absence 25 ds 30 mins).	Sgt Gage Documentary	28 ds Fd Pun (Close arrest 28 ds forf pay	20 Jul 44	FM Hearn Lt-Col	26 ds auto forf pay 2 ds forf pay Close Arrest.

CERTIFIED TRUE COPY OF DOCUMENTS NOW IN MY POSSESSION

Capt
Adjt, 12 Bn 2 CBRGp

(PTO)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans.....no.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex....E..... and Ex....F..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....yes E3.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4637 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 25 day of Jan 19 46

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-267 Pte Harry David BEAMER 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 57 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

~~To be placed under stoppages of pay until he has made good the loss of his kit~~

To undergo 18 months detention.

(Sgd) ..... Judge-Advocate, if any. 19 Feb 45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed~~ to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 24 FEB 45

(Sgd) (G S N Gostling) Brig

Commanding 2 CDN BASE RFT GP

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B267 Pte Harry David BEAMER, 9 C B R Bn	FEB 22 1945	CAPT. & ADJT., 9th BN. 2 C.B.R. GP.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-267 Pte Harry David BEAMER 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ .....(1) Mc

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 57 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo 18 months detention

(Sgd) ..... Judge-Advocate, if any. 19 Feb 45 Date awarded. (Sgd) " G G MacKenzie " Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) GSNG

(1. AA 57A. Delete if not used.)

(Sgd) " G S N Gostling "

Date 20 Feb 45 (G S N Gostling) Brig

Commanding 2 Cdn Base Rft Gp

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B267 Pte Harry David BEAMER 9 CBR Bn	Feb 22, 1945	" C M Nelson " Capt & Adjt 9 Bn, 2 CBR Gp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5C-4.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA96) 40/P & S/1698 (4910) 4/38B

Convened by Order of Brigadier G S N Gostling ED Comd 2 CBRG dated 18 Feb 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B267	Pte		Harry David	BEAMER	9 CBR Bn

CERTIFIED TRUE COPY

PROCEEDINGS REVIEWED "N. P. 7" Date 7 Mar 45 Cdn. Soc. & Ech. H.Q. 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 19 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 22/133

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~ Mc

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~ Mc

~~The shorthand writer is sworn.(1)~~ Mc

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	G G MacKenzie MBE	FGH X-9 List 3 Cdn NETD
Member	Capt	G Lagasse	CIC 10 CBR Bn
Member	Lieut	D N Peat	1 Cdn Para Bn 11 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	A T Mann	CIC 9 CBR Bn
Defending Offr	Lieut	A F McIntosh	CAC 9 CBR Bn

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B267 Pte Harry David BEAMER before arraignment make(s) (no) (~~a~~) plea Mc

.....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. Mc

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Nil (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ Me Me Me
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) Me
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. D, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) Me
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CA A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2) Me
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Nil
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. E and Ex. E respectively.(3) Me
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(~~s~~), and in mitigation of punishment ?(1) Ans. Yes. (2) Me
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B267 Pte BEAMER, Harry David, 65 Coy, 9 CBR Bn a soldier of the Canadian Army Overseas, is charged with: -

FIRST CHARGE - WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE
Section 15 (1)
Army Act

in that he

In the Field, did absent himself without leave from 2330 hrs 9 Sep 44 until apprehended at 1500 hrs 16 Dec 44 (Total time absent 97 days, 15 hrs 30 mins)

SECOND CHARGE - WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE
Section 15(1)
Army Act

in that he

in the field, did absent himself, when in arrest from 1810 hrs 24 Jan 45 until apprehended at 2040 hrs 1 Feb 45. (total time absent 8 days, 2 hrs 30 mins)

" H W Rick "

(H W Rick) Lt Col
Commanding
9 Bn, 2 CBR Gp.

In the Field
15 Feb 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

" G S N Gostling "

(G S N Gostling) Brigadier
Commander
2 Canadian Base Reinforcement Group.

In the Field
18 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B267	Pte		Harry David	BEAMER	9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 18 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ". GSNG

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) GSNG

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. GSNG

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ GSNG

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint~~ as Judge-Advocate thereat ~~the Offr mentioned hereunder.~~ GSNG

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G G MacKenzie MBE	FGH X-9 List 3 Cdn NETD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	C Lagasse	CIC 10 CBR Bn
Lieut	D N Peat	1 Cdn Para Bn 11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

" G S N Gostling " (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

(G S N Gostling)

Date 18 Feb 45

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(KR(CAN) Para 557)
(CMHQ CL 173)

I certify that I have this day examined B267 Pte BEAMER H.D. and in my opinion he is fit to undergo trial by Court Martial.

Station Field

Date 19-2-45

" M M Wasserman " Capt
9 C.B.R.Bn

PLEA FOR MITIGATION OF PUNISHMENT

B267 Pte BEAMER H D joined the RCD's 6 June 41 and came overseas with this unit. He was taken off strength on the eve of his units departure to Italy, and transferred to Ordnance. He arrived in France, July 44, as an ordnance reinforcement and as yet has not been posted to a unit. This is just one more case of a man being pushed around till he felt he wasnt wanted and I ask the Court to take this into consideration when decideing punishment.

" A F McIntosh " Lt
9 C B R Bn

Ex D
"Ma"

SUMMARY OF EVIDENCE IN THE CASE OF B267 PTE BEAMER H D 65 Coy 12 Bn 2 CBRGp

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION Capt C W Bunting, 12 Bn, 2 CBRGp having been duly sworn states: -

I submit herewith AFB 115 Record of Declaration of Court of Inquiry and Certificate in Accordance with P.C. 2797 of 10 Apr 42 received by me pertaining to B267 Pte Beamer H D, which are marked as exhibits "A" and "B" respectively and attached to the proceedings.

The accused declines to cross examine the witness

" C W Bunting " Capt

C W Bunting

The accused was cautioned as follows: -

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatsoever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused declines to make any statement or to give evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (C) (D) (E) (F) have been complied with.

" D E McFee " Capt

D E McFee
12 Bn 2 CBRGp

In the Field in BELGIUM
14 Jan 45

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

B267 Pte BEAMER, Harry David, 65 Coy, 9 CBR Bn

The Commanding Officer directs that evidence be taken on oath.

FIRST WITNESS FOR PROSECUTION Documentary.

A certificate of Arrest in Accordance with Army Act, Section 163 (i) (j). This certificate has been shown to the accused, marked by me as Exhibit "C" and attached hereto.

" D E McFee" Capt

D E McFee
Officer detailed to take Summary of Evidence

SECOND WITNESS FOR PROSECUTION A42212 L/Cpl Carnegie E M 9 CBRBn sworn states: -

On 24 Jan 45 at 1950 hrs. I relieved the duty NCO in charge of 9 Bn Detention Barracks (Annex). At that time I called the roll and all personnel were present and correct.

At 1800 hrs 24 Jan 45 I myself again checked the Cell Blocks and found no irregularities.

At 1810 hrs 24 Jan 45 I myself, again checked the Cell Blocks and at that time found a hole large enough to allow a man to escape. After placing a guard at the hole I had all the personnel placed in one room and I checked those present from the Roll Book. I re-checked the cells and the accused, whom I now recognize as Pte Beamer, could not be found.

I then reported his absence immediately to Sgt Penrose, NCO in charge of 9 Bn Detention Barracks.

The accused declines to cross examine the witness.

" E M Carnegie "

(E M Carnegie) L/Cpl A42212

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

After the above caution the accused does not wish to make any statement or to give evidence.

I certify that the foregoing Summary of Evidence, consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (d) and (f) have been complied with.

" D E McFee " Capt

(D E McFee) Capt
Officer detailed to take Summary of Evidence.

In the Field
15 Feb 45

LIST OF WITNESSES

in the case of

B-267 Pte BEAMER H. D. 65 Coy., 9 C.B.R.Bn

FOR PROSECUTION In the Summary of Evidence

1. Capt C W Bunting Adjt 12 CBR Bn

In the Additional Summary of Evidence

2 Documentary

3 A42212 L/Cpl Carnegie E M HQ 9 CBR Bn

FOR DEFENCE In the Summary of Evidence

NIL

In the Additional Summary of Evidence

NIL

LIST OF EXHIBITS

in the case of

B267 Pte BEAMER H D 65 Coy 9 C B R Bn

In the Summary of Evidence

(A) AFB 115, Record of Declaration of Court of Inquiry

(B) Certificate in Accordance with P.C. 2787 of 10 Apr 42

In the Additional Summary of Evidence

(C) Certificate of Arrest in Accordance with Army Act, Section 163 (1)(j)

RECORD of the Declaration of a Court of Inquiry assembled at

on the 3rd day of October 19 44 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. B267 Pte BEAMER H D

R.C.O.C. on strength of 12 Bn 2 C.B.R.Group

illegally absented himself without leave in the Field

at 2330 hrs on the 9th day of Sept 44

and that he is still so absent

that he is still so absent, and that on the 10 Sept 1944 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES	100% VALUE	ARTICLES	75% VALUE
Battle Dress B	5.25		3.94
Battle Dress T	5.39		4.02
Boots Ankle P	5.46		4.10
Socks Woolen P	.37		.28
Berets	1.21		.90
Drawers Cell.	.43		.32
Shirts Angora	2.03		1.52
TOTAL	20.14	TOTAL	15.08

(D F Storey) Capt 12 CBR Bn — President

Signed at In the Field (G F B Humble) Lieut 12 CBR Bn — Member

this 4th day of Oct 19 44 (L Poulin) Lieut — Member

Signature of Commanding Officer (A O Hood) Lt Col CO 12 CBR Bn

Certified true copy " C W Bunting " Capt & Adjt

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 116
20M—9-43 (750)
H.Q. 1772-38-287

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I certify that B267 Tpr Beamer H D No 2 C.B.R.G. was arrested at PARIS at 1500 hrs on 16 Dec 44 and that at the time of his arrest he was wearing military uniform.

Signature of Provost-Marshal, Assistant Provost Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

" C Beaulne " Lieut

D A P M, Paris

Field
16 Dec 44

(C Beaulne) Lieut
DAPM Paris

EXHIBIT "B" referred to in the Summary of Evidence in the case of B267 Pte BEAMER H D 65 Coy 9 C B R Bn

" D E McFee " Capt

Officer detailed to take Summary of Evidence

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163 (1) (ii)

I certify that No B267 Tpr BEAMER H D of R.C.A.S.C. was arrested at LILLE at 2040 hrs on 1 Feb 45. He was dressed in uniform.

Date 1 Feb 45

Signature of Provost Marshal)
APM or other officer into)
whose custody the above named)
person was taken on arrest.)

" H Jeffery " Capt

(H Jeffery) Capt
C.C. 242 H.Q. Provost Company, C.M.P.

EXHIBIT "C" referred to in the Summary of Evidence in the case of B267 Pte BEAMER H D 65 Coy 9 C B R Bn

" D E McFee " Capt

Officer detailed to take Summary of Evidence

2 C.B.R.G.

Beamer

Feb 16, 1945

1. I hereby acknowledge receipt of one copy of Charge Sheet and one copy of the Summary of Evidence delivered to me.

" Harry D Beamer "

2.(a) I request that "Lt McIntosh" if available, be appointed, OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

" Harry D Beamer "

I hereby certify that Lt A F McIntosh was appointed to defend G267 Pte Beamer H D at his forthcoming trial by Court Martial and that the said Lt A F McIntosh was notified that he was defending officer on Feb 16, 1945

" C M Nelson " Capt

Ex F.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
B267	Pte	BEAMER H D	9 CBR Bn

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15(1)	one	six	times.
For AA Sec 9(2)	nil	one	times.
For			times.
For			times.

~~Date of first entry in Field Conduct Sheet~~ CSM

~~Date of last entry in Field Conduct Sheet~~ CSM

2. ~~Previous convictions of the accused by a court martial or a civil court are set out~~ in the Schedule overleaf.

*3. ~~The accused at the present time is under sentence for~~ CSM

~~beginning on the~~ ~~day of~~ CSM

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 57 days in military custody, *i.e.*, nil days in open arrest, 57 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 22 yrs 5 months

6. The date of his attestation / calling up for military service is 16 Jun 41

7. The service which the accused is allowed to reckon is 3 yrs 8 mos

8. The accused is in possession of‡ CVSM & Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

*Strike out if not applicable.

‡State the military decorations (if any) held by accused.

(28594) Wt.42129/4299 42,000 11/44 A.& E.W.Ltd. Gp.698 Forms/P.2 6(War)/4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	1 CORU 10 Jan 44	AA Sec 15 (1) AWL 118 days 12 hrs 21 min	to undergo deten for a period of 9 months.	59 dys rmission

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 19th day of Feb 45

" C M Nelson " Capt & Adjt
9 Bn 2 C.B.R.GP.

No B267 Name BEAMER H D Sqn, Battery, or Company "D" Corps RCEME Date of enlistment 16-12-41 GC Badges Service or Proficiency Pay 1.50 MFM 6 (AFR 122) 40/PAM/136 (3498)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SHEET DESTROYED 16-12-41					
Field		TPR	NIL	AA Sec15(1) AWL 7 ds 11 hrs 30 mins	L/Cpl Copeland	7 dsy C.B.	7-8-41	Capt Forsythe	F 8 d.p.
Camp Borden	28-7-41	Tpr		AA Sec 15(1) AWL 12 dys 1 hr 40 mins	Sgt Hamilton	Admonished	8-11-41	Maj Fallquier	F 13 d.p.
Camp Borden	28-10-41	Tpr		AA Sec 15(1) AWL 1340 hrs 23-9-42 until 1430 hrs 23-9-42 (50 mins) in that he failed to appear on PT parade when ordered by his superior officer	D1565 Sgt Palleman B39 Cpl OH Coulter	5 days C.B.	23-9-42	Maj Savard	
Field	23-9-42	Tpr							
Field	20-6-43	Tpr		AA Sec 9(2) WOAS disobeying a lawful command given by his superior officer in that he at 0910 hrs on the 20-7-43 when ordered to do up his strap on crash helmet.	Lt Harrison	5 days C.B.	22-7-43		
Field	21-8-43	Tpr		AA Sec 15(1) Absent without leave from 0600 hrs 21-8-43 until 0830 hrs 21-8-43 (2 hrs 30 mins)	L/Cpl Taylor	7 days C.B.	23-8-43	??????????	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
1 CORU	5-9-43	Pte		AA Sec 15(1) 118 days 12 hrs 21 mins	Documentary	to undergo detn for 9 months and stoppage of pay to amount 8/d	10-1-44	FGCM	
				59 days remission of sentence 10 May 44.					
				CERTIFIED TRUE COPY OF DOCUMENTS NOW IN MY POSSESSION " J A Dibb " Capt ---------- Adjt, 12 Bn, 2 CBRGp					

No B267 Name BEAMER H D

Sqn, Battery, or Company

Corps RCEME

Date of enlistment 16-7-41

GC Badges

Service or Proficiency Pay

MFM 6 (AFB 122) 40/PAS/136 (3436)

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No 3

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22-6-44	Pte		AA Sec 15(1) WOAS AWL from 2300 hrs 22-6-44 to 2330 hrs 17-7-44 Total time absent 24 days 30 mins)	Sgt Gage Documentary	28 days fd Pun (close arrest 28 days forf pay)	20-7-44	FM Hearn Lt-Col.	26 d autb forf pay. 28ds forf pay close arrest

CERTIFIED TRUE COPY OF DOCUMENTS NOW IN MY POSSESSION
" J A Dibb " Capt

Adjt, 12 Bn, 2 CBRGp

(PTO)

CIPHER

ARMY MESSAGE
(OUTGOING)

FILE HQC.55-C-1134(JAG/D-

TO

CANMILITARY

PLACE OTTAWA

DATE 14 JAN 46

UNCLASSIFIED

JAG 981 PLEASE FORWARD EARLIEST BOMBER MAIL FGCM PROCEEDINGS RE FOLLOWING SOLDIERS (.) B 159109 PTE D E CAMERON (.) H 9309 RFN A D DRURY (.) F 55616 PTE H FRANCIS (.) F 87072 PTE A P JACKSON (.) B 267 PTE H D BEAMER (.) D 143116 PTE L VANDERMEERSCHEN (.) B 22678 PTE H VANDERVLIET (.) D 56842 PTE A ST LAURENT (.) K 37377 PTE G A MACDONALD (.) F 30085 PTE J H MCKENZIE (.) F 56576 PTE J B MACDONALD (.) G 49722 PTE J D A MAZEROLLE (.) G 2650 PTE G GIBSON (.) D 59372 PTE G DAIGNEAULT (.) D 6831 PTE W F CHARD (.) L 108448 RFN C P CHRISTIANSON (.) E 22490 PTE M COUTURE (.) F 36113 PTE L H BANKS (.) B 92782 SPR W AGNEW

Copy on following files:--

HQC.55-C-1134 re CAMERON
" 55-D-1239 re DRURY
" 55-F-580 re FRANCIS
" 55-J-445 re JACKSON
" 55-B-1953 re BEAMER
" 55-V-268 re VANDERMEERSCHEN
" 55-V-290 re VANDERVLIET
" 55-S-1629 re ST. LAURENT
" 55-M-1992 re MACDONALD
" 55-M-2017 re MCKENZIE
" 55-M-1993 re MACDONALD
" 55-M-1995 re MAZEROLLE
" 55-G-1129 re GIBSON

DEFENSOR

HQC.55-D-1385 re DAIGNEAULT
" 55-C-1491 re CHARD
" 55-C-1435 re CHRISTIAN-SO
" 55-C-1489 re COUTURE
" 55-B-1972 re BANKS
" 55-A-477 re AGNEW

Message may be sent in CLEAR

ORIGINATOR'S INSTRUCTIONS

X THIS MESSAGE MUST BE SENT IN CIPHER

IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.

DEGREE OF PRIORITY: Important

TIME OF ORIGIN: 141130 Q JAN

SIGNED: C.L. McDonnell for (R.J. Orde) Brigadier, ~~Judge Advocate General~~.

COPY 4 - D.S.D. INFORMATION COPY

File CB 1-4-8-2 (SCA)
& Pers Files

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

Headquarters Camp Borden,
Camp Borden, Ontario,
11 JAN 46.

PA on file
a.m.t.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUS - HMS KHEDIVE

Receipt is acknowledged of AFA 3104 and CMHQ letter for under-mentioned personnel.

D.163157	Dionne, P.E.	Adm 3 (b)2	C 55-D-1394
B.159109	Cameron D.E.		C 55-C-1134
D.143116	Vandermeerschen, L.		C 55-V-268
B.22678	Vandervliet, H.		C 55-V-290
K.52795	Taylor, O.J.		C 55-T-788
D.56842	St Laurent, A.		C 55-S-1629
K.574552	Smith, W.H.		C 55-S-559
A.106134	Smith, G.W.		C 55-S-1740
F.56576	MacDonald, J.B.		C 55-M-1993
K.37377	MacDonald, G.A.		C 55-M-1992
D.72163	Grandchamp, R.		C 55-G-222
G.2650	Gibson, G.		C 55-G-1129
F.55616	Francis, H.		C 55-F-580
B.138275	Dart, L.R.		C 55-D-1207
E.22490	Couture, M.		C 55-C-1489
D.59372	Daigneault, G.		C 55-D-1385
C.43503	Cousineau, M.		C 55-C-1589
L.108448	Christianson, C.P.		C 55-C-1435
E.5477	Chouinard, H.		C 55-C-1436
D.6831	Chard, F.E.		C 55-C-1491
B.83908	Cassels, R.P.		C 55-C-1460
D.63558	Boucher, R.		C 55-B-2053
B.37643	Bigley, J.H.		C 55-B-2269
D.144190	Belanger, L.N.		C 55-B-1902
B.267	Beamer, H.D.		C 55-B-1953
D.137961	Barette, J.J.		C 55-B-2183
F.36113	Banks, L.H.		Unnumbered
D.157656	Bailly, A.E.		C 55-B-2271
B.92782	Agnew, W.		C 55-A-477

(A.C. Spencer)
Major-General
Commander, Camp Borden.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario
10 Jan 46
HQS ~~[illegible]~~ C 55-B-1953
Adm 3(b)2

Commander,
Camp Borden,
Ontario.

B.267 Beamer H.D.
SUS - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is AMA)104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(3).

3. ~~[illegible]~~ .

4. ~~[illegible]~~

5. Ack.

(E.C. Weeks)
Major-General
Adjutant-General

J.A.G.

May proceedings of F G C M 19 Feb 45 be attached please and file returned to this office.

12 Jan 46.

WRM
for CMSL

2

[redacted]BER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Bearmer, H.D./

CANADIAN MILITARY HEADQUARTERS

LONDON 4 Sep 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-13-1953

B-267 Pte Bearmer, H.D.

1. The m/n soldier is now serving a sentence of 18 months detention awarded by FGCM 19 Feb 45 for an absence without leave from which he was apprehended after 97 days (AA Sec 15(1)) and an absence without leave, when in arrest, from which he was apprehended after 8 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 18 Feb 46.

3. This soldier enlisted 16 Jun 41 at Hamilton, Ont., and he is now 23 years of age. Since enlistment he has been found guilty of 3 offences under AA Sec 15(1) and of 1 offence under AA Sec 4(2). He has had 1 previous FGCM, on 1 Jan 44, when he was awarded a sentence of 9 months detention for an absence without leave of 118 days (AA Sec 15(1)).

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. In view of the length of this soldier's illegal absence in a theatre of operations and his record of useless service for the past 2 years, it is considered that he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier must have realized that his long absence in a theatre of operations might lead to his discharge and it is probable that he had that end in view.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original A.F.A3104 in respect of the FGCM held 19 Feb 45, on which this direction has been endorsed.

Enc. 1.

Copy to OIC Records.

for (B.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters

1/39a CMHQ 1000.76
46/P.& S/803 (7382)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 267 Pte H. D. Beamer. 1 CORU.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for nine (9) months. To be put under stoppages of pay until he has made good the sum of Eight shillings cost of apprehension.

(Sgd) ..... Judge-Advocate, if any. 10 Jan 44 (3) Date awarded. (Sgd) F. D. Tweedie Lt Col. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ ~~(1. AA 57A. Delete if not used.)~~

Date 12 JAN 1944 (Sgd) Louis Keene Col.

Commanding (LOUIS KEENE) Colonel Commander "E" Group Can. Reinforcement Unit. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B267 Pte BEAMER, H.D.	12 Jan 44	(Harold M. Bailey) Colonel, Commanding Officer, No 1 Can. Corps. Rft. Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ZZ-112

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) W/P & S/1694 (2864)

Convened by Order of Col. Louis Keene Comd ngn Group dated 9 Jan 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B267	Pte		Harry David	BEAMER	1 C.O.R.U.

PROCEEDINGS REVIEWED 27 Jan 44 H. M. Haugh Capt. REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 10 Jan 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~ ~~The Interpreter is sworn.(1)~~ Do you object to Pte McCurrie as shorthand writer? Ans No. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lieut-Colonel	F D Tweedie	HQ C R U
Member	Major	J C Ferguson	#1 C O R U
Member	Captain	J R Hanley	30th Recce Regt (Essex Regt)
Judge-Advocate			
Prosecutor	Lieut	A R Jones	#1 C O R U
Defending Offr	Major	E M Miller	#1 C O R U

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B o E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*)) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on.....the.....charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly~~.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY ~~are read~~ to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

~~D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 137(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below~~.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(*1. When several accused tried separately see RP* [redacted]*(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B267 Private Harry David BEAMER, Royal Canadian Ordnance Corps, on strength of No.1 Canadian Ordnance Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with,

SECTION 15(1) ARMY ACT. WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No.1 C.O.R.U., Bordon, Hants., at 2359 hours on the 5th day of September 1943 absented himself without leave until apprehended by 191 H.Q., Provost Coy., at Hove at 1220 hours on the 2nd day of January 1944, thereby incurring costs of apprehension in the amount of £0-8-0. Total time absent - 118 days, 12 hours, and 21 minutes.

Bordon, Hants.
6 January 1944.

(Harold M. Bailey) Colonel,
Commanding Officer,
No.1 Cdn. Ord. Rft. Unit.

To be tried by Field General Court Martial

Bordon, Hants
9 Jan 1944

(LOUIS KEENE) Colonel
Commander
"F" Group, C.R.U.

J.D.T.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/P&S/1697 (20653)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-267	Pte		Harry David	BEAMER	1 C.O.R.U.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above, the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 9 Jan 1944 endorsed by me, (or by an offr of my staff for me), to be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons shown attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the next the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.Col.	F.D. Tweedie	H.Q., C.R.U.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Major	From	1 C.O.R.U.
A Captain	From	30 Recce Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Louis Keene (Signed personally. RP 105 fn 2.) Colonel (Rank.)

Date 9 Jan 1944

Commanding "F" Group, C.R.U.
Convening Officer.

101. CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No B267 Pte Beamer H.D.
(Rank) (Name)
of No.1 C.D.R.U. and in my opinion he is fit ~~unfit~~ to undergo
trial by Court Martial.

Station 1 CDRU.

Date 10 Jan 44

Sgd. C Lucas Capt.
(Medical Officer)

Field General Court Martial of
B267 Pte H D Beamer, RCOC, #1
CORU held on 10 Jan 44.

B267 Pte Beamer, H.D., RCOC, #1 CORU, having been duly sworn states:

DEFENDING OFFICER:

Q1 When did you enlist?

A1 In June 1941.

Q2 What unit were you with until transferred to the Ordnance?

A2 The R.C.Ds.

Q3 You were with them for how long?

A3 About 3 years.

Q4 When did you transfer to Ordnance Corps?

A4 The first of September 1943.

Q5 At your own request?

A5 No, sir.

Q6 Did you know anything about the transfer?

A6 No, sir.

Q7 When told you were transferred what did you do?

A7 I went to the commander of D Sqn of the RCDs and he said he would do all in his power to get me back. As far as I know he went to the Colonel of the RCDs.

Q8 As far as you know?

A8 He told me that.

Q9 You were sent on to Ordnance?

A9 Yes, sir.

Q10 When you were sent to Ordnance what did you do?

A10 I was paraded to Major Stebbins.

Q11 What did you ask him?

A11 I asked him if I could get back to the RCDs.

Q12 What did he tell you?

A12 If I was any good in the Ordnance they would send me to some Armd Unit.

Q13 For what purpose did you understand that you were sent to the Ordnance Corps.

A13 I do not know.

Q14 What were you in Civilian life?

A14 I worked in a tire repair shop.

Q15 Had you done anything like that during your time with the RCDs.

A15 No, sir.

Q16 Where is your unit?

A16 In Italy.

Q17 When did you find they had gone?

A17 I had a letter last month.

Q18 Why did you go absent?

A18 On account of that. I thought that I might get back to my own unit.

Q19 You went absent while the unit was still in England?

A19 Yes, sir.

Q20 Did you catch up with them?

A20 I got back there.

Q21 Were you able to get on the boat with them?

A21 No, sir.

Q22 Did you surrender yourself?

A22 No. They caught me.

Q23 How did you live?

A23 Before I left I had £30.

Q24 You now understand that you will receive some punishment?

A24 Yes, sir.

Q25 Tell the court what you will do about soldiering when you come out.

A25 I would like to return to my own regiment if possible.

Q26 As to soldiering?

A26 I would like to return to my own unit and soldier. If I could get back to them I should be satisfied. They have no use for me in Ordnance.

BY THE COURT:

Q27 Were you before the re-allocation board or intelligence test?

A27 No, sir.

In the opinion of the court it is unnecessary for RP 83B to be complied with.

PLEA OF MITIGATION:

I would like to draw the courts attention to the fact that the accused is a good, clean kept type of soldier. His record shows that he has never been in any real trouble before. He has never had any extended absence and is one of

the unfortunate cases who, without any opportunity of doing anything about it, has been pulled out of the unit where he has trained and placed where he has no qualification and with no desire to be taken from his unit, which has left for overseas.

It is no excuse for absence but it is certainly an extenuating circumstance.

I would suggest to the court that there has been a great many cases where men arbitrarilly and without having anything to do with it are placed in units where they do not fit in.

In the opinion of the court is is unnecessary that RF 83B be complied with

EXHIBIT "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at No1.CORU.

on the 28th ~~Sept~~ day of Sept. 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-267 Pte.Beamer. H.D.

DECLARATION.

The Court declare B-267 Pte. Beamer.H.D. to be absent without leave from his duty from 2359 hrs 5th Sep.43,to 2359 hrs 26th Sep 43(the 21st day)and is still absent.Certified true copies of Pt 11 Orders are attached.Appendix.A.

The Court also declare B-267 Pte.Beamer.H.D. to be deficient in kit to the value of £5-11-6,as per attached list.Appendix.B.

EXHIBIT "B"

Certificate in accordance with Army Act, Section 163 (1) (ii).

I certify that No. B/267 Rank Pte Name Beamer H.D. Unit 4V

1st C.R.U. R.W.D. was arrested at 245 Hampton St. Hove

at about 1220 hrs 2/11/44 and that at ~~the time of~~ his arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M., or other officer into whose custody the above named person was taken into arrest.

ASSISTANT PROVOST MARSHAL
3 JAN 1944
101 H.Q. PROVOST COY

Names of President and Members

Major E.G. Stebbens. E.G. Stebbens Major
Lieut A.R. Jones. A.R. Jones Lt.
Lieut G.R. MacNamara. G.R. MacNamara Lt.

Signature of Commanding Officer H. Mayer

CERTIFIED TRUE COPY.

R.G. Burrows Capt
Signature of Officer having custody of the Original Record.

(21200) Wt.10885/791 130,000 4/42 A. & E.W.Ltd. Gp.698
(22499) Wt.29552/1800 100,000 10/42 " " Forms/B.115/58

Expense Voucher Re—:

EXHIBIT "C" 29

Ref. K.R. & O. (Can) 539

Reg. No. B267 Rank Tpr Name Beamer, H.H. Unit 1 CORU

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit From~~ London from Brighton

Date	Particulars	Amount		
3 Jan 44	Escorts return fare from LONDON To Brighton (½ portion)		4	0
	Prisoners single fare to LONDON From Brighton		4	0
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

7 st.

L. S. Bragan Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S(483(3287)

349

I, B-267, Private BEAMER, Harry David, No. 1 Canadian Ordnance Reinforcement Unit, desire to have an officer assigned to represent me at my trial by Court Martial.

I desire Major W.E. Miller.

I acknowledge receipt of a copy of the charge sheet and Summary of Evidence dated 6 January 1944.

I do not desire any witnesses called on my behalf.

B267 Pte Beamer H.D.
(B-267, Pte. Beamer, H.D.)

Bordon, Hants.
6 January 1944.

HD

LIST OF WITNESSES

In the case of B-267, Private, Harry David BEAMER, R.C.O.C., on strength of No. 1 C.O.R.U.

(For the Prosecution)

I. C-42234, Corporal, Tapper, W. — Regimental Police No. 1 C.O.R.U.

(For the Defence)

None

LIST OF EXHIBITS

In the case of B-267, Private, Harry David BEAMER, R.C.O.C., on strength of No. 1 C.O.R.U.

(For the Prosecution)

(A) A certified true copy of the Record of Declaration of The Court of Inquiry concerning the absence of the accused dated 28th day of September 1943, (Army Form B 115.)
(B) A certificate of the apprehension of the accused dated 2nd day of January 1944,
(C) A certificate of expenses incurred in the return of the accused dated 3rd day of January 1944.

(For the Defence)

None.

H. M. Bailey Col.
(Harold M. Bailey)
Officer Commanding
No. 1 Cdn. Ord. Rft. Unit.

6 January 1944.
Bordon, Hants.

SGT.

SUMMARY OF EVIDENCE

In the case of No. B-267, Pte. Harry David BEAMER, R.C.O.C. on strength of No. 1 Canadian Ordnance Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

First Witness Prosecution

C-42234, Cpl. Tapper, W. Regimental Police, 1 C.O.R.U., having been duly sworn states:-

I am C-42234, Cpl. Tapper, W., a corporal of the Regimental Police, No. 1 C.O.R.U., and I produce,
(A) A certified true copy of the Record of Declaration of The Court of Inquiry concerning the absence of the accused dated 28th day of September 1943, (Army Form B 115.)
(B) A certificate of the apprehension of the accused dated 2nd day of January 1944,
(C) A certificate of expenses incurred in the return of the accused dated 3rd day of January 1944,
as exhibits A, B and C for the Prosecution and pertaining to the accused whom I now recognize. I have initialed the Exhibits for the purpose of identification.

The accused declines to cross-examine the witness.

C-42234, Cpl. W. Tapper.

The accused having been duly cautioned as follows:-
"Do you wish to make any statement or give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

Reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and in the hearing of the accused and the Rules of Procedure 4 (c) (d) (e) (f) have been complied with.

Lieut.
Officer detailed to take down Summary of Evidence.

Ex A.

BORDON, HANTS-
6th January 1944.

No B-267 Name BEAMER, H.D. Sqn. Battery or Company | Corps R.C.O.C. | Date of enlistment 16-12-41 | Badges | Service or Proficiency Pay $1.50

MFM 6 (AFB 122) 40/P&S/136 (9486)

Date of last entry in Company Conduct Sheet NA. | No and date of last drunk NA. | Period not reckoning towards freedom from extra fine | Sheet No 2. | Signature OC Company, etc P.J.H.Lavigne Character Lieut.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				In the Field sheet destroyed 16-12-41					
Field	28-7-41	Tpr		A.A. Sec15(1) AWOL 7 days 11 hrs 30 mins)	L/C Copeland J Cpl Carter, S.A.	7 days C.B.	7-8-41	H.D.Forsyth Capt.	Forf 8 dy pay. FR&I
Field	28-10-41	Tpr		AA Sec 15(1) AWOL 12 dys 1 hr 40 min)	Sgt Hamilton	Admonished	8-11-41	D.Fauquier Major	Forf 13 dys pay FR&I
Field	23-9-42	Tpr.		AA Sec 15(1) AWOL from 1340 hrs 23-9-42 until 1430 hrs 23-9-42 (50 mins) in that he failed to appear on P.T. parade when ordered by his superior officer.	Sgt Pallemton Cpl Coulter.	5 days C.B.	23-9-42	Guy Savard Major	
Field	20-6-43	Tpr.		AA Sec 9(2) WOAS disobeying a lawful command given by his superior officer in that he at 0910 hrs on the 20 Jul 43 when ordered to					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Con'td				do up the chin strap on his crash helmet failed to do so	Lt.C.P. Harrison	5 days C.B.	22 Jul 43.		
Field	21-8-43-Tpr.			AA Sec 15 (1) AWL from 0600 hrs 21 Aug 43 until 0830 hrs 21 Aug 43 (2 hrs 30 mins.)	L/C Taylor L/C Jurden	7 days C.B.	23 Aug 43.	PJH Lavigne. Capt.	

10 Jan 44. CERTIFIED TRUE COPY

J.M. Hudson Lieut

OFFICER HAVING CUSTODY OF THE ORIGINAL DOCUMENT

M.F.B. 355
22M—5-41 (572-2)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
B-267	Private	Harry David BEAMER	1 C.O.R.U.

1. The following is a fair and true summary of the entries in the Service and General Regimental and ~~Squadron, Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For Disobeying a command	1 times	Disobeying a command	1 times
For A.W.L.	1 times	A.W.L.	4 times
For	times		times
For	times		times

Number of instances of gallantry or distinguished conduct NIL

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... .~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 8 days in ~~Air Force~~ military custody, making a total of 8 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 31 Aug 1922

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 16 June 1941

7. The service which the accused is allowed to reckon towards discharge is 16 June 1941

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no air force decoration, or air force reward military military ~~(or is in possession of or entitled to). State any air force decoration or reward. military.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force dated ....., and in his regiment (or corps), the rank of ..... unit dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army / Air Force Act, and of cases in which trial has been dispensed with of accused, Number NA Rank NA Name NA of NA Regiment / Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
NIL	NIL	NIL	NIL	NIL

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10 day of Jan 44 .....Lieut
Asst Records Officer
No.1. Cdn Ord Reinf Unit

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No B-267 Name BEAMER, H.D. Sqn, Battery or Company | Corps R.C.O.C. | Date of enlistment 16-12-41 | Service or Proficiency Pay $1.50-

Date of last entry in Company Conduct Sheet NA. | No and date of last drunk NA. | Period not reckoning towards freedom from extra fine | Sheet No 2. | Signature OC Company, etc P.J.H.Lavigne Lieut. | Badges | Character

MFM 6 (AFB 122) 40/P&S/136 (8438)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		In	the	Field sheet destroyed 16-12-41					
Field	28-7-41	Tpr		A.A. Sec15(1) AWOL 7 days 11 hrs 30 mins)	L/C Copeland J	7 days C.B.	7-8-41	H.D.Forsyth Capt.	Forf 8 dy pay. FR&I
Field	28-10-41	Tpr		AA Sec 15(1) AWOL 12 dys 1 hr 40 min)	Cpl Carter, S.A. Sgt Hamilton	Admonished	8-11-41	D.Fauquier Major.	Forf 13 dys pay FR&I
Field	23-9-42	Tpr.		AA Sec 15(1) AWOL from 1340 hrs 23-9-42 until 1430 hrs 23-9-42 (50 mins) in that he failed to appear on P.T. parade when ordered by his superior officer.	Sgt Pallemton Cpl Coulter.	5 days C.B.	23-9-42	Guy Savard Major	
Field	20-6-43	Tpr.		AA Sec 9(2) WOAS disobeying a lawful command given by his superior officer in that he at 0910 hrs on the 20 Jul 43 when ordered to					

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Con'td									
				do up the chin strap on his crash helmet failed to do so	Lt.C.P. Harrison	5 days C.B.	22 Jul 43.		
Field	21-8-43	Tpr.		AA Sec 15 (1) AWL from 0600 hrs 21 Aug 43 until 0830 hrs 21 Aug 43 (2 hrs 30 mins.)	L/C Taylor L/C Jurden	7 days C.B.	23 Aug 43.	PJH Lavigne. Capt.	

10 Jan 44.

CERTIFIED TRUE COPY

R.M. Hudson Lieut

OFFICER HAVING CUSTODY OF THE ORIGINAL DOCUMENT

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

H.Q.C. 55-B-1954 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BEAUPRE, M. D-124190 SPR.

CONFIDENTIAL
H.Q.C. 55-B-1954

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "See Minute")		
SEP 19 1946	12 Sep 45			ADMIN	NEW FILE	CR	12-9-45
	19/9/46			OR B	AUG 30 1946		
JUL 1 1947	7/7/47			D.L.R.	MAY 17 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-125190 Sgt BEAUPRE, Marcel 2 CGPC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 27 Days Detention beginning on (date) 1 Decr 44 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo Detention for Sixty (60) Days and the pay under stoppages of pay until he has made good the sum of £1-4-9 Costs of return, with recommendation to Mercy

(Sgd) Judge Advocate, if any — 21 Decr 44 Date awarded. (Sgd) John Meagher President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ (1. AA 57A. Delete if not used.)

Date 26 Dec 44 (Sgd) J.E. Sager Brigadier Commanding "F" Gp. C.R.U. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D125190 Sgt Beaupre, Marcel	27 Dec 44	[illegible] Major

PT. II order no. 55 of 28 Dec 44.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 5 JAN 1945 JAG BRANCH

RECORDED AT CMHQ IN AB 160 41-63

CPA96 (In lieu of APA3) 40/P.R.S./1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Brigadier J.E. Sager Comd "F" Gp. CRU dated 21 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-125190	Sgt	Marcel	BEAUPRE	2 CGPC

PROCEEDINGS REVIEWED [illegible] 5 Jan 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 21 Decr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1.3.45 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans ..... ~~The Interpreter is sworn.(1)~~ Do you object to Maseai Iqra J. Barnes as shorthand writer ? Ans No The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	E.M. Miller ED KC	HQ CRU
Member	Capt	W.M. Stedman	4 VRD CCOD
Member	Lieut	R.F. Devine (Bilingual)	3 CGPC
~~Judge Advocate~~			
Prosecutor	Lieut	E.N.J. Heintz	2 CGPC
Defending Offr	Capt	G.A. Jones (Bilingual)	2 CGPC

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Stg Officer will give my statement
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Big Stg Offr (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D.125190 Spr Marcel BEAUPRE, of No 2 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec 15(1)
ARMY ACT

when on Active Service

ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, whilst "IN ARREST", absented himself without leave from 2105 hrs 1 Dec 44 until apprended by the Civil Police at Boscombe, England at 1430 hrs 14 Dec 44, and thereby incurring costs of returning him to his unit in the amount of one pound four shillings and ninepence.

Total time absent: 13 days 17 hrs. 25 mins.

In the field
18 Dec 44

(V.K.CROXFORD), Major
Officer Commanding

To be Tried by Field General Court Martial.

Bordon, Hants.
21 Dec 44

(J. E. SAGER) Brigadier
Comd "F" Gp, CRU

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAB) 40/F&S/1097 (Ins88)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-125190	Spr		Marcel	BEAUHRE	2 CGFC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 21 Dec 44 endorsed by me, ~~(or by an offr of my staff for me)~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached herein~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate the Offr mentioned hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E. M. Miller, E.D.	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	W. M. Steedman	4 VRD CCOD
Lieut.	R. F. Dionne	3 CGIC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) — (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

(J. E. SAGER) Brigadier

Date 21 Dec 44 — Commanding "F" Gp, CRU

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. D-125190 SUS Beaupre, M.

of #1. Cdn Detn Bks is in a fit state of health,

and fit to undergo Trial by Court martial.

H Jackson, Capt
Medical Officer

Station Field

Date 21 Dec 44.

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

D-125190

F.G.C.M. IN THE CASE OF

Spr. BEAUPRE, M.

21 Dec. 44.

2 CGPC

PLEA IN MITIGATION

Sir;

NOTE E - 3

Here we have a young canadian soldier who grew up in a 100 per cent French Canadian community. Enlisted in the FMRs, in 1941. Subsequently transferred to RCE due to shortage of men in the latter. Disappointed on this involuntary transfer particularly as new unit 100 per cent English, but proceeded overseas in line with his desire to fight. No crimes in Canada whatsoever(8 months); overseas ordered to speak English only, and for a young man of 20 years, this a very high order, resulting in Misunderstandings and disciplinary downfall. Subsequently SPO'd and graded M-4 by reason of " Mental retardation". This diagnosis based on failure to make himself understood and is an English speaking SPO. In view of M-4, transferred to Pioneers August 44. He has had 4 AWL's during that time including breaking out of confinement; on this 27 days detention awarded. Disciplinary trouble predicted by the accused in effort to obtain attention to his desire to transfer to Combatant Unit. I can attest to this last threat as 2 i/c and acting O.C. of his Unit, as can also the Prosecutor. Beaupre is well liked by his brother soldiers, is young, husky and is qualified in at least 2 battle courses in Infantry. He is therefore excellent material for a Combatant Unit. The court is requested therefore to awarde a sentence compatable with his manifest insistence to proceed overseas and to recommend to the proper authorities that he be SPO'd by a French Speaking SPO. Beaupre is prepared to accept willingly the court's sentence in this direction.

THE COURT CLOSED TO CONSIDER THE SENTENCE

SUMMARY OF EVIDENCE

Bordon, Hants
18 Dec 44

Summary of Evidence,
in the case of D.125190 Spr Marcel BEAUPRE, of No 2 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

R.P.4(F) The Commanding Officer directs that the evidence be taken under oath.

FIRST WITNESS for the prosecution — G.19121 Pte Simpson J. of the Regt'l Police No 2 CGPC having been duly sworn states:-

I am G.19121 Pte Simpson J., of the Regt'l Police No 2 CGPC. At. 2105 Hrs 1 Dec 44 I was on duty at the unit guard room when D.125190 Spr Beaupre M. asked to go to the lavatory. I took the accused, who I now recognize, D.125190 Spr Beaupre M. outside and as I turned to lock the guard room door he escaped into the darkness

G. 19121 Pte Simpson J.

The accused declines to cross-examine the witness.

SECOND WITNESS for the prosecution — K.46162 Pte Peat S.S. CMSC, Orderly Room Clerk, No 2 CGPC., having been duly sworn states:-

I am K.46162 Pte Peat S.S. CMSC, Orderly Room Clerk No 2 CGPC. I present Part II Order No 51 d/1 Dec 44 Para 7(E) which relates to the accused who I now recognize, showing him as sentenced to 27 days detn. on the 1 Dec 44 for an offence under A.A. Sec 15(1). I also present Expense Voucher, signed by Capt R.E. Birch DAPM CMHQ, which relates to the accused, D.125190 Spr Beaupre M., showing expenses incurred in his return to Unit from Bournemouth to the sum of one pound four shillings and ninepence, £1-4-9. The Part II Order is attached marked APPENDIX "A"; the expense voucher attached as APPENDIX "B".

K.46162 Pte Peat S.S.

The accused declines to cross-examine the witness.

THIRD WITNESS for the prosecution — Police Sergeant 56, E.F.BOXALL, of the Bournemouth Police. A written statement of this witnesses' evidence purpoted to be signed by him, has been read to the accused, and is included in this Summary of Evidence and marked APPENDIX "C".
Having regard to the expense involved the attendence of this witness cannot be readily procured.

J.F. TOLLER, Lt.,
Officer detailed to take the summary of evidence

The accused does not demand the attendance of this witness for cross-examination.

(Continued on page 2)

The accused is duly cautioned as follows "Do you wish to make any statement or give evidence upon oath?" You are not obliged to say anything or give evidence unless you wish to do so, but whatever you or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused at Bordon, Hants on the 18 Dec 44, and that the rules of procedure 4(C), (D), (E), (F), have been duly complied with.

Bordon, Hants.
18 Dec 44

(J.F. TOLLER), Lt.,
Officer detailed to take the Summary of Evidence

APPENDIX "A"

2 CANADIAN GENERAL HOSPITAL COMPANY
P A R T II O R D E R S
Issued by
CAPT. G.J.P. JONES, CAD.
A/OFFICER COMMANDING

Last Order No. 90
Dated 24 Nov 44.

This Order No.
Dated 1 Dec 44

SAF OFFICERS

1. ATTACHED:

(a) Cease att fap from 1 CGHU wef 27 Nov 44.
(Auth: GHQ A9663 d/25 Nov 44)
Capt. R.E.G. Dupper

R.C.A.M.C.

"B" OTHER RANKS

2. RTU WITH TRANSF:

(a) TOS from (Y1 list) No. 1 Hq., Cdn Spec Emp Group on disch from 4 Cdn Conv Depot wef 29 Nov 44.
M43730 Gnr. Nakolychuk, S.

(b) TOS on app from des wef 2000 hrs 18 Nov 44.
F78080 Pte. Moore, R.

(c) TOS from 1 CFHU wef 26 Nov 44.
(Auth: GHQ A9663 d/25 Nov 44)
K46162 Pte. Peat, S.S.

(d) TOS from 22 Cdn Spec Emp Coy wef 25 Nov 44.
(Auth: Hq., Cdn Spec Emp Grp)
K41692 Sgt. Ward, W.T.
K46844 Pte. Longmore, N.B.

3. ATTACHED:

(a) Att fap except dis to 6 CAWC, RCE wef 26 Nov 44.
(Auth: HQ CCE 1/CE3/Nov Haven/1 d/23 Nov 44)

[illegible]	Pte.	Allison, [illegible]	G33226	Pte.	Lagney, R.
K[illegible]	Pte.	Barnes, F.L.	B60178	Pte.	Lewis, L.G.
M[illegible]314	Rfn.	Carpenter, R.J.	K46844	A/Cpl.	Longmore, N.B.
G23092	Pte.	Caissie, J.L.	G3712	Gnr.	Mills, J.
G22196	Pte.	Chamberlain, J.	L59023	Gnr.	Murray, M.
G21463	Pte.	Davis, M.H.	F89095	Pte.	McLean, A.J.
M65118	Pte.	Dean, S.	A22957	Rfn.	MacIntosh, A.
F86047	Pte.	Doucette, R.B.	H1732	Pte.	MacSween, M.
L74666	Gnr.	Fossenenve, J.F.	G17145	Tpr.	Price, C.A.
G30632	Gnr.	Gauvin, L.	L64392	Spr.	Schell, W.
K64385	Rfn.	Gosden, A.	G49792	Gnr.	Holmes, J.
K48334	Spr.	Harman, P.W.			

(b) Att fap except dis to 5 CAWC, RCE wef 17 Nov 44.
B53831 Sgt. Alphinstone, A.V.

(c) Att fap except dis to 5 CAWC, RCE wef 29 Nov 44.
K15300 Gnr. Miller, A.H.

(d) Att fap except dis to 6 CAWC, RCE wef 29 Nov 44.
M[illegible]1398 Pte. Paulin, D.

(e) Att fap except dis to 1 Cdn Base Park, RCE wef 1 Dec 44.
G21419 Pte. [illegible]
G149[illegible] Gnr. Pajak, G.

(f) Cease att fap except dis to 1 Cdn Base Park, RCE wef 25 Nov 44.
G19300 Pte. Hellivreau, G.

(g) Cease att fap from 1 Cdn Adm Pet Coy wef 22 Nov 44.
H[illegible] Sgt. [illegible]
H[illegible] Pte. [illegible]

(h) Cease att fap except dis to 27 [illegible] wef dates shown
[illegible] 15 Nov 44.
[illegible] 23 Nov 44.

(i) Cease att fap [illegible] Cdn [illegible] RCE wef 23 Nov 44.
M62[illegible] Pte. [illegible]

[illegible] true copy of original Part II Order
[illegible] Officer Commanding

3. ATTACHED (Cont'd)

(j) Cease att fwp except dis to 5 CAMC, NOT wef 16 Nov 44.

M60503	Rte.	Abram, M.	D118202	Pte.	Lewis, T.
G23347	ALO.	Allen, O.W.	H21016	Pte.	Mikun, M.
H26028	Rfn.	Bouchar, J.L.	L218	Gnr.	Bernard, D.L.
B76630	Sgt.	Chick, M.A.	L59723	Gnr.	Ahey, J.
34563	Gnr.	Duguay, A.	H1732	Pte.	MacGregor, M.
G2697	Spr.	Etherington, H.	B28566	Spr.	McDonald, J.
L74666	Gnr.	Fossenouve, J.V.	F78271	Tpr.	McAulay, G.W.
G50661	Gnr.	Frigault, F.C.	F89095	Pte.	McLean, A.J.
G50632	Gnr.	Gauvin, L.	M9313	Pte.	McRae, P.
B32387	Gnr.	Goody, O.W.	B26269	Spr.	McGovern, W.A.
G32877	Pte.	Grass, S.	B87100	A/Cpl.	Poirier, J.M.
G49792	Gnr.	Holmes, J.	F87421	Pte.	Reid, C.
L28259	Pte.	Kowalchuk, J.	L64392	Spr.	Schell, W.
L26187	Rfn.	Lavallay, [illegible]	G33221	Pte.	Scholz, V.
G17171	Pte.	Lewis, M.	L103[illegible]	Gnr.	Swerhun, W.
B68176	Pte.	Lewis, L.G.	F87308	Gnr.	Symes, H.S.

4. LEAVE OF ABSENCE:

(a) Granted 7 days P.L. with money allowance in lieu of rations pursuance FRI 789(3)&(4).

C19278	A/Cpl.	Briggs, N.H.	wef 17 Nov 44 - 24 Nov 44.
M63781	Pte.	Clark, F.W.	24 Nov 44 - 1 Dec 44.(1 CGPC)
L26384	Gnr.	Zemenchuk, B.	24 Nov 44 - 1 Dec 44.(1 CGPC)

(b) Granted 7 days P.L. with money allowance in lieu of rations and 48 hrs leave(total leave & entitlement - 9 days)pursuance FRI 789(3)&(8)

D56290	Spr.	Blondin, L.	wef 25 Nov 44 - 4 Dec 44.
F77499	Gnr.	Bonaparte, I.S.	17 Nov 44 - 26 Nov 44.
L1327	Pte.	Borowski, T.H.	17 Nov 44 - 26 Nov 44.
K126	Tpr.	Bryant, F.H.G.	1 Dec 44 - 10 Dec 44.(1 CGPC)
B76630	Sgt.	Chick, M.A.	25 Nov 44 - 4 Dec 44.
35671	Pte.	Doyon, A.	25 Nov 44 - 4 Dec 44.
F4365	Pte.	Duguay, A.	25 Nov 44 - 4 Dec 44.
H9627	Gnr.	Kanash, N.	1 Dec 44 - 10 Dec 44.(1 CGPC)
G22968	Pte.	Miller, R.D.	17 Nov 44 - 26 Nov 44.
F78224	Pte.	Munroe, S.W.	25 Nov 44 - 4 Dec 44.
B26296	Spr.	McGovern, W.A.	25 Nov 44 - 4 Dec 44.
F88524	Sigm.	McLean, A.A.	17 Nov 44 - 26 Nov 44.
P30270	Sgt.	Strachan, A.S.V.	25 Nov 44 - 4 Dec 44.
H63546	Tpr.	Woods, H.C.	25 Nov 44 - 4 Dec 44.

5. PROMOTIONS:

(a) To be Acting Sergeant wef 15 Nov 44.
C4980 Cpl. Taylor, W.S.

(b) To be Acting Corporal wef 25 Nov 44.
K46044 Pte. Longacre, B.N.

(c) To be A/L/Cpl. from 30 Jan 44 to 30 Apr 44.(Auth: R.R.A.F. (Overseas) 741), and to receive pay of that rank.
B64187 Pte. Houle, H.C.

TRADES PAY WITH NO PAY:

(a) Re-granted trades pay rate of pay as shown wef 26 Nov 44.
K46162 Pte. Park, S.S. Clerk Group "C"

7. PUNISHMENTS:

(a) On 27 Nov 44 was awarded 17 days C.B. for an offence under Sec.12(1)AA
AWL from 2200 hrs 25 Nov 44 to 2100 hrs 26 Nov 44.(Absent 23 hrs)
Forf 1 days pay FRI 149(1)(a)
D62947 Pte. Harrisson, [illegible]

(b) On 24 Nov 44 was awarded 14 days P.B. for an offence under Sec.12 AWL from 2200 hrs 22 Nov 44 to 2145 hrs
23 Nov 44. (Absent 23 hrs 45 mins)
Forf 14 days pay FRI 149(1)(b)
Forf 1 days pay FRI 149(1)(a)
Total forfeiture 15 days pay.
K23144 Pte. Lawson, [illegible]

PUNISHMENTS (Cont'd)

(c) On 21 Nov 44 was placed under stoppage of pay to the amount of $18.18 for an offence under Sec.24(2)A.A.
Stoppage of pay $18.18 FRAI 158(1)
F78080 Pte. Moore, R.

(d) On 28 Nov 44 tried by FGCM.
CHARGES: Sec.15(1)A.A.
FINDING: Guilty
SENTENCE: 90 days detention.
CONFIRMATION: Findings and sentence conf'd by Comd (Brig) "F" Group CRU on 29 Nov 44.
AWL from 2359 hrs 21 Oct 44 to 2000 hrs 18 Nov 44. (Absent 27 days, 20 hrs 1 mins)

CLOSE ARREST: In close arrest from 2000 hrs 18 Nov 44 to 2400 hrs 27 Nov 44. (9 days 4 hrs)
FORFEITURES: Forf 90 days pay FRI 149(1)(b)
Forf 28 days pay FRI 149(1)(a)
Forf 9 days pay FRI 149(1)(c)(i)
TOTAL FORF: 127 days pay.
F78080 Pte. Moore, R.

(e) On 1 Dec 44 was awarded 27 days Detention and to forfeit 27 days pay for an offence under Sec.15(1)AA AWL from 2200 hrs 24 Nov 44 to 1550 hrs 29 Nov 44. (Absent 4 days 17 hrs 50 mins) Close arrest from 1550 hrs 29 Nov 44 to 2400 hrs 30 Nov 44.(1 day 8 hrs 50 mins)
Forf 27 days pay FRI 149(1)(b)
Forf 5 days pay FRI 149(1)(a)
Forf 1 days pay FRI 149(1)(c)(i)
Total forf 33 days pay.
D125190 Spr. Beaupre, M.

8. MARRIAGES, BIRTHS & DEATHS:
(a) Married with permission to Miss Martha Hillditeh Keir, at Levern Manse, Nitshill, County of Renfrew, Scotland, on 20 Nov 44.
B64189 Pte. Houle, H.G.

9. NEXT OF KIN:
(a) Change of N-of-K from Mr. G.H. Houle (father) to Mrs. Martha Hillditeh Houle (wife), 75 Maybole St., Nitshell, Scotland.
B64189 Pte. Houle, H.G.

10. HONOURS & AWARDS:
(a) Awarded the Canadian Efficiency Medal under Provisions of the Royal Warrant dated 23 Sep 44.(Auth: CACRO 5264 d/22 Nov 44)
B76630 Sgt. Chick, M.A.

(b) Awarded one Good Conduct Badge wef dates shown:(Art 136(b)KR Can 1939)

B68181	Pte.	Heron, A.S.	wef 5 Nov 44.
F6138	Gnr.	Lake, W.A.	2 Jun 42.
B68176	Pte.	Lewis, L.G.	15 Nov 44.
F87454	Gnr.	Smith, B.	5 Nov 44.
L103301	Gnr.	Swerhun, W.	1 Dec 44.

11. STRENGTH DECREASE:
(a) SOS to (Y3 List)No. 1 HQ. Cdn Spec Emp Group on adm to 11 Cdn Gen Hq wef dates shown:
D115492 Pte. Legris, M.P. wef 24 Nov 44.
H17227 Rfn. Wiltsey, C. 25 Nov 44.

(b) SOS to 6 CAMC, HQS wef 25 Nov 44.(Auth: CMU A9746 d/22 Nov 44)
M3802 Spr. Lemay, B.

(c) SOS to 25 Cdn Spec Emp Coy wef 25 Nov 44.(Auth:H(23)HQ/6-2/Post d/24
M45192 Pte. Skrychuck, O.

Geo. P. Jones
(G.P. Jones), Capt.,
a/ Officer Commanding

certified true copy
Geo. P. Jones Capt

APPENDIX "B"

"B"

Expense Voucher Re—

Ref: KR & O (Can) 539

Reg No. D-125190 Rank S. Gr. Name BEAUPRE M. Unit 2 PIONEER Coy

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from LONDON FROM BOURNEMOUTH

Date	Particulars	Amount		
15-DEC. 44	Escorts return fare from LONDON To BOURNEMOUTH		16	6
15 DEC 44	Prisoners single fare to LONDON From BOURNEMOUTH		8	3
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	4	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

CAPT.
R. E. BIRCH, D.A.P.M.
C. M. H. Q.

~~LIEUT.~~
~~A. THOMPSON~~ Capt
~~OFFICER D.P.M's BR.~~
~~C. M. H. Q.~~

Officer Issuing Railway Warrant and ~~Expense money~~
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100:55
40/P & S/483 (6762)

APPENDIX "C"

"C"

Bournemouth

15th December, 4

Sir, No. D. 125190 Sapper Marcel Beaupre - Apprehension.

I beg to report at 2.30 p.m. on the 14th December, 1944 I was on duty in Sea Road, Boscombe, where I saw the above named in the company of some U.S. soldiers.

I noticed that he had no cap badge or shoulder flashes. I questioned him and he stated that he was on sick leave and back from France. He had been in the 18th General Hospital, Horsham.

I continued to question him and he then admitted being an absentee from his Unit, 2nd Pioneer Company, Canadian Army, stationed at Bordon Camp, and that he had escaped from a Guard Room there on the 1st December, 1944.

I brought him to Bournemouth Police Station and charged him with this offence. He was locked up to await escort.

Beaupre stated that he went to London, where he stayed for about a week and came to Bournemouth on the 8th instant. He has been sleeping rough and getting food wherever possible at Military Units.

E. H. Boscall. Sgt. 56

To
Chief Inspector,
Bournemouth.

Copy for encl

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
D.125190	Sapper	BEAUPRE, Marcel	2 Cdn Gen Pioneer Coy

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sec 15(1) AA ..... times.
For Sec 41 AA ..... 7 times.
For ..... 1 times.
For ..... times.
..... times.

Date of first entry in Field Conduct Sheet 17 Nov 42

Date of last entry in Field Conduct Sheet 24 Nov 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for AWL AA sec 15(1) beginning on the first day of December 1944

4. The accused has been awaiting trial on the present charges for 1 2 days in civil custody; and for 6 5 days in military custody, *i.e.*, NIL days in open arrest, 7 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 22 years 173 days

6. The date of his attestation ~~taking up for military service~~ is 9 Oct 41

7. The service which the accused is allowed to reckon is 3 years 71 Days

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ C.V.S.M. & C.

9. ~~(If the accused is a commissioned officer or N.C.O.) The accused has served continuously, without reduction, to the present rank~~ 2 Lt

~~Date of Promotion~~

~~In the substantive rank of~~

~~In the substantive rank of~~

~~In the acting rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Eb
Eb

(*28072) WL30721/3701 32,000 9/44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FCGM	21 Feb 44 Field	(1)Sec 18(4) AA (2)Sec 18(4) AA	6 Months Detn	57 Days remission

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 21 day of December 1944

[illegible] Major
O.C., No 2 Cdn Gen Fnr Coy

No D125190 Name BEAUPRE M. | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 9 Oct 41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed, defaced, 30 Oct 44					
Field	17 Nov 42	Spr		Sec(41) AA WOAS - Stealing, stole 200 American cigarettes the property of A55811 Spr Champerland G.	Spr Leduc Sgt Nadeau Capt Bourbonnais	27 Days FP Forf 27 days PayFRI 149(1)(b)	27 Nov 42	Dealt with summarily under Auth C.R.E.	
Field	19 Jan 44	Spr		Sec.15(1)AA WOAS AWL from 2300 hrs 19 Jan 44 to 1130 hrs 28 Jan 44 (8 days 12 hrs 30 mins)	L/Sgt Gagne Documentary	Forf 18 days pay FRI 149(2)	1 Feb 44	Lt Col GW Smith	Forf 9 days pay FRI 149 (1)(a)
Field	14 Feb 44	Spr		(1) Sec.18(4)AA (2) Sec.18(4)AA	Documentary	6 months Detn Confirmed by C.E. Wkd 1st Cdn Army	21 Feb 44 16 Feb 44	FGCM	Forf 182 days pay FRI 149 (1)B

SEE OTHER SIDE

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				FGCM - Cont'd.					Forf 9 days pay FRI 149(1)(c) Stoppage of pay to amt of £2-8-6
Field	16 Jun 44	Spr		Released from detention brks and granted 57 days remission of sentence					
Field	18 Jun 44	Spr		Sec.15(1)AA WOAS AWL from 1400 hrs 18 Jun 44 to 2330 hrs 21 Jun 44 (3 days 9 hrs 30 mins)	Documentary	Forf 4 days pay FRI 149(2)	23 Jun 44	Lt Col LGC Lilley	Forf 4 days pay FRI 149(1)(a)
Field	3 Jul 44	Spr		Sed.15(1)AA WOAS AWL from 0600 hrs 3 Jul 44 to 1230 hrs 14 Jul 44 (11 days 6 hrs 30 mins)	Documentary	28 days detn	15 Jul 44	Lt Col LGC Lilley	Forf 12 days pay FRI 149(1)(a)
Field	7 Aug 44	Spr		Released from Detention bks and granted 4 days remission of sentence					

SEE PAGE TWO

No D125190 Name BEAUPRE M. | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 9 Oct 41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Aug 44	Spr		Sec.15(1)AA WOAS AWL from 2130 hrs 25 Aug 44 to 1400 hrs 3 Sep 44 (8 days 16 hrs 30 Mins)	Documentary	27 days detn	6 Spe 44	Col GH White	Forf 9 days pay FRI 149 (1)(a) Forf 2 days pay FRI 149 (1)(c)
Field	8 Oct 44	Spr		Sec.15(1)AA WOAS AWL from 2359 hrs 8 Oct 44 to 1730 hrs 11 Oct 44 (2 days 17 hrs 31 min(	Documentary	5 days FP Forf 5 days pay FRI 149 (1)(b)	13 Oct 44	Maj V.K. Croxford	Forf 3 days pay FRI 149 (1)(a)
Field	30 Oct 44	Spr		Sec.15(1)AA WOAS AWL From 1200 hrs 30 Oct 44 to 1430 hrs 4 Nov 44 (apprehended) (5 days 2 hrs 30 mins)	Documentary	18 days FP Forf 18 days Pay FRI 149 (1)(b)	6 Nov 44	Maj V.K. Droxford	Forf 6 days pay FRI 149 (1)(a) Forf 1 dys pay FRI 149

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24 Nov 44	Spr		Sec.15(1)AA WOAS AWL from 2200 hrs 24 Nov 44 to 1550 hrs 29 Nov 44(Apprehended)(4 days 17 hrs 50 min)	Documantary Cpl Poirier JW	27 days detn	1 Dec 44	Maj D. MacRae	Forf 5 days pay FRI 149(1)(a) Forf 27 days pay FRI 149)1)(b)
Field	18 Dec44	Spr		Sec 15(1)AA WOAS Losing by neglect deficeint in kit to the amount of £2/11/4	Documentary	Stoppages of Pay amt£2/11/4	19 Dec44	Major W. CROFT CRD	

Certified true copy of M.F.M. 6 in my possession.

Officer having custody of Regimental Books, Dec 44.

LIST OF WITNESSES

FOR THE PROSECUTION

G.19121 Pte SIMPSON J. C.I.C.----------2 Cdn Gen Pnr Coy

K.46162 Pte PEAT S.S. C.M.S.C.----------2 Cdn Gen Pnr Coy

Police Sgt E.F.BOXHALL ---------- Civil Police Bournemouth

FOR THE DEFENCE

NIL---------- NIL

LIST OF EXHIBITS

APPENDIX "A" -- Certified true copy of Part II Order No 51 d/ 1 Dec 44, of No 2 Cdn Gen Pnr Coy. C.A.O.

A PPENDIX "B"-- Expense Voucher cigned by Capt R.E.Birch DAPM CMHQ

AP PENDIX "C"-- Statement of witness Police Sgt 56 E.F.BOXALL Civil Police Bournemouth

(1) I hereby acknowledge that I have been served with a true copy of the summary of evidence taken at Bordon, Hants preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

Dated at Bordon, Hants
this day of
December, 1944

M. Beaupré
D.125190 Sgt Beaupre M.

(2) I hereby request that the convening officer appoint an Officer to represent me at my trial.

I desire the services of MAJOR DEXTROSE, Fusiliers Mont-Royal
if he is available.

Dated at Bordon, Hants
this day of
December, 1944

M. Beaupré

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-125190 Pte Marcel BEAUPRE - CIC - 4 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of six (6) months and to be put under stoppages of pay until he has made good £0-11-6 the expenses of his return to his unit 6 Jul 45

(Sgd) [illegible] Judge-Advocate, if any. Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

(Sgd) Jameson Col

Date 10 Jul 45 Commanding 1/ Comd 13 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-125190 Pte BEAUPRE - MARCEL. 4 CITR DO Part II No 160.	12 Jul 45	[illegible] Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 5P-4

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31) 40/P & S/1698 (8144) 4/38B

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 4 Jul 45

26 JUL 1945

(1. As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) Prmnt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-125190	Pte		Marcel	BEAUPRE	CIC 4 CITR

PROCEEDINGS REVIEWED

R Lawmore Capt

JUDGE ADVOCATE, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 6 JUL 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1110 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to R5126 Sgt SINCLAIR as ~~interpreter?~~ Ans ~~—~~ as shorthand writer? Ans NO

~~The Interpreter is sworn.~~(1) Do you object to Sgt SINCLAIR as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D L REDMAN	HQ CRU
Member	CAPT	J. T. ROBB	2 CITR
Member	CAPT	J. J. LEFRANCOIS	5 CITR
~~Judge-Advocate~~			
Prosecutor	LT	J. H. TELMOSE	4 CITR
Defending Offr	LT	R. BERUBE	4 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO-SIR (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides ~~(not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty~~ on ..... charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s)~~ on ..... charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... .(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO-SIR .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. "B" and Ex. "C" respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. NO-ADDRESS (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No.D-126190 Private Marcel BEAUPRE, of the Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
ARMY ACT
Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the field, did absent himself without leave from 2359 hours on the 1st day of April 1945 until arrested by the civilian police at Boscombe, Bournemouth, at 2145 hours on the 16th day of May 1945, thereby incurring cost of return to his unit in the sum of eleven shillings and sixpence.

(Total absence: 44 days 21 hours and 45 minutes.)

(W.C. CLARK) Colonel
Commander
4 Cdn Inf Trg Regt

IN THE FIELD
27 June 1945

To be tried by Field General Court Martial.

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
4 Jul 45

FIELD GENERAL COURT-MARTIAL

CFAAG (In lieu of AFAB) 40/P&S/1097 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-125190	Pte		Marcel	BEAUPRE	CIC 4 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~xxxx~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 Jul 45 endorsed by me, ~~xxxxxxxxxxxxxxxxxxxx~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~xxxxxxxxxxxxxxxxxxx

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: D-120195 (Rank)
PTE. BEAUPRÉ, M. (Name) of C.I.C. and in my opinion he is
fit ~~unfit~~ to undergo trial by Court Martial.

Station 4-C.I.T.R.

Date 6-JULY-1945

SGD [signature] (Medical Offr)

PLEA IN MITIGATION 6 July 46

RE: Court-Martial of D 125190 Pte Beaupré M.
Mitigation of Sentence.

The accused D-125190 Pte Beaupré M
Enlisted Oct 41 for Active Service -
Arrived in U.K. - May 42 -
Later Remustered to Infantry.
Underwent Intensive Inf. Trng. and
was willing to go on the Continent

On many occasions Pte Beaupré was
on an overseas draft but was always
taken off due to his physical condition.
His category is H-1 - and still was refused.
But all the time this man underwent a
very hard Trng - and at one time was
granted a leave (9 days) which was cancelled
at the last moment because of a Bn scheme.
Later he was granted 24 hours pass -
Quite different from a privelege leave -
To add to all his Misfortunes - this man
has'nt received one word from his widowed
mother for the last 6 months - He allows her
$2.00 a month - His father died in 39 -
while he was overseas -

E-3
MM

Ans - If given opportunity the man will sign for the Fat Cert Force and I assure you he is willing to start every thing on the right path

---

Civilian Custody - 32 days -
Military Custody - 17 days -
49 days

R. Bérubé Lieut.
R. BÉRUBÉ LIEUT.
DEFENDING OFFICER

E-3

SUMMARY OF EVIDENCE

In the case of No.B-125190 Pte Beaupré M. of the Canadian Infantry Corps on the strength of 4 Cdn Inf Trg Regt.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

First Witness for the Prosecution

Lieut A.J.Savoie, of the Canadian Infantry Corps, on the strength of 4 Cdn Inf Trg Regt, having been duly sworn, states as follows:

" I produce the following documents pursuant to Overseas Routine Order 5352 which have been read over and shown to the accused and which are attached hereto as exhibits.

(a) A certified true extract from 4 CITR Daily Orders Part II No. 85 dated 12 Apr 45. This is to show the start of AWL. Produced and marked EXHIBIT "A".

(b) A certificate of arrest in accordance with AA sec 165 (m) signed by Chief Inspector E.Burgess of the Hampshire Joint Police Force. This is to show the finish of AWL. Produced and marked EXHIBIT "B".

(c) Expense voucher CMHQ form 1000;55 signed by Capt R.PHarrison of No.6 Area Provost Coy Canadian Provost Corps showing cost of return of accused to his unit. Produced and marked exhibit "C".

The accused declines to cross-examine this witness.

A.J. Savoie Lt
(A.J.Savoie)

The accused was then cautioned as follows:" Do you wish to make a statement or to say anything under oath? You are not obliged to make any statement or to say anything unless you wish to do so, but whatever you may say or any evidence you may give will be taken dwon in writing and may be used in evidence.

The accused declines to make any statement and reserves his defense.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused and that Rules of procedure 4 (c) (d) (e) & (f) have been duly complied with.

J.R.Mathieu Lt
(J.R.MATHIEU)
Officer detailed to take the Summary of Evidence

IN THE FIELD
28 Jun 45

E+A
PMY

EXHIBIT "A"

[illegible]T ORDER
No.84
11 Apr 45

4 CANADIAN INFANTRY TRAINING REGIMENT
DAILY ORDERS PART II
issued by

THIS ORDER
No 85
12 Apr 45

COLONEL J.GAVAN POWER E. D. COMMANDING OFFICER

SECTION "B" OTHER RANKS

13 ABSENT WITHOUT LEAVE

13-A AWL from 2359 Hrs 1 Apr 45. Still AWL at 2359 hrs 9 Apr 45 (8th day)

D-125190 Pte Beaupré M.

(CIC)
(K.J.O.RIDLEY) CAPT
for Major IC Administration 4 CITR

Certified true extract from original in our possession.

for J.R.Mathieu Lt
(K.J.O.RIDLEY) Capt
Records Officer
4 Cdn Inf Trg Regt

26 Jun 45

EXHIBIT "B"

HAMPSHIRE JOINT POLICE FORCE

Tel. No.: [redacted]
BOURNEMOUTH 6666/7/8/9

Any reply to this letter should be addressed to:—
THE CHIEF SUPERINTENDENT,
and the following reference
[redacted] 965/45/CID.2059

POLICE STATION,
BOURNEMOUTH.
29th May,1945.

Your Ref. REC/5-4-CIV.

Dear Sir,

D-125196 Pte BEAUPRE,M.

I beg to acknowledge receipt of your letter of the 24th instant, relative to the above named, and in reply to inform you Beaupre was arrested at Boscombe, Bournemouth , at 9-45pm on Wednesday, 16th May,1945.

Yours faithfully,

E Burgess

Chief Inspector for
Chief Superintendent.

The Records Officer,
4 Canadian Infantry
Training Regiment.
Beaumont Barracks,
ALDERSHOT.

EXHIBIT "C"

Ref: KR & O (Can) 539

Expense Voucher Re—:

Reg No. D-125190 Rank Pte. Name Beaupre M. Unit #4 C.I.T.R.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From

Date	Particulars	Amount		
20 June 45	Escorts return fare from LONDON To Duchrough		7	8
	Prisoners single fare to LONDON From			
	Prisoners fare from Doran To Duchrough		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		11	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

MHQ 1000-55
P&S/483/5639

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D125190	Pte	Beaupré M.	4 CITR

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For ~~AA~~ sec 15 (1)	8 times	9 times.
For ~~AA~~ sec 41	times	1 times.
For ~~AA~~ sec 18 (4)	times	1 times.
For Civil Offence	1 times	1 times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheets of the accused.~~

~~2. The accused has not been previously convicted.~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence of~~ beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for 32 NIL days in civil custody, and 47 16 days in military custody, making a total of 47 16 days, of which ~~days were spent in hospital.~~

5. The present age of the accused according to his record of service ~~attestation paper~~ is 23 years old

6. The date of his commission ~~attestation~~ specified in his record of service ~~attestation paper~~ is 9 Oct 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 60 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 60 days service.

9. The accused is entitled to reckon 2 yrs 60 days service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, no military decoration or military award~~ (or is in possession of or entitled to (*state any military decoration or reward*)). OVSEA & CLASP

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of , dated

(*16548) Wt.30246/862 75,000 12/40 A.& E.W.Ltd. Gp.698

Ex B

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 2135190 Rank Pte Name Beaupré M. of 4 CMTR Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	14 Feb 44 Field	AA sec 18 (4) 2 charges	6 months detn & stoppages to make good 2-5-6, loss occasioned to comrades	57 days
FGCM	21 dec 44	AA sec 15 (1) AWL	60 days detn	20 days
Civil	19 May 45	Larceny	1 month imprisonment	None

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6TH day of JULY 1945

J. Mathieu Lt.
Officer having custody of regtl books.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years,

In the rank of , years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No. B-125190 Name BEAUPRE Marcel | Sqn, Battery, or Company | Corps CIC | Date of enlistment 9 Oct 41 | GC Badges | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 40/P&S/136 (7010)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27 Nov 42	Pte		AA sec 41(dealt with summarily by OC with auth.from CRM)		27 days FP	27 Nov 42		Forf 27 days p.
"	1 Feb 44	Spr		AA 15 (1) AWL 8 days 12 hrs		27 " Pay			
"	14 Feb 44	"		AA 18 (4) Two charges		18 " pay	1 Feb 44		" 27 " "
						6 mos detn	14 Feb 44	FGCM	" 191 " "
"						Stopp 2-6-6 for loss to comrade			
"	15 Jul 44	"		16 Jun 44 Granted 57 days remission					
"	23 Jun 44	"		AA 15 (1) AWL 11 days 6 hrs		28 days detn	15 Jul 44		" 40 " "
"	3 Sep 44	"		AA 15 (1) AWL 3 " 8 "		4 " pay	23 Jun 44		" 8 " "
"	13 Oct 44	"		AA 15 (1) AWL 8 " 16 "		27 " Detn	6 Sep 44		" 39 " "
				AA 15 (1) AWL 2 " 17 hrs		5 days FP			
"	21 Oct 44	"		AA 15.(1) AWL 5 " 2 hrs		5 days Pay	13 Oct 44		" 8 " "
						18 days f.p.	21 Oct 44		" 26 " "
						18 " Pay			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26 May 44	Spr		AA 15 (1) AWL 4 days 17 hrs		27 days detn	1 dec 44	FGCM	Forf 33 days pay
"	1 dec 44	"		AA 15 (1) AWL 13 days 17 hrs 29 Jan 45 Granted 20 days remission		60 days detn	21 dec 44		" 80 " "
"	29 Jan 45	"		AA sec 15 (1) AWL 7 days 2 hrs		27 days detn	7 feb 45		" 36 " "
"	14 May 45	Pte		Civil Offence-Larceny-Bournemouth		1 month impris.	19 May 45	Civ Auth	" 36 " "

Certified true Copy compiled from MPA Original Not available

dated. 6 Jul 45

(K.F.C. RIDLEY) Capt. Records Offr 4 Cdn Inf Trg Regt

MISCELLANEOUS

In the case of No C125190 Rank Pte Name Beaupré M.
of The Cdn Inf Corps, on the strength of 4 CANADIAN INFANTRY TRAINING REGIMENT, a soldier of The Canadian Army Overseas.

WITNESSES FOR PROSECUTION

1. Lt AJ Savoie, of The Cdn Inf Corps, on strength of 4 C.I.T.R.
2. ....., of The Cdn Inf Corps, on strength of 4 C.I.T.R.
3. ....., of The Cdn Inf Corps, on strength of .....
4. ....., of The Cdn Inf Corps, on strength of .....
5. ....., of The Cdn Inf Corps, on strength of .....

WITNESSES FOR DEFENSE

1. Nil, of The Cdn Inf Corps, on strength of .....
2. ....., of The Cdn Inf Corps, on strength of .....
3. ....., of The Cdn Inf Corps, on strength of .....

REQUEST FOR COUNSEL etc.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by C.M.

2. I desire the services of an officer to represent me at my trial by C.M. I request the services of:

Lt A.Content 4 CITR

if he is available.

M. Beaupré

In the Field

28 day of Jun 1945.

LIST OF EXHIBITS

EXHIBIT "A" True extract from 4 CITR DO Part II No 85 dated 12 Apr 45
EXHIBIT "B" Certificate in accordance with AA sec 163 (m) Hampshire Civil Police.
EXHIBIT "C" Expense voucher.CMHQ form 100:55 cost of return to unit

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SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd	guilty	guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo detention for six months and to be put under stoppages of pay until he has made good the sum of $2-8-6 the amount of the loss occasioned to D16702 Spr Hamilton E R A by the commission of the offence charged — the second charge.

(Sgd) [signature] Capt Judge-Advocate, if any. 14 FEB 44 Date awarded. (Sgd) [signature] Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offfrs : AA 57, 57A, RP 53A, 54. The Confirming Offfr must sign here personally. AA 172 fn 1.)

The decision on the finding(s) and sentence set forth in Part I is :

I confirm the findings and the sentence of the court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) ..... Col

Date 16 Feb. 44. Commanding C.E. Works, First Cdn Army Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 33, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-125190 Spr. Beaupre M.	21 Feb. 44.	[signature] Capt RCE

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation

DITTO

DDD-98

CPA96 (In lieu of AFA3) 4D/P & S/1668 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col. D.H. Storm Comd Cdn C.E. Works dated 10 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D125190	Spr.		Marcel	Beaupre	3 Bn RCE

PROCEEDINGS REVIEWED [signature] Capt. 10 Mar 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED [signature] 17 Feb 44 AJAG FIRST CDN ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 14 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At ..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to 19215 Sgt Renard G.A. as interpreter ? Ans No

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	A A Ayre	2 Bn RCE
Member	Capt	D L Parry	2 Bn RCE
Member	Lieut	T L Reid	2 Bn RCE
Judge-Advocate	Capt	R K Lawley	HQ First Cdn Army
Prosecutor	Lieut	L E Lavigne	3 Bn RCE
Defending Offr	Lieut	J M Jordan	3 Bn RCE

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B 1E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 58.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. no sir (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. S, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. no sir

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. X and Ex. Y respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes I brought my defending officer. See document "A" (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-125190 Spr. Beaupre, Marcel of 3 Bn RCE CA,(O) placed on Active Service, is charged with;

FIRST CHARGE
SECTION 18(4)
ARMY ACT

FRAUDULENTLY MISAPPLYING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he,
in the field, having borrowed a bicycle, makers number U.41823, from a comrade, D-109643 Spr Demarteau, R. of 3 Bn RCE, sold for his own benefit the said bicycle to a civilian without the permission of the owner.

SECOND CHARGE
SECTION 18(4)
ARMY ACT

WHEN ON ACTIVE SERVICE

FRAUDULENTLY MISAPPLYING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

in the field when entrusted by D-16702 Spr. GAUTHIER, E.R.A. 3 Bn RCE with two pounds eight shillings and six pence (2-8-6) in a sealed envelope for the [redacted] of [redacted], fraudulently converted the said two pounds eight shillings and six pence to his own use.

Approved for trial under AA(Con) 5 & 10 and OR 0 2223
R.H. Lawley Capt
A.D.J.A.
H.Q., First Cdn. Army.

In the field
7 Feb 44.

Geo W. Smith
(Geo W. Smith) Lt Col RCE.
Officer Commanding
3 Battalion, R.C.E. CA(O)

To be tried by F.G.C.M.
In the field
10 Feb 44

Col
C.E. Works, First Cdn Army

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAA/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D125190	Spr.	Spr.	Marcel	Beaupre	3 Bn RCE.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 10 Feb 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A.A. Ayer	2 Bn RCE

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lieut	(To be detailed)	2 Bn RCE
Capt or Lieut	(To be detailed)	1 Bn RCE

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut	(To be detailed)	3 Bn RCE.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt.	R. K. Loisley.	HQ, First Cdn Army.

On Active Service in the Fd

in England. (Country.)

(Signed personally. RP 105 fn 2.) (Rank.) Col

Date 10 Feb. 44. Commanding C.E. Works, First Cdn Army

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I have this day examined

I certify that No. J-125740 BEAUPRE MARCEL

and that in my opinion he

of B Coy 3Bn. REME is in a Good state of health,

and fit to undergo Trial by Court martial.

Capt.

Medical Officer

Station Field

Date 14 Feb '44

M. F. B. 246

25M—6-41 (792)
H.Q. 1772-39 480

"W"

Plea in mitigation of Punishment
By Defending Officer

I can only ask the court to consider that while the record of the accused is not perfect it is not bad.

The accused has made a mistake and is sorry for it.

The accused is married
His father is dead and his mother is getting dependents allowance and the accused has assigned pay of $20 per month. The accused and one sister maintain the home.

Bot

Appx A

Donald ELDRIGE, Surrey Joint Police Force

Donald ELDRIGE, P.C.43, Surrey Joint Police Force,
NOT SWORN, states:-

I Donald Eldridge, P.C.43 beg to report that at about 11.30 hours on the 29th January, 1944, the above named was brought to North Street Police Station, Guildford by W.R. Parker, of this Division, and detained for being absent from his Unit without leave since the 19th January 1944.

After Beaupre had been placed in a cell I interviewed him and from his replies it appears that he had been sleeping rough in an Air Raid Shelter at St.Catherines Hill Portsmouth Road, Guildford. I therefore went to St.Catherines Hill, searched the district and in an Air Raid Shelter which appeared to have been slept in I found a Cycle Rear Lamp. I brought the lamp to the Police Station and told Beaupre where I had found it. At first, he denied all knowledge, but on being further questioned he admitted that he had left the lamp in the shelter and that it was from his mates cycle which he ~~and~~ had borrowed.

I questioned him further respecting the cycle, good replies became difficult for him and he decided that he could not speak English very well.

At 18.30 hours the same day I again interviewed in the presence of L/Cpl PELLETIER, of the 9th Canadian Provost Corps, who acted as an Interpreter.

After being cautioned and further questioned respecting the cycle, Beaupre said "I borrowed the cycle from Spr.Demarteau, of 5 Platoon, 3rd Battalion, R.C.E. Demarteau loaned it to me. He did not give me permission to sell it. I was broke and wanted to eat, so I sold the cycle on the 22nd January, 1944 to a man in a butchers shop at Petworth for 10/-d. The man took my name and address. I came to Guildford the same day."

I told Beaupre that he would be detained and that he would later be handed over to Godalming Police. I later telephone Godalming Division, C.I.D. and informed D.Sgt. STORR collected by that division, on the 29th January 1944.

Donald Eldridge P.C.43 C.I.D

(Donald ELDRIDGE)P.C.,43

Ret

Appx 5

J.F. MacLean, Detective Constable, Sussex Police Force Petworth Division, NOT SWORN, states:-

I beg to report that on Monday, 24th January 1944 Mr. William Peacock, of High Street Petworth, called at this office and stated that he had bought a cycle from the above named soldier for the sum of 10/-d, on Saturday 22nd January, 1944.

Enquiries were made at County C.I.D. Headquarters regarding this cycle, but no trace could be found, that this cycle had been stolen.

On Friday, 28th January, 1944 a telephone message was received from Godalming Police to the effect that BEAUPRE had stolen the cycle from a member of his own unit. In view of this I collected the cycle and today, 31st instant despatched the cycle to Superintendent of Police, Godalming, at a cost of 4/3d.

J. F. MacLean

(J.F. MACLEAN) Detective Constable

Appx C

W. Peacock, High Street, Petworth, Sussex, Shop Manager, NOT SWORN, states:-

I am Manager in Butcher's Business at High Street Petworth.

At about 12.45 hrs p.m. on Saturday, 22nd January, 1944, I was returning to my shop after having delivered a parcel. When I was about 50 yards from my shop I was approached by a soldier who was in possession of a cycle. He asked me, if I wanted to buy a cycle. I asked him how much he wanted for it, he said 10/-. I then said to him You haven't stolen the cycle have you? He replied, No, it is my cycle. He then said I could have a look at his Pay book if I wished.

I agreed to buy the cycle and took his name and number from his Pay Book of D125190 Spr Marcel BEAUPRE of R.C.E. and I again asked him if he had stolen the cycle, and he assured me that it was his cycle also. I then gave him 10/- and he handed over the cycle, also a key to a padlock and chain which was attached to the cycle.

As I was busy I did not take much notice of the cycle when I bought it. On Monday, 24th January, 1944, I reported the matter to the Police for enquiries to be made regarding the cycle.

W Peacock

(W. PEACOCK)

Rbt

SUMMARY OF EVIDENCE

In the Case of

D-125190 Spr. BEAUPRE, Marcel 3 Bn RCE (C.D.O)
a soldier of the Canadian Army Overseas.

Charges:

1. Fraudulently misapplying property belonging to a person subject to military law.

2. Fraudulently misapplying property belonging to a person subject to military law.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

E-47401 Spr. Belanger, E. having been duly sworn states:

"I, E-47401 Spr. Belanger, E. on the 19 Jan 44 gave D-16702 Spr. Gauthier, E.R.A. the sum of two pounds eight shillings and six pence (2-8-6) telling him to send it to D-123446 Spr. Lalancette, R.

This concludes my evidence."

The accused declines to cross-examine the witness.

E. Belanger
(E-47401 Spr. Belanger, E.)

SECOND WITNESS

D-16702 Spr. Gauthier, E.R.A. having been duly sworn states:

"I, D-16702 Spr. Gauthier, E.R.A. on Wednesday 19 Jan 44, was given by E-47401 Spr. Belanger, E. the sum of two pounds eight shillings and six pence (2-8-6) with instructions to send it in a registered letter to D-123446 Spr. Lalancette, R. who was then on leave away from the unit. As I had a registered envelope that I got from the Post Office the day before, I put the money in the said envelope and sealed it. D-125190 Spr. Beaupre, M asked me if I minded him going to mail the envelope and I wasn't feeling so well from the typhus injection, I told him he could go and gave him the envelope. The next day as D-125190 Spr. Beaupre, M. wasn't coming back I thought that an accident might have happened and I went to the Post Office to inquire if the letter had been mailed. The attendant told me that no such letter had been mailed the day before.

This concludes my evidence."

The accused declines to cross-examine the witness

E.R.A. Gauthier
(D-16702 Spr Gauthier, E.R.A.)

THIRD WITNESS

D-109643 Spr. Desmarteau, R. having been duly sworn states

"I, D-109643 Spr. Desmarteau, R on the 19 Jan 44 at about 1500 hrs was asked by D-129190 Spr. Beaupre, M if I could lend him my bicycle to go to Chiddingfold village and as one of the pedals of the bicycle was broken I gave him four shillings (4s) to buy a new one. He told me that he was going to Chiddingfold to render a service to somebody else. He also told me that he was going to come back as soon as possible. He didn't come back to give me my bicycle that night. I waited and went on leave. I came back from my leave and still there was no trace of my bicycle and I learned that Spr. Beaupre, M was A.W.L.. On the 2 Feb 44 a constable (E.L. Lloyd) came to see me and asked me if my bicycle had been stolen. ~~[illegible]~~ The same afternoon I went to Godalming County Police Station where I identified my bicycle by the number (U-41823) and also by the Battalion colours painted on the rear mudguard.

This concludes my evidence."

The accused declines to cross-examine the witness

R. Desmarteau
(D-109643 Spr. Desmarteau, R.)

"I hereby certify that owing to the exigencies of the service and the loss of time involved the following statements of witnesses attached as Appendices "A" "B" and "C" were not taken down in writing in front of the accused but were read to him".

L.P. Belanger
(L.P. Belanger - Lieut. R.C.E.

I hereby certify that I do not need the presence of Donald Eldridge, P.C. 41, J.F. MacLean, D.C. 193 and W. Peacock for the purpose of cross-examination.

M. Beaupre
(D-129190 Spr. Beaupre, M)

QUESTION TO THE ACCUSED
"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY ACCUSED
"I have nothing to say."

"I certify that Rules of Procedure 4 (c) (d) (e) and (f) (g) have been complied with".

Taken down by me in the presence of the accused, in the field the 8th day of February 1944.

L.P. Belanger
(L.P. Belanger) Lieut. R.C.E.

ADDITIONAL SUMMARY OF
EVIDENCE

In the Case of

D-125190 Spr. BEAUPRE, M. 3 Bn RCE CA(O)
a soldier of the Canadian Army Overseas.

Charged:

1. Fraudulently misapplying property belonging to a person subject to military law.

2. Fraudulently misapplying property belonging to a person subject to military law.

The Commanding Officer directs that the evidence be taken on oath.

SEVENTH WITNESS

D-59288 Spr. Leduc, L having been duly sworn states:

"On the 30 Jan 44 at about 1445 hrs, I went to see Spr. Beaupre, M. in the guard room; when I entered in the guard room Spr. Rheault, H was with him. Spr. Rheault asked me what I was doing in the guard roomp I did not bother to answer him. I asked Spr. Beaupre, M.: "What did you do with the envelope? He answered:"I fixed everything with Spr. Belanger, E." Then I addressed him in that way:"Do not tell any lie, you opened the envelope, you spent the money and you ha a good time." He answered: "Yes, I ipened the envelope, yes I had a good time".

This concludes my evidence."

The accused declines to cross-examine the witness.

L. Leduc
(D-59288 Spr. Leduc, L.)
L. Leduc

EIGHT WITNESS

D-15566 Spr. Rheault, H. having been duly sworn states:

"On the 30 Jan 44, at about 1500hrs. Spr. Leduc, L came in the guard room. I told him to get out as per orders received from the CSM. He started to talk with Spr. Beaupre, M . Leduc asked Beaupre what he had done with the envelope. I can not remember the proper answer Spr. Beaupre gave. Then Spr. Leduc told Beaupre not to tell him any lie, that he had opened the envelope, spent the money and that he had a good time. Beaupre said he had opened the envelope and had had a good time."

This concludes my evidence."

The accused declines to cross-examine the witness.

H. Rheault
(D-15566 Spr. Rheault, H)

QUESTION TO THE ACCUSED
"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY ACCUSED.
"I have nothing to say."

*I certify that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me in the presence of the accused xx in the Field on this 12th day of February 1944.

Lucien Lavigne Lt
.....
(L.E. Lavigne) Lt. R.C.E.
3 Bn RCE CA(C)

Rwt

MFM 6
(AFB 122)
40/PAS/136 (3438)

No D-125130 Name BEAUPRE, M. Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 9-10-41 GC | Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet NIL | No and date of last drunk NIL | Period not reckoning towards freedom from extra fine B/A | Sheet No 2 | Signature OC Company, etc S.W. Milnes, Maj

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Sheet No 1 destroyed 9-10-43 in accordance with C.A.O.R.O. 2084 (Two years service) Last entry 17 Nov 42								
Field	17-11-42	Spr.		AA Sec 18 (4) Stealing, in that he at about 0920 hrs 17 Nov 42 stole 200 (American cigarets the property of A-55811 Spr. Chamberland, G.	Spr. Leduc Sgt.-Nadeau Capt. Bourbonnais	27 days F.P. 27 Nov 42	(Dealt with summarily under Auth: C.R.E.)		Forf 27 days pay under FR&I149(1)(a)
Field	2-2-44	Spr.		AA Sec 15 (1) AWL from 2300 hrs 19 Jan 44 till apprehended in GUILDFORD 1130 hrs 28 Jan 44 (Absent 8 days 12 hrs 30 mins)	L/S. Gagne Documentary	18 days summ FR&I 149 (2)	1-2-44	Lt.Col.GW Smith	Forf auto forf of 9 days pay FR&I 149(1)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TO BE A TRUE AND CORRECT EXTRACT FROM THE REGIMENTAL BOOKS IN MY CUSTODY.					
				F.X. Chaballe Capt. ..... (F.X. Chaballe) Capt. R.C.E. 2 IC B Coy 3 Bn RCE.					

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.125190	Sapper	MARCEL BEAUPRE	B Coy 3 Bn RCE

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Regimental and ~~Service and General~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	AA Sec 15 (1)	one (1) times	AA Sec 18 (4)	one (1) times
For		times	AA Sec 15 (1)	one (1) times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct nil

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement. n/a

3. The accused is not under sentence at the present time.

or,

~~The accused is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for two days in civil custody, and four days in military custody, making a total of four days in custody, of which nil. days were spent in hospital.

5. The present age of the accused according to his record of service is 21 (28 Jun 22)

6. The date of his ~~commission~~ attestation specified in his ~~attestation paper is~~ record of service ~~attestation paper~~ is 9 Oct 41

7. The service which the accused is allowed to reckon towards discharge is n/a

8. The accused is entitled to reckon n/a service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. nil

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of n/a

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

N/A

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
			N/A	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of February 1944

(HC EDWARDS) Capt
Adjt 3 Bn RCE

The above statement (with the schedule of convictions and of cases in which trial has been dispensed th) is read, marked.....signed by the president, and annexed to the ceedings.

HQ 405-B-32638
(Adm 2(a)3)

Ottawa, Ont., 17 Sep 5.

District Officer Commanding,
Military District No. 4,
MONTREAL, P.Q.

D.125190 - Spr BEAUPRE, M.

Ref Circular R.801 d/12 Mar 45 under HQ 54-27-47-1 FD 101 (Adm 2).

2. Att are two copies of letter from CMHQ recommending the discharge of this soldier under RO 1029(8) which are fwd for your consideration as outlined in the above mentioned circular. If possible you will be warned of this soldier's arrival in advance by wire.

(A.E. WALFORD)
Major-General,
Adjutant-General.

/CP

COPY FOR HQC 55-B-1954

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/BEAUPRE MM/2

CANADIAN MILITARY HEADQUARTERS

LONDON

1 Sep 45

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

C.55-B-1954

D.125190 Spr Beaupre, M.

1. The m/n soldier enlisted 9 Oct 41 at Montreal, P.Q. and he is now 23 years of age. Since enlistment he has been found guilty of 10 offences under AA Sec 15(1), of 2 offences under AA Sec 18(4), and of 1 offence under AA Sec 41. On 5 occasions he was given a maximum summary award of detention or field punishment. He has had 3 FGCsM. On 14 Feb 44 he was awarded a sentence of 6 months detention for an offence under AA Sec 18(4). On 21 Dec 44 he was awarded a sentence of 60 days detention for an absence without leave of 13 days (AA Sec 15(1)). On 6 Jul 45 he was awarded a sentence of 6 months detention for an absence without leave of 44 days (AA Sec 15(1)). In addition he has had 2 civil convictions. On 20 Jul 44 he was fined £1 on a charge of larceny. On 19 May 45 he was sentenced to 1 month imprisonment with hard labour on a charge of larceny.

2. This soldier was medically reboarded on 17 Jan 45 and placed in Pulhems Grade M2.

3. The Neuropsychiatrist and SPO who have examined this soldier state that he is an immature, irresponsible and unreliable individual; that he gives no explanation for his misconduct; that he now states he will never soldier again and desires only to get out of the Army, be his discharge honourable or dishonourable; and that he will not give effective service in any capacity. They recommend that he be medically reboarded and placed in Pulhems Grade S5 on a diagnosis of "psychopathic personality - anti-social".

4. From this soldier's record which includes 3 FGCsM, 2 civil convictions and numerous heavy summary awards, as well as the report outlined in para.3 above, it is apparent that he is useless and incorrigible. It is consequently considered that he should be discharged for misconduct under the provisions of para.8 of Appx to CARO 1029 and it is so recommended. It is considered that this soldier must have realised that his repeated misconduct might lead ultimately to his discharge and it is probable that he had that end in view.

5. It has accordingly been directed that this soldier be returned to Canada for disposal by the Adjutant General, and he will be despatched on the first available draft. In order that he may be embarked in custody it has been directed that the remainder of the sentence of 6 Jul 45 be remitted w.e.f. the date of his embarkation.

for (E.G.WEEKS) Major-General
In charge of Administration
CANADIAN MILITARY HEADQUARTERS

Copy to: OIC Records.

1/39B CMHQ 1000.77
40/P & S/803 (6740)

COUNTER NUMBER 75089

HOUR 1655

OPERATOR'S INITIALS CWO

RELIEVING OPERATOR GG

H.Q.C. 55-B-1955 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BEGIN: R. D-143841 PTE.

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		(If purpose for which referred cannot be expressed on one line, add minute to file and "Refer to Minute")					
SEP 19 1945	17/9/45	Pa	DMC	ADMIN	NEW FILE	CR	12-9-45
NOV 22 1946	21/11/46	PA	WAZ	DRB			
OCT 23 1947	23/10/47	PA	GY	WBR	PER REQUISITION CR SEP 2 1947		

H.Q.C. 55-B-1955 CONFIDENTIAL

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an portunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 143841 Pte Raymond BEGIN, 2 Cdn NETD "AFC"

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	"AFC"
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~Nothing on note~~ (1) "AFC"

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 29 days, of which Nil days were spent in hospital.(1) "AFC"

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for nine months. "AFC"

(Sgd) ..... Judge-Advocate, if any. 10 Apr 1945 Date awarded. (Sgd) "A F Cannon Major" President. (RP 45, 50.) "AFC"

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the sentence be not promulgated pending my decision under AA 57A.~~ "SAL"

(1. AA 57A. Delete if not used.)

(Sgd) "S A Lee Col"

Date 16 Apr 45

Commanding A/OIC Cdn Sec 1 Ech AFHQ
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 143841 Pte BEGIN R. 2 Cdn NETD	19 Apr 45	"D J Burgoyne Major" O.C. No. 2 Cdn NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE ~~EXTRACT~~ COPY

56 56

(W R D Sword) Capt
Cdn Sec 1st Ech AFHQ
27 Apr 45

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF A2) 40/P & S/1008 (2664)

Convened by Order of Brig J.C. Stewart Comd OIC Cdn Sec 1 Ech AFHQ dated 9 Apr 1945 "AFC"

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 143841	Pte		Raymond	BEGIN	2 Cdn NETD "AFC"

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(A)) 10 APR 1945 "AFC"

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(X) attached thereto.(1) "AFC" The Court is satisfied that it is properly convened and constituted(2), accused is (~~XXX~~) amenable to military law, and "AFC" each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~XXX~~) brought before the Court. At 1015 hours trial commences. "AFC"

A4. The Prosecutor produces a Medical Certificate that accused is (~~XXX~~) fit to undergo trial by court-martial.(1) "AFC" ~~The Prosecutor produces the Court Medical Officer as the witness by consent instead of being duly sworn by the CO.(2)~~ "AFC"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Capt L.G. BARRETT Interpreter? Ans No "AFC"
The Interpreter is sworn.(1) Do you object to H36757 BOND, Pte H.W. shorthand writer? Ans No "AFC"
The shorthand writer is sworn.(1) "AFC"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.F. CANNON	12 Cdn Town Major	"AFC"
Member	Capt	G.W. WOLFE	28 Cdn Gen Hosp	"AFC"
Member	Lieut	I.W. CAMPBELL	2 Cdn NETD	"AFC"
Judge-Advocate	—	—	—	"AFC"
Prosecutor	Capt	R.D. HUTSELL	2 Cdn NETD	"AFC"
Defending Offr	Lieut	F.A. KING	2 Cdn NETD	"AFC"

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for Information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (X) plea "AFC"
..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~XXX~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~XXX~~) "AFC" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~XXX~~) considers the Instrs on Procedure after Arraignment at top of p 2. The pro- "AFC" ceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, inc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.(2) "AFC" "AFC"

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4) "AFC"

President to accused: Do you wish to make a statement? Ans. No (5) "AFC"

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement. The Court decides (not to disclose any matter in the statement) and the accused is informed that the charge(s) is (are) dismissed and the accused is released from custody.~~ "AFC" "AFC" "AFC"

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) "AFC"

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1) "AFC"

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above. "AFC"

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 74 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither. "AFC"

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 4.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note as to further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No "AFC"

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3) "AFC" "AFC"

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes "AFC"

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"AFC"

CHARGE SHEET

The accused, D.143841, Private Raymond BEGIN, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 1000 hrs 28 Nov 44 absented himself without leave until about 1430 hrs 11 Mar 45.
(Total Absence: 103 days, 4 hrs, 30 mins).

In the Field
30 Mar 45

D.J. Burgoyne
(D.J.Burgoyne) Major
Commanding Officer
No. 2 Cdn N.E.T.D.
1 Cdn Base Rft Group

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

~~[illegible]~~
~~[illegible]~~
~~[illegible]~~

~~[illegible]~~
~~[illegible]~~

"J.C. Stewart"

In the Field
In Italy
9 Apr 45

(J.C. Stewart) Brig
OIC
Cdn Sec 1 Ech AFHQ

"AFC"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
4/n/PAD/1697 (2000)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.143841	Pte.		Raymond	BEGIN	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~have~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 9 Apr 45 endorsed by me, ~~or by an officer superior to me~~, "To be tried by Field General Court-Martial". "JCS"

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~for the reasons specified by the officer referred to in paragraph 1 hereof~~ "JCS"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed "JCS" or detailed hereunder.

4. ~~Under or upon notice of an application by an officer subject to my jurisdiction for the presence of the members hereof~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) "JCS"

5. ~~Under or upon an application by an officer mentioned hereunder~~ "JCS"

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A.F. CANNON CIC	12 Cdn Town Major

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	Capt to be detailed by OC 28 Cdn Gen Hosp	
Capt or Lieut	to be detailed by OC 2 Cdn NETD	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut	to be detailed by OC 2 Cdn NETD	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

"J C Stewart" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(J C Stewart)
Commanding OIC Cdn Sec 1 Ech AFHQ
Convening Officer.

Date 9 Apr 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"AFC"

MEDICAL OFFICER'S CERTIFICATE
(K.R. (CAN) 557)

I certify that I have this morning examined No. D.143841 Pte BEGIN, R. of No. 2 Cdn N.E.T.D. 1 CBRGp and in my opinion he is fit to undergo trial by Court Martial.
"JMM"

In the Field
10 Apr 45

"J W McMARTIN Capt"
(Medical Officer)

Ex A
"AFC"

SUMMARY OF EVIDENCE

In the case of D.143841 Private BEGIN, R. No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS
For the
PROSECUTION

A.104046 Cpl. Wells, H.K., having been duly sworn, states:-

"I am A.104046 Cpl. Wells, H.K., employed as clerk in the Legal Office, No.2 Cdn. N.E.T.D. and as such I have custody of Regtl. documents. I present a Record of the Declaration of a Court of Inquiry dated 26 Dec 44 (Appended hereto as Exhibit "A") and a certificate in accordance with the Army Act, Sect.163(1)(jj) purporting to be signed by O.C. 506 Provost Coy, C.M.Police (Appended hereto as Exhibit "B") both documents pertaining to D.143841 Pte. Begin, R."

(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

In the Field
28 March 45.

(H.D.Bidwell) Capt.
Officer detailed to take
Summary of Evidence.

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF D.143841 Pte Begin R.

"R D Hutsell" Officer detailed to take
(R D Hutsell)Capt Summary of Evidence.

Record of the Declaraion of a Court of Inquiry on the Illegal Absence of a Soldier "AFC"

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 26th day of December 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No D.143841 Pte Begin, R. Royal 22e Regiment.

DECLARATION

The Court declare D.143841 Pte Begin, R. Royal 22e Regiment, illegally absented himself without leave at 1000 hrs on 28 Nov 44, that he is still absent, and that on the 26 Dec 44 he was deficient and he is still deficient of articles on attached list, to the amount of £ 2 . 18 . 1 ¼

DEFICIENCIES OF KIT "AFC"

In the case of D.143841 Pte Begin, R, of Royal 22e Regt.

DESIGNATION	100%	75%
1 pr Anklets web	o. 4. 5	o. 3. 3 ¾
1 Blouse B/D	1. 3. 6	o.17. 7 ½
1 Trousers B/D	1. 4. 1½	o.18. 1 1/8
1 pr Boots ankle	1. 4. 5	o.18. 3 ¾
1 Drawers woollen	o. 5. 4½	o. 4. 0 3/8
1 pr Gloves knitted	o. 2. 7	o. 1. 6 ¾
1 Shirt Angola drab	o. 9. 1	o. 6. 9 ¾
1 Shirt woollen	o. 5. 4½	o. 4. 0 3/8
1 pr Socks	o. 1. 8	o. 1. 3
1 Field Dressing	o. 1. 1	o. 0. 9 ¾
1 Badge GS Cap	o. 2. 8	o. 2. 0
Total	£ 5. 3. 9½	£ 2.18. 2 ½

Certified true copy from Regt'l Books.

"P A Tremblay"
(P A Tremblay) Lieutenant
Adjutant, Royal 22e Regiment.

THIS IS EXHIBIT "B" REFERRED TO BY ME IN THE CASE OF D143841 Pte Begin, R.

"R D Hutsell" Officer detailed to take 2347
(R D Hutsell) Capt. Summary of Evidence "AFC"

Certificate in accordance with the Army Act Sec. 163(1)(jj)

I certify that
No D.143841 Rank Pte Name BEGIN R. of the Royal 22nd Regt, att. 4 C.B.R.D.
was arrested at CANDELARA at 1430 hrs on the 11th day of March 1945.

Signature of P.M.A.P.M., or other Officer into whose custody the above named person was taken on arrest. (undecipherable)

Rank Captain

Appointment (if any) Officer Commanding
Commanding 506 Provist Company; C.M.Police.

Date 12th March 1945.

Names of President and Members

PRESIDENT Lieut J. Plourde, R 22 R.

Member Leiut R.H. Meunier, R 22 R.

Signature of Commanding Officer "J V Allard"
(J.V.Allard) Lt.Col
Comd, R 22 R.

CERTIFIED TRUE COPY

"P A Tremblay Lieut"
Signature of Officer having custody of
the Original Record
Adjt R 22 R

Ex B "AFC"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
D.143841	PTE	Raymond BEGIN	# 2 Cdn N.E.T.D.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A.Sec 15(1) 1 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 17 Oct 44

Date of last entry in Field Conduct Sheet 17 Oct 44

2. ~~[illegible]~~ "GWA"

Strike out if not applicable.

*3. ~~[illegible]~~ "GWA" ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 29 days in military custody, i.e., Nil days in open arrest, 28 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 21

6. The date of his ~~[illegible]~~ attestation "GWA" is 8-12-43.

7. ~~[illegible]~~

State the military decorations (if any) held by accused.

8. The accused is in possession of † CVSM & CLASP

9. ~~[illegible]~~ "GWA"

Date of Promotion.

~~[illegible]~~ "GWA ....

~~[illegible]~~ ....

~~[illegible]~~ ....

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Vc. 13479/2857 30,000 5/44 51-432 T.Ltd. "Forms/B 296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		"GWA"		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 10th day of Apr 45

"Geo W Akehurst" Capt & Adjt
(R.W.Akehurst) Officer i/c
Regtl Books & Records 2 Cdn NETD.

No. D14384 Name BEGIN, R. Sqn, Battery, or Company | Corps CIC | Date of enlistment 8 Dec 43 | GC Badges | Service or Proficiency Pay 6 L C "AFC"

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No One | Signature OC Company, etc

3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous Sheet Destroyed: 8 June 44 Last Entry 8 May 44. Cases of Drunkenness NIL.									
				"Blood Donor", 3 Jul 44. (JM Richard) Lieut.					
Field	5-10-44	Pte		Sec 15(1) AA WOAS AWL from 0800 hrs 5 Oct 44 until appr by M.P. at 1515 hrs 7 Oct 44. Total Abs 2 days 9 hrs 15 mins.	Sgt Gadbois A Cpl Derrocher Y Documentary	14 days Pay FR&I 149(2)	17 Oct 44	Lt Col Allard.	Forf 3 days Pay FR&I 149 (1)(a).

"CERTIFIED TOBE A TRUE COPY FROM THE REGTL BOOKS IN MY CUSTODY."

"Geo W Akehurst" Capt & Adjt.
(G W Akehurst)
Officer i/c Regtl Books & Records, 2 Cdn NETD.

"AFC"

President and Members of the Court

Plea of mitigation in the case of

B 143841 Pte. Begin, R.

Gentlemen, the accused has expressed his plea of guilty to the charge of A.W.L. He has not submitted to the court a long a fabricated story as to his reasons for going A.W.L., and I do not ask the court to accept anything in the way of defence of the accused other than the fact that he has pleaded guilty and stands ready to accept his punishment like a true soldier. But I would also ask the court to review the past history of the accused very carefully.

Now surely gentlemen a soldier that is only twenty one years of age and has only one offence previously recorded against him up to the time of this charge, cannot be accepted as a criminal in the eyes of fair men, as a criminal upon which to impose a sentence as you would one that had consistantly been a bad character since joining the army. I should also ask the court to note that even though the accused was warned for draft to this theatre in 1944 he freely and without persuasion donated a pint of his own blood, which he had already volunteered to pour out on the battle-field in fighting for a cause that would make us all free men.

The above facts obviously show the court that the accused is not a man with criminal tendencies; on the contrary, they show that he has been a good and unselfish soldier since the time of his enlistment. Under the stress of battle men's minds react differently and in some cases very strange and the court would be unfair if they did not take it into consideration and that in this case while the accused was in a rest area with his regiment, The Royal 22nd Regiment, with whom he had fought he decided that he could not stand much more.

So in closing I again ask the court to take into consideration, not only the good conduct and unselfishness of the accused but also his youth. I ask the court to return a just and lenient sentence that will enable the accused to make the reajustment into normal life without the scars of bitterness in his thoughts towards his country for which he has given up so much to fight.

"F A King Lt"
(F.A. King) Lieut.
Defending Officer.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 143841 Pte Raymond Begin, 2 Cdn NETD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	OK
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 27 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for nine months

(Sgd) ..... Judge-Advocate, if any. 10 APR 1945 Date awarded. (Sgd) A. F. Cannon President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) Dale

Date 16 Apr 45 Commanding A/OC Can Sec 1 Can AFHQ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D143841 Pte BEGIN R. 2 Cdn NETD	19 Apr 45	D. Burgoyne Major O.C. No 2 Cdn NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 100, 56-56

CFA98 (In lieu of AFA3) 40/P & S/1068 (2864)

FIELD GENERAL COURT-MARTIAL

REGISTRY 11 MAY 1945 CMHQ

Convening Order of Brig J. C. Stewart Comd A.C. Can Sec 1 ECH AFHQ dated 9 APR 1945

ACCUSED.

(Insert "alternative" where applicable. For trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank or (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 143841	Pte	RAYMOND	BEGIN	2 Cdn NETD

PROCEEDINGS REVIEWED

D. Williams Capt, REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) 10 APR 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to CAPT L. C. A. BARRETT as interpreter? Ans NO

The Interpreter is sworn.(1) Do you object to H36 75 BOND, PTE H.W. as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	A. F. CANNON	12 Cdn Town Regt
Member	CAPT	G. W. WOLFE	28 Cdn GEN HOSP
Member	LIEUT	I. W. CAMPBELL	2 Cdn NETD
Judge-Advocate			
Prosecutor	CAPT	RD HUTSELL	2 Cdn NETD
Defending Offr	LIEUT	F.A. KING	2 Cdn NETD

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge~~(s)~~(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge~~(s)~~, and call witnesses as to character and make an address in mitigation of punishment.(2) a JC a JC
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge~~(s)~~.(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4) a JC

President to accused : Do you wish to make a statement ? Ans ....NO.... (5) a JC
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ a JC a JC a JC
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge~~(s)~~ to which the plea~~(s)~~ of Guilty is ~~(are)~~ not changed the President records finding~~(s)~~ of Guilty in Part I of the Schedule.(1) a JC
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1) a JC
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself, as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ....NO.... a JC
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement~~(s)~~ as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet~~(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3) a JC a JC
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ....YES.... (2) a JC
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

a 1 c

CHARGE SHEET

The accused, D.143841, Private Raymond BEGIN, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field in Italy, at approx 1000 hrs 28 Nov 44 absented himself without leave until about 1430 hrs 11 Mar 45.
(Total Absence: 103 days, 4 hrs, 30 mins).

In the Field
30 Mar 45

D J Burgoyne
(D.J.Burgoyne) Major
Commanding Officer
No. 2 Cdn N.E.T.D.
1 Cdn Base Rft Group

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

~~Commanding Officer~~
~~No. 2 Cdn N.E.T.D.~~
~~1 Cdn Base Rft Gp~~

In the Field
In Italy
9 Apr 45

J C Stewart
(J.C. Stewart) Brig
OIC
Cdn Sec 1 Ech AFHQ

a 2 c

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.143841	Pte.		Raymond	BEGIN	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 9 Apr 45 endorsed by me, ~~(or by an offr of my staff for me).~~" To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~ and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A.F. CANNON CIC	12 Cdn Town Major

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt to be detailed by OC 28 Cdn Gen Hosp		
Capt or Lieut to be detailed by OC 2 Cdn NETD		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by OC 2 Cdn NETD		

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(J.C. Stewart)

Date 9 Apr 45

Commanding OIC Cdn Sec 1 Ech AFHQ

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1897 (4931)

(See overleaf for oaths and notes for use on trial.)

a7c

MEDICAL OFFICER'S CERTIFICATE
(K.R. (CAN) 557)

I certify that I have this morning examined No. D.143841 Pte BEGIN, R. of No. 2 Cdn N.E.T.D. 1 CBRGp and in my opinion he is ~~sick~~ ~~unfit~~ fit to undergo trial by Court Martial.

In the Field
10 Apr 45

J.W. McCurdy Capt
.....
(Medical Officer).

74 A
02

SUMMARY OF EVIDENCE

In the case of D.143841 Private BEGIN, R. No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS
For the
PROSECUTION

A.104046 Cpl. Wells, H.K., having been duly sworn, states:-

"I am A.104046 Cpl. Wells, H.K., employed as clerk in the Legal Office, No.2 Cdn. N.E.T.D. and as such I have custody of Regtl. documents. I present a Record of the Declaration of a Court of Inquiry dated 26 Dec 44 (Appended hereto as Exhibit "A") and a certificate in accordance with the Army Act, Sect.163(1)(jj) purporting to be signed by O.C. 506 Provost Coy, C.M.Police (Appended hereto as Exhibit "B") both documents pertaining to D.143841 Pte. Begin, R."

(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

In the Field
28 March 45.

(R.D.Hussell) Capt.
Officer detailed to take
Summary of Evidence.

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF D.143841 Pte Begin R.

(R.D.Mitsell) Capt. · Officer detailed to take Summary of Evidence. A.B. 161 (Sheets)

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 26th day of December 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D.143841 Pte Begin, R. Royal 22e Regiment.

DECLARATION

The Court declare D.143841 Pte Begin, R. Royal 22e Regiment, illegally absented himself without leave at 1000 hrs on 28 Nov 44, that he is still absent, and that on the 26 Dec 44 he was deficient and he is still deficient of articles on attached list, to the amount of £ 2 . 18. 1 ½

Names of President and Members

PRESIDENT Lieut J. Plourde, R 22 R.

Member Lieut R.H. Meunier, R 22 R.

Signature of Commanding Officer J.V. Allard

(J.V. Allard) Lt.Col.
Comd, R 22 R.

CERTIFIED TRUE COPY

Signature of Officer having custody of the Original Record

Adjt R 22 R

5957/PMEAZ — 6-43

DEFICNCIES OF KIT

In the case of D.143841 Pte Begin, R, of Royal 22e Regt.

DESIGNATION	100%	75%
1 pr Anklets web	o. 4 . 5	0. 3. 3 3/4
1 Blouse B/D	1. 3 . 6	0.17. 7 1/2
1 Trousers B/D	1. 4. 1 1/2	0.18. 1 1/8
1 pr Boots ankle	1. 4. 5	o.18. 3 3/4
1 Drawers woollen	o. 5. 4 1/2	0. 4. 0 3/8
1 pr Gloves knitted	0. 2. 7	0. 1. 6 3/4
1 Shirt Angole drab	0. 9. 1	0. 6. 9 3/4
1 Shirt woollen	0. 5. 4 1/2	0. 4. 0 3/8
1 pr Socks	0. 1. 8	0. 1. 3
1 Field Dressing	0. 1. 1	0. 0. 9 3/4
1 Badge GS Cap	o. 2. 8	0. 2. 0
Total	£ 3. 3. 9 1/2	£ 2. 18. 1 1/2

Certified true copy from Regt'l Books.

P.A. Trembley

(P.A. Trembley) Lieutenant
Adjutant, Royal 22e Regiment.

THIS IS EXHIBIT "B" REFERED TO BY ME IN THE CASE OF D143841 Pte Begin, R.

Officer detailed to take 2347

D.D.Butterill Capt. Summary of Evidence.

Certificate in accordance with the Army Act Sec. 163 (1) (ii)

I certify that

No D.143841 Rank Pte Name BEGIN R.

of the Royal 22nd Regt, att. 4 C.B.R.D.

was arrested at CANDELARA at 1430 Hrs.,

on the 11th day of March 1945.

Signature of P. M. A. P. M., or other Officer into whose custody the above named person was taken on arrest. F. Brancel

Rank Captain.

Appointment (if any) Officer Commanding.

Commanding 506 Provost Company; C.M.Police.

Date 12th March 1945.

ARMY FORM B.296 (W.A.)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number	Rank	Name	Regiment (or as the case may be)
D.143841	PTE	Raymond BEGIN	# 2 Cdn N.E.T.D.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A.Sec 15(1) 1 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 17 Oct 44

Date of last entry in Field Conduct Sheet 17 Oct 44

2. ~~[illegible]~~ 6

*3. ~~The accused is in possession of the following medals and decorations:~~ Nil

~~[illegible]~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 29 days in military custody, *i.e.* Nil days in open arrest, 29 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 21

6. The date of his ~~enlistment~~ attestation is 8-12-43.

7. ~~[illegible]~~

*8. The accused is in possession of: CVSM & CLASP.

*State the military decorations (if any) held by accused.

9. ~~[illegible]~~ 6 ~~The accused has served~~

~~[illegible]~~ *Date of Promotion.*

~~[illegible]~~ .....

~~[illegible]~~ .....

~~[illegible]~~ .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

DPSS. UDF. ME.—4123/44—4,000—217/UDF/5

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
		Nil		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 10th day of Apr 45 Geo W Akehurst Capt & Adjt.

(G.W.Akehurst) Officer i/c
Regtl Books & Records 2 Cdn METD.

AFM 6 (AFB 122) 40/PAd(1)20

No. D143841 Name BEGIN, R. Sqn, Battery or Company | Corps CIC | Date of enlistment 8 Dec 43 | GO Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No One | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous Sheet Destroyed: 8 June 44 Last Entry 8 May 44. Cases of Drunkenness NIL.									
				"Blood Donor", 3 Jul 44.	(JM Richard)Lieut.				
Field	5-10-44	Pte		Sec 15(1) AA WOAS AWL from 0800 hrs 5 Oct 44 until appr by M.P. at 1515 hrs 7 Oct 44. Total Abs 2 days 9 hrs 15 mins.	Sgt Gadbois Cpl Derrochroy	A 14 days Pay FR&I 149(2) Documentary	17 Oct44	Lt Col Allard.	Forf 3 days Pay FR&I 149 (1)(a).
"Certified to be atrue copy from the Regtl Books in my Custody."									

G.W.Akehurst Capt & Adjt.
(G.W.Akehurst)
Officer 1/c Regtl Books & Records, 2 Cdn NETD.

(PTO)

a 2c

President and Members of the Court

Plea of mitigation in the case of

B 143841 Pte. Begin, R.

Gentlemen, the accused has expressed his plea of guilty to the charge of A.W.L. He has not submitted to the court a long and fabricated story as to his reasons for going A.W.L., and I do not ask the court to accept anything in the way of defence of the accused other than the fact that he has pleaded guilty and stands ready to accept his punishment like a true soldier. But I would also ask the court to review the past history of the accused very carefully.

Now surely gentlemen a soldier that is only twenty one years of age and has only one offence previously recorded against him up to the time of this charge, cannot be accepted as a criminal in the eyes of fair men, as a criminal upon which to impose a sentence as you would one that had consistantly been a bad character since joining the army. I should also ask the court to note that even though the accused was warned for draft to this theatre in in 1944 he freely and without persuaion donated a pint of his own blood, which he had already volunteered to pour out on the battle-field in fighting for a cause that would make us all free men.

The above facts obviously show the court that the accused is not a man with criminal tendencies; on the contrary, they show that he has been a good and unselfish soldier since the time of his enlistment. Under the stress of battle men's minds react differently and in some cases very strange and the court would be unfair if they did not take into consideration that in this case while the accused was in a rest area with his regiment, The Royal 22nd Regiment, with whom he had fought he decided that he could not stand much more.

So in closing I again as the court to take into consideration, not only the good conduct and unselfishness of the accused but also his youth. I ask the court to return a just and lenient sentence that will enable the accused to make the reajustment into normal life without the scars of bitterness in his thoughts towards his country for which he has given up so much to fight.

F.A. King Lt.
.....
(F.A. King) Lieut.
Defending Officer.

LIST OF WITNESSES

In the case of D.143841, Private Raymond BEGIN, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

1. A.104046 Cpl Wells,H.K. -- 2 Cdn N.E.T.D.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS.

1. Exhibit "A" -- Record of the Declaration of a Court of Inquiry dated 26 Dec 44.

2. Exhibit "B" -- Certificate in accordance with the Army Act, Sect. 163 (1)(jj) purporting to be signed by O.C. 506 Provost Coy. C.M.Police.

a2c

Je, D143841, Soldat Raymond Begin, demande que, par l'entremise de mon Officier Commandant, ~~Lt. V. La Riche~~ 2. Lieut soit designe pour me defendre lorsque je serai juge au Conseil de Guerre a venir.

Date 31 Mar 45 Begin R.
(R.Begin)

Certificat signe par l'accuse, accusant reception d'une copie de la feuille de charge et une copie du sommaire d'evidence.

Je, D143841 , Soldat Raymond Begin, accuse reception d'une copie du Sommaire d'Evidence et une copie de la Feuille de Charge a propos de mon jugement par Conseil de Guerre a venir.

Date 31 Mar 45 Begin R.
(R.Begin)

HQ 405-B-14156
(Adm 2(a)3)

Ottawa, Ont., 17 Sep 5.

District Officer Commanding,
Military District No. 4,
MONTREAL, P.Q.

D.143841 - Pte BEGIN, R.

Ref Circular R.801 d/12 Mar 45 under HQ 54-27-47-1 FD 101 (Adm 2).

2. Att are two copies of letter from CMHQ recommending the discharge of this soldier under RO 1029(S) which are fwd for your consideration as outlined in the above mentioned circular. If possible you will be warned of this soldier's arrival in advance by wire.

(A.E. WALFORD)
Major-General,
Adjutant-General.

/CP

COPY FOR HQC 55-B-1955

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/BEGIN R/1

CANADIAN MILITARY HEADQUARTERS

LONDON
4 Sep 45

C.55-B-1955

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

D.143841 Pte Begin, R.

1. The m/n soldier enlisted at Montreal, P.Q. 8 Dec 43, and he is now 21 years of age. Since enlistment he has been found guilty of 8 offences under AA Sec 15(1). On 10 Apr 45 he was tried by FGCM for an AWL of 103 days. He was found guilty and awarded 9 months detention.

2. This soldier disembarked in Italy 24 Jul 44 and was posted to the R 22e R 13 Sep 44. He was absent without leave from 5 to 7 Oct, for which offence he received an award of 14 days forfeiture of pay. On 17 Oct he commenced another absence from which he was apprehended 6 Nov 44. For this offence he was awarded a forfeiture of 28 days pay. On 28 Nov he again absented himself until apprehended 11 Mar 45 after 103 days. This last offence resulted in the trial by FGCM set forth in para.1 hereof.

3. In view of this soldier's failure to render effective service while posted to an infantry regiment in a theatre of action and his apparent determination to avoid battle, it is considered that he should be discharged for misconduct under the provisions of para.8 of Appx to CARO 1029, and it is so recommended. It is considered that this soldier must have realized that his offences might result in his discharge.

4. It has accordingly been directed that this soldier be returned to Canada for disposal by the Adjutant General, and he will be despatched on the first convenient draft. In order that he may be embarked in custody it has been directed that the sentence be remitted with effect the date of embarkation.

M Sheppard Major

for (E.G.WEEKS) Major-General
In charge of Administration
CANADIAN MILITARY HEADQUARTERS

Copy to: OIC Records.

H.Q.C. 55-B-1956 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BOURBONNAIS, JOSEPH ARTHUR GILLES

D-496573 FUS.

CONFIDENTIAL
H.Q.C. 55-B-1956

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 17 1945	17			JAG	NEW FILE	CR	12-9-45
OCT 9 - 1945		PA	JB		Sent Papers C.R. OCT 9 - 1945		
NOV 13 1945	13 Nov 45	PA		CMBR	Per Regulation C.R. NOV 1 1945		
NOV 17 1945	17/11/45	PA		Admin	Per Regulation C.R. NOV 16 1945		
NOV 20 1945	20/11/45	PA			Per Regulation C.R. NOV 19 1945		

If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute".

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M-1-B-4935 ADIS

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

MONTREAL, Que
3 Nov 45.

(1)

CENTRAL REGISTRY ADJ. GENE. DEC.
70778
NOV 7 1945
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario

D-496573 BOURBONNAIS GILLES

Ref
HQC 55-B-1956

1 Att hereto form for remission in respect to the marginally named soldier.

(E J RENAUD) Maj Gen
DOC MD No 4

ENCL

(2) CMBR
Pls P.A. attached papers on file which is in use at your office. E.J.M. for J.A.G.
13-11-45

Noted.
AEG Capt.
15/11/45 CMBR-3

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-B-1956
District File No. M.1-B-4935 A/DIS.

PART I

No. D496573 Rank Pte. Name J.A.G. BOURBONNAIS
Unit No. 4 District Depot

PART II

Date of Trial 14th August, 1945
Charge(s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence 150 days detention
Date of Sentence 14th August, 1945
Confirmation -- (a) Authority: DRS
(b) Date : 19 Aug. 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~(commute)(mitigate)~~* balance of term of detention

Signed at MONTREAL this 29 day of Oct 45.
(Appointment) (E.J. RENAUD) Major General, DOC)
To be signed by the Remitting Authority MD No. 4. personally.

PART IV

PROMULGATION

Remission (~~commutation~~)(~~mitigation~~)* promulgated and extracts taken at Montreal South, Que, this 31st day of October, 1945...
(1)

Ass- Officer i/c Documents. (L.R.HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D496573 Rank Pte. Name BOURBONNAIS, J.A.G.
The sentence of 150 days detention Standing Court Martial on the 14th August awarded by District Court on the 31st October, 1945 has been remitted 194.5 by D.O.C.
UNIT Military District No. 4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A.
No. 203 Place Jacques Cartier Barracks, Montreal South, Que. Date 31st August, 1945
Adjutant

(J.Mc N. CHARLESWORTH) Capt., Adjt., General List, C.A., att'd to No. 4 District Depot, C.A.

*Strike out and initial words not applicable.

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

MONTREAL, Que. 5 Nov. 45.

M-1-B-4935 ADIS

REGISTRY ADMIN
7807
NOV 8 1945
C.55-B-1956
Chgs. to
Referred to

Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM. CARO 5913
D-496573 BOURGONNAIS GILLES

Reference HQC 9039-1, Adm 3(b) 3, dated 8 Sep 45, pertaining to the marginally named soldier.

2. Attached hereto MFM 288 duly completed in respect to the marginally named soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(H.J. RENAUD) Major General,
D.O.C., M.D. No. 4.

Encl.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-496573 (Number) Fusilier (Rank) BOURBONNAIS, J.A.G. (Name in full)

Les Fusiliers de Sherbrooke, C.A., (Unit) attached to No.4 District Depot CA. (Attachment (if any))

Sentenced to 150 days detention

on 14th August, 1945. at Montreal South, Que.

being served at No.65 Military Detention Barracks, Montreal South, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 years and 7 months - 8 Jan 1942.

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~) committed to undergo his sentence, which I recommend should ~~XXX~~) be ~~XXXXXXX~~) (put into execution) (~~XXXXXXXX~~ date) for reasons given in paragraph X.

Place MONTREAL, P.Q.,

Date 2nd October 1945.

(E.J. RENAUD) Major General, D.O.C., M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To

Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority

M.F.M. 288
(Army Form A-3104)
15M—9-43 (441)
H.Q. 1772-29-2015

Part V

I direct that the sentence (which I hereby commute to .....

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
29 Oct 45	Sentence remitted wef 31 Oct 45 CARO 5913	(E.J. RENAUD) Major General, D.O.C., MD No.4	
31 OCT 45	Released 31 OCT 45	(C.Potter) Major COMMANDANT No. 65 MIL.DET.BKS., MD-4	Marks earned 632

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE 15 (1) ABSENTING HIMSELF WITHOUT LEAVE, in that he at Joliette, Que., at 2359 hrs on the 26th December, 1944, absented himself without leave from his unit, Les Fusiliers de Sherbrooke, C.A., until he was apprehended by the Military Police at Montreal, Que., at 0325 hrs. on the 15th of July, 1945, dressed in civilian clothes.	26-12-44	14Aug 45

Signature of Officer making entry

(E.I.AUERBACK) Capt.,
General List, C.A.,
Att'd to No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
27-9-45	I do not recommend any remisson of sentence in this soldier's case.	(J. BIBEAU) Lieut.-Colonel, Acting Officer Commanding, No.4 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
2 Oct 45	Sentence considered fair and reasonable. 1st review on 9 Oct 45.	(E.J. RENAUD) Major General, D.O.C., M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

H.Q.C. 55-B-1956 (JAG/D-5)

9 October, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.
Standing
D.496573 Fus. J.A.G. Bourbonnais,
Les Fusiliers de Sherbrooke, C.A.,
attached to Court-Martial C.A.

3rd October 5 M. 1-B-4935 (J)

Receipt is acknowledged of your dated 194 Standing covering the explanation of delay in this case, which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

(R.J. Orde), Brigadier,

Judge Advocate-General.

LCC:jb

IN REPLY PLEASE QUOTE No. M.1-B-4935(J)

R 33

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CANADA

REGISTERED

Montreal, P.Q.,
3rd October, 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

1305
OCT 5 1945
File C55-B-1956
Chgd. to
Referred to DAG

nding Court-Martial
96573 Fus. J.A.G. Bourbonnais,
Fusiliers de Sherbrooke, C.A.,
ached to No. 4 D.D., C.A.

Reference your H.Q.C.55-B-1956(JAG/D-4) dated 17 Sep 45.

2. Hereunder, for your information, an explanation as to why the accused spent 30 days in military custody awaiting trial:

15 Jul 45	Apprehended by CPC at Montreal, P.Q.
16 Jul 45	Received at No. 4 D.D.
17 Jul 45	Documents and Part II Orders requested.
24 Jul 45	Remanded for S.C.M.
25 Jul 45	Proceedings sent to this H.Q. stating that documents and Part II Orders would follow immediately upon receipt.
9 Aug 45	Part II Orders received and forwarded.
10 Aug 45	Documents received and forwarded.
11 Aug 45	Application for the marginally-noted Standing Court-Martial received at this H.Q. and trial of the accused scheduled to take place on 14 Aug 45.
14 Aug 45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

for (E.J.Renaud), Major-General,
D.O.C., M.D.No. 4.

Enc.

MAT. DEF. B. 440
(300M 4 44 4241)
H.Q. 1712-39 767

MEDICAL OFFICER'S REPORT

I certify that No. D-496573 Pte. BOURBONNAIS, G.
Les Fus. de Sherbrooke, C.A.,
of att. Nop 4 DD C.A. is in a Good state of health,
and fit to undergo Trial by Court martial.

C.A. Ebhout, Lieut., Medical Officer
No. 4 District Coy. R.C.A.M.C
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 14th August 1945

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A., Montréal-sud, Que.

le 14ième jour de août 1945 à 1420 heures,

pour le procès de D-496573, Fusilier Joseph Arthur Gilles BOURBONNAIS, Les Fusiliers de Sherbrooke, C.A., attached to No. 4 District Depot, C.A.

(Matricule, Grade, Nom et prénoms; Unité, Détachement, le cas échéant)

PRÉSIDENT: Major L.J.E. Belleau, Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux, District Militaire No. 4.

(Grade, Nom et prénoms, Unité, Détachement, le cas échéant)

XXXXXXX
XXX OFFICIER DÉFENSEUR: Capitaine L. Breton, General List, C.A., att'd No.4 D.D., C.A.

(Grade, Nom et prénoms, Unité, Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-496573, Fusilier Joseph Arthur Gilles BOURBONNAIS, Les Fusiliers de Sherbrooke, C.A., attached to NO.4 District Depot, C.A. coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-496573, Fusilier Joseph Arthur Gilles BOURBONNAIS, Les Fusiliers de Sherbrooke, C.A., attached to No. 4 District Depot, C.A. à la détention pendant cent cinquante (150) jours.

Signé à Montréal-sud, Que. ce 14ième jour de août 1945

(L.J.E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
5M-6-44 (4826)
H.Q. 1772-33-2296

Extracts entered as No. 39633 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 13 day of Sep 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

D-137479, CSM (WO 11) J.E.R. Samson,No.4 Det. CMSC, C.A., Quartiers-généraux, District Militaire No. 4

Question à l'accusé. Vous opposez-vous à comme sténographe ?

Réponse: Non, monsieur.

Le sténographe est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

H.E. Bellemare Maj
Pres CM

"B2"

CHARGE SHEET

The Accused, D-496573, Fusilier Joseph Arthur Gilles BOURBONNAIS, Les Fusiliers de Sherbrooke, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1),
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Joliette, Quebec, at 2359 hours, on the 26th December, 1944, absented himself without leave from his unit, Les Fusiliers de Sherbrooke, C.A., until he was apprehended by the Military Police at Montreal, Quebec, at 0325 hours on the 15th of July, 1945, dressed in civilian clothes.

Signed at,
Montreal South, Quebec,
25th July, 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au .....
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (Voir CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Ma femme était enceinte de deux ou trois mois et elle était seule avec un enfant. J'ai arrivé de Nanaimo...de l'ouest, et elle n'avait pas de logis, il a fallu que je trouve un logis.

Il a fallu que j'aille rester dans un camp d'été et il n'y avait personne pour chauffer ça.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non, monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

"F" 18

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT LES FUSILIERS DE SHERBROOKE C.A.

PART II ORDERS

by

Lt.-Col. Paul TRUDEAU E.D. Officer Commanding.

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 20

STATION Joliette, Que.

DATE 28 Dec. 44

"Last Order Issued No. 19 dated 27 Dec. '44

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN. COY. ETC.	CASUALTY & REMARKS	DATE
			"SECTION B - OTHER RANKS"			
-C	ABSENT WITHOUT LEAVE					
	The u/m are A.W.L. from			2359 hrs. 26 Dec. 44		
			D-496573 Fus. BOURBONNAIS G.			

Certified True Extract

Signed

District Records Officer having custody of Regimental PART II ORDERS kept by District Headquarters M.D. 4.

Date

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

? (J.G.F.Brosseau)Capt & A/Adj
for Les Fusiliers de Sherbrooke
Officer Commanding or Adjutant

M. F. D. 873A
1,000,000-10-42 (8791)
H.Q. 1772-29-254

'G' 15

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major (Rank) R.W. POULIOTTE, (Name) O.C. Composite Provost Companies M.D. 4 (Unit)

hereby certify that D-496573 (Number) Fusilier (Rank) BOURBONNAIS, Arthur Gilles (Name in full)

of the Fus. de Sherbrooke, Joliette, Que. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) D-137084 (Number) Corporal (Rank)

ROCHON, R. (Name) Composite Provost Companies M.D. 4 (Unit or appointment)

at Montreal, Que. (Place) at 0325 (Hour)

on the 15th day of July 19 45

Strike out words not applicable } as a ~~deserter or~~ absentee without leave), and that at the time of his arrest he was ~~wearing military (air force) uniform~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 15th day of July 19 45

(R.W. POULIOTTE) Major (Signature, Number, Rank, Unit or appointment)

PG...

O.C. Composite Provost Companies M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

An "R" Recruit called under N.R.M.A.

H.E. Bellau Major, Pres. C.M.

"Y"

M.F.H. 355
50M—9-42 (5992)
H.Q. 1772-20-820
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-496573,	Fus.	J.A.G. BOURBONNAIS,	Fus. de Sher. C.A., att'd to No. 4 D.D. C.A.

1. The following is a fair and true summary of the entries in the Field ~~Section and General Regimental and Squadron, Battery Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	----------	times	A.W.L. ----------	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act (Air Force Act) and dispensations with trial under A.A. 73 (A.F.A. 73) are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement ~~awaiting~~ (Air Force) trial on the present charges, for nil days in civil custody, and 30 days in military custody, making a total of 30 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ enrolment ~~attestation paper is~~ 25 years, 11 months. (13 Aug. 1919)

6. The date of his ~~enlistment~~ enrolment specified in his ~~record of service~~ enrolment ~~attestation paper~~ is 8 Jan. 1942.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~military~~ military decoration, ~~or air force award (or is in possession of or entitled to) Stop any air force decoration or reward.~~

10. ~~(If) accused is a warrant officer.) The accused before he was made a warrant officer last held (Air Force) the regimental rank of~~

11. ~~(In the case of an officer,) The accused holds in the Royal Canadian Air Force~~ Permanent Force unit ~~rank of~~ .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th AUGUST 1945.

P. Paradis, Lieutenant,
R. de Mais., att'd to
No. 4 District Depot, C.A.,
Asst Officer in Records,
No. 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

ORIGINAL DESTROYED BY FIRE

Date of Birth 13 Aug 1919

Reg. No. D-496573 Name BOURBONNAIS, Joseph Arthur Gilles.

Date of enlistment or enrolment 8-1-42

Sheet No. ..... of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Debert	22Aug43	Pte		2350 hrs 22Aug 43 to AWL from 2300 hrs 23-8-43	Documentary	Forf 3 days pay	27-8-43	O.C.	Total forf 4 ds pay

CERTIFIED TRUE COPY

.....

F. Paradis, Lieutenant,
R. de Mais., C.A., att'd to
No. 4 District Depot, C.A.,
Assistant Officer i/c Records,
No. 4 District Depot, C.A.

(P.T.O.)

Attested copy
J. W. Bellman, Major
O.C. Coy

HQC.55-B-1956 (JAG/D-4)
Your File M.1-B-4935

17 Sep 45

District Officer Commanding,
Military District No. 4,
MONTREAL, Que.

STANDING COURT-MARTIAL

D.496573, Fusilier J.A.G. BOURBONNAIS
Les Fusiliers de Sherbrooke, C.A.,
att. to No.4 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 30 days in military custody awaiting trial. May an explanation of this delay be forwarded, please.

JOGR/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

THIS COPY FOR: H.Q. C. 55-B-1956
M.D. M. 1-B-4935

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. D-496573 Name Joseph Arthur Gillies BOUBLOUNAIS

Rank Fus. Unit Les Fus. de Sher. C.A. Att no. 4 D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 26-12-44

Date of Arrest 15-7-45 Charge Signed 25-7-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 14-8-45

Sentence Detnetion 150days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39633

Date 13-9-45

MEMO

M.D. 4

ABSENT

6 2/3 mos.

Les Fus. de Sher. Att No. 4 D.D. C.A.

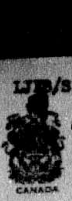
SENTENCE

Det. 15 days.

for Judge Advocate-General

10M-8-45(M-189)

LJB/S



In reply quote No. M. 1-B-4935 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
8th September, 1945.

C.55-B-1956

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT-MARTIAL
D-496573, Fusilier J.A.G. BOURBONNAIS,
Les Fusiliers de Sherbrooke, C.A.,
attached to No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 14th August, 1945

2. Submitted for your information, consideration and approval, please.

J.E. Belleau

(L.J.E. BELLEAU) Major,
Headquarters, Military District No. 4,
President - S.C.M.

ENC.

M.F.A. 1325
L.50035—3-45 (9005)
H.Q. 1772-39-2039

39633

H.Q.C. 55-B-1957

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BUOTE, PETER G-1923 RFN.

H.Q.C. 55-B-1957

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and mark "With Minute")		
				ADMIN	NEW FILE	CR	12-9-45
SEP 21 1945	21 9 45	PA	EKM		To note		13 9 45
				CMBR	OCT 25 1945		
NOV 16 1945	29-1-46	BJ		Adm 3	Recommendation	gas	NOV 12 1945
FEB 1 8 1946	8-2-46		7	Admin	JAN 19 1946		
					With Papers C.R. MAR 19 1946		
MAR 20 1946	21 3 46	PA	7	Adm	To note remission	KB	20/3/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. J/38-B-2998 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

SAINT JOHN, N.B., 14 March, 1946.

Army
COMPTROLLER
MAR 18 1946
File 6-15-13-1957
Chgd. to
Recd. to

Secretary,
Department of National Defence,
OTTAWA, ONTARIO.

REMISSION OF SENTENCE
923 Rfn. BUOTE, P.
7 District Depot, C.A.

Herewith, original copy of remission of sentence, together with AFA 3104, duly completed, re the m/n soldier, for custody, please.

H. Thurlow Major
for (D.R. Agnew) Brigadier,
District Officer Commanding,
Military District No. 7.

noted
JGR

N.D. 23
M.S.—11-43 (2979)
H.Q. 1772-101-23

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. G1923 Rfn BUOTE P Unit RRR

Sentenced to three years penal servitude on 3 May 45

Age on, and date of, enlistment 18 yrs Aug 43 Term of service Duration

FIRST TRIAL.

For details of offence, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place ..... Confirming Authority.

Date .....

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place ..... Confirming Authority.

Date .....

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude

(*22948) Wt.36636/311 60,000 11/42 A.& E.W.Ltd. Gp.698 Forms/A.3104/11.

4 20

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	NO REMISSION. RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters	
7 Mar 46.	BALANCE OF SENTENCE REMITTED, Effective 12 Mar 46.	12 JUL 1946 (D.R. Agnew) Brig. D.O.C., M.D. #7.	

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA Sec 12(1)(a) AWL from 0900 hrs 15 Nov 44 to 0130 hrs 11 Apr 45. (Absent 146 days 16 hrs 30 mins)	15Nov 44	3 May 45
D.L. Macdonell Capt. Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
	Normal review	
18 Jun 45		W J Richmond Lt-Col. Comdg, 1 Cdn Disciplinary Centre
	Awaiting despatch to 3 Cdn NETD.	

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
22 JUN 45	Recommend that sentence be served	J S H Lind. (J S H Lind) Brigadier Comd 3 Cdn Base Rft Gp

FORM OF REMISSION, COMMUTATION OR MITIGATION
OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. .....
DISTRICT FILE No. J/38-B-2998 (JAG)

PART I

No. G-1923 Rank Rfn. Name BUOTE, P.
Unit No. 7 District Depot, C.A.

PART II

Date of Trial 3 May 45

Charge (x) A.A. Sec 12(1)(a) AWL from 0900 hrs 15 Nov 44 to 0130 hrs 11 Apr 45 (Absent 146 days 16 hrs 30 mins).

Sentence : Three years Penal servitude.

Date of Sentence: 3 May 45

Confirmation: (a) Authority: (J.S.H. Lind)Brigadier Comd 3 Can Base Rft Gp
(b) Date :- 22 June 45

PART III - REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxx~~ the balance of the sentence of penal servitude awarded G-1923 Rfn. Buote, P. - Effect. 12 Mar 46

Signed at Saint John, N.B. this 7th day of March, 1946

(D.R. Agnew)Brigadier,
(Appointment) District Officer Commanding M.D. No. 7.)

To be signed by the remitting authority personally.

PART IV - PROMULGATION

Remission (~~xxxxxxxxxxxxxxxxxxxxxxxxx~~ promulgation and extracts taken at Fredericton, N.B. this 13th day of March 19 46

(1) (H.F. Nickerson) Capt & Adjutant
(Officer i/c Documents)
No. 7 District Depot, CA

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDER PART II

No. G.1923 Rank Rfn. Name BUOTE, P.

The sentence of Three (3) years Penal Servitude awarded by ~~xxxxxxxxxxxxxxxxx~~ (Field-General)* Court-Martial on the 3 May 45 has been Remitted effective 12 Mar 46

UNIT No. 7 District Depot, CA

Certified true extract of Daily Order Part II of No. 7 District Depot, CA
No. #60 Place Fredericton, N.B. Date 12 March 46

(H.F. Nickerson) Captain
Adjutant No. 7 District De pot, CA.

* Strike out and initial words not applicable.

COPY

XXXVX DWP UDWL CIA NRS 14 15 & 16

FROM COMMANDING 3 KINGSTON MAR 011630R

TO DOC MD 7 ST JOHN N B

TO OC NO 7 DD FREDERICTON

TO THE SECTY DND OTTAWA

CR 164 BT

KD 106 RESTD

REFLET KS 674(A) DATED 28 FEB 46 THE FOLLOWING SUS PRESENTLY HELD NO 89 MDB FORT HENRY BARRIEFIELD ONT WILL CEASE ATTACHMENT THAT UNIT SOS NO 3 DD TO NO 7 DD WEF 4 MAR 46

G.10035 PTE BIDDISCOMBE G C CMBR RELEASE 16 MAR 46

G.1923 PTE BUOTE P CMBR RELEASE 3 MAR 46

STOP THESE SUS WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE FREDERICTON AT 1155 HOURS 5 MAR 46 STOP REQUEST COMMANDING SEVEN HAVE ESCORT DETAILED TO MEET THIS TRAIN ON ITS ARRIVAL AT TRAINSIDE STOP REGIMENTAL DOCUMENTS FOR THESE SUS WILL BE HANDED OVER TO ESCORT MEETING THIS TRAIN ON ITS ARRIVAL STOP AFA 3104 WILL BE FORWARDED UNDER SEPARATE COVER DIRECT TO COMMANDING SEVEN STOP ADDRESSED COMMANDING SEVEN REPEATED OFFICER COMMANDING NO 7 DD AND DEFENSOR

BT KM 011736R IB B

C$::: 2ND LINE PRESENTLY

CR(C) PA on file

C 55-B-1957

Adm 3(b)2 7

File: G.1923-C(A)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 26th Feb 46.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

G.1923 Pte. Buote, P.

Ref HQC 55-B-1957 Adm 3(b)2 d/15 Feb 46.

2. Receipt is hereby acknowledged of the following documents in the case of the m/n soldier.

(a) CMHQ Letter 10/Buote P/L d/4 Sep 45.

(b) AFA 3104

(c) xxxxxxxxxxxxx

(d) CMBR Recommendations remission 3 Mar 46.

Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

For on file
1-7-46

DEPARTMENT OF NATIONAL DEFENCE
- Army -

CONFIDENTIAL
OTTAWA, Ontario

15 Feb 46
HQS 55-B-1957
Adm 3(5)2

District Officer Commanding,
Military District No. 3,
KINGSTON, Ont.

~~G.1923 Buote P.~~
SUS - HMS Arbiter

1. Further this HQ letter HQS 8536-6 Vol 5 dated 2 Feb 46 and 12 Feb 46.

2. Herewith is AFA 3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1039(8).

3. ~~It will be noted that this SUS was sentenced to imprisonment with dis-charge under~~

4. The sentence awarded has been reviewed by CMHQ and have recommended ~~xxx~~ remission 3 Mar 46.

5. Ack.

(E.G. Weeks)
Major-General
Adjutant-General.

GR 55- B.
3 Nov 45

Case No. 080

REVIEW OF EVIDENCE
BY
COURTS MARTIAL BOARD OF REVIEW

1. No, Rank and Name: G.1923 Rfn BUOTE, P.

2. Unit at date of offence: Regina Rifles.

3. Charge: AA Sec 12(1)(a) DESERTION: In the Field 15 Nov 44 absented himself from his unit until apprehended in Ghent wearing a U.S. Navy uniform. (Absent: 146 days).

Plea: Not guilty

4. Place and Date of Trial: Belguim - 3 May 45.
(FGCM) XXXXXXXXXXXXX

5. Finding: Guilty except that he was not wearing U.S. Navy uniform when apprehended.

6. (a) Sentence: 3 years penal servitude.

(b) Date of sentence: 3 May 45.

7. Date of Confirmation: 7 Jun 45. GOC 1st Cdn Arm'd.

8. Date of Promulgation: 16 Jun 45.

9. Being served at: To be ascertained. O/S in M.D. _____

(N.B.- Discharged under RO 1029 ( ) for
wef

CONDUCT

11. (a) Prior to conviction: Offence Date Sentence

(i) Civil Convictions

(ii) Courts-Martial

(iii) Summary Convictions AWL (One)
Previous service prior to conviction: 1 year 3 mos.

(b) After convictions: Good.
Expected date of release with normal remission earned: 2 May 47.

(c) Date of ~~enrolment~~/enlistment 28 Aug 43 Present Age: 20

---

12. Remarks: (Here note any petition of Representation other than in Item 10 but if Item 10 has been omitted, so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.
(b) Landed in Normandy on D Day, served for 5 mos in action with Regina Rifles as a sniper and was apparently a good soldier.
(c) Young at time of offence.
(d) Married with one child.

13. Recommendations: (State by whom made, e.g., OMHQ, DOC, Reviewing Offr., etc.)

Rev Offr: Recommend release 3 May 46 at which time 1 year of sentence awarded will have been served.

Reviewed by W.A. Moss
W.A. MOSS, Major.

---

14. Recommendation of the Board:

For remission on 3 May 46
or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date NOV 12 1945

H.A. Stewart Maj.
Secretary
Courts-Martial Board of Review.

Noted
LL.

Quote No. HQC. 55-B-1957
(JAG/D)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
21st Sept 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
G.1923 Rfn Buote, P.

1. Receipt is acknowledged of your 10/Buote, P/1 dated 4 Sept 1945 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

(R.J. Orde), Brigadier
Judge Advocate-General.

23.

BKH:ELM

THIS COPY FOR: H.Q.C. 55-B-1957
M.D.10/Buote P./1

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

No. G-1923 Name Peter BUOTE

Rank Rfn. Unit Regina Rifles Att. 1 Ddn. D.G. G.A.O.

Charge AA 12 (1) (a) NDA Desertion

Date of Crime 15-11-44

Date of Arrest 11-4-45 Charge Signed 22-4-45

Orders for ~~G.C.M.~~ F.G.C.M. Lt.-Col. Comd. 2 C.B.R.G.

Place and Date of Trial In the field 3-5-45

Sentence Penal Servitude 3 years.

Date of Confirmation 7-6-45

Date of Promulgation 16-6-45

Entered in Records of J.A.G. as No. 4216

Date 14-9-45

MEMO Balance of sentence remitted by Conf. Auth 12-9-46

Reviewed at C.M.H.Q.

22

for Judge Advocate-General

10M-8-45(M-189)

[redacted]MBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Buote, P/1

CANADIAN MILITARY HEADQUARTERS

LONDON 4 Sep 45

C.55-B-1957

The Secretary,
Department of National Defence,
OTTAWA, Canada.

G.1923 Rfn Buote, P.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 3 May 45 for desertion (AA Sec 12(1)(a)). He was apprehended after 146 days.

2. The earliest date on which he should be released if he earns full remissions for good conduct while serving his sentence is 2 May 47.

3. This soldier enlisted 28 Aug 43 at Fredericton, N.B., and he is now 20 years of age. In addition to the offence mentioned in para 1 above he has since enlistment been found guilty of 1 offence under AA Sec 15(1). He was punished summarily for this offence.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. In view of the serious nature of the offence on which this soldier has been convicted and the necessity for exemplary punishment in such cases it is considered that he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to C.A.R.O. 1029. It is therefore so recommended. It is considered that this soldier has deliberately misconducted himself in order to avoid further service in action and he probably had his discharge in view.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 3 May 45 together with original AF A3104 in respect thereof on which this direction has been endorsed.

for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters

Enc. 1
Copy to OIC Records.

4216

21

1/39a CMHQ 1000.76
40/F & S/803 (7382)

RECORDED AT CMHQ IN AB 160. 5M-64.

FIELD GENERAL COURT-MARTIAL

CFA96 (To lieu of AFA96) 40/P & S/1268 (Pt 2) 4/385

RECEIVED 26 JUN 1945 JAG BRANCH

Convened by Order of Lt Col J. Runcie Comd 2 CBRG dated 28 Apr 45

ACCUSED.

(Insert (a) in the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names	Surname.	Unit.
G 1928	Capt		Peter	Bugle	R.R.R. attd Ch. Div Centre

PROCEEDINGS REVIEWED 2 July 45 JAG BRANCH

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, Held in (country) Belgium on (date(s)) 3 May 45

33/126

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 14.05 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans ....No....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G. B. H. Cox.	CAC	attd Ch. Div Centre
Member	Captain	D. P. La Chance	R.R.R.	10 CBRGH
Member	Lt.	A. J. Thompson	CAC.	2 CBRGH
Judge-Advocate				
Prosecutor	Lt	V. Pope.	RCAMC	11 CBRGH
Defending Offr	Captain	T. Mattie	CIC.	10 CBRGH

Questions by President: Is the Prosecutor a lawyer? Ans. No Is the Defending Offr a lawyer? Ans. No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G 1928 Rfn. Bugle. T. before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

...EFROY ..., sat, being ... ing Member, sat in his stead.

2 CBRG Ud C. 8 145.

18

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr. see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans.....[5]

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.[1]

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exhibit 'G' [illegible]

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined G.1923
(No.)
Rfmn BOOTE P.
(Rank) (Name) and in my opinion he is
fit / ~~unfit~~ to undergo trial by Court-Martial.

Station, 1 Cdn Disciplinary Centre

Date [illegible]

[illegible] Capt (Sgd)
(Medical Officer)

Unit 1 Cdn Disciplinary Centre

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough paradee ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*h*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 93(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML p* 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-1923	Rfn		Peter	BUOTE,	Regina Rifs, att 1 Cdn Disciplinary Centre.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 28 APR 45 endorsed by me, (~~or by one of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached herein.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate to preside the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G B H COX,	CAC, att 1 Cdn Disciplinary Centre.

MEMBERS.

(Rank.)	(Nominated or detailed. RP 106.)	(Unit.)
~~Captain~~ Major	D. P. La Chance. R 22 R.	10 CBR Bn
~~Major~~	~~A E LEFROY~~	~~Seaforth of C, att 1 Cdn Disciplinary Centre.~~
Lieut	A J THOMPSON	CIC, 2 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	D P LaCHANCE	R 22 R, att 10 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 28 APR 45

(Signed personally. RP 105 fn 2.) Lt-col (Rank.)

(J Runcie)

A/Commanding 2 CDN BASE HFT GP

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA3) 40/P & S/1097 (4931)

CHARGE SHEET

The accused, G-1923 Rfn Peter BUOTE, Regina Rifles, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

CHARGE
12 (1) (a)
Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, at 0900 hrs 15 Nov 44 absented himself from his unit until apprehended in GHENT, Belgium at 0130 hrs 11 Apr 45 wearing a US Navy Uniform.

(Total absence: 146 days 16 hrs 30 minutes)

Remanded for Summary of Evidence

In the Field
22 Apr 45

(J N Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
22 Apr 45

(J N Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
28 Apr 45

(J RUNCIE) Lt-col
A/Comd
2 Cdn Base Rft Gp

Case of G-1923 Rfn. Buote P.
(Regina Rifles.)

Prosecution makes no opening address.

Documentary Evidence.

(1) Extract certified of Part II order No. 62 of Regina Rif. dated 10 Dec 44 signed by Pres. & attached as Exhibit "A".

(2) Certificate of apprehension dated 11 apr 45 signed & attached as Exhibit "B".

First Witness for Prosecution:

L55214 Cpl. Langston H.A., No. 2 Cdn Lof C Prov. Coy, sworn, states:

I recognize the accused as Rfn. Buote. On 11 April 45 at 59 Lourdstraat, Ghent, Belgium, at approximately 0130 hrs I found the accused in bed. I asked him what he belonged to, he replied "the American Navy". I told him he would have to accompany L/Cpl. Hanley and myself to headquarters. He stated what his rank was in the American navy and I think he said it was seaman class two. He got out of bed and put on an American navy uniform before accompanying us. There were also two Canadian battle dress uniform in the room; I don't remember questioning the accused about these. At the guard room he gave me his name as Buote. I left him in the guard room for the night. Later in the morning I returned to the guard room and asked the accused if he was a Canadian soldier and he replied "yes". He had no identification of any kind on him, although one of the battle dresses had an identity disc in the pocket with his name on it. The accused said he had bought the American uniform. I do not recall ever having seen him prior to 11 apr 45.

Cross-examined by Defence:

No questions

Questioned by Court:

He answered my questions freely and came with us quite readily. I took him into

custody because he had no identification or pass. When he told me he was a Canadian soldier he gave the information quite readily. 59 Lourdstraat is a private house. The accused never offered any explanation as to why he said he was in the American navy.

R.P. 83 (b) complied with.

Second witness for Prosecution:

A103180 S/Cpl Hanley, W.T., 2 R of C Coy. Can. Hon. Corps

sworn, states:

I recognize the accused as the Prot. at approximately 0130 hrs. on 11 Apr 45 on information received I accompanied Cpl. Langstes to a civilian home in the City of Ghent, where we had occasion to check the accused. He stated that he was in the American navy. We then took him to the town guard room. At this time he was wearing an American sailor's uniform. ~~The next morning the accused~~ I was talking with the accused the next day but he did not say then that he was in the American navy. When he was picked up the accused had no means of identification on him at all.

Defence declines to cross-examine.

Questioned by Court

When picked up the accused told us the name of a boat he was supposed to be with. I searched the rest of the house but there were no other soldiers there.

R.P. 83 (b) Complied with.

Prosecution closes.

Defence makes no opening address.

Accused, sworn, states:

I landed in England 8 Apr 44 and landed in Normandy on D. day. I was a sniper with the Regina Rifle Regiment. I was with them from D day to the time when I went A.W.X. about a month before I was apprehended. I was drinking in a cafe with a few sailors. They had no money and offered to sell me a uniform. I bought it but never wore it, keeping it in the house where I was staying. When Cpl Langstes found me in bed I thought I might bluff him by putting on the American uniform.

The uniform was downstairs at that time. My own uniform was by my bed.
Prosecutor declines to cross-examine.
Questioned by Court

I bought the uniform because the sailors were friendly chaps and I drank quite a bit with them that night. I don't know why I bought it. I paid several hundred francs for it. I don't know what prevented me from wearing it. I went absent because my nerves were shot and I could not stand any more shelling. My unit was in Nijmegen at the time. I spent most of my absence in Ghent, & stayed the last month at the house where I was picked up. I did not have a girl friend there, but had one at Lille in France. When I went absent I had 2 watches and four 18 carat gold rings. I sold these and got 22,000 francs for them, which kept me going. I had 380 francs left when I got picked up. I was going to return to the unit on 30 April. The reason for picking this date was that it is my son's birthday. I just kept going from day to day, and did not think of it as laying me open to a charge of desertion. If I did not get picked up in the meantime I intended to turn myself in on 30 April. I occupied myself going to cinemas & going out with the old girl. I went to Ghent when I went absent first and then from there went to Lille, where I already knew my girl friend. I stayed there about a week, then returned to Ghent. About a month later I went back to Lille & stayed another week & then returned to Ghent. I stayed there the rest of the time because I knew the town pretty well and knew some people there. The time when I was picked up was the only time I ~~picked up~~ wore an American uniform. When I was picked up and tried to bluff the Provost I did not think of it being only 19 days until 30 April anyway.

R.P. 83(b) Complied with

Prosecution makes closing address.
Defence replies
Court closes to consider finding

Summing up for the Prosecution.

R. v. 1923 Rifle Bde R.

Gentlemen,

I request the court to take on the following facts & consider them in the finding of the accused guilty or not guilty

(1) The accused has been absent 146 days.

(2) When apprehended he was wearing a R.F. Uniform.

(3) The accused had no means of identification as to him being a Canadian Soldier.

(4) The Provost stated the accused still insisted he was an American when taken to the Guard Room.

Signed T. Pope Lieut.
Prosecuting Officer.

Summing-up - Defence

G 1923 Rfn Buote P

President of the Court,
Gentlemen.

At first sight, we are lead to beleive that case to be straight desertion. But let us examine some of the evidence given before the Court. Pte Buote has been in action for more than five months. He was a sniper. His nerves gave in after that long time. And he wanted for a rest. — Things piled up until his apprehension.

Pte Buote was not apprehended in an American navy uniform. He was in bed. But he went downstairs to put it on so as to bluff the Provost. — The accused said when he was going to surrender himself he had no intention to desert. — Anyway, a man in any uniform is always subject to questioning by Provost.

I strongly feel that this is not a case of desertion. I respectfully ask the Court to deal with the charge as a case of AWL.

[signature]
Defending

Belgium -
5 May 45

11

Exhibit E

Plea of mitigation
G 1923 Rfn Bndt P

President of the Court.
Gentlemen.

The accused has been in the army for nearly two years, despite the fact that he is now just over 20 years old. He is married and has a child.

His job with the RR proved that he was a very good soldier. Snipers are always the chosen lot. And he was at it for more than five months.

His previous service is very good. This is his first offence since enlistment.

I respectfully ask the Court to consider these facts and to deal with the accused accordingly.

Whatley
Defending

Belgium
3 May 45

Exhibit "A"

PART II ORDER EXTRACT FORM

M Rousseau Capt

99/20/ Regina Rif/1(A 56)

Exhibit A

TO: A.8

18 Apr 19 45

EXTRACTS FROM: UNIT REGINA RIF

Part II Order No. 62 dated 10 Dec 44

AWL from 0900 hrs 15 NOV 44
G1923 Rfn BUOTE P

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

Originating Clerk's Initials DWS

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (5757)

CERTIFICATE UNDER ARMY ACT. SECTION 163 (1) (J)

Exhibit B

Certified that No. G.1923 Rank Rfm. Name BOUTE P. M. Rousseau

of the Bn.H.Q.R.R.R. 3 Cdn.Inf.Div. Regt, ~~surrender~~ No. I.55314

was apprehended by

Rank Cpl. Name Sangster H.A. of the 9 Sec. 2 Can. Loft. Pro. Coy.

Ghent Detachment at Ghent at 0130 hrs, on the 11th

day of April 1945 as an absentee without leave.

He was wearing Military Uniform at the time of his ~~surrender~~ Arrest.
~~Civilian Clothes.~~

Place Ghent

Date 11 April 45

J. A. Thomson Lieut.
(J.A. Thomson) A/DAPM 2 C.B.R.G
Canadian Provost Corps.

8

Exhibit "C"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
G-1923	Rfm	BUOTE P	Regina Rifles- 1 Cdn Disc C

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For NIL ENTRIES ON MFN 1 _____ times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet NIL

Date of last entry in Field Conduct Sheet NIL

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for NIL beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for NO days in civil custody; and for 21 days in military custody, *i.e.*, NO days in open arrest, 21 days in close arrest; of which NO days were spent in hospital.

5. The present age of the accused is 20 years 6 months old

6. The date of his attestation ~~calling up for military service~~ is 28 Aug 43

7. The service which the accused is allowed to reckon is _____

State the military decorations (if any) held by accused.

8. The accused is in possession of‡

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	11	
In the war substantive rank of	11	
In the acting rank of	11	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

([illegible]) Wt.24939/2404 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2

7

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No entries on MFM 6		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 23 day of April 45

Maj 4 I CRC

Comdg, I Can Disciplinary Centre

Exhibit 5

No. G1923	Name BUOTE P	Sqn, Battery, or Company	Corps CIC	Date of enlistment 28 Aug 43	GC Badges	Service or Proficiency Pay	3/17 MFM 6 (AFB 122) 40/P&S/136 (5412)
Date of last entry in Company Conduct Sheet	N/A	No. and date of last drunk	N/A	Period not reckoning towards freedom from extra fine	N/A	Sheet No 1	Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				NIL ENTRIES					

Duplicate created from MFM 4 18 Apr 45 record of conduct in Canada prior to TOS Cdn Army Overseas 1 May 44 not available.

RSC WILLIAMS Lt
Officer ic Records X Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of MFM 6 in my possession

[signature], Lt-Col.
Comdg, 1 Cdn Disciplinary Centre

Summary of Evidence in the case of G-1923 Rfn BUOTE P Regina Rifles, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - DESERTING HIS MAJESTY'S SERVICE

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused marked as exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of extract from Part 11 Order No 62 dated 10 Dec 44

Exhibit "B" - Certificate of apprehension dated 11 Apr 45

FIRST WITNESS L-55214 Cpl SANGSTER HA 2 L of C Pro Coy Ghent Detach

I certify that the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him has been read over to the accused and is attached hereto as Exhibit "C"

Maurice Rousseau Capt
(Maurice Rousseau) Capt

I do not require the attendance of Cpl SANGSTER HA for the purpose of cross-examination.

Peter Buote
(the accused)

SECOND WITNESS A-103180 L cpl HANLEY WF 2 L of C Pro Coy Ghent Detach

I certify that the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him has been read over to the accused and is attached hereto as Exhibit "C".

Maurice Rousseau Capt
(Maurice Rousseau) Capt

I do not require the attendance of L cpl HANLEY WF for the purpose of cross-examination.

Peter Buote
(the accused)

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say

The accused does not call any witness

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

Maurice Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field
22 Apr 45

Exhibit C.
M. Rousseau Capt

Statement of **EVIDENCE** in the case of

G-1923 Rfm Buote P.

At approx 0130 hrs 11 April 45, acting on information recieved, accompanied by L/cpl Hanley, I proceeded to 59 Hourdstraat Ghent, where I had the occaision to check a Cdn Soldier, who I now know to be m/n OR, he was wearing a U.S. Navy uniform, and stated that he was in the American Navy, he could not produce any identification of any kind. Later he stated that he was in the Cdn Army, and gave us his correct particulars.

I placed the m/n OR under close arrest, escorted him to Detach HQ, Later, he was escorted to the Town Guard Room Ghent, where a live body reciepted was obtained and is now being held on file at this Detach HQ.

H. A. Sangster .....Cpl.
.....L/55214 Cpl Sangster H.A.

I have read over the above statement and corroborate the same

W. E. Hanley .....L/cpl
A-103180 L/cpl Hanley W.E.

REMARKS

3

Army Form B 252
(See King's [redacted]ulations)

HARGE

Bn HQ.	Regiment
R.R.R. 3 Cdn Inf Div.	(Battery (Squadron (Troop or (Company

HARGE against No: G-1923 Rank Rfm.

ame Buote P.

lace Ghent Belgium Date of Offence 11 April 45

FFENCE. O.A.S.

. A.W.L. from ??? until apprehended by a member of the Cdn Prov Corps at approx 0130 hrs 11 April 45
. Stating a Falsehood to an NCO of the Cdn Prov Corps.
. Not in possession of any identification.
. Improperly dressed.

Sgt

ames of Witnesses :- i/c Ghent Detach C.
PROVOST CORPS

G-55214 Cpl Sangster H.A.
A-103180 L/Cpl Hanley W.F.

Signature of O.C. Battery,)
Squadron, Troop or Company)

Punishment)
Awarded)

By whom)
Awarded)

Adjutant

P.T.O.

RD/486

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of extract from Part 11 Order No 62 dated 10 Dec 44	"A"
Certificate of apprehension dated 11 Apr 45	"B"
Written statement of Cpl Sangster HA and L cpl Hanley WF of 2 L of C Pro Coy Ghent Detach	"C"

I, G-1923 Rfn BUCTE P, acknowledge having received one copy of Summary of Evidence and one copy of the Charge Sheet, free of charge on 22 Apr 45.

Peter Bucte
G-1923 Rfn Bucte P

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1) Ose
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) recorded and exhibits attached.
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ Ose
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. accused gives evidence on oath. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. N/A
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened. Ose
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), ~~if any, of Not Guilty,~~ and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ Ose
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? (1)
Ans. No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex. D respectively.(3) Ose
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment? (1) Ans. Yes, in mitigation. attached as exhibit E. (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2) Ose
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Proceedings entered as No. 426 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 7 day of June 19 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 1923 Rfn BUOTE P. – Regina Rifle Regt – 2nd Cdn Div Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12 (Xa)	NOT GUILTY	GUILTY	except that he was NOT wearing U.S. Naval uniform when apprehended.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... LMC

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for a period of three years.

(Sgd) ..... Judge-Advocate, if any. 3 May 45 Date awarded. (Sgd) [illegible] Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

reserve the finding and sentence for confirmation by superior authority

Date 16 MAY 45 (Sgd) [illegible] Brigadier Commanding 2 CDN BASE RFT GP

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) [illegible]

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Lt-Col.

Date 7 JUNE 45 Commanding (H D G Crerar) General GOC-in-C First Cdn Army Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G 1923 RFN PETER BUOTE	16 JUN 45	[illegible] Lt-Col. Comdg, 1 Cdn Disc Hosp Centre

Confirmation of Proceedings 27 Aug 45

DJAG. Can. Sec. GHQ. Ech. 2 Aug 45

#26 18 June 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

H.Q.C. 53-B-1958 CONFIDENTIAL

M.F.D. 3078
T.M.—2-15 (6000)
H.Q. 501-1-61

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BEBEE, LEONARD JAMES C-120209 SPR.

H.Q.C. 53-B-1958 CONFIDENTIAL

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 19 1945				JAG	NEW FILE	CR	14-9-45
SEP 25 1945	24/9/45	PA	ELM	J.A.G.	With Papers C.R. SEP 23 1945	OK	
				CMBR	Recommendation NOV 29 1945		
DEC 28 1945	28/12/45	PA	GSB	Adm 3	Recommendation Fol 34	was OK	DEC 18 1945
				J.A.G.	With Papers C.R. JAN 8 1946		
JAN 4 1946				JMBR	To note	E.L.M.	4/1/46
JAN 3 1946	7/1/46	PA		Adm 3	To get remission go	WLM	5 Jan 46.
AUG 1 5 1946	17 Aug 46	PA	Cual	DR.B	For Resolution C.R. JUL 22 1946		
DEC 1 1947	1/11/47	PA		WOR	PER REQUISITION OF OCT 28 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. W.44-B-7342 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba, 31st December 1945

232
JAN 2 1946
File C-33-B-1258
Chgd. to
Referred to AOG

Secretary,
Department of National Defence.
OTTAWA, Ont.

REMISSION OF SENTENCE
No. C-120209, Spr. BEBEE, L.J.
No. 10 District Depot, C.A.

Herewith for custody is M.F.M. 288 relative to the marginally-noted Sapper.

2 Form of Remission of Sentence was forwarded to N.D.H.Q. under this Headquarters letter numbered as above and dated the 18th December, 1945

(R.C.C. Morton) Brigadier
District Officer Commanding
Military District No.10.

mhp
encl. noted
J Reeves
2/1/46

N.D. 23
WWM—10-44 (5769)
H.Q. 1772-101-23

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C-120209 Sapper Leonard James BEBEE,
Number Rank Name in full

No.10 District Depot, C.A.
Unit Attachment (if any)

Sentenced to be imprisoned with hard labour for nine (9) months, and to be discharged with ignominy from His Majesty's Service.

on 1st September, 1945 at Winnipeg, Manitoba.

being served at Headingly Gaol, Headingly, Manitoba.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 38 years 16th November, 1942.

Medical grade or category A1.

FIRST TRIAL—PART II

To .....
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on .....) for reasons given in paragraph X.
date

Place .....

Date ..... Confirming Authority

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority

M.F.M. 288
(Army Form A-3104)
2555—9-45 (1850)
H.Q. 1772-39-2015

27

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
OCT 15 1945	B. F. FOR REVIEW TO NOV 16 1945	A. J. A. G., M.D. No. 10.	
NOV 16 1945	Sentence ~~[illegible]~~ remitted as of 21 Nov.45.	(R.O.G.Morton) Brigadier D.O.C.,M.D.No.10.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE Sec. 12(1)(a) Army Act. DESERTING HIS MAJESTY'S SERVICE: in that he, at Woodstock, Ont., at 0610 hrs on the 12th day of July, 1943, absented himself from the S-5, Canadian Driver and Mechanic School, C.A., until he surrendered to the Military Authorities, in Winnipeg, Manitoba, at 1300 hrs on the 18th day of August, 1945, dressed in civilian clothes.	12 Jul 1943	1 Sep. 45

(A.Thomson) Signature of Officer making entry Lieut.-Colonel
Commanding Officer,
No.10 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5th Sept. 45	There has been no opportunity to assess this soldier as to his ability, character or usefulness as a soldier.	(A.Thomson) Lieut.-Colonel Commanding Officer, No.10 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

CLEAR

ARMY MESSAGE

(INCOMING)

PLACE FROM — DATE & TIME

72 VEL JT 75WINNIPEG 21 DEC 1655

ROYAL CANADIAN SIGNALS
Wood Bldg.
OTTAWA
DEC 21 1945
Phone
Army Signal Office

3A

SECRETARY

OTTAWA

3466 F UNCLASS RETEL RANKS 1560 AND THIS H Q 3462 F DATED 21 DEC 45 STOP SENTENCE OF C-120209 SPR BEBEE L J WAS REMITTED EFF 21 NOV 45 STOP FORM OF REMISSION FORWARDED NDHQ UNDER THIS HQ W 44-B-7342 DATED 18 DEC 45

CMDG TEN

7A and file 55-B-1958

211814 GR

211870

THIS IS AN ACTION COPY IF INCORRECTLY DELIVERED COMPLETE BELOW AND RETURN TO A.H.Q. WSOCB		
BRANCH	TIME	SIGNATURE

66194

W.44-B-7342 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba.
18th December, 1945

Army
16980
DEC 24 1945

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

B-1958
Admin 19-12-45
CMAR

REMISSION OF SENTENCE

No. C-120209, Spr. L.J. BEBEE
No. 10 D.D.,C.A.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally-named, duly completed in accordance with C.A.R.O. 3974.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

mhp
Encl.

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC55-B-1958 (JAG/D)
District File No. W.44-B-7342 (J)

PART 1

No. C-120209 Rank Sapper Name Leonard James BEBEE

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 1st September, 1945
Charge(x) Desertion
Sentence 9 months imprisonment with hard labour and ignominious discharge
Date of Sentence 1st Sept. 1945.
Confirmation - (a) Authority N/A SCM
(b) Date

PART 111

~~REMISSION~~
SUSPENSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby ~~remit (commute) (mitigate)~~ Remit ~~suspend~~ ~~(suspend) (put into execution)~~ the sentence of 9 months imprisonment as of the 21st day of November, 1945.

Signed at Winnipeg, Man this 7 day of December 1945

(R.O.G. Morton) Brigadier, District Officer Commanding
(Appointment) M.D. No.10.
To be signed by the Competent Authority or Superior Military Authority personally.

PART 1V

PROMULGATION

Remission ~~Remission (commutation) (mitigation) (xxxxxxxxxx) (putting into execution)~~ promulgated and extracts taken at Winnipeg, Manitoba, this 15 day of December, 194 5 (1)

Capt. Adj.
Officer i/c Documents, No.10 District Depot

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No. C-120209 Rank Sapper Name Leonard James BEBEE

The sentence of 9 months imprisonment awarded by ~~xxxxxxxx~~ (Standing) Court-Martial on the 1st day of September, 194 5 has been ~~suspended~~ remitted effective the 21st day of November, 1945, on the 15 day of December, 1945 by Brigadier R.O.G. Morton, District Officer Commanding, M.D. #10.

Unit No. 10 District Depot, C.A.

Certified true Extract of Daily Orders Part 11 ~~xx~~ No. 300 para. 27-1 d/15 Dec 1945

Place Winnipeg, Manitoba Date 15 Dec. 1945.

Adjutant Capt.
No.10 District Depot, C.A.

HQC 55-B-1958
Adm 3(b)2

CONFIDENTIAL

OTTAWA Ont 21 Dec 5

District Officer Commanding
Military District No 10
WINNIPEG Man

-120209 Ser BEBEE L J

Ref W.44-B-7342(J) and Ranks 1960 dated 20 Dec 45:

2. Returned herewith MFM 288 for this soldier.

G.D.B.

(A.E. Walford)
Major-General
Adjutant-General

Encl

GDB/jh

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

HQC 55-M-1915
55-B-1958
Adm 3(a)

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 10
WINNIPEG MAN

OTTAWA ONTARIO 20 DEC 45

RANKS 1560 RESTD

REVIEW REF AG 0267 D/18 OCT 45 (.) CMBR RECOMMENDS IMMEDIATE REMISSION OF SUSPENDED SENTENCE FOR THE FOLLOWING SUS (.) H615003 GNR MOREAU O C120209 SPR BEEBE L J (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPIES TO: CMBR

JAG

GDB/MA

G D Baker Lt
Major-General
Adjutant-General

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
		IMMEDIATE	1120

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

ARMY MESSAGE
(OUTGOING)

CLEAR

FILE W.44-B-7342(J)

PLACE WINNIPEG MANITOBA DATE 26 NOV. 45.

THE SECRETARY
DEPT. OF NATIONAL DEFENCE (ARMY)
OTTAWA, Ontario.

3439E UNCLASSIFIED RELET HQC55 B 1958 CMBR DATED 23 NOV 45

RE C120209 SPR BEBEE L J stop MFM 288 REVIEW SHEET AND FORM

OF SUSPENSION OF SENTENCE FORWARDED PURSUANT TO CARO 5913 PARA

23 FORWARDED NDHQ 24 NOV 45

COMMANDING TEN

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS	DEGREE OF PRIORITY	TIME OF ORIGIN
XXXXX INCLUDING WIRELESS		

SIGNED (A.J.A.G.)

COPY 2

36

MOC #5 B-1958 (CMHR-6) / SH
28 Nov 45.

Case No. 1631

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: C-120209 Spr BEBEE, L.J.

2. Unit at date of offence: Cdn Driver & Mechanic School, C.A.

3. Charge: AA Sec 12 (1)(a) Desertion:- At Woodstock, Ont. absented himself from 12 Jul 43 until he surrendered 18 Aug 45 dressed in civilian clothes. (Absent 25½ months).

NOW on suspended sentence.

Plea: NOT GUILTY.

4. Place and Date of Trial: Ft. Osborne Bks. 1 Sep 45.
(FGCM) (DCM) (SCM)

5. Finding: GUILTY

6. (a) Sentence: 9 months imprisonment. Discharge with ignominy.

(B) Date of Sentence: 1 Sep 45.

7. Date of Confirmation: N/A

8. Date of Promulgation: N/A

9. Being served at: Headingly in MD. 10 .....

(N.B.- Discharged under RO 1029( ) for
wef)

CONDUCT

11 (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions	N/A		
(ii) Courts-Martial	N/A	- 8 months previous	
(iii) Summary Convictions	N/A	service -	

(b) After Conviction: Good
D.S.C. suspended sentence effective 2 Nov 45.

(c) Date of enlistment - 2[illegible] Nov 42 Present Age: 41

---

12 Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show per any mitigating circumstances.)

(a) Item 10 has been omitted.
(b) Called up 16 Nov 42 under N.R.M.A. and enlisted same date. Assigned to Forestry Corps and on completion of basic was found unsuitable and was posted to Engineers. After 3 mon ths was sent to Cdn Driver & Mech. School at Woodstock. Found it difficult to keep up with the classes and being worried and unsettled absented himself. Never intended to desert and kept putting off reporting to military authorities. Finally gave himself up at Winnipeg while en-route West on harvesting excursion. Could not soldier properly and was unsuitable for everything he had been detailed to do in the army. Schooling 4th Grade. Only experience in civilian life farming.
(c) Sole support of mother who is 80 and lived with her for 20 years prior to enlistment.
(d) D.S.C. suspended sentence on strength of Social Service Officers investigation (folio 29).
(e) Apparently a misfit in the army.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Rev. Offr. etc.)

D.O.C.: Suspended sentence effective 21 Nov 45. Sentence with normal remission would expire 1 Mar 46 and with 30 % remission 12 Jan 46.
Reviewing Officer: Recommend immediate release.

Reviewed by W.A. Moss
W.A. MOSS, Major.

---

14. Recommendation of the Board: Now on suspended sentence. Remit immediately.

Date DEC 18 1945

A. a. Stewart Maj
Secretary
Courts-Martial Board of Review.

34

1

ROYAL CANADIAN SIGNALS
518 Woods Bldg. OTTAWA
NOV 27 1945
Phone
Army Signal Office

VER V VEL NR 9

FROM CMDG TEN WPEG MAN NOV 270940S

TO SECTY DND (ARMY) OTTAWA

GR 66 BT

3439E UNCLASS RELET HQ C 55 B 1958 CMBR DATED 23 NOV 45

~~XXXXXXXXXX~~ RE C 120209 PR BEBEE L J STOP STOP MFM 288

REVIEW SHEET AND FORM OF SUSPENSION OF SENTENCE FORWARDED

PURSUANT TO CARO 5913 PARA 23 FORWARDED NDHQ 24 NOV 45

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.S.O. WOODS
70434

BRANCH	TIME	SIGNATURE

BT CW 271029S B

IIIM

32

IN REPLY PLEASE QUOTE No. W.44-B-7342 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

"AIR MAIL"

Winnipeg, Manitoba,
24th November, 1945.

11455

The Secretary,
Dept. of National Defence (Army),
OTTAWA, Ontario.

SUSPENSION OF SENTENCE
C-120209, Pte. BEBEE, L.J.

Pursuant to C.A.R.O. 5913, para. 23, MFM 288, Review Sheet and form of suspension of sentence in connection with the m/n is enclosed herewith.

2. The District Officer Commanding is absent from the District and these documents are forwarded herewith for the purpose of signature. Before leaving, the District Officer Commanding considered this case and instructed form of suspension to be prepared for his signature.

EAF:vep
enc.

(H.P. Rocke) Lt.-Col.,
T/Commanding, M.D. #10.

31

APPENDIX "C" TO CANADIAN ARMY ROUTINE ORDER No. 5913

REVIEW OF SENTENCE

First review due: 15th October, 1945

Second review due:

Date: 15th October, 1945

File: W.44-B-7342 (J)

1. No. Rank and name. C-120209, Sapper Leonard James BEBEE
2. Unit at Date of Offence. No. 10 District Depot, C.A.
3. At Present on Strength of. Being discharged.
4. Date of Sentence. 1st September, 1945
5. Award. 9 months imprisonment W.H.L. and to be Discharged with ignominy
6. Confirmed Sentence. n/a S.C.M.
7. Being Served at. Headingly Gaol.
8. Offences: 1. DESERTING HIS MAJESTY'S SERVICE.

(a) Present Age. 40 years, 11 months.

9. Previous Conduct. M.F.M. 6 clear.
10. Conduct While Under Sentence.
11. Earliest Date of Release:
12. Recommendation of:

Commanding Officer: 5 Sept 45 There has been no opportunity to assess this soldier as to his ability, character or usefulness as a soldier."

Confirming Officer:

Commandant or Governor:

Staff Officer Preparing Review Sheet:

30

CONFIDENTIAL
SOCIAL SERVICE REPORT
THIS REPORT WILL NOT BE READ OR SHOWN TO THE SOLDIER. THE INFORMATION WILL BE JUDICIOUSLY INTERPRETED TO HIM. SOURCE OF INFORMATION MUST NOT BE DIVULGED.
(AUTH. H. Q. 650-125-5 FD. 6-23 FEB. 45)

T.20-B-20981 (SSO.2)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

SOCIAL SERVICE REPORT
Headquarters M.D. No. 2.

10 Nov 45.

C.120209
BEBEE, L. J.
Spr.

Religion: Prot.

Reason for Referral

This man has been awarded a period of detention and a report on the home circumstances is required, in order to decide upon any remission of sentence.

Family

Mother:	Mrs. Julia Bebee,	aged 80;	no permanent address
Siblings:	Mr. Ira Bebee		Charlton, Ontario
(All	" Louis Bebee		Port Hope "
Married)	" Cecil Bebee		Campbellcroft, Ont.
	Mrs. Ethna Austen		71 Floyd Ave., Toronto
	Mrs. Mollie Guffy		Brighton, Ont.
	Mrs. F. W. Martin		Vancouver, Washington
	Mrs. Frank Lepoidevin		Victoria, B.C.

Home Situation

This man was one of a large family. For some twenty years he worked his own 80 acre farm, which was located a few miles north of Port Hope, Ontario. During this time his widowed mother made her home with him, and her other children married and made homes elsewhere.

Prior to his induction, his barn burned. Being unable to rebuild at once, he bought and fattened cattle. He also went into the extensive growing of peas, and raised a large flock of sheep which fed on the pea straw and the peas were sold to a canning factory. He applied for a deferment at the time of his call-up, but this was refused so he sold the farm and stock at a poor price, and his mother went to live with one and another of her children.

Mrs. Bebee has spent the last four or five months with her daughter, Mrs. Austen. However, now Mrs. Austen's three sons are discharged from the services and are at home and there is no room for Mrs. Bebee, so she is leaving soon to live in Port Hope with either her son Louis, or her 65 year old sister. There appear to be various reasons why it is not convenient for Mrs. Bebee to live with any of her children.

Mrs. Austen was asked why Mrs. Bebee would be better off when the soldier is released, as he would have no financial backing or home to go to. She stated that as the mother had made her only home with the soldier for twenty years, to live with him was all she wanted and Mrs. Austen was confident the soldier felt the same way, and would manage somehow.

H.W. Hedley, Capt.
(H. W. Hedley) Captain
Social Service Officer
Office of the D.S.S.O.
H.Q. M.D.No. 2.

HWH/EW

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC55-B-1958 (JAG/D)
District File No. W.44-B-7342 (J)

PART 1

No. C-120209 Rank Sapper Name Leonard James BEBEE

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 1st September 1945

Charge(s) Desertion

Sentence 9 months imprisonment with hard labour & ignominious discharge

Date of Sentence 1st September, 1945.

Confirmation - (a) Authority N/A S. C. M.

(b) Date

PART 111

~~REMISSION~~
SUSPENSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby ~~remit (commute) (mitigate)~~ (suspend) ~~(put into execution)~~ the sentence of 9 months imprisonment as of the 21st day of November, 1945.

Signed at this day of

(Appointment) (
To be signed by the Competent Authority)
or Superior Military Authority personally.

PART 1V

PROMULGATION

~~Remission (commutation) (mitigation)~~ (suspension) ~~(putting into execution)~~ promulgated and extracts taken at Winnipeg, Manitoba, this day of 194 5

(1)

Officer i/c Documents, No. 10 District Depot Capt. Adj

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No C120209 Rank Sapper Name Leonard James BEBEE

The sentence of 9 months imprisonment with hard labour awarded by ~~District~~ (Standing) Court-Martial on the 1st day of September 1945 has been suspended as of the 21st day of November, 1945, on the 194 5 by

Unit No. 10 District Depot, C.A.

Certified true Extract of Daily Orders Part 11 No. para. dated

Place Winnipeg, Manitoba Date 19 194

Adjutant

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC55-B-1958 (JAG/D)
District File No. W.44-B-7342 (J)

PART 1

No. C-120209 Rank Sapper Name Leonard James BEBEE

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 1st September 1945
Charge(s) Desertion
Sentence 9 months imprisonment with hard labour & ignominious discharge
Date of Sentence 1st September, 1945.
Confirmation - (a) Authority
(b) Date N/A S. C. M.

PART 111

~~REMISSION~~
SUSPENSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby ~~remit (commute) (mitigate)~~ (suspend) ~~(put into execution)~~ the sentence of 9months imprisonment as of the 21st day of November, 1945.

Signed at ..... this ..... day of .....

(Appointment) ( )
To be signed by the Competent Authority
or Superior Military Authority personally.

PART 1V

PROMULGATION

~~Remission (commutation) (mitigation)~~ (suspension) ~~(putting into execution)~~ promulgated and extracts taken at Winnipeg, Manitoba, this ..... day of 194 5 (1)

Officer i/c Documents, Capt. Adj #10 District Depot

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No C120209 Rank Sapper Name Leonard James BEBEE

The sentence of 9 months imprisonment with hard labour awarded by ~~District~~ (Standing) Court-Martial on the 1st day of September 194 5 has been suspended as of the 21st day of November, 1945, on the ..... 194 5 by .....

Unit No. 10 District Depot, C.A.

Certified true Extract of Daily Orders Part 11 of No. para. dated 194

Place Winnipeg, Manitoba Date ..... 1945.

Adjutant ..... Capt.

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC55-B-1958 (JAG/D)
District File No. W.44-B-7342 (J)

PART 1

No. C-120209 Rank Sapper Name Leonard James BEBEE

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 1st September 1945
Charge(s) ~~xx~~ Desertion
Sentence 9 months imprisonment with hard labour & ignominious discharge
Date of Sentence 1st September, 1945.
Confirmation - (a) Authority N/A S. C. M.
(b) Date

PART 111

~~REMISSION~~
SUSPENSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby ~~remit (commute) (mitigate)~~ (suspend) ~~(put into execution)~~ the sentence of 9 months imprisonment as of the 21st day of November, 1945.

Signed at ..... this ..... day of .....

(Appointment) ( )
To be signed by the Competent Authority or Superior Military Authority personally.

PART 1V

PROMULGATION

~~Remission (commutation) (mitigation)~~ (suspension) ~~(putting into execution)~~ promulgated and extracts taken at Winnipeg, Manitoba, this ..... day of 194 5 (1)

Capt. AAJ
Officer i/c Documents, #10 District Depot

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No C120209 Rank Sapper Name Leonard James BEBEE

The sentence of 9 months imprisonment with hard labour awarded by ~~District~~ (Standing) Court-Martial on the 1st day of September 1945 has been suspended as of the 21st day of November, 1945. on the ..... 194 5 by

Unit No. 10 District Depot, C.A.

Certified true Extract of Daily Orders Part 11 ~~xx~~ No. para. dated

Place Winnipeg, Manitoba Date ..... 1945.

Adjutant ..... Capt.

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQ55-B-1958 (JAG/D)
District File No. W.44-B-7342 (J)

PART 1

No. C-120209 Rank Sapper Name Leonard James BEBEE

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 1st September 1945

Charge(s) ~~xx~~ Desertion

Sentence 9 months imprisonment with hard labour & ignominious discharge

Date of Sentence 1st September, 1945.

Confirmation - (a) Authority

(b) Date N/A S. C. M.

PART 111

~~XXXXXXXXX~~
SUSPENSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby ~~remit (commute)(mitigate)~~ (suspend) ~~(put into execution)~~ the sentence of 9months imprisonment as of the 21st day of November, 1945.

Signed at ..... this ..... day of .....

(Appointment) (
To be signed by the Competent Authority)
or Superior Military Authority personally.

PART 1V

PROMULGATION

~~Remission(commutation)(mitigation)~~(suspension)~~(putting into execution~~) promulgated and extracts taken at Winnipeg, Manitoba, this ..... day of 194 5

(1)

Officer i/c Documents, #10 District Depot Capt. Adj

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No C120209 Rank Sapper Name Leonard James BEBEE

The sentence of 9 months imprisonment with hard labour awarded by ~~District~~ (Standing) Court-Martial on the 1st day of September 1945 has been suspended as of the 21st day of November, 1945, on the ..... 194 5 by .....

Unit No. 10 District Depot, C.A.

Certified true Extract of Daily Orders Part 11 ~~xx~~ No. para. dated

Place Winnipeg, Manitoba Date .....

Adjutant .....

MFM 288 or AFA 3104 have been requested 23 Nov 45

H.Q.C. 55-B-1956 (JAG/D-5)

24 Sep 45

DOC
MD 10
WINNIPEG

Standing
C-120209, Pte. BERRY, L.J.
Court-Martial

W.44-B-7342 (J)

21 September 5
Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for Standing the proceedings
of the marginally noted Court-Martial.

EAM
for (R.J. Orde) Brigadier,
Judge Advocate-General.

21

IN REPLY PLEASE

No. W.44-B-7342 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

343345 Winnipeg, Manitoba, 21st Sept. 1945

CENTRAL REGISTRY
SEP 24 1945
File 55-B-1958
Chgs. to
Referred to JAG

Judge Advocate-General,
Dept. of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
C-120209, Pte. BEBEE, L.J.

Reference H.Q.C.55-B-1958 (JAG/D-7) dated 18th September, 1945.

2. The proceedings of the marginally-noted Standing Court-Martial, having been reviewed, are returned herewith for custody.

(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
M.D. No. 10.

vep
encs.

20

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

on the 1st day of SEPTEMBER 1945 at 1200 hours,

for the trial of: No. C-120209 Sapper Leonard James HEBEE
Number Rank Full Name

No. 10 District Depot, C.A.,
Unit Attachment, if any

PRESIDENT: Major W. H. August, District Headquarters, M.D. No. 10.

PROSECUTOR: Captain D. R. Chapman, District Headquarters, M.D. No. 10.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ DEFENDING OFFICER: Captain C. Sandhurst, No. 10 District Depot, C.A.,
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, No. C-120209 Sapper Leonard James HEBEE, No. 10 District Depot, C.A., is Guilty of the charge.

W.H.A.

SENTENCE: The Court sentence the accused, No. C-120209 Sapper Leonard James HEBEE, No. 10 District Depot, C.A., to be imprisoned with hard labour for nine (9) months, and to be discharged with ignominy from His Majesty's service.

W.H.A.

19

Signed at Winnipeg, Manitoba, this 1st day of SEPTEMBER 1945.

W. H. August Major
President, Standing Court-Martial.

Extracts entered as No. 39676 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General (W. H. August) Major this 11 day of Sept 1945

M.F.B. 1486
25M-6-44 (4886)
H.Q. 1772-39-9886

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~Question to the interpreter~~ ~~Do you object to as interpreter~~

~~Answer~~

Question to the accused. Do you object to No. H-35618 S.M.(A/W.O.I) A. C. Bryant, District Headquarters, M.D. No. 10, acting as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter~~ is ~~are~~ duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial? ~~or a General Court-Martial~~

Answer: No, Sir, no election.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

CHARGE SHEET Bradford Major
President S. C. M.

15

CHARGE:
Sec. 12(1)(a)
Army Act.

The accused, No. C-120 209 Sapper Leonard James HEBEE, No. 10 District Depot, C.A., a G.S. soldier of the Canadian Army, placed on Active Service, is charged with:

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

- in that he -

at Woodstock, Ontario, at 0610 hours on the 12th day of July, 1943, absented himself from the S-5, Canadian Driver and Mechanic School, C.A. until he surrendered to the Military Authorities, in Winnipeg, Manitoba, at 1300 hours on the 18th day of August, 1945, dressed in civilian clothes.

Winnipeg, Manitoba,
31st August, 1945

D R Chapman

(D.R.Chapman), Captain,
Prosecutor, Courts-Martial,
Military District No. 10, C.A.

W.T.G.

17

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

By the Prosecutor: Sir, the evidence in this case is documentary, and is presented under the authority mentioned in Routine Order 5126. There are two documents, namely, M.F.B. 375 and M.F.M. 216, and both these documents relate to the accused.

M.F.B. 375 is read, marked "F", signed by the President, and attached to the proceedings.

M.F.M. 216 is read, marked "G", signed by the President, and attached to the proceedings.

16

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. ~~By Defending Officer: He wishes to submit a written~~ unsworn statement, Sir. (See Page "H" attached).

Question to the accused. Do you intend to call any witness in your defence?

Answer. ~~By Defending Officer: No witnesses, Sir.~~

Defending Officer makes a closing address.

The Prosecutor makes a closing address.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. .....

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

WRB

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.
(Defending Officer speaks on behalf of the accused -- See Page "I" attached).

WRB

14

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"D." Drawand 13

President S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Woodstock, Ontario on the 5th day of August 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C.120209 Spr. BEBEE, Leonard James -A-5 C.E.T.C. Petawawa, Ontario Attached to S-5 C.D.&M School Woodstock, Ontario

DECLARATION

The Court declare that No. C.120209 (Reg'l No.) Sapper (Rank) BEBEE, Leonard James (Full Name) A-5 C.E.T.C. Attached to S-5 Cdn D.& M School (Unit) illegally absented himself without leave from S-5 Cdn D.& M School at Woodstock (Place) at 0610 hours on the 12th day of July 1943, that he is still so absent, and that on the 4th Aug 43 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE No.	VALUE	ARTICLES	VALUE No.	VALUE
Clo. Div. "B"			Clo. Div. "D"		
Belt, waist, brown leather	1	37	Badges, Shldr. wstd. (Coloured R.C.E. prs)	1	05
Brushes, tooth	1	09	Badges, arm, "Can"	1	04
Pins, collar, safety	1	06	Buttons, G.S.large	4	04
Socks, black, prs	2	54	Buttons G.S small	4	04

Total Charges $1.23

President
(Name) (Rank) (Unit)
E. HARSHAM, Lieut., S-5 C.D.&M. S.

Member
(Name) (Rank) (Unit)
W.L. IRELAND Lieut., S-5 C.D.& M.S.

Member
(Name) (Rank) (Unit)
C.L. ULLRICH 2/Lieut. S-5 C.D.&.M.S.

Signed at Woodstock, Ontario (Place) this 5th day of Aug 1943

Signature of Commanding Officer
(Name) (Rank) (Unit)
R. Bland Crouch Col. S-5 C.D. & M.S.

Certified true copy
(Name) (Rank) (Unit)
Lieut. S-5 C.D. & M.S.
Assistant Adjutant (Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
200M—1-44 (5576)
H.Q. 1772-29-267

13

"G." Woodward Major
President, S. C. M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major E.K. Carter, (Number) (Rank) Officer Commanding, No. 40 Coy. Cdn. Provost Corps, (Name) (Unit)

hereby certify that C-120209 (Number) Sapper (Rank) BEBEE Leonard James (Name in full)

of the A-5 C.E.T.C., (Attached S-5) (Unit and attachment, if any) Woodstock, Ontario.

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) H-36825 (Number) Sergeant (Rank)

BROWN, W.J. (Name) No. 40 Coy. Cdn. Provost Corps. (Unit or appointment)

at 283 Stanley Street, Winnipeg, Man. (Place) at 1300 (Hour)

on the 18th day of August 1945

Strike out words not applicable } as a deserter (~~or absentee without leave~~), and that at the time of his ~~arrest~~ surrender he was ~~running away with my uniform or equipment~~ dressed in civilian clothes).

Dated at Winnipeg, Manitoba this 20th day of August 19 45

Major
(Signature, Number, Rank, Unit or appointment)
(E.K. Carter) Officer Commanding,
No. 40 Coy. Cdn. Provost Corps, CA

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

12

Statement "H" Deserter 17

President S. C. M. MD.

L120209 Spr. Leonard James Behee R.C.E.

No 10 District Depot C.A.

1. I am a soldier of the Canadian Army having been called up 16 Nov 41 under NRMA and enlisting same date for active service

2. I was assigned to the Forestry Corps and was sent to Brampton for my basic training. This I completed and being found unsuitable for the Forestry Corps was posted to Engineers.

3. I was sent to Petawawa 10 March 43 and some training was attached to the Adv. Driving & Maintenance School at Woodstock 17 June 43 for adv. training in Driving and Maintenance

4. While there I found it difficult to keep up with the classes and being worried and unsettled absented myself.

5. It was not my intention to desert, I worked at farming and kept putting off reporting to the military authorities. This I did on 18 August 43 at Winnipeg whilst enroute West for harvesting.

6. My age is 41, my mother is dependent upon me and, in my own mind I could not soldier. I was unsuitable for everything I had been detailed to in the army

Due to the location of my home and family circumstances as a boy I was unable to attend school above the fourth grade. My experience in civilian life consisted wholly of general farming with very little mechanical or machinery work.

Leonard Bebee

1 Sept '43

Statement taken by
Capt C. Sandstrock R.C.Sigs
Defending officer

10

21

M.F.B. 355
H.Q. 1772-39-620
10M-8-40 (M19)

"Y" Wing ..... Major
President, S. C. M.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-120 209	Sapper	Leonard James BEBEE	No. 10 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct~~ sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	nil	times	nil	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 14 days in military custody, making a total of 14 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 41 years 5 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 16th November, 1942

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. State any ~~air force~~ military decoration or reward. nil

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

9

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

W Throp Capt. & Adj.
(W. Throp)
No. 10 District Depot, C.A.

Signed this 1st day of September, 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y signed by the president, and annexed to the proceedings.

W Hodgson Major
President, S. C. M.

No. 3 "A" DISTRICT DEPOT

Date of Birth

Reg. No. C-120209 Name BEBKE, Leonard James Corps C.F.C. Date of enlistment or enrolment 16-11-42 Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc. Signature illegible.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Entried Nil 8-2-43					
	MAR 9	1943		NIL		Signature Illegible.			
				CERTIFIED TRUE COPY Capt. & Adj. (W. Throp) Officer i/c Records No. 10 District Depot, C.A.					

(P.T.O.)

1

I W Howard Major
President, S.C.M.

DEFENDING OFFICER'S STATEMENT IN MITIGATION

Sir, the man obviously was a misfit in the Army. His educational standard was very low, and I would ask that the Court consider that angle.

7

PRECIS OF EVIDENCE

C-120 209 Sapper Leonard James BEBEE, No. 10 District Depot, C.A., a G.S. soldier of the Canadian Army, placed on Active Service.

CHARGE: DESERTION.

TO PROVE THE CHARGE: the following evidence is available.

Documentary: M.F.B. 375

M.F.M. 216

NOTICE

TAKE NOTICE: that I propose to present C-120 209 Sapper Leonard James BEBEE, No. 10 District Depot, C.A., a G.S. of the Canadian Army, placed on Active Service, the accused, for trial by Standing Court-Martial, at 1015 hours, Monday, the 1st day of September, 1945, in Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

Winnipeg, Manitoba,
31st August, 1945

(A. Thomson) Lieut. Colonel
Commanding Officer,
No. 10 District Depot, C.A.

6

TRIAL OF:

C-120 209 Sapper Leonard James BEBEE
No.10 District Depot, C.A.

I, C-120 209 Sapper Leonard James BEBEE
No.10 District Depot, C.A., desire ~~to not desire~~
an Officer assigned to defend me at my trial by Court-
Martial.

Leonard James Bebee

Winnipeg, Manitoba,
31 August 1945

5

MEDICAL OFFICER'S REPORT

I certify that No. C-120209 Pte. Bebee, L.J.

of No. 10 District Depot, C.A. is in a good state of health,

and fit to undergo Trial by Court Martial.

Medical Officer
No. 10 D.D., C.A.

Station Winnipeg, Manitoba.

Date 1 Sep 45

M. F. B. 246
35M—2-43 (8525)
H.Q. 1772-39-490

4

H.Q.C.55-B-1958 (JAG/D-7)
Your W. 44-B-7342 (J)

18 Sep 45

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

STANDING COURT-MARTIAL

C.120209 Spr. Leonard James Bebee,
No. 10 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

3

THIS COPY FOR: H.Q. 55-B-1958
M.D. N.44-B-7342

GS

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

C-120209 Name BERRY, Leonard James

Rank Spr Unit No 10 DD CA

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 12-7-43

Date of Arrest 18-8-45. Charge Signed 31-8-45.

Orders for D.C.M.

Place and Date of Trial Bldg 15, Ft Osborne Bks, Winn, Man; 1-9-45.

Sentence Imprisonment WHL 9 mos; discharge with ignominy

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39678

Date 15-9-45.

MEMO balance of sentence remitted by Conf. Auth. 21-11-45
MD 1 0 - No 10 DD CA

Absent	Sentence
2 yrs 1½ mos;	Imprisonment WHL 9 mos; discharge with ignominy.

2.

R. J. Ryan Capt.
for Judge Advocate-General

10M-8-45(M-189)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

W.44-B-7342 (J)

Winnipeg, Manitoba
8th September, 1945.

Judge Advocate-General
Department of National Defence (Army)
OTTAWA, Ontario.

C.55-B-1958

STANDING COURT-MARTIAL

No. C-120209 Spr. BEBEE, L.J.
No. 10 District Depot, C.A.,

Herewith for review, are the proceedings of the marginally-noted Standing Court-Martial.

ACB.
Enc.

Major
President
Standing Court-Martial

39676.

1.

H.Q.C. 55-B-1959 CONFIDENTIAL

N.F.B. 1070
25M—2-45 (6000)
H.Q. 341-1-57

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BERTHELETTE, AUGUSTE K-43831 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")	INITIALS	DATE
SEP 2 4 1945	[illegible]	[illegible]		JAG	NEW FILE	CR	14-9-45
OCT 1 2 1945	11-10-45	P.A.	M.M.	[illegible]	With Papers C.P. OCT 8 - 1945		

CONFIDENTIAL
H.Q.C. 55-B-1959

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1059 (JAG/D-8)

11 Oct 45

General Officer Commanding-in-Chief,
Pacific Command,
Vancouver, B.C.

Standing Court-Martial
H434381 Pte. Berthelette, A

Receipt is acknowledged of your 22-B-5384 dated 1 October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

EAM

for (R.J.Orde) Brigadier,
Judge Advocate-General.

/ET

IN REPLY PLEASE QUOTE

No. 22-B-5684

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters Pacific Command
Vancouver, B C, 1 Oct 45 194

CENTRAL REGISTRY Army
1712
OCT 7 1945
File QSJ-B-1959
Chgd. to
Referred to JAG

Judge Advocate General,
National Defence Headquarters,
O t t a w a, Ontario

Standing Court-Martial
H43481 Pte Berthelette, A

Reference your HQC 55-B-1959 (JAG/D-S) d/ 24 Sep 45.

1 The proceedings in the m/n case are returned herewith.

(~~E P Worthington~~) Major-General,
GOC-in-C Pacific Command

Encls.

A

PROCEEDINGS of a Standing Court Martial held at Headquarters No. XI District Depot, CA. Vancouver, BC. on the 4th. day of September, 1945 at 1545 hours, for the trial of:

H.43831 Pte. Auguste BERTHELETTE, No. XI District Depot, CA.

President: Major A.M.GRIMMETT, MC.
Headquarters Pacific Command

Prosecutor: Captain William John KIRBY,
Headquarters Pacific Command.

Defending Officer: Lieut. Mirl Daniel CHAFFEE
No. XI. District Depot, CA.

FINDING: The Court find that the accused is NOT GUILTY of Desertion but GUILTY of Absence without leave on the charge.

SENTENCE: The Court sentence the accused to UNDERGO DETENTION for NINETY (90) DAYS.

SIGNED at Vancouver, BC. this 4th. day of September, 1945.

A.M. Grimmett

(A.M.GRIMMETT) Major
President Standing Court Martial.

Extracts entered as No. 39677 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 15 day of Sep 1945

Question to accused:

Q Do you object to be tried by me as President of the Court ?

A No, sir.

Q Do you object to D.24030 S/Sgt. (A/CSM.WO2) J.H.SPENCE, Headquarters Pacific Command as shorthand writer ?

A No, sir.

The shorthand writer is duly sworn.

Question to Prosecutor:

Q Has the accused elected to be tried by standing court martial ?

A No, sir, remanded.

THE ACCUSED IS ARRAIGNED UPON THE CHARGE IN THE CHARGE SHEET MARKED B2 AND ANNEXED THE PROCEEDINGS AFTER HAVING BEEN SIGNED BY THE PRESIDENT.

Question to accused:

Q Is that your number, rank, name and unit ?

A Yes, sir.

Q Are you guilty or not guilty of the charge against you, which youhave heard read ?

A NOT GUILTY, sir.

"B-2"

(A M Grimmett) Major
President, S C M

CHARGE SHEET

The accused, H43831 Pte. Auguste BERTHELETTE, of No. 11 District Depot, C.A., a G.S. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE
Sec 12(1)(a)
NDA ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Vancouver, B.C., at 0830 hours on the 5th day of May 1945, absented himself without leave from No. XI District Depot, C.A. and remained so absent until apprehended by Service Authorities at Vancouver, B.C. at 0940 hours on the 30th day of August, 1945 dressed in civilian clothes.

Vancouver, B.C.
31 August, 1945

(J.Neish) Colonel,
Commanding,
No. 11 District Depot, C.A.

PROCEEDINGS ON A PLEA OF NOT GUILTY

Question to the accused:

Q Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby on on the ground that you have not had sufficient opportunity for preparing your defence?

A No, sir.

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS:

THE PROSECUTOR PROCEEDS TO CALL WITNESSES:

First Witness for Prosecution:

K49314, Tpr Mindle, C C, No 11 District Depot, CA, having been first duly sworn, is examined:

BY THE PROSECUTOR:

Q Will you state your particulars to the Court, please?

A I am K49314, Tpr Mindle, C C, No 11 District Depot, CA, I am employed in the Legal Office and part of my duties is the preparation of documentary evidence for use at Courts-Martial.

Q I produce a document for identification?

A This is MFB 375, dated 28 May 45, signed at Vancouver, B C, relating to the accused, Pte Berthelemette, A.

(The defence does not object to the document, which is read, is marked "F", signed by the President, and annexed to the proceedings.)

Q I produce another document, what is this?

A MFM 216, dated 30 Aug 45, at Vancouver, B C, relating to the accused, Pte Berthelemette, A.

(The defence does not object to the document, which is read, is marked "G", signed by the President, and annexed to the proceedings.)

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THE WITNESS

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call
The Prosecution is closed

DEFENCE

THE PRESIDENT INFORMS THE ACCUSED AS TO HIS RIGHTS IN THE GENERAL CONDUCT OF HIS DEFENCE.

Question to the accused:

Q Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?
A On oath.

Q Do you intend to call any other witness in your defence?
A No, sir.

First Witness for Defence:

H43831, Pte Auguste Berthelemette, No 11 District Depot, CA, having been first duly sworn, is examined:

BY THE DEFENDING OFFICER:

Q What date did you join the army?
A I was called up on 31 Jul 41.

Q That was in Portage la Prairie?
A Yes.

Q You took basic training there?
A Yes.

Q And then moved to Shilo Camp?
A Yes.

Q Now, since 1943 I believe you have been posted a number of times?
A Yes.

Q Will you tell the Court in your own words how many times you have moved, the places you moved to, and the approximate dates thereof?
A When I left Yorke Island it was in January and I was sent back to Little Mountain and then I went to Port Atkinson, as cook helper, and then from over there they sent me to Ferry Command Post about 4 miles this side of Point Atkinson and then, after, I was sent back to Little Mountain again, I couldn't remember the exact date. After I was sent back from there in March, to Courtenay , B C, and I was sent back here a few months after that.

Q In other words during the past two years you have been posted and re-posted every few months?
A Yes, sir.

Q Why did you leave camp, tell the Court in your own words?
A The reason is I have a disease on me, sweating and it causes a big odour, an awful stink, and everybody was complaining about that and that is why, really, I left the camp, and I asked the Doctors last January-- I was at Vancouver Barracks-- and I asked him what they could do for me, and they sent me to the drug store and I got a bottle of stuff, and they told me "you can go to the drug store and get some more," and all that stuff, and I was told off by all the boys in the camp, and every second month, about then, they used to send me away from there to another place, and when I was sent back again from Courtenay last time on May 4th, I was sent back to Little Mountain here, so that is why I went AWL.

Q Now, during the time you were AWL did you at any time return to camp?
A Yes, I did.

Q And how were you dressed?
A I was dressed in the army clothes, properly dressed.

Q What was in your mind, or what were you thinking about when you returned to camp?
A It really was in my mind, and I started to realize I did wrong in going away, and I didn't know what to do, and I just went up there and talked to the boys. I wanted to make a change out of it, and I had been paraded to the Padres and I told them my story but they never did anything to help me and every time I came back to the camp, I always came properly dressed, and with the intention that if they would have stopped me I would have given myself up.

Q Did you ever notice this excess sweating prior to joining the army?
A That happened in 1938 while I was working on the night shift making highways with tar and everything and I was working pretty steady on that job at night, and since that time it became worse and worse all the time.

CROSS-EXAMINED BY THE PROSECUTOR:

Q Did you absent yourself without leave from No 11 District Depot, at Vancouver, B C, at 0830 hours 5 May 45?
A Yes, sir.

Q And did you remain so absent until arrested by Service Authorities at Vancouver at 0940 hours on 30 Aug 45?
A Yes, sir.

Q Dressed in civilian clothes?
A Yes,sir.

Q Now you said you came back here to camp once during that time?
A Yes.

Q Did you report to anybody here?
A No, I never did, but not only one time, I used to come and see some of my chums, I used to pass right in front of that little guardhouse by the road. I used to pass there every Sunday.

Q And why didn't you report to some officer?
A I didn't know what to do, really, you see the position I was in with that disease, but I said if they stopped me and asked me, I would give myself up right away.

Q What kind of a job did you have?
A All kinds of different work.

Q Did you wear your uniform while you were working?
A Yes, I used to wear my uniform a while, and then I was scared to spoil it and I used to wear some coveralls.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THE WITNESS

THE WITNESS RESUMESHIS SEAT AS THE ACCUSED.

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS

THE DEFENDING OFFICER DECLINES TO MAKE A CLOSING ADDRESS

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Prosecutor tenders to the Court MFB 355 and MFM 6 These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President, and annexed to the proceedings.

Question to the accused:

Q Have you any statement to make concerning the documents which have just been read to you?
A No, sir.

Q Do you wish to address the Court?
A Yes, through my defending officer:

THE DEFENDING OFFICER:

It appears by these postings and cross-postings in the case of the accused that he has been shoved about from one camp to another, never spending more than two months period in any one camp. This state alone is enough to cause dissatisfaction and neurosis in the mind of the accused and coupled with this drastic ailment and excess sweating which gives off body odours, has made life practically unbearable in the company of strange soldiers in barrack-room life. As he has sworn, he has seen many doctors, trying to get this thing remedied, and has been bandied about, not only by Commanding Officers in being posted and cross-posted, but by his fellow soldiers as well, due to his ailment. I think these two conditions could cause an inferiority complex and heap burdens upon an already unhappy and distressed man, and could cause the accused to take things in his own hands and place himself outside the army, and make him think he could stay away awhile and possibly do himself some good and get rid of this disease and retain some personal prestige and the fact that he is a man among men.

THE SENTENCE HAVING BEEN RECORDED IT IS ANNOUNCED TO THE ACCUSED

"F"

RECORD of the Declaration of a Court of Inquiry assembled at Vancouver, B.C. on the 28th day of May 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H43831 Pte. BERTHELETTE, A. No. XI District Depot C.A.

(A M CRIMMETT) MAJOR
President, S C M

DECLARATION

The Court declare that No. H43831 (Regt'l No.) BERTHELETTE Auguste (Full Name) Private (Rank) No. XI District Depot C.A. (Unit) illegally absented himself without leave from No. XI District Depot C.A. at Vancouver BC (Place) at 0830 hours on the 5th day of May 1945, that he is still so absent, and that on the 5th May 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE

Signed at Vancouver, B.C. this 28th day of May 19 45

J.J. Law Capt. No. XI DD CA (Name) (Rank) (Unit) President

(Name) (Rank) (Unit) Member

(Name) (Rank) (Unit) Member

Signature of Commanding Officer J.H.Cave Lt-Col. A/O.C. No. XI DD CA (Name) (Rank) (Unit)

Certified true copy (Name) Capt.&Adjt. No. XI DD CA (Rank) (Unit)
(Signature of Officer having custody of original record)

Officer i/c Records,
No. XI District Depot C.A.

M.F.B. 375
A.F.B. 115
150M—10-43 (8530)
H.Q. 1772-39-257

"C"

(A M Grimmett) ~~Major~~
President, S C M

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY ~~OR SURRENDER TO~~ SERVICE AUTHORITIES)

I, Major F.T.MacDonald Lake. O.C. No.41 Provost Company, Canadian Provost Corps. C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that H-43831. Pte.BERTHELETTE. Auguste.
(Number) (Rank) (Name in full)

of the No.X1 District Depot. C.A.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~(surrendered to)~~ K-70256. Sgt.Bain.W.C.
(Number) (Rank)

No.41 Provost Company, Canadian Provost Corps. C.A.
(Name) (Unit or appointment)

at Vancouver. B.C. (Place) at 0940 hours. (Hour)

on the 30th day of August 19 45

Strike out words not applicable } as a deserter ~~(or absence without leave)~~, and that at the time of his arrest he was ~~wearing military (air force) uniform~~ (dressed in civilian clothes).

Dated at Vancouver. B.C. this 30th day of August 19 45.

F.T.MacDonald Lake. Major.
(F.T.MacDonald Lake.)
(Signature, Number, Rank, Unit or appointment)
O.C. No.41 Provost Company.
Canadian Provost Corps. C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6908)
H.Q. 1772-39-1936

"Y"

(A M Grimmett) Maj
President, S C M

M.F.D. 355
50M—9-43 (2992)
H.Q. 1772-39-620
A.F.D. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
H-43831	Pte	Auguste BERTHELETTE	NO.XI DD CA

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	Sec.15(1) A.A.	2 times
For		times	Sec.15(2) A.A.	1 times
For		times	Sec.19 A.A.	1 times
For		times	Sec.40 A.A.	1 times

~~Number of instances of gallantry or distinguished conduct~~

~~—or,~~

There are no entries in the conduct sheets of the accused.

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~—or,~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~—or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 5 days in ~~Air Force~~ military custody, making a total of 5 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 25 yrs 7 mos

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 4 April 45
enrolment enrolment 31 July 44

~~7. The service which the accused is allowed to reckon towards discharge is~~

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the ~~regimental~~ Air Force rank of .....

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of Sep 45. Malcolm Capt., Adjt., Officer i/c Records, No.11 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. XI DISTRICT DEPOT C. A.

Date of Birth 7 Feb 20

Reg. No. H.43831 Name BERTHELETTE, Auguste Corps CIC

Date of enlistment or enrolment 31 Jul 41

Sheet No. One of *1, 2, 3, 4, 5

Signature O.C. Company, etc. Sheet Destroyed 31 Jul 43

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
York Island BC	26Jan 44	Pte.		AA Sec 40 Conduct to the prejudice, etc. Engaging in a fight	Gnr. Smith	3 dys pay 149(2)	29Jan 44	Capt.Oswell	
Harrison BC	27Aug 43	"		AA Sec 15(2) Failing to appear at a place of parade	Capt.Townsley	5 dys CB 5 dys pay 149(2)	28Aug43	Major HC Davies	
York Island BC	29Dec 43	"		AASec 15(1) AWL 1600 29Dec43 to 1000 5Jan45(Abs:6dy 18hrs)	Documentary	Forf 21 dys pay 149 (2)	8Jan44	Capt.Oswell	Forf 7 dys pay FR&I 149(1)(a)
Courtenay BC	18Apr 44	"		AA Sec 19 DRUNKENESS	L/Cpl Farrelly	14dys CB	19Apr44	Lt-Col CH Cook	

(P.T.O.)

M.F.M.A.-8000M--9-44 (5867)
H.Q. 1773-99-1002

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Vancouver BC	1Jul 42	Pte.		AA Sec 15(1) AWL 1200 1Jul42 to 0900 11Jul42 (Abs:9dy 21hrs)	Documentary	Forf 10 dys pay 149(2)	11Jul42		Forf 10 dy pay FR&I 149(1)(a)
	"Z"								

(A M Grimmett) Major
President, S C M

CERTIFIED TRUE COPY:
Capt.&Adjt.
Officer i/c Records,
No. XI District Depot CA

MEDICAL OFFICER'S REPORT

I certify that No. H-43831 Pte Auguste BERTHELETTE

of NO XI DD CA is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

M. Chilvin Capt. (R.A.M.C.)
Medical Officer
NO XI DISTRICT DEPOT C.A.

Station VANCOUVER B.C.

Date 4 SEPTEMBER 1945

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

H.Q.C.55-B-1959 (JAG/D-8)
Your 22-B-5684

24 Sept 45

The General Officer Commanding-in-Chief,
Pacific Command, Vancouver, B.C.

STANDING COURT-MARTIAL

H. 43831 Pte. Auguste Berthelette,
No. 11 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate General.

MO/MM

THIS COPY FOR; H.Q.C.55-B-1959
M.D. 22-B-5684

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. H.43831 Name BERTHELETTE, Auguste

Rank Pte Unit No 11 DD CA

Charge AA 12(1)(a) WOAS , Desertion...

Date of Crime 5-5-45

Date of Arrest 30-8-45. Charge Signed 31-8-45

Orders for D.C.M.

Place and Date of Trial ~~No 11 DD CA~~ HQ No 11 DD CA; 4-9-45.

Sentence Det 90 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39677

Date 15-9-45.

MEMO Guilty AWL

Pacific Comd - No 11 DD CA

Absent	Sentence
3½ mos;	det 90 days.

W Bean, Capt
for Judge Advocate-General

10M-9-45(M-189)

22-C-7124; 22-B-8961;
22-C-6549; 22-B-5684

Headquarters Pacific Command
Vancouver Barracks,
Vancouver, BC.
11th. September, 5.

C.55-B-1959

JUDGE ADVOCATE GENERAL
National Defence Headquarters
OTTAWA, ONTARIO.

STANDING COURTS-MARTIAL

[illegible]1600 Pte. CADDELL, R.D.
[illegible]602653 Pte. SPETCH, R.H.
[illegible]607320 Pte. CASTAGNER, J.P.
[illegible]43831 Pte. BERTHELETTE, A.
[illegible] XI District Depot.

1. Pursuant to CANO. 4565 herewith proceedings in the m/a courts-martial.

encl;
airmail.

(A.M.GRIMMETT) Major.
President Standing Courts/Martial.

39677

H.Q.C. 55-B-1960 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BILENKY, MICHAEL H-617060 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 9 1945				JAG	NEW FILE	CR	14-9-45
				JAG	With Papers C.R. SEP 23 1945		
SEP 25 1945				admin	See note overleaf	EKM	24-9-45
SEP 28 1945	15/9/45			CMBR	as above		26/9/45
				CMBR	With Papers C.R. NOV 23 1945		
JAN 7 1946					Recommendation		DEC 20 1945
					With Papers C.R. JAN 23 1946		
JAN 26 1946							
JAN 24 1946	6-2-46			admin	—		30/1/46
FEB 1 1946	12-2-46			admin	With Papers C.R. FEB 1 1946		
				JAG	With Papers C.R. MAR 14 1946		
MAR 15 1946	16.3.46			admin	Letter Permission Also		15/3/46
AUG 30 1946	31/8/46			DAS.	PRB With Papers C.R. AUG 30 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-1960 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE
- Army -

10/H617060 (J)

Winnipeg, Manitoba,
~~11th March 1946.~~

CENTRAL REGISTRY ARMY
CD 46 F SEC
11051
AUG 23 1960
Original to
Referred to

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE
H-617060 Pte Michael BILENSKY,
No. 10 District Depot.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally named, duly completed in accordance with C.R.A.O. 5974. MFM 288 is also enclosed.

(R.C.F. Morton) Brigadier
District Officer Commanding
Military District No. 10.

APPENDIX 'C' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC55-R-1960
District File No. DHQ10.H-617060(J)

PART 1

No. H-617060 Rank Private Name Michael BILENSKY

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 6th September 1945
Charge(s) Desertion
Sentence One year imprisonment with hard labour
Date of Sentence 6th September 1945
Confirmation - (a) Authority N/A
(b) Date

PART 111

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit ~~(commute) (mitigate) (suspend) (put into execution)~~ the balance of the sentence of imprisonment with hard labour effective the 5th day of March 1946.

Signed at Winnipeg, Man this 22 day of February 1946

R.O.G. Morton Brigadier, D.O.C. M.D. No. 10.
(R.O.G. Morton)
(Appointment)
To be signed by the Competent Authority or Superior Military Authority personally.

PART 1V

PROMULGATION

Remission ~~(commutation) (mitigation) (suspension) (putting into execution)~~ promulgated and extracts taken at Winnipeg, Manitoba this 8 day of ~~February~~ Mar, 1946 (1)

Capt Adjt
Officer i/c Documents
No. 10 District Depot

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No H-617060 Rank Private Name Michael BILENSKY

The sentence of One year imprisonment with hard labour awarded by ~~District~~ (Standing) Court-Martial on the 6th day of September 1945 has been remitted effective the 5th day of March 1946, on the 22 day of February 1946 by Brigadier R.O.G. Morton, D.O.C. M.D. 10.

Unit No. 10 District Depot, C.A.

Certified true Extract of Daily Orders Part 11 No. 58 para 29(a) d/8 ~~Mar~~ Mar ~~Mar~~ 46

Place Winnipeg, Manitoba Date 8 ~~Mar~~ 46

Adjutant No. 10 District Depot, C.A.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of H-617 060 (Number) Private (Rank) Michael BILENSKY (Name in full)

Sentenced to be imprisoned with hard labour for 1 year and to be discharged with ignominy from His Majesty's Service.

on 6th September, 1945 at Winnipeg, Manitoba.

being served at Headingly Gaol, Headingly, Manitoba. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years 9 months 20 December, 1943

Medical grade or category YOB PULHEMS 14 1 1 1 1 1 1

FIRST TRIAL—PART II

To ..... Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place ..... Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (be suspended) (be put into execution) (of which I remit .....) (and) be reviewed on .....

Place ..... Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... Superior Military Authority

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place ..... Confirming Authority

Date .....

M.F.M. 289
(Army Form A-104)
G.M.—2-45 (1500)
H.Q. 1772-39-1943

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

Date.....

Superior Military Authority

Part VI

ACTION ON REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
22 Feb 46	Sentence remitted effective 5 Mar 46	(R.O.G. Morton) Brigadier, District Officer Commanding, Military District No. 10.	

All recommendations, etc., considered upon review, should be pasted here.

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE: Sec. 12(1)(a) Army Act. WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE: in that he at Debert, Nova Scotia, at 2200 hrs on the 1st January, 1945 absented himself from the Prince Edward Island Highlanders, C.A. until he was apprehended by the Military Authorities, in Winnipeg, Manitoba, at 1600 hrs on the 27th August, 1945, dressed in civilian clothes. (A. Thomson) Lieut.Colonel Commanding Officer, No. 10 District Depot, C.A.	1 Jan 45	6 Sep 45.

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
11th September, 1945	There has been no opportunity to assess this man's ability, character, or usefulness as a soldier. (A. Thomson) Lieut.Colonel Commanding Officer, No. 10 District Depot, C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Part XII

REMARKS AND RECOMMENDATIONS OF C.O. ON SECOND TRIAL

Date	—	Signature

Part XIII

REMARKS AND RECOMMENDATIONS OF CONFIRMING OFFICER ON SECOND TRIAL

Date	—	Signature

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

Part I

Case of H-617 060 (Number) Private (Rank) Michael BILENSKY (Name in full)

No. 10 District Depot, C.A.

be imprisoned with hard labour for 1 year and to be discharged with ignominy from His Majesty's Service.

Sentenced to

on 6th September, 1945 at Winnipeg, Manitoba.

being served at Headingly Gaol, Headingly, Manitoba. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years 9 months 20 December, 1943

YOB P U L H E M S

Medical grade or category 14 1 1 1 1 1 1 1

First Trial—Part II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority

Part III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... Superior Military Authority

(For action on review, see Part VI)

Second Trial—Part IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to .....

to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority

M.F.M. 268
(Army Form A-2104)
20M—6-43 (1499)
H.Q. 1773-39-2015

IN REPLY PLEASE QUOTE No.

DHQ10-H-617060 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Winnipeg, Manitoba,
29th January, 1946.

CANADA
5037
JAN 31 1946
Admin

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

H.617060 Pte. BILENKY, M.

Reference your H.Q.C. 55-B-1960 Adm. 3(b)3 dated 26th January, 1946.

2. Please be advised that the C.M.B.R. recommendation dated 7th January, 1946, was acknowledged by teletype dated 9th January, 1946, copy of which is as follows:

"3311A UNCLASSIFIED RELET HQC 55-B-1960 ADM 3(b)3 DATED 7 JAN 46 RE H617060 PTE BILENKY M STOP RECOMMENDATION RE RELEASE HEREBY ACKNOWLEDGED."

(E. A. Fletcher) Major,
Assistant Judge Advocate-General,
Military District No. 10.

EAF/MW

NAT. DEF. B. 440
H.Q. 1711-19-767

HQC 55-B-1960
Adm 3(b)3

26 Jan 46.

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

H.617060 Pte BILENKY M

Attached hereto is a copy of a letter received from the m/n soldier at present serving sentence in Headingly Gaol.

2. In view of the CMHR recommendation forwarded under above file number and d/7 Jan 46 this letter, which has not been acknowledged, is passed to you for any action you consider necessary.

(E. G. Weeks)
Major-General
Adjutant-General

Encl:

EDM/MA

COPY

Address Correspondence in care of
P.O. Box 2935
Winnipeg, Manitoba.

Jan 18 1946.
Secretary National Defence
Headquarters
OTTAWA.

Sir:

Re, Remission of Sentence.

On December 20th 1945 I received a letter from Military District No. 10, stating my case was under review by your department, and to date, have not learned of the decision reached.

Sir, may I respectfully request, a consideration of my case at your earliest conneviences. The drastic financial conditions of my home and the poor physical health of my wife, whom is to enter confinement shortly, forces me to make this application at this early date.

Hoping for a favorable reply,

I beg to remain, Sir,

Yours Very Respectfully,

(sgd) (H.617060) Pte. M. Bilenky

ADDRESS CORRESPONDENCE IN CARE OF
P.O. BOX 2935
WINNIPEG, MANITOBA

Jan 18 1946

Secretary National Defence
Headquarters
Ottawa.

CENTRAL REGISTRY
CONF. SEC.
3568
JAN 23 1946
File 255-B-1960
Chgd. to
Referred to

Sir,

Re, Remission of Sentence.

On December 20th 1945 I received a letter from Military District #10, Stating my case was under review by your department, And to date, have not learned of the decision reached.

Sir, may I respectfully request, a consideration of my case at your earliest conveniences. The drastic financial conditions of my home and the poor physical health of my Wife, Whom is to enter confinement shortly, forces me to make this application at this early date.

Hoping for a favorable reply,

I beg to remain, Sir,

Yours Very Respectfully.

(H-617060) Pte. M. Bilenky

Write on lines — Use this side of sheet only.

NO

P. O. BOX 2333
WINNIPEG, MANITOBA

WINNIPEG
JAN 18
9 PM
1946
MANITOBA

Secretary National Defence
Headquarters.
Ottawa;

A.F.M. 336 (4 PARTS)
DGSS 3-48 (74291)
G.S. 1772-39-2092
G.R. 35759

ARMY MESSAGE

(OUTGOING)

UNCLASSIFIED

FILE DHQ-10-H-617060(J)

PLACE

DATE

Adm

WINNIPEG MAN 9TH JAN 46

THE SECRETARY
DEPT OF NATIONAL DEFENCE ARMY
OTTAWA ONTARIO

3311A UNCLASSIFIED RELET HQC55-B-1960 ADM 3(b)3 DATED 7 JAN 46 RE H617060 PTE BILENKY M STOP RECOMMENDATION RE RELEASE HEREBY ACKNOWLEDGED

COMMANDING TEN

For on file
[illegible]

ORIGINATOR'S INSTRUCTIONS

SIGNATURE	DEGREE OF PRIORITY	TIME OF ORIGIN
(A.J.A.G.)		

SIGNED

COPY 2

VER V VEL NR 68

FROM CMDG TEN WPG MAN JAN ;1703S

TO SECTY DND OTTAWA ONT

GI 44 BT

Dadm

JAN 9 1946

383

CANADIAN SIGNALS
Wood 8-33
OTTAWA
JAN 10
Phone
Army Signal Office

Rempile 4 10-1-46

3311A UNCLASS RELET HQC 55-B-1960 ADM 3(B)3 DATED

7 JAN 46 RE H617060 PTE BILENKY M STOP RECOMMENDATION RE

RELEASE HEREBY ACKNOWLEDGED

IF INCORRECT, ENTER CORRECTIONS, COMPLETE & RETURN ABOVE TO SIG. WOODS		
BRANCH	DATE	SIGNATURE

BT FG 100452 ~~092017S~~ B

58229

CC:: PTE BILENKY M STOP

MESSAGE ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE

HQC 55-3-1960
ADM 3(b)3

DEPARTMENT OF NATIONAL
DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario, 7 Jan 46.

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

L.617060 Pte BILENKY M
CM Board of Review
Reedingly Gaol

Ref telegram AG 0267 D/18 Oct 45 Review.

2. The CM Board of Review has in the case of the a/m soldier made the following recommendation:

" Release on 5 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. Enclosed herewith ~~AF A3144~~/MFM 288 for this soldier.

7. Acknowledgment by telegram requested.

Enc: 1

KDM/MA

(K. G. Weeks)
Major-General
Adjutant-General

DEPARTMENT OF NATIONAL DEFENCE
ARMY

DHQ10.H-617060 (J)

Winnipeg, Manitoba.
3 Dec 45

13263

DEC 5 1945

CMBR23-11
CMBR

The Secretary,
Dept. of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE
H-617060 Pte BILENKY, Michael
No. 10 District Depot, C.A.

Reference HQC 55-B-1960 (CMBR-6) MGT dated 23 Nov 1945.

2. Herewith M.F.M. 288 and Report on Conduct relative to the marginally-named as requested.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

vep
enc.

REPORT ON CONDUCT

File

194

TO: A.J.A.G.,
M.D. No.10,
WINNIPEG, Man.

H-517060 Pte. BILENKY, Michael

1. Soldier under sentence

2. PLEASE STATE:-

(i) Date of sentence.	September 6th, 1945
(ii) Sentence	1 year
(iii) Date you received soldier	September 10th, 1945
(iv) (a) Can soldier read and write?	Yes (both)
(b) Religion	G. C.
(c) Married, widower, single.	Married
(d) What Army trade has soldier?	
(v) (a) Conduct of soldier	Good
(b) Industry of soldier	Good
(c) Remission earned:-	
(i) Number of days actually earned.	13 days
(ii) Number of days obtainable to date.	13 days
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	In good health
(a) Whether imprisonment or detention will seriously aggravate soldier's condition.	NO
(b) Whether further confinement is likely to prove fatal.	NO
(vii) (a) Whether in your opinion conduct of soldier warrants	
(i) Remission	On basis of his conduct here, yes!
(ii) Suspension *	Appears good
(b) Moral effect confinement has had?	
(viii) Date term will expire if all remission earned from now on.	July 8th, 1946.

W.H. Gorrell, M.D.
Gaol Physician)

Signature

Governor, Commandant
M.D.D.

Date of report
November 29th, 1945.

* Do NOT recommend suspension for personnel discharged from Canadian Army

HQC 55-B-1960 (CMBR-6) / evj
29 Nov 45.

Case No----------1607----------

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

No, Rank and Name: H.617060 Pte BILENKY, M.

Unit at date of offence: PEI Highrs, CA

Charge: AA Sec 12(1)(a) DESERTION: At Debert N.S. 1 Jan 45 absented himself until apprehended 27 Aug 45 dressed in civilian clothes. (Absent: 8 months.)

Special leave to 1 Jan 45.

Plea: Not guilty

Place and Date of Trial: Ft Osborne Bks., Winnipeg, Man. - 6 Sep 45. ~~(GCCM)XXXXX(DCOM)X~~ (SCM)

Finding: Guilty

(a) Sentence: 1 year imprisonment with Hard labour & discharge with Ignominy.

(b) Date of Sentence: 6 Sep 45.

Date of Confirmation: NA

Date of Promulgation: NA

Being served at: Headingly Gaol. in M.D 10

12. Remarks:

(c) Worthless evidence. Only thing in favour of accused is good conduct prior to conviction.

MFM 288 or AFA 3104 have been requested 23 Nov 45

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil convictions:	NA		
(ii) Courts-Martial:	NA		12½ months previous service.
(iii) Summary Convictions:	NA		

(b) After conviction: Good. DOC expects to release 6 Mar 46 on completion of 6 months of sentence.

(c) Date of enrolment/~~enlistment~~ 20 Dec 43 Present Age: 31½ yrs.

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) Statement of accused: "Well, Sir, at the time I got home ---- I should start a little futher back when I first got in the army, Sir. When I first got into the army I was supposed to be allocated to the Medical Corps on account of a bad leg but at the time my wife was ~~xxx~~ going to the hospital so I had to stay home ---- that is near home. So I took my basic here and went down to Shilo and I was transferred over to the Artillery and I stayed there for about the last four months before I went away. When I got back home on my last leave I found my baby was very sick, she happened to sprain her hand, and my wife wasn't very healthy at the time and I decided to stay at home and things weren't much better then so I decided to stay at home.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Officer, etc.)

Rev Offr: Release on completion of 6 months of sentence: ~~xxxxxxx~~.
6 Mar 46.

Reviewed by W.A. MOSS, Major.

---

14. Recommendation of the Board: Release on 5 May 46

Date DEC 20 1945

Secretary
Courts-Martial Board of Review.

H.Q.C. 55-B-1960 (JAG/D-S)

24 Sep 45

DOC
MD #10
WINNIPEG, MAN.

Standing
H-617060, Pte. BULLEMEY, M.

W.44-B-5799 (J)

Reference acknowledged of your dated 22 September 194 , under cover of which you returned to this office Standing body the proceedings of the marginally noted Court-Martial.

E L M
Capt
for (R.J. Orde) Brigadier,
Judge Advocate-General.

Attendance noted
26 Sep 45

20

IN REPLY PLEASE QUOTE

N.W.44-B-5799 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

543346 Winnipeg, Manitoba, 21st Sept. 1945

CONF. SEC.
SEP 24 1945
File C55-B-1960
Charge to
Referred to

Judge Advocate-General,
Dept. of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
H-617060, pte. BILENSKY, M.

Reference H.Q.C.55-B-1960 (JAG/D-7) dated 18th September, 1945.

2. The proceedings of the marginally-noted Court-Martial, having been reviewed, are returned herewith for custody.

(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
M.D. No. 10.

vep
enc.

19

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Fort Osborne Barracks, Winnipeg, Manitoba,

on the 6th day of September 19 45 at 1430 hours,

for the trial of: No. H.617060, Private Michael BILENKY
Number Rank Full Name

No. 10 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major W.H.August, District Headquarters, M.D. 10

PROSECUTOR: Captain F.W.Christie, District Headquarters, M.D. 10
Rank Full Name Unit Attachment, if any

~~CHIEF~~ DEFENDING OFFICER: Lieutenant R.J.Faid, No. 10 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, No. H.617060, Private Michael BILENKY, No. 10 District Depot, C.A., guilty of the charge.

WHA

SENTENCE: The Court sentence the accused, No. H.617060, Private Michael BILENKY, No. 10 District Depot, C.A., to be imprisoned with hard labour for one (1) year and to be discharged with ignominy from His Majesty's Service.

WHA

18

Signed at Winnipeg, Manitoba, this 6th day of September 1945.

W H August Major
(W.H.August) Major
President, Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4520)
H.Q. 1772-39-2208

Extracts entered as No. 39675 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 15 day of Sept. 19 45.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to No. H.194904, SM(A/WO1) H.R.Maltby, District Headquarters, M.D. 10, as shorthand writer ?

Answer: No, Sir.

The shorthand writer is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ?

Answer: No, Sir.

The accused is arraigned upon the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the charge against you, which you have heard read ?

Answer: Not guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

N.A.

17

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

CHARGE SHEET

President, S.C.M. Major

The accused, No. H-617 060 Private Michael BILENKY, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE:
Sec. 12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

- in that he -

at Debert, Nova Scotia, at 2200 hours on the 1st day of January, 1945, absented himself from the Prince Edward Island Highlanders, C.A., until he was apprehended by the Military Authorities, in Winnipeg, Manitoba, at 1600 hours on the 27th day of August, 1945, dressed in civilian clothes.

Winnipeg, Manitoba,
4th September, 1945.

(F.W. Christie) Captain,
Prosecutor, Courts-Martial,
Military District No. 10.

WKB.

16

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~[illegible] to call witnesses.~~

~~being duly sworn, is examined by the Prosecutor.~~

By the Prosecutor:

Sir, the evidence for the Prosecution in this case is documentary and under the provisions of Routine Order 5126 I will file M.F.B. 375 and M.F.M. 216, both relating to the accused.

M.F.B. 375 is read, and is marked "F", signed by the President and attached to the proceedings.

M.F.M. 216 is read, and is marked "G", signed by the President and attached to the proceedings.

That is the case for the Prosecution, Sir.

15

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement, Sir.

(See document marked "H" attached).

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. ~~Xxxxxxx~~ N/A

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

WTK

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(The Defending Officer speaks on behalf of the accused. See document marked "I" attached).

WTK

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

13.

President, S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at No. 6 District Depot, C.A., on the 2nd day of Feb 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any in the Arms, ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of H-617060 Pte. BILENKY, M. No. 6 District Depot, C.A.

DECLARATION.

The Court declare that No. H-617060 (Regt'l No.) Pte. (Rank) No. 6 District Depot, C.A.

BILENKY, M. (Full Name) PBIH

illigally absented himself without leave from 1 January 1945 at Debert, N.S. at 2200 hours on the 1st day of January 1945 he was that he is still so absent, and that on the 2nd day of January deficient, and that he is still deficient the following articles:-

ARTICLES		VALUE	ARTICLES		VALUE
Anklets web prs.	1	56	Cap comf.	1	31
Caps W.M.C.	1	79	Comb hair	1	03
Dressing F.F.	1	16	Knife table	1	14
Gloves woollen prs	1	50	Fork table	1	06
Greatcoat drab	1	11 66	Spoon table	1	06
Mitts leather	1	70	Holdall	1	17
Overalls comb. prs.	1	1 89	Housewife	1	27
Blouses serge B.D.	2	9 76	Knives clasp o/s	1	75
Trousers serge B.D. prs.	2	9 82	Razor safety	1	32
Boots ankle prs.	2	8 74	Towels hand prs.	2	48
Caps F.S.	3	1 06	Necktie black	1	15
Drawers cotton prs.	2	64	Pins collar	1	05
Jacket sweater	1	1 03	Socks black prs.	1	21
Puttees prs.	1	73	Belts W.L.B.	1	27
Shirts undercotton	2	66	Bags ration	1	03
Shirts woollen	2	1 80	Belts waist	1	57
Shirts khaki cotton	3	3 48	Bottles water	1	47
Shoes canvas prs.	1	1 73	Braces shld. L.	1	27
Socks woollen prs.	4	1 40	Braces shld. R.	1	25
Trousers K.D. Shorts prs.	3	3 79	Carriers water bottle	1	28
Muffler khaki	1	70	Frogs bayonet	1	14
Shoes leather black prs.	1	3 63	Haversack	1	1 73
Bags kit	1	96	Helmet steel	1	1 79
Blacking tins	1	04	Pack	1	1 70
Boot dressing tins	1	04	Straps shld. Hvsack	2	48
Boot laces prs.	1	03	Straps web supporting	2	22
Braces	1	21	Tins mess	1	43
Brasses button	1	02	Pouches basic	2	1 56
Brushes boot polishing	1	16	Capes A/G	1	3 82
Brushes button	1	09	Respirator A/G & Hv.	1	4 51
Brushes cloth	1	13	Ointment A/G	2	40
Brushes hair	1	3 0	Eyshields	6	78
Brushes shaving	1	32	Nets camf. helmet	1	20
~~Brushes tooth~~	1	07	~~Sheets ground~~	1	1 85
Mugs enamel	1	12	Total:		$92. 83
Bonnet Tam O'Shanter	2	1 26			
Detectors Ind. prs.	2	42			

T.B. MacCallum (Name) ....No. 6 D.D. President. (Rank) Lt. Col (Unit)

.....B.O. 4633 (Name) (Rank) .....Member (Unit)

.....B.O. 4633 (Name) (Rank) .....Member. (Unit)

Signed at Halifax, N.S. this 2nd day of February 1945

Signature of Commanding Officer: F. I. Andrew, Col., No. 6 D.D. C.A.

Certified true copy L.H. LeBlanc Capt. (Name) No. 6 District Depot C.A. (Rank) (Unit)

(Signature of Officer having custody of original record

L.H. LeBlanc, Capt. & Adj. No. 6 District Depot C.A.

M.F.B 375
A.F.P. 115
150 M-10-42 (6530)
N.C. 1772-39-257

12

G. [illegible] Major
President, S C M

15

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major E.K. Carter, (Number) (Rank) Officer Commanding, No. 40 Coy. Cdn. Provost Corps, CA (Name) (Unit)

hereby certify that H-617060 (Number) Private (Rank) BILENKY, Michael (Name in full)

of the P.E.I. Highlanders, CA (Unit and attachment, if any) Debert, N.S.

Strike out words not applicable } was apprehended by (~~surrendered to~~) H-63062 Cpl. / H-59187 Cpl. (Number) (Rank)

Martoll, A.W. / Larke, W.F. (Name) No. 40 Coy. Cdn. Provost Corps, CA (Unit or appointment)

at on Magnus Ave. Winnipeg, Man. (Place) at 1600 (Hour)

on the 27th day of August 19 45

Strike out words not applicable } as a deserter ~~or absence without leave~~), and that at the time of his arrest he was ~~wearing military (air force) uniform~~ (dressed in civilian clothes).

Dated at Winnipeg, Man., this 28th day of August 19 45.

Major
(Signature, Number, Rank, Unit or appointment)
(E.K. Carter) Officer Commanding,
No. 40 Coy. Cdn. Provost Corps.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

11

" H " W. A. Dougall Major
President, S.C.M.

STATEMENT OF THE ACCUSED

Well, Sir, at the time I got home -- I should start a little further back when I first got in the army, Sir. When I first got into the army I was supposed to be allocated to the Medical Corps on account of a bad leg but at the time my wife was going to the hospital so I had to stay home -- that is near home. So I took my basic here and went down to Shilo and I was transferred over to the Artillery and I stayed there for about the last four months before I went away. When I got back home on my last leave I found my baby was very sick, she happened to sprain her hand, and my wife wasn't very healthy at that time and I decided to stay at home and things weren't much better then so I decided to stay at home.

19.

"Y" [illegible]
President, S. C. M.

M.F.B. 555
12M—8-40 (6435-6)
Stock No. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-617 060	Private	Michael BILENKY,	No. 10 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct Sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	nil	times	nil	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act ~~Section 47 of the Army Act and dispensations with trial under~~ A.F.A. 73 A.A. 73 ~~are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time

or,

~~The accused at the present time is under sentence for~~ ..... ~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment ~~attestation~~ paper is 31 years 5 months

6. The date of his ~~commission~~ enrolment ~~attestation~~ specified in his ~~record of service~~ enrolment ~~attestation~~ paper is 20th December, 1943

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. The accused ~~is entitled to reckon~~ ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~). State any ~~air force~~ military decoration or reward. nil

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ .....

9

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

W. Throp Capt. & Adj.

Signed this 6th day of September, 1945 (W. Throp)
No. 10 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ✓ ..... signed by the president, and annexed to the proceedings.

..... Major
President, S. C. M.

-PERSONAL-REWARD-TRAND-RECORDER-

M.P.M. 6

Reg. No. 617060 Name B I L E N K Y, Michael Corps (BLACK WATCH) CA Date of enlistment or enrolment 20th December, 1943 Date of Birth

Signature O.C. Company, etc. Illegible.

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY					
				W Throp Captain & Adjutant					
				(W. Throp)					
				Officer i/c Records					
				No. 10 District Depot, C.A.					

" I " [signature] Major
President. S C M.

DEFENDING OFFICER'S STATEMENT IN MITIGATION

Sir, in view of Private Bilenky's clean conduct sheet it is quite evident that he did soldier for the time he was in the army up until the time he went AWL. A soldier who can soldier for that time is not the type of soldier who would be likely to desert but would be more apt to go AWL. In view of these circumstances I think he should be dealt with very leniently, Sir.

WDS

7

PRECIS OF EVIDENCE

H-617 060 Private Michael BILENKY, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service,

CHARGE: DESERTION

TO PROVE THE CHARGE: the following evidence is available.

Documentary: M.F.B. 375

M.F.M. 216

NOTICE

TAKE NOTICE: that I propose to present H-617 060 Private Michael BILENKY, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, the accused, for trial by Standing Court-Martial, at 1400 hours, Thursday, the 6th day of September, 1945, in Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

Winnipeg, Manitoba,
4th September, 1945

G. Thomson, Lieut. Colonel
Commanding Officer,
No. 10 District Depot, C.A.

6

TRIAL OF:

H-617 060 Private Michael BILENKY,
No.10 District Depot, C.A.

I, No. H-617 060 Private Michael BILENKY

No.10 District Depot, C.A., desire ~~do not desire~~

an Officer assigned to defend me at my trial by Court-Martial.

M. Bilenky

Winnipeg, Manitoba,
4th September 1945

5

MEDICAL OFFICER'S REPORT

I certify that No. H-617 060 Pte. BILEN KY, Michael of #10 District Depot CA in a good state of health, and fit to undergo Trial by Court martial.

Medical Officer R.C.A.M.C.
No. 10 District Depot, C.A.

Station Winnipeg, Manitoba.

Date 6th September, 1945

M. F. B. 246
25M—9-40 (7120-1)
H.Q. 1772-39 480

4.

H.Q.C.55-B-1960 (JAG/D-7)
Your W. 44-B-5799 (J)

18 Sep 45

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

STANDING COURT-MARTIAL

H.617060 Pte. Michael Bilenky,
No. 10 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

3

THIS COPY FOR: H.Q. C.55-B-1960
M.D. W.44-B-5799

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. H-817060 Name BILENKY, Michael

Rank Pte Unit No 10 DD CA

Charge AA 12(1)(a) WOAB, Desertion

Date of Crime 1-1-45

Date of Arrest 27-8-45. Charge Signed 4-9-45.

Orders for D.C.M.

Place and Date of Trial Ft Osborne Bks, Winn, Man; 6-9-45.

Sentence Imprisonment WHL 1 yr; discharge with ignominy

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39575

Date 15-9-45

MEMO Balance of sentence remitted by Conf. Auth.

MD 10 - No 10 DD CA

Absent	Sentence
7¾ mos;	Imprisonment WHL 1 yr discharge with ignominy

2

for Judge Advocate-General

10M-9-45(M-189)

W.44-B-5799 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba
7th September, 1945.

Judge Advocate-General
Department of National Defence (Army)
OTTAWA, Ontario.

C.55.B-1960

STANDING COURT-MARTIAL

No. H.617060, Pte. BILENKY, M.,
No. 10 District Depot, C.A.

Herewith for review, are the proceedings of the marginally-noted Standing Court-Martial.

Major
President (W.H.August)
Standing Court-Martial

1.

39675

H.Q.C. 55-B-1961 CONFIDENTIAL

D.F.B. 2070
25M—1-45 (6665)
H.Q. 300-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BEAUDOIN, JEAN D-148688 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1961

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and "File" with Minute)		
SEP 21 1945	20			JAG	NEW FILE	CR	17-9-45
	4.10.45			Admin			
				SE(DG)	SE	wof	5.10.45
				DM(A)	"		9.10.45
				Adm			26.10.45
NOV 3 - 1945	22.11.45			Admin		R.M.L	23/10/45
NOV 7 - 1945	7.11.45			DMR	For Requisition C.R. NOV 7 1945		
NOV 10 1945	9.11.45			J.A.G.	For Requisition C.R. NOV 9 1945		
				Admin	For Requisition C.R. NOV 14 1945		
				SE(DG)	SE	wof	16.11.45
NOV 20 1945	20.11.45			DM(R)			19.11.45
NOV 21 1945	22.11.45			Admin	PER B.F. NOV 22 1945		
				CMDR	For Requisition C.R. JAN 4 1946		
JAN 25 1946	25-1-46			Admin	Recommendation		JAN 16 1946

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the subject file number.

PASS THIS FILE IN ENVELOPE

T-20-B-6827
T-20-B-21569
T-20-B-9544 (AJAG)

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
21st January, 1946.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (for information)
Military District No. 3,
KINGSTON, Ontario.

C-33070 Pte. BEAUDOIN, J.P.
D-647826 Pte. DUPONT, J.P.
D-148688 Pte. BEAUDOIN, J.

Reference NANKS 1583 dated 18th January, 1946.

2. Receipt of the above-mentioned teletype is hereby acknowledged.

3. It is advised that D-148688 - Pte. BEAUDOIN, J. was released on the 6th January, 1946, on expiration of sentence.

4. May M.F's M. 288 with respect to the other two soldiers, namely, C-33070 - Pte. BEAUDOIN, J.P. and D-647826 - Pte. DUPONT, J.P., be forwarded, please, so steps may be taken to effect their release.

for (A. E. Potts)
Major-General
D.O.C. M.D. 2.

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

M.F.M. 3348
20M-5-44 (1510)
K.F. 17549 H.Q. 1771-35-2000

HQC 55-B-1997
HQC 55-D-1258
HQC 55-B-1961
FILM 3(b)3

CIPHER

ARMY MESSAGE

(OUTGOING)

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 2
TORONTO ONT

OTTAWA ONTARIO 18 JAN 46

RANKS 1583 RESTD

REVIEW REF AG 0267 D/18 OCT 45 (.) CMHR RECOMMENDS IMMEDIATE RELEASE OF THE FOLLOWING SUS (.) C 33070 PTE BEAUDOIN J P D647826 PTE DUPONT J P D148688 PTE BEAUDOIN J (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFO COPY TO: CMHR
JAG

EDM/MA

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
Adjutant-General		IMMEDIATE	0715

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER — CONFIRMATION COPIES MUST NOT BE SENT BY MAIL

SINGLE FORM FOR CIPHER MESSAGE

HQC 55-B-1961(GMSB-5)/ EMA

Case No 1709

REVIEW OF SENTENCE 10 Jan 46
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: D.148688 Pte BEAUDOIN, J

2. Unit at date of offence: A-13 CITC

3. Charge: AA Sec 12(1)(a) DESERTION: AWL from 0100 hrs on 2 Apr 45 until he surrendered at 2320 hrs on 29 Aug 45 (Length of absence - 5 months)

(2) AA Sec 24(2) LOSS OF KIT: To the extent of $13.15

Plea: Not guilty on 1st charge
Guilty on 2nd charge

4. Place and Date of Trial: Ottawa, Ont. 7 Sep 45
(FGCM) ~~(GCM)~~ (SCM)

5. Finding: Guilty on both charges

6. (a) Sentence: 6 months detention and stoppages of pay to extent of $13.15
(b) Date of Sentence: 7 Sep 45

7. Date of Confirmation: -

8. Date of Promulgation: -

9. Being Served at: 91 MDB in MD 2

(N.B. - Discharged under RO 1029( ) for
wef).

46

CONDUCT

11 (a) Prior to Conviction: Offence Date Sentence

(i) Civil Convictions: Nil

(ii) Courts-Martial: Nil

(iii) Summary Convictions: Nil

(b) After Conviction: Good - Earliest date of release - 6 Jan 46

(c) Date of ~~enlistment~~ enlistment. 27 Sep 44 Present Age: 20

12 Remarks: (Here note any Petition or Representation other than in Item 10, but if Item 10 has been omitted so state, and show here any mitigating circumstances).

Item 10 has been omitted.

In sworn evidence, the accused says that he was in hospital for Sinus trouble and that he left because he was afraid that they were going to operate on him. Finally his brother, who is a Priest, and his parents persuaded him to return.

Reviewing Officer's Note: From correspondence on file, it appears that a brother is presently undergoing detention and that a third brother has recently returned from overseas and is blind from the effects of alcoholic poisoning. The mother is in a highly disturbed state due to these family troubles and it was suggested that compassion could be shown her by release of her two sons from detention, however DOC MD 3 states that their conduct does not warrant release before half of this sentence has been served.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.).

REVIEWING OFFICER: As over half of this sentence has been served, I recommend immediate release.

Reviewed by A. M. Stephenson
(A.M. Stephenson) Major

14. Recommendation of the Board:

Immediate Release

Date JAN 1 6 1946

W. A. Stilwell Maj.
Secretary
Courts-Martial Board of Review

C55-B-1961

copy

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

K.S. 688 Vol 1(A)
and All Personal Files

KINGSTON, Ontario Nov 23rd, 1945.

The District Officer Commanding, M.D. No. 2 Toronto, Ont.
The Commandant, No. 91 M.D.B., Niagara Falls, Ont.
The Commandant, No. 63 M.D.B., Barriefield, Ontario.
The Commandant, Ottawa Area Command, Ottawa, Ont.
Officer Commanding, No. 9 District Depot, Ottawa, Ont.
The D.A.P.M. M.D. No 2, Toronto, Ontario.
Officer Commanding, No. 31 Coy. C. Pro. C. Toronto, Ont.
Officer Commanding, No. 33 Coy. C. Pro. C. Ottawa, Ont.
The D.S. & T.O., M.D. No 3, Kingston, Ontario.
The District Paymaster, M.D. No. 3, Kingston, Ont.
The District Medical Officer, M.D. No. 3, Kingston, Ont.
Officer Commanding, No. 1 Det. No. 33 Coy. C.PRO. C. Kingston, Ont.

TRANSFER OF S.U.S. FROM NO 63 M.D.B.
To No. 91 M.D.B. Chippawa, Ontario.

Reference T.22-1-233-13(DAPM) dated 11th October 45 and reference to Radiogram Ranks 9267 dated the 5th day of October 1945, from National Defence Headquarters, Ottawa, Ontario.

2. Due to the overcrowded conditions at No. 63 M.D.B. at Barriefield, Ontario, and in view of the number of soldiers presently sentenced to periods of detention, now being held in the various unit Guard Rooms throughout M.D. No 3, it has been found necessary to transfer the undermentioned S.U.S. from No. 63 M.D.B. Barriefield Ontario, to No. 91 M.D.B., at Chippawa, Ont under escort.

From No. 9 DD Ottawa Ont.		Sentence Date		Date of release full time	Date of release Remission
.30070	Pte Beaudoin J.P.	9 mos	15-8-45	15-6-46	15-3-46
.148688	Pte Beaudoin J.	6 mos	7-9-45	7-3-46	10-1-46
.44868	Pte Beaudin L.R.	8 mos	18-10-45	18-6-46	25-3-46
.648781	Pte Bertrand C.	8 mos	18-10-45	18-6-46	25-3-46
.647828	Pte Dupont J.P.	10 mos	20-9- 45	20-7-46	9-4-46
.418003	Pte Taylor R.R.	1 yr	8-9-45	8-9-46	8-5-46

3. The Escort personnel for this movement have been detailed by the D.A.P.M., M.D. No. 3, and are as follows:

Conducting N.C.O.	Escorts
J.37255 L/Cpl Brown J.	C.35366 Pte Bowman R.
	B.119977 Pte Sunnerton J.

4. The above mentioned soldiers under sentence will be despatched to No. 91 Military Detention Barracks, Chippawa, Ont. from No. 63 Military Detention Barracks, Barriefield, Ontario by the above mentioned escort personnel of No. 33 Coy. C. Pro C. The escort personnel will assemble at No. 63 M.D.B. Barriefield, Ontario at 0045 hours on the 24th November, 1945, and will take over the above mentioned soldiers under sentence together with all documents in connection with each case. This party will entrain at the Outer Station, Kingston, at 0140 hours same date and on their arrival in Toronto at 0630 hours same date the soldiers under sentence will be taken to the Provost Office in the Union Station and will be given a box lunch.

HH

...../2

5. Arrangements have been made by this Headquarters to meet this train on its arrival at trainside, with the D.A.P.M. M.D. No. 2. This party will leave Toronto via C.N.R. at 0800 hours same date and will arrive Niagara Falls at 1050 hours where they will be met on their arrival at trainside by personnel of the staff of No. 91 Military Detention Barracks.

6. All necessary documents as laid down in CARO 5099 will be taken with the Conducting N.C.O. i/c of this movement, and will be handed over to the Commandant, No. 91 M.D.N. upon arrival.

7. Attention is directed to HQC 9039-1-1 Adm 3 dated 15th June, 1945, under which National Defence Headquarters lays down the policy to be followed in the remission and suspention of sentences of soldiers under sentence. On the expiration of one-half time the question of remission may be dealt with by the District Officer Commanding, Military District No. 2, or if desired may be referred to the District Officer Commanding, Military District No. 3.

8. Transportation for this movement will be made by demand by the D.A.P.M., M.D. No. 3 on the D.S. & T.O. M.D. No. 3.

Sgd. E.L. Potts, Major,
for (W.K. MacGregor) Major,
D.A.A.G. M.D. No. 3.

Copy to:
The Secretary,
Department of National Defence
OTTAWA, Ontario

Attention Capt. Parlee

Sgd. E.L. Potts, Major
for(F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 3.

CR(C)
PA on files
C 55- D-1961

Adm 3(b)2

MEMORANDUM

TO:

D.M.(R)

Department of National Defence,
(Army)

HQC 55-B-1961 Adm 3(b)2

OTTAWA, Ontario 16 Nov 45

S.E. 7298B/5714B d/27 Oct 45

D.148688 Pte BEAUDOIN, Jean
C.33070 Pte BEAUDOIN, Joseph Paul

The sentences awarded these two soldiers have been reviewed by DOC MD 3. It is felt that, due to their very poor military record, they should serve at least one-half of the sentence awarded.

2. Accordingly consideration will be given to remission of the sentence awarded D.148688 Pte Beaudoin, Jean on 7 Dec 45 and C.33070 Pte Beaudoin, Joseph Paul on 28 Jan 46.

3. DOC MD 3 feels that if preferential consideration were given to these soldiers whose conduct had been far from satisfactory, other SUS whose conduct has been better in comparison, would feel that there had been a discrimination and an undercurrent of unrest would develop among the soldiers who felt themselves so aggrieved.

Noted & thanks
R Lavergne
20.11.45 for Dep

(A E Walford)
Major-General
Adjutant-General

FINAL

WOP:da

43

WCI/HG

IN REPLY PLEASE QUOTE No. K.55-B-8447(JAG)
K.55-B-7496(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

405-B-12,108

Director of Records
A.G.D.
NOV 10 1945
Nat. Defence Hq.
Ottawa, Canada

KINGSTON, Ontario, 8 Nov 45

The Secretary
Department of National Defence
OTTAWA, Ontario.

D.148688 Pte. BEAUDOIN, Jean
C.33070 Pte. BEAUDOIN, Joseph Paul

Reference H.Q.C.55-B-1961; H.Q.C.55-B-1997; H.Q. ~~405-B-11,000~~ Adm. 3(b)2 dated 2 Nov 45.

2. The sentences of the two m/n soldiers have been reviewed at this Headquarters and it is felt, due to the very poor military record of each of these men, that they should serve at least half of the sentence awarded them.

3. This would therefore mean that D.148688 Pte. Beaudoin, J be not released before 7 Dec 45 and C.33070 Pte. Beaudoin, J.P. be not released prior to 28 Jan 46.

4. It is felt at this Headquarters that if preferential consideration be given to soldiers whose past military conduct has been far from satisfactory, that other soldiers undergoing sentences whose past military conduct has been much better in comparison will feel there has been a discrimination and an undercurrent of unrest is bound to result among these soldiers who feel themselves aggrieved, and the work of the military detention staffs is made that much more difficult.

5. For your information, please.

42

for W. C. Dueck Capt
(F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

H.Q.C. 55-B-1961 (JAG/D-6)

29 October 1945.

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

Standing
R.148685 Pte. Court-Martial
No. 9 District Depot, C.A.

Receipt is acknowledged of your K.55-B-8447 (JAG) dated 23 October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

ELM:jb

41

HG IN REPLY PLEASE QUOTE No. K.55-B-8447(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 23 Oct 45

CENTRAL REGISTRY Army
CONF. SEC.
4714
OCT 24 1945
File C55-B-1961
Chgd. to admin 27-9-45
Referred JAG

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
D.148688 Pte. Jean BEAUDOIN,
No. 9 District Depot, C.A.

Reference H.Q.C.55-B-1961 (JAG/D-4) dated 20 Sep 45.

2. Herewith proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

W. C. Inch Capt
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

40

NAT. DEF. B. 443
3000M 4-44-4320-
H.Q. 1772-39-767

MEDICAL OFFICER'S REPORT

I certify that No. D 148688 Pte Beaudoin J

of #9 District Depot CA is in a good state of health,

and fit to undergo Trial by Court martial.

G. Martin Capt.
Medical Officer
Att. No. 9 D. D., C.A.

Station Lansdowne Park, Ottawa, Ont

Date 7 Sep 45

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

39

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at the Court-Martial Building, Lansdowne Park, Ottawa, Ontario,

on the 7th day of September, 1945, at 1035 hours,

for the trial of: D-148688 - Pte. JEAN BEAUDOIN,
Number Rank Full Name

No. 9 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major R. K. Laishley.

PROSECUTOR: Capt. J. D. C. Boland, Headquarters, Military District No. 3, C.A.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. J. H. A. Caron, No. 9 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, D-148688, Pte. Jean Beaudoin, No. 9 District Depot, C.A., guilty of both charges.

SENTENCE: The Court sentence the accused, D-148688, Pte. Jean Beaudoin, No. 9 District Depot, C.A., to undergo detention for six months and to be put under stoppages of pay until he has made good the sum of $13.15 in respect of deficiencies of clothing, equipment and regimental necessaries.

Signed at Ottawa, Ont., this 7th day of September, 1945.

38

R. K. Laishley

(R. K. Laishley) Major, President, Standing Court-Martial, Military District No. 3.

M.F.B. 1486
25M-6-44 (4529)
H.Q. 1772-35-2296

Effects entered as No. 39754 in the Register of Court-Martial kept in the Adjutant General's Office this 19 day of Sep 1945

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to ..... as interpreter ?

Answer: .....

Question to the accused. Do you object to B-4233 - S.M. (W.O.I) F. A. Luet, No. 3 Detachment, C. M. S. C., C.A., as shorthand writer ?

Answer: No, sir.

The shorthand writer and interpreter (if any) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not guilty, sir.

---For proceedings at this point see p.3.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Guilty, sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to the second charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

---The Prosecutor requests the Court to amend the second charge by deleting: Coats, waterproof, 1, $5.18; Caps, f/s, 1, 53¢; Jackets, sweater, 1, $1.03; Shoes, canvas, prs., 1, $1.70; Shoes, leather, black, prs., 1, $3.63; Bags, kit, Mk.2, 1, 95¢; Neckties, black, 1, 14¢; and Towels, hand, 2, 46¢; and to substitute Boots, ankle, 1, $4.37, for Boots, ankle, 2, $8.74; Shirts, khaki, cotton, 1, $1.46, for Shirts, khaki, cotton, $4.38; and Socks, army, prs., 1, 35¢ for Socks, Army, prs., 4, $1.40, leaving a total deficiency of $13.15.

---The Charge Sheet is amended accordingly.

CHARGE SHEET

The accused, No. D 148688 Pte. Jean BEAUDOIN, No. 9 District Depot, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:

FIRST CHARGE
Sec. 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

at Valcartier Camp, P.Q., at 0100 hours on the 2nd April 1945, absented himself from A-13 C.I.T.C., C.A. until surrendering himself to Military Authorities at Ottawa, Ontario, at 2320 hours on the 29th August 1945, dressed in Military Uniform.

SECOND CHARGE
Sec. 24(2)
ARMY ACT

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT
AND REGIMENTAL NECESSARIES

in that he

at Ottawa, Ontario, on the 4th September 1945, was deficient of the following articles, viz:-

		C.A.R.O. 4559	Less 25% C.A.R.O. 3464	
CATALOGUE SECTION "A"				
Recd ~~Coats Waterproof,~~	~~1~~	~~6.91~~	~~5.18~~	
Overalls, combination,	1	2.52	1.89	
CATALOGUE SECTION "B"				
Recd Beret, khaki,	1	1.20	.90	
Boots, ankle,	1 ~~2~~	~~11.64~~	~~8.74~~	4.37
Recd Caps, F/S	~~1~~	~~.70~~	~~.53~~	
Drawers, cotton,	2	.84	.64	
Recd ~~Jackets, sweater,~~	~~1~~	~~1.37~~	~~1.03~~	
Shirts, khaki, cotton,	1~~2~~	~~5.85~~	~~4.38~~	1.46
Shirts, undercotton,	2	.86	.64	
Shirts, woollen,	1	1.40	1.05	
Recd ~~Shoes, Canvas, prs.~~	~~1~~	~~2.29~~	~~1.70~~	
Recd Shoes, leather black, prs.	~~1~~	~~4.84~~	~~3.63~~	
Recd Socks, army, prs.	1~~4~~	~~1.84~~	~~1.40~~	.35
CATALOGUE SECTION "C"				
Recd ~~Bags, kit, Mk. 2~~	~~1~~	~~1.27~~	~~.95~~	
Braces,	1	.28	.21	
Brushes, boot polishing,	1	.21	.16	
Brushes, shaving,	1	.42	.32	
Brushes, tooth,	1	.09	.07	
Combs, hair,	1	.04	.03	
Forks, table,	1	.08	.06	
Knives, table,	1	.18	.14	
Recd ~~Neckties, black,~~	~~1~~	~~.19~~	~~.14~~	
Pins, collar, safety,	1	.08	.06	
Razors, safety,	1	.42	.32	
Socks, black,	2	.56	.42	
Spoons, table,	1	.08	.06	
Recd ~~Towels, hand,~~	~~2~~	~~.62~~	~~.46~~	
Recd TOTALS:		$ ~~46.78~~	$ ~~35.13~~	$13.15

(C. Roy Hall) Major,
A/Officer Commanding,
No. 9 District Depot, C.A.

Lansdowne Park,
Ottawa, Ontario,
5th September 1945.

35

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

BY THE PROSECUTOR: I present certified extract from Daily Part II Order No. 79, dated the 3rd of April, 1945, sir.

---Extract from Part II Order No. 79, d/3rd April, 1945, of A-13, C. I. T. C., C.A., is received, read, marked EXHIBIT "F", signed by the President and attached to the proceedings.

Further extract from Daily Part II Order No. 96, dated the 23rd of April, 1945, sir.

---Extract from Part II Order No. 96, d/23rd April, 1945, o of A-13 C. I. T. C., C.A., is received, read, marked EXHIBIT "G", signed by the President and attached to the proceddings.

I present M.F.M.216 dated the 30th of August, 1945, sir.

---M.F.M.216 is received, read, marked EXHIBIT "H", signed by the President and attached to the proceedings.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. .....

FIRST WITNESS FOR DEFENCE

The accused, D-148688 - Pte. JEAN BEAUDOIN, No. 9 District Depot, C.A., being duly sworn, is examined by the Defending Officer:

Q. You were in Valcartier when you went A.W.L., why did you go A. W. L.?

A. Well, I was in the hospital when I left, I had a right frontal sinus and they start talking about operation and I was afraid because one of my friend was operated on the head and he is blind. My brother is just the same, he is overseas and he is blind, too.

Q. You were afraid?

A. I was afraid.

Q. But what were the reasons why you were afraid?

A. My brother was blind and one of my friends.

Q. Why were they blind?

A. One of my friend got an operation, I don't know for what, and he is blind for the rest of his life and the same thing for my brother.

Q. So you went away?

A. Yes, sir.

Q. Did you intend to stay away?

A. Well, yes; I did, at the time.

Q. At the time you did?

A. Yes.

Q. Why?

A. Same, because I was afraid.

Q. Didn't want to come back because you thought they would operate on you?

A. Yes.

Q. While you were at home did you have any medical care?

A. Not for that.

Q. Did you see any doctors?

A. I didn't see any doctors.

Q. About your sinus?

A. No.

Q. Did you have any intention of doing so?

A. Well, not yet. I was supposed to see one but I was afraid he was going to tell me the same thing, to get operated.

Q. Why did you go back yourself?

A. To get through with the Army. My uncle told me to come back.

Q. You wanted to get it over?

A. I wanted to get my time over with the Army.

Q. That is the reason you came back?

A. That is the reason I came back.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Beaudoin, what company were you in at A-13?

A. I was in the 4th Infantry.

Q. Was that the draft company?

A. No, sir.

Q. Were you on draft for overseas?

A. No, sir.

Q. Could you proceed overseas?

A. Yes, sir.

Q. Were you able to proceed overseas? What was your category, A-1?

A. A-1; yes, sir.

Q. Were you fully trained?

A. Except my battle training.

Q. Where were you supposed to do that?

A. At Valcartier.

Q. How long a Course was that? How long does it take to do your battle drill course?

A. About a month and a half.

Q. And were you supposed to take that battle drill course?

A. No, sir.

Q. Why not?

A. The day after I left the hospital I went away.

Q. The day after you left the hospital you went away?

A. Yes, sir; I made an effort to come out of the hospital, I wasn't well yet.

Q. But they told you you could get out of the hospital, you knew you were not going to have an operation?

A. I know I wasn't well when I got out.

Q. But the situation is this, isn't it, Beaudoin, that you went to the hospital for sinus trouble?

A. Yes.

Q. And after you got out of the hospital you were to go in and take your battle drill course before going overseas; isn't that right?

A. Sure, if I stay there I think they take me back to the hospital.

Q. Just take it slowly, if there are any words you do not understand, ask. You went to the hospital?

A. Yes.

Q. How long were you in the hospital?

A. Two weeks, fifteen days.

Q. And before you went in the hospital did you start your battle drill training?

A. No; I need [redacted] one more week for my advanced.

Q. The situation is this: After you got out of the

hospital you were to finish up one week's advanced training and then take your battle drill training?

A. They told me I had to start that all over again, all my advanced.

Q. Why?

A. I don't know.

Q. How many weeks advanced had you taken?

A. Six weeks.

Q. You had taken six weeks and then you went in the hospital?

A. Yes, sir.

Q. Are you sure you had another week to put in?

A. Yes, sir.

Q. You just had one week to go?

A. Seven week of my advanced, I had one more week to do of my advance.

Q. You performed advanced training all right with what you did?

A. Yes.

Q. And the situation then is that you would complete your advanced training and then do your battle drill training?

A. I don't understand quite.

Q. You would finish up your advanced training?

A. Yes.

Q. And then you would be posted in the battle drill company and do your battle drill training?

A. Yes, sir.

Q. And then you would go overseas?

A. I don't know.

Q. You saw others go overseas when they finished their battle drill training?

A. Not in my regiment, they stopped at Debert and turned back to Valcartier.

Q. That was in May they stopped there, that was after the war ~~xxx~~ ended in Europe?

A. Yes.

Q. It wasn't in April when you went absent. But, your regiment did go down to Debert, didn't they?

A. Yes.

Q. What date did they go down there?

A. I don't know.

Q. How do you know they stopped there?

A. Well, a guy came here in Ottawa for the gas~~xx~~ test. They didn't have anything to do, he told me.

Q. You didn't ask them what date they went down there?

A. I didn't ask nothing, he told me.

Q. They might have gone down there some time in April?

A. Oh, later than that.

Q. Towards the end of April?

A. The day I left.

Q. The day you left they went down there?

A. Not the day I left.

Q. What did you just say?

A. They was making battle drill when I left.

Q. They were doing battle drill when you left. Did that have anything to do with you leaving?

A. No, sir.

Q. Why did you leave?

A. Bed~~xxx~~ause I was sick.

Q. But you told us a little while ago that you were afraid you would have to have an operation?

A. Yes, sir.

Q. And you told me you were out of the hospital?

A. The doctor asked me how I felt in the morning and I made an effort, I said I was all right. I didn't have a pass for a month.

Q. You didn't want to go on draft, did you?

A. I was not on draft.

Q. You knew there was a draft in the near future?

A. Yes, sir.

Q. You knew that?

A. Yes, sir.

Q. And that was the reason you wanted to get out?

A. The reason was I was in the hospital and I was sick.

Q. You knew if you went absent without leave you would be missing the draft?

A. I knew I was sick and I was afraid to get operated.

Q. But you just told me there was going to be a draft leaving?

A. I didn't told you about the draft, I don't know anything about the draft.

Q. You knew your regiment was going overseas as soon as they finished their training?

A. Yes, sir.

Q. And you knew they were practically through their training?

A. Yes, sir.

Q. So you knew they were going overseas pretty soon?

A. Yes, sir; but they didn't get overseas.

Q. But they would have gone if the war in Europe hadn't finished, that was the reason they didn't go?

A. Yes, sir.

Q. You knew your regiment was going to be leaving

shortly; you knew that, didn't you? You knew there would be a group leaving very shortly?

A. Yes, sir.

Q. And you knew when you went absent that you would not be able to go with that group?

A. I knew I would be no good to go overseas.

Q. You thought about it?

A. Yes; because I was still sick.

Q. And was that the reason you went absent, because you figured you would not be any good overseas?

A. No; not exactly that reason. I didn't want to go overseas.

Q. Who told you you would have to go back to the hospital?

A. All those guys, they told me I wasn't the first one to be there with that sickness.

Q. It wasn't any medical officer that told you that?

A. No.

Q. You would have rather gone back to the hospital than gone overseas?

A. No; I was all right I didn't mind to go overseas, sir.

Q. But you went absent after you went out of the hospital?

A. Yes, sir.

Q. Where did you go?

A. Montreal.

Q. You went to Montreal. Where was your home?

A. In Hull here.

Q. In Hull?

A. Yes, sir.

Q. Why did you go to Montreal?

A. Stayed there with one of my friends.

Q. How long did you stay there?

A. Oh, four months and a half.

Q. You wore your civilian clothes part of the time, too, didn't you?

A. Yes, sir.

Q. The reason you wore them was because you were afraid you would be picked up by the Provosts?

A. Yes, sir.

Q. Did you work at all?

A. Here and there, like that, sir.

Q. You worked here and there down in Montreal?

A. Yes, sir.

Q. What did you do?

A. All kinds of jobs.

Q. And all those jobs you worked at you didn't wear your Army uniform, did you?

A. No, sir.

Q. And you figured you would stay absent until the war was over?

A. No; I didn't know when the war was going to stop.

Q. You waited until it was over?

A. No, sir.

Q. Well, you didn't surrender until the 29th of August, the war was over then, wasn't it?

A. Yes, sir.

Q. You read about it in the paper?

A. Yes, sir.

Q. That's why you came back?

A. No, sir; my uncle is a priest and he talked to me about that and he told me, "You better report yourself before it is too late". He talked to me a long time and

I came here.

Q. And where is your uncle?

A. He is in Ottawa here.

Q. When did you come back to Ottawa?

A. About two weeks ago.

Q. Did you go to your family's place then?

A. Yes, sir.

Q. And how many times had the Provosts been looking for you at your parent's place?

A. I didn't sleep there, I just talk to my mother and father and they told me to report myself.

Q. They told you the Provosts had been looking for you?

A. Yes.

Q. How many times had they been around?

A. Well, once a month.

Q. Once a month. And you had no intention of returning at all until after talking with your uncle; is that right?

A. Yes, sir.

RE-EXAMINED BY THE DEFENDING OFFICER:

Q. In Valcartier can you go on leave if you are on sick parade?

A. If --

Q. Can you go on leave if you are on sick parade?

A. I don't know, sir. I have never been on sick parade before.

Q. I mean, if you are in hospital can you go on leave from there?

A. No.

Q. You had to be out of the hospital?

A. Yes.

Q. How long were you in this camp without a pass when you asked to get out, to have one?

A. About a month.

Q. That is the reason you want to get out so much?

A. Yes, sir.

QUESTIONED BY THE COURT:

Q. Beaudoin, how did you come to get into hospital?

A. I beg your pardon?

Q. How did you happen to be put in the hospital?

A. Well, I was sick, sir, for four days and I didn't know what I had and one day I was sick and I can't see.

Q. You paraded sick, did you?

A. Yes.

Q. And what were your symptoms?

A. My --

Q. How did you feel?

A. Feel very bad, sir.

Q. What?

A. My head on the right side, right frontal sinus.

Q. A headache?

A. Kind of headache, not just like a headache, kind of a headache.

Q. Anything else?

A. No, sir.

Q. You went on sick parade then, did you?

A. Yes; they took me on sick parade.

Q. And you complained to the medical office you had a headache?

A. Kind of a headache and he told me it was the si

Q. And then you were put in the hospital?

A. Yes, sir.

Q. And I suppose you were under observation, were you? Did they do anything to you in hospital?

A. Yes, sir; they took about two times x-ray of front of my head and put kind of needle in my nose, in it.

Q. What else did they do?

A. That's all.

Q. They discharged you from the hospital, said there was nothing wrong?

A. Yes; that's what they said.

Q. They could find nothing?

A. They could see nothing but before that, too.

Q. Where did you get this idea you had sinus trouble?

A. That's what the doctor told me.

Q. They found nothing wrong with you?

A. That's what they found, sir, sinus, frontal sinus.

Q. I though you told me that they discharged you from the hospital and they said that they had seen nothing wrong?

A. Oh, yes; because they cure me. When I make an effort, I know I wasn't sick.

Q. They cured you?

A. Yes; they tried to cure me.

Q. And they discharged you?

A. Yes, sir.

Q. As cured?

A. Yes, sir.

Q. And now you say that you did have the sinus trouble but you were cured, is that right?

A. Yes, sir.

Q. Then, they did find something wrong?

A. They found something, sir.

Q. What treatment did they give you?

A. Well, --

Q. Remember, this is under oath?

A. -- they gave me x-ray, put something in my nose, each side.

Q. Drain it?

A. Swabs of cotton. Kind of stuff.

Q. They swabbed your nose?

A. Yes.

Q. Now, have you had any battle training at all?

A. No, sir.

Q. There was no question of any operation, Beaudoin, was there?

A. Well, sir; I was sick.

Q. You were not going to have an operation?

A. No question about that.

Q. You knew they could not force you to have an operation, you knew that very well, that the Army could not force you to have an operation if you didn't want it?

A. Well, I know, sir.

Q. So when you talked about leaving because you were afraid of having an operation that was not the truth, was it?

A. Well, it was true in a way.

Q. It was either true or it wasn't true, you have told me you were not in any doubt about this question so that cannot be true, that you left because of an operation?

A. No.

Q. I want to get to the truth of this. You see, that is my duty here. Why did you leave?

A. Same thing, sir, because I was sick and I was

afraid.

Q. You left because you were sick, you were not feelin well?

A. No, sir.

Q. You didn't go home?

A. The first day I was home. I told my mother about what happened to me.

Q. You didn't go home?

A. I go straight home anf after my pass was over I went to Montreal.

Q. You got a pass, did you?

A. Yes, sir.

Q. You left on pass?

A. Yes, sir.

Q. What was it, a 48 hour?

A. A 36 hour.

Q. That is from Saturday afternoon, I suppose?

A. I left Saturday morning.

Q. You were to be back Sunday night?

A. I was supposed to report there for Monday morning.

Q. And you went home on that pass?

A. Yes, sir.

Q. And then you went to Montreal?

A. Yes, sir.

Q. Now, you were home what, a day? Were you home a day

A. Two days, sir. I left Sunday.

Q. When did you get home? Did you get home on Saturday?

A. Saturday afternoon.

Q. When did you leave?

A. Sunday afternoon.

Q. Sunday afternoon?

A. Yes; I took a train to Montreal.

Q. Were you still feeling bad?

A. I was still -- not sick, not much, when I was there but I was feeling bad.

Q. You got better after you left the camp?

A. Yes, sir.

Q. Did you take any treatment at home?

A. No, sir.

Q. And you didn't take any treatment while you were away, did you?

A. No, sir.

Q. You were pretty well?

A. I am well but I am always feeling something in my head.

Q. So you say you left the camp because you were sick but you didn't do anything about it, did you?

A. No, sir.

Q. And I think you told the Prosecutor you intended to stay away, you weren't going to come back, but it was as a result of this talk you had with your uncle, the priest

A. Yes, sir.

Q. And it was he who decided you to come back?

A. Yes, sir.

---The witness resumes his seat.

---The Prosecutor does not desire to make a closing address.

---The Defending Officer does not desire to make a closing address.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to .....the second..... charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. .....No, sir.....

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. .....No, sir.....

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. .....No, sir.....

Question to the accused. Do you wish to call any witness as to character?

Answer. .....No, sir.....

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

18

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

---The Prosecutor presents to the Court M.F.B.355.

---This document is read to the Court by the President, marked "Y" signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. No, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

DAILY ORDERS PART II

BY

COLONEL DOLLARD MENARD, D.S.O.

Commanding

A-13 CANADIAN INFANTRY TRAINING CENTRE

No. 79

Place Valcartier, Que.

Date 3 Apr 45

(Last Order Issued No. 78 of 2 Apr 45

HOLDING ESTABLISHMENT

"B" OTHER RANKS

12. ABSENCE WITHOUT LEAVE

è) A.W.L. from 0100hrs. 2 Apr 45

D-148688 Pte. BEAUDOIN, J. (R.22eR.)

(Signed) M. Thivierge Lt.
for (R.PLANTE) CAPT & ADJUTANT,
A-13 CANADIAN INFANTRY TRAINING CENTRE,
VALCARTIER CAMP, P.Q.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE SEP 11 1945

Prepared by:
and
Checked by:

16

G

DAILY ORDERS PART II

BY

COLONEL DOLLARD MENARD, D.S.O.

Commanding

A-13 CANADIAN INFANTRY TRAINING CENTRE

No. 96

Place Valcartier, Que.

Date 23 Apr 45

(Last Order issued No. 95 of 21 Apr 45

HOLDING ESTABLISHMENT

"B" OTHER RANKS

14. ABSENCE WITHOUT LEAVE

k) A.W.L. from 0100hrs. 2 Apr 45 Still A.W.L. at 0100hrs 23 Apr 45 (22nd day)

D-148688 Pte. BEAUDOIN, J. (R.22eR.)

(Signed) J. Tremblay Capt.
for (R. PLANTE) Capt. & Adjutant,
A-13 CANADIAN INFANTRY TRAINING CENTRE,
VALCARTIER CAMP, P.Q.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE SEP 6 1945

Prepared by:
and
Checked by:

15

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(~~CERTIFICATE OF APPREHENSION~~ SURRENDER TO SERVICE AUTHORITIES)

I, Major C. Roy Hall, E.D., A/Officer Commanding, No. 9 District Depot, C.A.,
(Number) (Rank) (Name) (Unit)

hereby certify that D 148688 Pte. Jean BEAUDOIN,
(Number) (Rank) (Name in full)

of the A-13 C.I.T.C., C.A. Valcartier, Quebec,
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) C 40141 Cpl.
(Number) (Rank)

Sabourin, R. No. 9 District Depot, C.A.,
(Name) (Unit or appointment)

at Lansdowne Park, Ottawa, Ontario, at 2320 hours
(Place) (Hour)

on the 29th day of AUGUST 1945

Strike out words not applicable } as a deserter (~~or absent without leave~~) and that at the time of his arrest he was wearing military (~~civilian~~) uniform (~~dressed in civilian clothes~~).

Dated at Ottawa, Ontario, this 30th day of AUGUST 19 45.

C. Roy Hall
(C. Roy Hall Major)
(Name, Rank, Unit or appointment)
A/Officer Commanding,
No. 9 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (5008)
H.Q. 1772-39-1936

1H

M.F.R. 359
75M—5-43 (145)
H.Q. 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 148688	Pte.	Jean BEAUDOIN,	No. 9 District Depot, C.A.

~~1. The following is a fair and true summary of the entries in the Service and General~~ Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial Air Force Act or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times
~~Number of instances of gallantry or distinguished conduct~~		times

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by~~ ~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ~~ ~~ for ~~ ~~ beginning on the ~~ ~~ day of ~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 9 ~~Air Force~~ days in military custody, making a total of 9 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 years 9 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 27 September 1944

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward military.~~

~~10. (If the accused is a warrant officer) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

13

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a ~~true~~ extract from the regimental books in my custody.

Signed this 9th day of Sept. 1945

(W. M. Cameron) Captain,
Officer i/c Records,
No. 9 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

NDG 55-B-1961
NDG 55-B-1997
NR 403-B-11,896 Adm 3(b)12

CONFIDENTIAL

2 Nov 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

B-148688 Pte BEAUDOIN, Jean (Your PCO: B-17)
B-33070 Pte BEAUDOIN, Joseph Paul (Your PCO: B-19)
B-102369 Pte BEAUDOIN, Marcel

Jean and Joseph Paul Beaudoin are at present serving sentences of six and nine months detention awarded by DCM at No 9 TD. In both instances they were convicted on charges of desertion.

2. Another brother, Marcel Beaudoin, has recently returned from Overseas and is at present on leave.

3. Representations have been received that Marcel Beaudoin is totally blind and that the mother is in a highly nervous condition. It has been suggested that if some encouragement could be offered her regarding Jean and Joseph Paul Beaudoin, such compassionate action would tend to improve her condition.

4. Examination of the docs of Marcel Beaudoin discloses the following infm:-

(a) His condition is the result of alcoholic poisoning as a result of drinking cognac (where is not indicated). Another soldier who was apparently drinking with him died of the effects;

(b) The soldier is not totally blind - some improvement in his condition is indicated;

(c) Whether his condition will improve or deteriorate is not known at the present time.

5. Having regard to the above circumstances, may consideration be given, pls, to the advisability of reviewing the sentences awarded Jean and Joseph Paul Beaudoin. If it is not considered that remission should be granted at this time, may it be indicated, pls, when further review with a view to remission is contemplated.

6. Special Enquiry - urgent.

(H Neal)
Brigadier,
Acting Adjutant-General.

12

SPECIAL ENQUIRY

OCT 27 1945

Date _____

No. 7298B/5714B

To: D Admin

Reply addressed to D. M(R) will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

H.Q.C. 55-B-1961

OFFICE OF THE DEPUTY MINISTER OF NATIONAL DEFENCE

MEMORANDUM:

23 October, 1945.

To: A.G. (S.E.)

1. Reference your memo dated 5 Oct 45, respecting Ptes. J.P. and Jean Beaudoin;

2. Herewith medical certificate signed by Dr. J.M. Bigras, showing the highly nervous condition of the mother of these soldiers. Pte. Marcel Beaudoin has now returned to Canada and it has been ascertained that he is totally blind. This has been quite a shock to Mrs. Beaudoin. If some encouragement could be offered her regarding the sentences of her two other boys, such compassionate action would tend to improve her condition.

3. Will you please have the cases of Ptes. J.P. and Jean Beaudoin reviewed, bearing in mind the above circumstances.

A. Ross
(A. Ross)
Deputy Minister.

RECEIVED
OCT 29 1945
ADMIN.
302

10

TEL. 4-2509 61 AVENUE GUIGUES

DOCTEUR J. M. BIGRAS
MÉDECIN - CHIRURGIEN

OTTAWA, ONT. 16/10/45 194

To whom it may concern:

To certify that Mrs. Eugene Beaudoin is under my care since past 8 months suffering of the perineum, Glandular weakening and some nervous exhaustion; and due to shocks her condition has not improved lately.

Emotions should be avoided in the future; and should have complete rest.

Yours truly,

J. M. Bigras

9

MEMORANDUM

TO:

DM (A)

Department of National Defence,
HQC 55-B-1961, Adm 3(b)2,
Ottawa, Ont, 5 Oct 45.

RECEIVED IN THE OFFICE OF THE DEPUTY MINISTER OCT 10

S.E. 5714B d/26 Sep 45

1. Ref D-148688, Pte BEAUDOIN Jean;
C-33070, Pte BEAUDOIN J P;
C-102869, Pte BEAUDOIN Marcel.

2. Beaudoin J P was tried by SCM on 13 Sep 45 on a charge of desertion having absented himself without leave from 18 Sep 44 until arrested on 30 Aug 45. An absence of 11½ months. He was found guilty of the offence and sentenced to 9 months detention.

Beaudoin Jean was tried by SCM on 7 Sep 45 on a charge of desertion having absented himself without leave from 2 Apr 45 until arrested on 29 Aug 45. An absence of 4½ months. He was found guilty of the offence and sentenced to undergo detention for a period of 6 months.

3. In view of the fact that both these SUS were convicted of desertion after long absences it is not considered that in the interests of military discipline that they should be released prior to their having served a substantial portion of the sentence awarded. Consideration would be given to their release only on the most serious compassionate grounds.

4. Beaudoin Marcel is at present O/S having been admitted to the 4th Cdn General Hospital, RCAMC, on 8 Aug 45 diagnosed alcoholic poisioning of the optic nerve. He is described as doing well.

5. In view of the fact Marcel Beaudoin is still O/S and his physical condition is apparently the result of his own action it is not considered that such compassionate grounds have been shown as to warrant other than normal review in these two instances.

6. First review of sentence will take place 45 days after the award.

(A E Walford)
Major-General,
Adjutant-General.

FINAL

WOP:6293:mw

OCT 7 - 10 AM

8

S.O.S. 24-4-45
deserter from
A 13 Valcartier

Beaudoin Jean.

Beaudoin marcel.
Rec. but not identify from information
given. they have. 19 men by their name.

7

SPECIAL ENQUIRY

Date SEP 28 1945

To: D Admin

No. 57143

Reply addressed to D. M (A) will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY H D at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

6

OFFICE OF THE DEPUTY MINISTER OF NATIONAL DEFENCE

MEMORANDUM: A.G.(S.E.)

Ptes. Paul BEAUDOIN, C. 33070, and Jean BEAUDOIN, D. 148688, have both been sentenced to 9 and 6 months respectively.

The mother of this family of 9 children has just received news that another son, Pte. Marcel BEAUDOIN, has had an accident overseas, resulting in the loss of his eyesight.

The three boys under reference are the three eldest of the family, and the mother is seriously affected by the aforementioned conditions. Representations have been received for the compassionate release of Ptes. Paul and Jean BEAUDOIN.

Please obtain a report.

for Deputy Minister (Army).

REGD. LU
SEP 26 25-9-48
ADMIN.
3B2

C-102869

5

S.O.S. 10-10-44
~ deserter from.
A-12. Fankum.
Beaudain. J.P.

e.55B1997 K

CMBR.
27-9

H.

H.Q.C.55-B-1961 (JAG/D-4)
Your PCO: B-17

20 Sep 45

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

STANDING COURT-MARTIAL

D. 148688 Pte. Jean Beaudoin,
No. 9 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(Judge Advocate General.

JOGR/MM

GR

3

THIS COPY FOR H.Q. C. 55-B-1961
M.D. FCO: E.-17

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-148688 Name Jean BEAUDOIN

Rank Pte. Unit No. 9 D.D. C.A.

Charge (1) AA 12 (1) (a) WOAS Desertion.....

(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 2-4-45 (2) 4-9-45

Date of Arrest 29-8-45 Charge Signed 5-9-45

Orders for D.C.M.

Place and Date of Trial Court-Martial Building. 7-9-45

Sentence Detention 6 mos. Stoppages $13.15

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39754

Date 19-9-45

MEMO

M.D. 3	No. 9 D.D. C.A.
ABSENT	SENTENCE
4½ mos.	Det. 6 mos.

2

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No. PCO: B-17

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Ottawa, Ontario, 11th Sept., 1945.

Judge Advocate General,
Department of National Defence (Army),
Ottawa, Ontario.

C-55-B-1961

Standing Court-Martial
D-148688 - Pte. J. Beaudoin
No. 9 District Depot, C.A.

Herewith record of proceedings in the trial of the m/n by Standing Court-Martial, together with M.F.B.246.

R. K. Laishley
(R. K. Laishley) Major,
President Courts-Martial,
Military District No. 3.

3972-4

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

H.Q.C. 55-B-1962 CONFIDENTIAL

B.F.B. 878
25M—2-45 (1605)
H.Q. 201-3-8

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BEGIN, BERNARD D.170229 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1962

CENTRAL REGISTRY	DATE	R.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 25 1945				JAG	NEW FILE	CR	20-9-45
				JAG	With Papers C.R. OCT 16 1945		
OCT 19 1945	18 Oct 45			Admin	To note	jm	17-10-45
	26 Nov 45			CMBR	For Reconsideration C.R. NOV 1 1945		
NOV 14 1945				CMBR	For Reconsideration NOV 15 1945		
DEC 1 - 1945	3 12 45	PA		Admin	To note pls		1 Dec 45
DEC 3 - 1945	6 12 45	PA		Admin	With Papers C.R. DEC 6 1945		
DEC 7 - 1945				JAG	With Papers C.R. DEC 7 1945		
DEC 11 1945	11 Dec 45	PA		CMBR	To note pls	jm	10-12-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1962
(JAG/D-6)

OTTAWA, 10 December, 5

District Officer Commanding
Military District No 4
MONTREAL, Que

D-170229 - Pte BEGIN, B

Receipt is acknowledged of your M.1-B-17751 A(DIS) dated 4th December, 1945, under cover of which you forwarded to this headquarters for custody MPM 288 in respect of the m/n soldier.

E. L. M

/jm

for (R J Orde) Brigadier
Judge Advocate General

FILE NO: M.1-B-17751 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

MONTREAL, QUE. 6th December, 1945.

CENTRAL REGISTRY - Army
COMM 13825
DEC 7 1945
File
Chgd. to
Referred

The Secretary,
Department National Defence,
Ottawa Ontario.

D-170229 - Pte. BEGIN, B.

Ref HQC 55-B-1962.

2. Attached hereto form for remission in respect to the m/n soldier.

(E.J.RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

ENCL.

Noted
CHER 4
10 DEC 45

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-B-1962
District File No. M.1-B-17751 (A/DIS)

PART I

No. D.170229 Rank Pte. Name BEGIN, B.
Unit 4 D.D.

PART II

Date of Trial 4th September, 1945
Charge (s) ABSENTIN HIMSELF WITHOUT LEAVE
Sentence 220 days detention
Date of sentence 4th September, 1945
Confirmation -- (a) Authority: Dec.
(b) Date : 4 Sept 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 3 Dec 45.

Signed at Montreal this 7 Nov day of 1945.

(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (xxxxxxxxxxx) (xxxxxxxxxxx promulgated and extracts taken at Montreal South, Que. this 3rd day of December, 1945...
(1)

Ass- Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, CA

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D-170229 Rank Pte. Name BEGIN, B. Standing
The sentence of 220 days detention awarded by xxxxxxx Court Martial on the 4th September, 1945 has been remitted on the 3rd December, 1945 by D.O.C.
UNIT. Military District No.4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No. 291 Place Jacques Cartier Barracks, Date 3rd December, 1945
Montreal, South, Que.
Adjutant

(J. [illegible] CHARBEBOIS) Capt.-Adjt General List, C.A., att'd to No.4 District Depot, C.A.

N Strike out and initial words not applicable.

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

File. M.1-B-17751 A(DIS)
MONTREAL QUE. 4th December, 1945.

CONF. SER.
13391
DEC 5 1945
Secret 13-1962
admin

Secretary,
Department National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM CARO 5913.
D-170229 - Pte. BEGIN, B.

Reference HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to th m/n soldier.

2. Attached hereto MFM 288 duly completed in respect to the m/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(H.J. Renaud) Major-General,
DOC MD No. 4.

Encl.

Noted for Col D. Adj
Capt

6/12

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-170229 (Number) Private (Rank) HEGIN, Bernard (Name in full)

C.I.C., C.A., att'd to No.4 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 220 days detention

on 4th September, 1945. at Montreal South, Que.

being served at No.65 Military Detention Barracks, Longueuil, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19years and 10 months. - 11Oct. 1944

Medical grade or category BULHEMS 111111

FIRST TRIAL—PART II

To Adjutant General NDHQ (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended~~) (put into execution) (~~reviewed on~~) for reasons given in paragraph X.

Place MONTREAL, Que

Date 11 Oct 45

(E J RENAUD) Maj Gen
DOC MD No 4
(Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To

(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

(Confirming Authority)

M.F.M. 288
(Army Form A-2104)
15M—6-43 (441)
H.Q. 1773-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
12 Oct 45	No suspension No remission BF 23 Dec 45	D Potter Capt for DOC MDI	
22 Oct 45	Special remit on 29 Oct 45 in view of remission on compassionate grounds 1/11/45	D Potter Capt for DOC MDI	
27 Nov 45	Sentence remitted wef 3 Dec 45.	(E.J. Renaud), Maj Gen. DOC MD No. 4.	
3 DEC 45	"RELEASED" 3DEC 45	(C.POTTER)Major Commandant No. 65 Mil.Det.Brks. Montreal 1Sth,Que.	Marks earned 722

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE .15(1) Act ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Valcartier, Que., at 2215 hrs on 20th November, 1944, absented himself without leave from his Unit, A-13, C.I.T.C., C.A. until he surrendered himself to the Military Police at Montreal South, Que., at 1445 hrs. on 1st August, 1945.		

Signature of Officer making entry
(E.I. AIERBACK) Capt.,
General List, C.A.,
att'd to No.4 D.D., C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
60ct. 45	I do not recommend any remission of sentence in this soldier's case.	(S. ECHENBERG) Colonel, Commanding No.4 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
11 Oct 45	Sentence considered fair and reasonable. First review to take place on 19 Oct 45.	(E J RENAUD) Maj Gen DOC MD No 4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

CANADA

IN REPLY PLEASE QUOTE No. M-1-B-17751 ADIS

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que. November 29th, 1945.

Secretary,
Department of National Defence,
OTTAWA, Ontario.

12299
NOV 30 1945
CMBRTS-11-45

D-170229, Pte BEGIN, B.

Reference your HQC 55-B-1962 (CMBR-4) dated 22 Nov 45.

2. The m/n soldier's sentence is being remitted as of 3rd December 1945.

(E.J. RENAUD), Major-General,
D.O.C. M.D. No. 4

Noted & Cl.
D. Ad.
Capt

3

DEF. B. 440

HQC 55-B-1962 (CMBR-4

Case No----------
22 Nov 45

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: D-170229 Pte. BEGIN, B.

2. Unit at date of offence: A-13, CITC, CA, Valcartier, Que.

3. Charge: AA 15(1) AWL (Absent from 20 Nov 44 until he surrendered on 1 Aug 45--8½ mos)

Plea: guilty

4. Place and Date of Trial: #4 D.D., Montreal South, Que.
(DRCM) ~~(DCM)~~ (SCM) 30 Aug 45

5. Finding: guilty

6. (a) Sentence: 220 days detention

(b) Date of Sentence: 4 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 65 MDB in MD...4.....

(N.B. - Discharged under RO 1029( ) for
wef)

To be remitted
2 Doc 4
wef 3 Dec 45

PAGE 3 CONDUCT Case No.....

11. (a) Prior to Conviction

Offence	Date	Sentence
(1) Civil Convictions: NIL		
(2) Courts-Martial: NIL		
(3) Summary Convictions: NIL		

(b) After Conviction: Good(Expected d/ of release: 25 Dec 45)

(c) Date of enrolment/enlistment 15 May 44 Present Age: 20
enlisted G.S. 11 Oct 44

12. Remarks: (Here note any mitigating circumstances and show here any Petition or Representation other than in Item 10 but if Item 10 has been omitted, so state)

1) Statement by Accused: When he went absent was influenced by other persons--when he wanted to give himself up they frightened him saying:"You'll go to Bordeaux Jail", so he waited. Claims he had no intention of deserting but was influenced by these companions. Produces a letter from a lawyer saying that he is of good character and comes from a good family.
2) Defending Offr: Accused has a brother O/S and himself enlisted Active Service following his brother's footsteps. Accused is a young man without experience and was easily led astray.

13. Recommendations: (State by whom made, M.O., CMO, DOC, Rev.Offr)

Rev.Offr: Considering there were no aggravating circumstances surrounding the offence, recommend release at approx half-sentence, viz.20 Dec 45.

Reviewed by C.M.O. 10

14. Recommendation of the Board:

Date ...19...

Secretary CMBR

MFM 288 or AFA 3104 have been requested NOV 22 1945

HQC 55-B-1962 (JAG/D-6)

17 October, 1945

District Officer Commanding
Military District No 4
MONTREAL, PQ
Standing

D-160229, Pte B BEGIN
OTC, QA, attd No 4 DS QA
Court-Martial

15th October, 5 M. 1-B-17751(J)

Receipt is acknowledged of your
dated 1945 Standing
Court-Martial
explanation of the delay in the trial of the undersigned which has been
returned to this office for custody the proceedings
of the marginally noted

/jm

EJM
for (R.J. Orde) Brigadier

Judge Advocate-General.

20

IN REPLY PLEASE QUOTE No. M.1-B-17751(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

3199

OCT 16 1945

C55-B-1962

REGISTERED

Montreal, P.Q.,
15th October, 1945.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

R/22

STANDING COURT-MARTIAL
D-170229 Pte. B. BEGIN,
GIC, CA, attached to No.4 DD,CA,

Reference your HQC.55-B-1962 (JAG/D-7) dated 25 Sep 45.

2. As regards para. 2 of your above quoted letter, the attention of the President has been called to your remarks as to the expression of the Sentence in accordance with K.R.(Can) 565.

3. Hereunder, for your information, an explanation as to why the accused spent 34 days in custody awaiting trial:

1 Aug 45	Surrendered to No.4DD, Montreal South, P.Q. Wire status requested.
7 Aug 45	Wire status requested - Tracer.
8 Aug 45	Status received.
9 Aug 45	Docs and Part II's requested
14 Aug45	Docs and Part II's requested - Tracer
15 Aug 45	Docs received.
17 Aug 45	Kit inspection - Part II's received.
21 Aug 45	Remanded for Standing Court-Martial.
23 Aug 45	Proceedings forwarded.
29 Aug 45	Application for the marginally-noted Standing Court-Martial received at this Headquarters and trial of the accused scheduled to take place on 30 Aug 45.
30 Aug 45	Trial of the accused but adjournment requested by the accused until 4 Sep45 as shown on page 3 of the said proceedings.

19

4. Returned herewith, proceedings of the marginally-noted Standing Court-Martial, for your custody, please.

Enc.

(E.J.Renaud), Major-General,
for D.O.C., MD No.4.

MEDICAL OFFICER'S REPORT

I certify that No. D-170229 Pte. BEGIN. B.
C.I.C., C.A.
of att. No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

W. Fisher
W. FISHER, Lt. Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 30th August 1945

J. C. G. Hubeau major
President SCM

18

M. F. B. 246
50M—5-43 (254)
H.Q. 1772-39-460

MEDICAL OFFICER'S REPORT

I certify that No. D-170229 Rte. BEGIN, B.
of C.I.C., C.A. Att'd. No. 4DD. is in a good state of health,
and fit to undergo Trial by Court martial.

W. Fisher Lt. RCAMC.
W.FISHER, Lt. Medical Officer
No. 4. Dist. Coy. RCAMC.
Att'd. No. 4. District Depot, C.A.

Station JACQUES CARTIER BARRACKS, MONTREAL SOUTH QUE.,

Date 4 Sep 43.

J. C. G. Lebeau major
C. President SCM

17

M. F. B. 246
MM—5-43 (254)
H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A., Montréal-sud, Que.

le 30ième jour de août 1945 à 1045 heures,

pour le procès de D-170229, Pte. Bernard BEGIN, C.I.C., C.A.,
Matricule Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Major J.J.Y. Brossard, Le Régiment de Chateauguay, C.A.,
Grade Nom et prénoms

Quartiers-généraux, District Militaire No. 4.
Unité Détachement, le cas échéant

(Pour ajournement Voir A-3)

VERDICT: La cour déclare l'accusé, D-170229, Pte. Bernard BEGIN, C.I.C., C.A., attached to No. 4 District Depot, C.A. coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-170229, Pte. Bernard BEGIN, C.I.C., C.A., attached to No. 4 District Depot, C.A. à la détention pendant deux cent vingt (220) jours.

16

Signé à Montréal-sud, Que. ce 4ième jour de septembre 1945

(J.A.G. DUBEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39808 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 21 day of Mar 1951

L'ACCUSE S'ADRESSE A LA COUR:

Mon officier défenseur m'a informé ce matin qu'il n'avait pas eu assez de temps pour la préparation de la défense; alors je demanderais un ajournement.

LE PROCUREUR ne s'objecte pas à cette demande d'ajournement.

EN CONSEQUENCE, sur l'application soumise par l'accusé, à 1045 heures, le 30ième jour d'août 1945, la COUR ajourne le procès de cet accusé à mardi, le 4ième jour de septembre 1945, à 1000 heures.

Le 4ième jour de septembre 1945, à 1000 heures, la COUR se rassemble conformément à l'avis d'ajournement; est présent le même président que lors de l'ajournement.

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous à comme interprète ?~~

D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det. CMSC,

Question à l'accusé. Vous opposez-vous à C.A., quartiers-généraux, District Militaire No. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

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(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. A. G. Kitchen major
President SCM

B

CHARGE SHEET

The Accused, D 170229, Private Bernard BEGIN, C.I.C.,C.A., attached to No. 4 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec 15 (1),
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Valcartier, Quebec, at 2215 hours on 20th November, 1944, absented himself without leave from his unit, A-13, C.I.T.C., C.A., until he surrendered himself to the Military Police at Montreal South, Quebec, at 1445 hours on 1st August, 1945.

Signed at
Montreal South, Quebec,
22nd August, 1945.

(S. Kehenberg) Colonel
Commanding No 4 District Depot, C.A.

13

9

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... J.C.R.
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~xxxx

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Quand je me suis en allé j'ai été influencé par des garçons que je connaissais et j'ai voulu me rapporter après ça, parce que j'ai eu du regret d'être parti, mais les gars m'ont fait des peurs, ils m'ont dit: "Tu vas aller à Bordeaux" et j'ai attendu.

Après ça un garçon m'a dit: "T'es mieux de te rapporter". Je n'avais pas l'intention de partir c'est parce que j'ai été influencé; j'étais en "furlough" à ce temps-là et je n'avais pas l'intention de m'absenter parce que j'avais signé actif.

Je suis dans l'armée depuis le 15 mai 1944. Avant d'entrer dans l'armée j'étais chauffeur pour un nommé Perreault. J'aurai 21 ans dans le mois de décembre, je ne suis pas marié. J'ai demeuré en campagne durant mon absence sans permission, à Val David. J'ai travaillé dans le bois pour un nommé Jalbert que je connais par là. J'ai travaillé là pendant 1½ mois. Le reste du temps j'ai resté en campagne chez des amis et je travaillais un peu partout.

Je vous demanderais de bien vouloir considérer cette lettre du bureau de Lacoste & Lacoste, avocats. (Voir CC-5).

J.C.P.L.

11

"CC-5" 13

J. A. G. Dubeau maître
Greffier SCM

LACOSTE & LACOSTE

AVOCATS

PAUL LACOSTE, C.R.
ROGER LACOSTE
MARC LACOSTE
THOMAS LÉGARÉ
JACQUES DUQUETTE
JACQUES VIAU
MARCELLE HÉMOND LACOSTE

TÉLÉPHONE LANCASTER 7277*
CABLOGRAMMES "ETSOCAL"

S.V.P. ADRESSER TOUTES COMMUNICATIONS A LA SOCIÉTÉ

EDIFICE DE
LA BANQUE PROVINCIALE DU CANADA
221 OUEST, RUE ST. JACQUES

MONTRÉAL, 1
CANADA

1er août 1945.

RL/BT.

A QUI DE DROIT

CECI est pour certifier que je connais Bernard Bégin depuis son enfance et que je connais aussi ses parents. Bernard Bégin a toujours été à ma connaissance un excellent citoyen et il me fait plaisir de le recommander hautement.

Votre bien dévoué,

Roger Lacoste

10

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur (Par l'entremise de mon officier défenseur - Voir E-3).

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Monsieur le président,

Je ferai remarquer à la cour que le soldat BEGIN qui est entré dans l'armée en mai 1944 souvent pensait à son frère qui est outre-mer et il voulait suivre ses traces. Le numéro régimentaire de son frère est D-35003, Jean-Claude BEGIN. Alors, lui-même l'accusé a décidé de suivre les traces de son frère et il a signé actif le 11 octobre 1944, après avoir été appelé au préalable d'après les lois de mobilisation.

En novembre 1944, il était à Valcartier et là il eut son congé annuel, mais malheureusement BEGIN qui avait jusqu'à date un passé sans tache, ce qui est prouvé par son M.F.M. 6, est parti pour prendre son congé de quatorze jours et il a oublié de revenir.

Je comprends que ça ne change pas le fait de l'absence sans permission, mais d'un autre côté je comprends que l'influence chez un jeune homme qui manque d'expérience peut le rendre à commettre une telle offense et qu'il oublie qu'il peut changer le blason d'un frère qui fait son devoir outre-mer. En même temps, le même jeune homme a aussi oublié qu'il appartient à une famille dont le père a fait du service pendant vingt ans. Il est bien entendu que BEGIN n'a pas réalisé toute la portée de son offense. De plus son père ne manque certainement pas d'être loyal, car présentement il est chauffeur pour madame L.G. Beaubien qui est reconnue comme l'âme dirigeante de l'hôpital Ste-Justine, et je crois qu'il a souffert beaucoup de l'offense de son fils moralement et physiquement ainsi que sa mère.

J'ai à part de ça une certitude que BEGIN lorsqu'il était plus jeune et ceci pourrait être vérifié avec les autorités de l'hôpital Ste-Justine, qu'il souffrait d'épilepsie et il semblait souffrir des reins, mais apparemment si je regarde son dossier, je regrette de dire que dans son dossier il n'y a rien qui nous fait voir qu'il souffre de cette maladie. Il a même un 227 et le 227 n'est pas favorable au patient, vu qu'on ne change pas son "recheck" ni sa catégorie médicale malgré que lui-même dit qu'il souffre des reins.

Basé sur cette prétention, monsieur le président, je demanderais que bien que sentence doit être passée et qu'il est évident que BEGIN doit purger une punition, je demanderais qu'une note soit ajoutée pour qu'un examen médical soit fait, et que les autorités de l'hôpital Ste-Justine soient approchées afin de vérifier s'il a été traité quand il était plus jeune.

8

Comme vous le voyez d'après ses documents, monsieur le président, c'est sa première offense, elle est grave, elle est importante. Tout ce que je puis ajouter c'est que les quelques faits que j'ai apportés, je vous demanderais de les considérer ensemble et d'être aussi généreux que possible, tout en étant juste dans votre sentence contre l'accusé.

G. C. G. Nelson major
President SCM

"F"

DAILY ORDERS PART II

by

COLONEL DOLLARD MENARD, D.S.O.

Commanding

A-13 CANADIAN INFANTRY TRAINING CENTRE

No. 296

Place Valcartier, Que.

Date 12 Dec 44

(Last Order issued No. 295 , d/11 Dec 44

HOLDING ESTABLISHMENT

"B" OTHER RANKS

RECEIVED
AUG 17 1945
CENTRAL REGISTRY
N.D.H.Q. OTTAWA, ONT.

10. ABSENT WITHOUT LEAVE

a) Absent without leave from 2215 hrs. 20 Nov 44
Still absent at 2215 hrs. 11 Dec 44 (22nd day)

D-170229 Pte. BEGIN, B.

(Signed) J. Trembley Capt.
for (R. PLANTE) Capt. A/Adjutant,
A-13 CANADIAN INFANTRY TRAINING CENTRE,
VALCARTIER CAMP, P.Q.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE AUG 13 1945

7

Prepared by: JCH
and
Checked by: M

J. A. G. Rutherford Maj
President SCM

"G"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, COL. S. ECHENBERG, Commanding No. 4. District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-170229. Pte. BEGIN, Bernard.
(Number) (Rank) (Name in full)

of the C.I.C., C.A., att'd to 13. Valcartier, C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) D-121022. CPL.
(Number) (Rank)

CARRIERE, A. No. 4. District Depot Police, C.A.
(Name) (Unit or appointment)

at MONTREAL SOUTH QUE., at 1445 hours,
(Place) (Hour)

on the 1 day of AUG. 19 45.

Strike out words not applicable } ~~XXXXXXXX~~ absentee without leave), and that at the time of ~~XXXXXX~~ surrender he was wearing military (~~XXXXX~~ uniform (~~XXXXXXXXXXXX~~).

Dated at MONTREAL SOUTH QUE., this 1 day of Aug. 19 45.

S. Echenberg
(Signature, Number, Rank, Unit or appointment)

(S. ECHENBERG) Colonel.
Commanding No 4. District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

6

J. C. F. Vickers major
President SCM

"Y"

M.F.B. 555
75M—5-43 (145)
H.Q. 1772-39-429
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment (or unit)

D 170229 Private Bernard BEGIN, C.I.C., C.A., attached to No. 4 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement ~~awaiting~~ trial on the present charges, for nil days in civil custody, and 34 days in military custody, making a total of 34 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 yrs 8 mos. (2 Dec 1924)

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 11 October 1944 (enrolled 15 May 44)

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or reward~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th SEPTEMBER 1945 ~~19~~

(P. PARADIS) Lieut,
Regt de Maisonneuve, C.A.
Att'd to No 4 District Depot C.A.
Ass't Officer i/c Records,
No 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

J. A. G. Dubeau major
President SCM

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY P. Paradis Lieut (P. PARADIS) Lieut, Regt de Maisonneuve, C.A. Att'd to No 4 District Depot, C.A. Ass't Officer i/c Records, No 4 District Depot, C.A.					

H.Q.C.55-B-1982 (JAG/D-7)
Your M. 1-B-17751

25 Sept 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

Standing Court-Martial
D.170229 Pte. Bernard Begin,
C.I.C., C.A., att.No. 4 District Depot, C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. With reference to the expression of the Sentence, may reference please be made to the comments on the file of PEPIN, H.Q.C.55-P-1137, your file M.1-P-9923.

3. It is noted that the accused spent 34 days in custody awaiting trial. May an explanation of this delay be furnished, please.

4. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O.4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/MM

3

THIS COPY FOR: H.Q. C. 55-B-1962
M.D. M. 1-B-17751

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-170229 Name Bernard BEGIN

Rank Pte. Unit C.I.C. C.A. Att No. 4 D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 20-11-44

Date of Arrest 1-8-45 Charge Signed 22-8-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 3-8-45

Sentence Detention 220 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. ~~39788~~ 908

Date 21-9-45

MEMO Balance of sentence remitted by Conf. Auth. 3-12-45

M.D. 4 C.I.C. C.A. Att No. 4 D.D. C.A.

ABSENT
8 1/3 mos.

SENTENCE
Det. 220 days.

for Judge Advocate-General

10M-8-45(M-189)

JAGD/S

CANADA

In reply quote No. M. 1-B-17751 (J)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
15th September, 1945

C.55-B-1962

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT-MARTIAL
D-170229, Pte. Bernard BEGIN,
C.I.C., C.A., attached to
No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Reports dated 30th August and 4th September, 1945, respectively

2. Submitted for your information, consideration and approval, please.

J. A. G. Hubeau

(J.A.G. HUBEAU) Major,
Headquarters, Military District No.4,
President - S.C.M.

ENC.

M.F.A. 1325
L.00656—L-43 (9006)
M.Q. 1772-10-2009

39788

H.Q.C. 55-B-1963

CONFIDENTIAL

M.R.D. 1070
25M—3-45 (1066)
H.Q. 101-1-60

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BRUNELLE, PAUL D-605029 FUS.

CONFIDENTIAL
H.Q.C. 55-B-1963

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and ~~Remove "File" here~~ "With Minute")		
SEP 21 1945				JAG	NEW FILE	CR	17-9-45
OCT 5 1945	4-10-45	P.A.	E.J.				
NOV 20 1945							
NOV 19 1945	20 NOV 45	PA	WBR	JAG	With Papers C.R. NOV 16 1945		
NOV 24 1945	24 11 45	PA	OBL	Admin	With Papers C.R. NOV 23 1945		19-11-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

File.M-1-B-6920 ADIS
MONTREAL QUE.
22 Nov 45

10819

NOV 23 1945

Secretary,
Department National Defence,
Ottawa Ontario.

REVIEW OF SENTENCES CTL CARD 5213

D-605029 BRUNELLE P.

Reference HQC 9039-1, Adm 3(b) 3, dated 8 Sep 45, pertaining to the n/n soldier.

2. Attached hereto [illegible] duly completed in respect to the n/n soldier, [illegible] mitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(Adamson) Major-General,
DOC (B) No. 4.

MMCL.

Instlt Col.
D. ab.
Capt

24/11

NATIONAL DEFENCE LIBRARY
NOV 22 1945
LIBRARY

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-605029 (Number) Fusilier (Rank) BRUNELLE, Paul (Name in full)

Les Fus de Sherbrooke, C.A., (Unit) attached to No.4 District Depot, C.A. (Attachment (if any))

Sentenced to 120 days detention and Stoppages of pay the am'd $6.40

on 11th September, 1945 at Montreal South, Que.

being served at No.65 Military Detention Barracks, Montreal South, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years and 6 months - 20 March 1941

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (XXX committed to undergo his sentence, which I recommend should (XXX be XXXXXXX (put into execution) (XXXXXXX ..... date) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 1st October 1945

(Confirming Authority) (E.J. RENAUD) Major General, D.O.C., M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-3204)
15M—6-43 (461)
H.Q. 1772-99-2015

Part V

I direct that the sentence (which I hereby commute to.....

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
9 Nov 45	Sentence remitted wef 12 Nov 45.	(E.J. Renaud), Maj Gen, DOC MD 4.	
12 Nov 45.	RELEASED 520 MARKS.		(E. Belle)Capt. O.C. NO. 88 Mil. Det. Bks.

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15 (1) C.A.	ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Joliette, Que. at 2359 hrs on the 26th December, 1944, absented himself without leave from his unit, Les Fusiliers de Sherbrooke, C.A., until he was apprehended by the M.P. at Cap de La Madeleine, Quebec, at 1510 hrs on the 3rd August, 1945, dressed in civilian clothes, the of apprehension and return to this unit being in the amount of $6.40.	26-12-44	11-9-45

Signature of Officer making entry

(E.I. AUERBACH) Capt.,
General List, C.A.,
Att'd to No.4 D.D., C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
27-9-45	I do not recommend any remission of sentence in this soldier's case.	(J. BIBEAU) Lieut.-Colonel, ~~Acting Officer Commanding~~, No.4 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
1st Oct 45	Sentence considered fair and reasonable 1st review on 26 Oct 45	(E.J. RENAUD) Major General, D.O.C. M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FILE NO: M: 1-B-6920 (A/DIS)

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

CENTRAL REGISTRY ARMY
9615
NOV 16 1945
File 55-B-1963
Chgd. to
Referred to 205

MONTREAL, QUE.
15 Nov 45.

CENTRAL REGISTRY
PERS. SEC.
NOV 16 1945
File
Chgd. to
Referred to

The Secratary,
Department National Defence,
Ottawa Ontario.

D.605029, Fus. BRUNELLE, Paul

Ref HQC:55-B-1963

2. Attached hereto form for remission in respect to the m/n soldier.

(E.J.RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

ENCL.

noted
WR
Oct 4
2000145

N.D.H.Q. File No. HQC 55-B-1013

District File No. M 1-B-6920 (4/DIS)

PART I

No. D-605029 Rank. Pte. Name. BRUNELLE, R.

Unit. 4 P.D.

PART II

Date of Trial. 11th September, 1945.
Charge(s). ABSENTING HIMSELF WITHOUT LEAVE
Sentence. 120 days detention and stoppages of pay of $6.40
Date of sentence. 11th September, 1945.
Confirmation - (a) Authority: D.O.C.
(b) Date : 11 Sept 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Sec. 57 (2) of the Army Act, do hereby remit (~~commutation~~) ~~xxxxxxxxxxxxxxxxxxxx~~

sentence wef 12 Nov 45.

Signed at Montreal this 9th day of Nov 45
(Appointment) (E.J. Renaud), Maj Gen, DOC MD No. 4.
to be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission (~~xxxxxxxxxx~~) (~~xxxxxxxxxx~~) X promulgated and extracts taken at Montreal South, Que. this 12th day of November, 1945 (1)

Ass- Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-605029 Rank. Fusilier Name. BRUNELLE, Raul
The sentence of 120 days detention
awarded by ~~xxxxx~~ Standing Court-Martial on the 11th September, 1945 has been remitted
on the 12th November, 1945 by D.OC
UNIT. Military District No.4, Montreal, Que.
Certified true Extract of Daily Orders Part II Of No.4 District Depot, C.A.
No. 273 Place. Jacques Cartier Barracks, Date 12 November, 1945
Montreal South, Que.

Adjutant

(J. Mc N. CHARLEBOIS) Capt.-Adjt., General List, C.A., att'd to No.4 District Depot, C.A.

1 Strike out and initial words not applicable.

HQC 55-B-1963 (JAG/D-5)

4th October 1945

District Officer Commanding,
Military District No. 4,
Montreal, P.Q.

Standing Court-Martial
D-605029, Fus. P.Brunelle.

Receipt is acknowledged of your M.1-B-6920(J) dated 2nd October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

2. Your explanation of the delay in this case has been noted.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:EJ

IN REPLY PLEASE QUOTE No. M.1-B-6920(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
2nd October, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY ARMY
640
OCT 3 1945
C55-B-1963
Referred to

STANDING COURT-MARTIAL
D-605029 Fus. PAUL BRUNELLE,
Les Fus. de Sher., C.A.,
attached to No. 4 D.D.,CA.

Reference your HQC.55-B-1963(JAG/D-4) dated 21 Sep 45.

2. Hereunder, for your information, an explanation as to why the accused spent 39 days in custody awaiting trial:

3 Aug 45	Apprehended by MP at Cap de la Madeleine
7 Aug 45	Received at No. 4 D.D. Part II's and docs requested.
9 Aug 45	Remanded for S.C.M.
15 Aug 45	Tracer for Part II Order request.
24 Aug 45	Part II Orders received.
5 Sep 45	Documents received.
7 Sep 45	Proceedings forwarded to this Headquarters.
8 Sep 45	Application for the marginally-noted Standing Court-Martial received at this Headquarters and trial scheduled to take place on the 11th September 1945.
11 Sep 45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

(H.J.Renaud), Major-General,
D.O.C., M.D. No.4.

Enc.

MEDICAL OFFICER'S REPORT

I certify that No. D-605029 Pte. BRUNELLE. P.
Les Fusiliers de Sherbrooke, C. A.,
of att No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

H. Hazell Lieut. H. Hazell
Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 11th September 45

M. F. B. 246
50M—3-43 (254)
H.Q. 1772-39 480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot,C.A.,Montréal Sud,P.Q.

le 11ième jour de septembre 1945 à 11.30 heures,

pour le procès de D-605029 (Matricule) Fusilier (Grade) Paul BRUNELLE (Nom et prénoms)

Les Fusiliers de Sherbrooke,C.A., (Unité) attached to No.4 District Depot,C.A. (Détachement, le cas échéant)

PRÉSIDENT: Major L.J.E. Belleau, Quartiers Généraux, District Militaire No.4

PROCUREUR: Capitaine (Grade) H. Primeau (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité) (Détachement, le cas échéant)

OFFICIER DÉFENSEUR OU AVOCAT: Lieutenant (Grade) J.R. Panet-Raymond (Nom et prénoms)

C.I.C.,C.A., (Unité) attached to No.4 District Depot,C.A. (Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-605029 Fusilier Paul BRUNELLE, Les Fusiliers de Sherbrooke,C.A., attached to No.4 District Depot,C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-605029 Fusilier Paul BRUNELLE, Les Fusiliers de Sherbrooke,C.A., attached to No.4 District Depot,C.A., à la détention pendant cent vingt jours et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $6.40 en ce qui concerne le coût de son arrestation et de retour à son unité.

Signé à Montréal-Sud,P.Q. ce 11ième jour de septembre 1945

L.J.E. Belleau
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-43 (6449)
H.Q. 1772-33-2200
K.P. 26109

This is entered as No. 39723 (L.J.E. Belleau) Major in the Record of Courts-Martial kept in the office of the Judge Advocate General this 18 day of Sep 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~xxxxxxxxxx~~ Vous opposez-vous à ~~xx~~ comme interprète ?

Réponse:

Question à l'accusé. Vous opposez-vous à D-625377 Cpl. H.Turcot, No.4 District Depot, G.A.A., attached to Headquarters, M.D. No.4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est ~~sont~~ dûment assermentés.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ xx chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ---------- chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

H.E. Bellemare, Major
Pres. CM

"B2"

CHARGE SHEET

The Accused, D-605029, Fusilier Paul BRUNELLE, Les Fusiliers de Sherbrooke, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1),
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Joliette, Quebec, at 2359 hours on the 26th of December, 1944, absented himself without leave from his unit, Les Fusiliers de Sherbrooke, C.A., until he was apprehended by the Military Police at Cap de la Madeleine, Quebec, at 1510 hours on the 3rd of August, 1945, dressed in civilian clothes, the cost of apprehension and return to this unit being in the amount of $6.40.

Signed at
Montreal, South, Quebec,
11th August, 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Quand j'ai parti de Joliette, j'étais "tanné".

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~ HEB

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~ HEB

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

PAR L'OFFICIER DEFENSEUR:

Monsieur le Président,

Je demanderais la clémence de la cour pour le soldat Brunelle. Il s'est absenté sans permission alors qu'il était découragé de l'armée. Il a travaillé pendant ce temps là en faisant $5.00 à $10.00 par semaine. Il restait chez lui.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, [illegible] item will be given a sub-number.

UNIT Les Fusiliers de Sherbrooke C.A.

PART II ORDERS

by

Lt-Col. Paul Trudeau E.D.

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 20

STATION Joliette, Que.

DATE 28 Dec 44.

"Last Order Issued No. 19 dated 27 Dec 44.

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
		SECTION "B" OTHER RANKS				
	ABSENT WITHOUT LEAVE					
(c)		D-605029	Fus. BRUNELLE, P. (Sp Coy)		AWL fr. 2359 hrs	26 Dec 44.

RECEIVED AUG 24 1945

Certified True Extract

Signed [illegible]

District Records Officer having custody of Regimental PART II ORDERS kept by District Headquarters M.D. 4.

Date 23-8-1

Compiled by: [illegible]
Checked by:
Verified by: [illegible]

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

(J.G.P. Brosseau) Capt & A/Adjt.,
Les Fusiliers de Sherbrooke, C.A.

Officer Commanding or Adjutant

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-39-254

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 427, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major (Number) R.W. POULIOTTE, (Rank) O.C. Composite Provost Companies M.D. 4 (Name) (Unit)

hereby certify that D-605029 (Number) Fusilier (Rank) BRUNELLE, Paul (Name in full)

of the Fus. de Sherbrooke Joliette, Que. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered~~) D-126321 (Number) Sergeant (Rank)

SALCONI, F. (Name) Composite Provost Companies M.D. 4 (Unit or appointment)

at Cap de la Madeleine, Que. (Place) at 1510 (Hour)

on the 3rd day of August 19 45

Strike out words not applicable } as a ~~deserter~~ absentee without leave), and that at the time of his arrest he was ~~wearing military clothing~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 6th day of August 19 45

PG...

(R.W. POULIOTTE) Major (Signature, Number, Rank, Unit or appointment)

O.C. Composite Provost Companies M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

An "R" Recruit called under N.R.M.A.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — Strike out word not applicable — Complete — Full description of soldier being escorted — Strike out phrase not applicable

I, Captain J.R. PATERSON (Rank) Att'd No. 4 District Depot C.A. (Name) (Unit) hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort to proceed from Montreal (Place) to Three Rivers, Que. (Place) and return to Montreal, Que. (Place) for the purpose of escorting D-605029 Pte. BRUNELLE, Paul (Number) (Rank) Fernand de Sherbrooke C.A. (Name in full) Att'd No. 4 District Depot C.A. (Unit) (Attachment, if any) alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Transport Warrant No. D:18450 dated 4 Aug 45	
1-return (R.R.ticket) for escort from Montreal to Three Rivers	3.60
1-single(R.R.ticket) for absentee from Three Rivers to Montreal, Que.	1.80
TOTAL	$ 5.40

Dated at Mtl South Que this 6 day of Aug A.D. 19 45

J.R. Paterson Capt

J.R. PATERSON, Capt, Att'd DD-4 CA

Movement Officer No. 4 D.D. CA

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)

Strike out description not applicable

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
135m—10-43 (5468)
H.Q. 1772-99-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

Complete description

I, D-71340 (No.) GOLDSTEIN.H. (Rank) Att'd (Name) No. 4 District Depot (Unit) C.A.,

Strike out words not applicable

as (escort) ~~XXXXXXXXXXXXXXX~~ consisting of myself

Members of escort

detailed to proceed from Montreal (Place) to Three Rivers.Que. (Place)

Name and description of soldier escorted

to return D-605029 Pte. BRUNELLE.Paul Fusiliers de Sherbrooke CA

alleged to be a deserter or absentee without leave, to Montreal, Que. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
Transport Warrant Number D:18450 dated 4 August	
1-meal ticket (for escort)	$1.00
Total	$ 1.00

Dated at Mtl South Que this 6 Aug. day of 1945. A.D. 19

H Gold Stein

D-71340 H.Goldstein. (Signature and rank (of commander of escort) (escort))

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1462
75M—2-43 (3536)
H.Q. 1773-99-1550

J.E. Belleau. Major.
Pers CMP

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

"Y"

Number	Rank	Name	Regiment (or unit)
D 605029	Fus.	Paul BRUNELLE,	Les Fusiliers de Sherbrooke, C.A., attached to No 4 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Squadron and General Regimental and Squadron, Battery Conduct Sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Loss of Kit	1 times	Loss of Kit	1 times
For		times	AWL	1 times
~~For~~		~~times~~		~~times~~
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations when tried under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 39 days in ~~Air Force~~ military custody, making a total of 39 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service in attested paper~~ enrolment 25 yrs 11 mos. (30 Sep 1919)

6. The date of his ~~conscription~~ enrolment specified in his ~~record of service in attested paper~~ enrolment 20 Mar 41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force or military decoration or reward.~~

10. ~~(If the accused is a warrant officer) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused Air Force Number.....Rank.....

Name.....of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

P. Paradis Lieut

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 Sep 45. ~~Capt. or~~ (P. PARADIS) Lieut,
Regt de Maisonneuve, C.A.,
Att'd to No 4District Depot, C.A.,
~~Adjt. Officer in charge Records~~
No 4 District Depot, C.A.

The above statement (with the schedule of convictions and dispensations with trial) is read, marked.....signed by the president, and annexed to the proceedings.

-21-

Reg. No. D605029 Name BRUNELLE, Paul Corps CIC

Date of enlistment or enrolment 20 Mar 41

Date of Birth 30 Sep 1919

Sheet No. ..... of *1, 2, 3, 4, 5.

*Place check mark against number of sheets in use.

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				BY ORIGINAL DESTROYED/FIRE					
Br le R de Hull									
Pacific Comm.	23 Feb 44	Pte.		AWL from 23 Feb 44 to 24 Feb 44	Documentary	4 days pay	25 Feb 44	OC	Total forf 5 days pay.
J.C.Bks.	8 Aug 45	Pte.		Losing by neglect.....	"	Stop. $19.50	9 Aug 45	O.C.	Stop.$19.50

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY P. Paradis. Lieut. (P. PARADIS) Lieut, Regt de Maisonneuve, C.A., Att'd to No 4 District Depot, C.A., Ass't Officer i/c Records, No 4 District Depot, C.A.					

H.Q.C.55-B-1963 (JAG/D-4)
Your M. 1-B-6920

21 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 605029 Fus. Paul Brunelle,
Les. Fus. de Sher., C.A.,
att. No. 4District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 39 days in custody awaiting trial. May an explanation of this delay be furnished, please.

(R. Orde) Brigadier
Judge Advocate General.

JOGR/MM

AR

THIS COPY FOR: H.Q. C. 55-B-1963
M.D. M. 1-B-6920

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT MARTIAL

D. D-605029 Name Paul KRUMELLE

Rank Fus. Unit Les. Fus. de Sher. C.A. Att No. 4 D.D. C.A.

Charge ~~AA~~ 15 (1) AWL

Date of Crime 26-12-44

Date of Arrest 3-8-45 Charge Signed 11-8-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 11-9-45

Sentence Detention 120 days. Stoppages $6.40

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39723

Date 18-9-45

Balance of sentence remitted by Conf. Auth.

MEMO

M.D. 4 Les Fus. De Sher. C.A. Att No. 4 DD C.A.

ABSENT
7½ mos.

SENTENCE
Det. 120 days.

for Judge Advocate-General

CM-8-45(M.189)

IN REPLY PLEASE QUOTE No. M. 1-B-6920

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 14th September 1945.

NFIDENTIAL.

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

0-55-B-1963

STANDING COURT MARTIAL
D-605029 Fusilier Paul BRUNELLE
Les Fusiliers de Sherbrooke, C.A.
attached to No.4 District Depot, C.A.

With reference to the marginally-noted Standing court-martial, herewith the following documents;

(a) Proceedings of the court
(b) Medical officer's report d/11 Sept. 45.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E.Belleau)Major
Headquarters, Military District No.4
President of Standing Court-Martial

39723

H.Q.C. 55-B-1964

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BURSHAW, JOSEPH EDWARD C-1885 PTE

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 21 1945	20			JAG	NEW FILE	CR	17-9-45
OCT 19 1945					PER B.F. OCT 20 1945		
OCT 25 1945					With Papers C.R. OCT 24 1945		

H.Q.C. 55-B-1964

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

NJC 55-D-1964 (JAG/D-6)

25 Oct 45

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

Standing
C.1885 Pte. Joseph Edward BURSHAW
No. 3 District Depot, CA
Court-Martial

23rd October 5 K.55-D-1205(JAG)

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

ELM
for W. J. Gallant Brigadier,

ELM/ffd Judge Advocate-General.

IN REPLY PLEASE QUOTE No. K.55-B-1205(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 23 Oct 45

CONFIDENTIAL

CENTRAL REGISTRY ARMY
CONF. SEC.
4709
OCT 24 1945
File CJJ-B-1964
Chgd. to
Referred to JAG

The Secretary,
Dept of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C.1885 Pte. Joseph Edward BURSHAW
No. 3 District Depot, C. A.

1. Ref your HQC 55-B-1964 (JAG/D-4) dated 20 Sep 45.

2. Returned herewith m/n Court-Martial proceedings as per request in para 2 of your a/m letter.

P. L. Armstrong, Brigadier,
District Officer Commanding,
Military District No. 3.

Encl/s

NAT. DEF. B. 440
2500M-4-44-43251
M.G. 1772 38-767

MEDICAL OFFICER'S REPORT

R. Bowsley, Major
President, Standing Court-Martial

I certify that No. C.1885 Pte. BURSHAW, J.E.
of No. 3 District Depot, CA is in a Good state of health,
and is fit to undergo Trial by Court martial.

D.G. Guthrie, Capt., RCAMC
Medical Officer
No. 3 District Depot, C.A.

Station Kingston Ontario

Date 13th September 1945

M. F. B. 246
50M—5-43 (254)
H.Q. 1772-39-480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Kingston, Ontario,

on the 13th day of September, 1945, at 1100 hours,

for the trial of: C.1885 Private Joseph Edward BURSHAW,
Number Rank Full Name

No. 3 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major J.E. Dowsley, E.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Captain J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Captain F.P.O. Leask, No. 3 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty of the charge.

SENTENCE: To undergo detention for ninety days.

Signed at KINGSTON, Ontario, this 13th day of September, 1945.

J.E. Dowsley Major
President,
Standing Court-Martial.

M.F.B. 1488
25M-6-44 (4828)
H.Q. 1772-99-3296

Is entered as No. 39755 in the Register of Courts Martial kept in the office of the Judge Advocate General this 19 day of Sep 1945

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B.B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC,CA, as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon ~~each charge in~~ the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

President, Standing Court Martial

CHARGE SHEET

The accused No.C.1885 Private Joseph Edward BURNSHAW, No.3 District Depot, C.A., a G.S. soldier of the Canadian Army placed on active service is charged with:

CHARGE
SEC. 15 (1)
ARMY ACT

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Kingston, Ontario, on the 16th day of August 1945, absented himself without leave from No.3 District Depot, C.A., at 1600 hours on the said 16th day of August 1945 and remained so absent until surrendering himself to the military authorities at Kingston, Ontario, at 0330 hours on the 10th day of September 1945, dressed in military uniform.

(J.ROBERTS)Lt.-Col., R.C.A.,
Officer Commanding,
No.3 District Depot,(CA).

KINGSTON, Ontario,
11th September 1945.

Precis of Evidence

The following evidence is available to prove the above charge.

DOCUMENTARY:

Certified True Copy, Daily Order Part II, No.39 of No.3 District Depot, CA., dated 22nd August 1945, showing 1st notice of absence.

Certified True Copy, Daily Order Part II, No.40 of No.3 District Depot, CA., dated 28th August 1945, showing 2nd notice of absence.

M.F.M. 216.

NOTIFICATION OF TRIAL

The above accused will be presented for Standing Court Martial at The Armouries, Kingston, Ontario, at 1000 hours on the 13th day of September 1945.

May Capt. J. Goodman, be nominated as prosecutor, please.

(J.ROBERTS)Lt.-Col., R.C.A.,
Officer Commanding,
No.3 District Depot, (CA).

KINGSTON, Ontario,
11th September 1945.

Signed on the around at
0945 hrs. the 12 Sept. 1945.
[illegible]
Capt.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

The Prosecutor makes a statement regarding all the circumstances connected with the offence. (not attached)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

Statement by the Accused,-

I was absent on account of family trouble. My father is sick and should have an operation. He cant work. My mother has heart trouble and I have a doctor's certificate to prove that, and I was definitely needed at home. There was no income coming in, sir.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. Sir, all the things on the sheet were all for the same trouble. I have had family troubles since I have been in the Army and I just couldn't help it.

Question to the accused. Do you wish to address the Court?

Answer. I wish my Defending Officer to speak for me, sir.

DEFENDING OFFICER: I have three letters here stating the family trouble. The father was in an accident, the mother is sick and his sister and two or three children are at home, more or less deserted by her husband, and the source of income is very small. (three letters, from the accused's doctor, minister and lawyer, are read) The accused tried to make a little money to get the family more or less on their feet again and then come back with a view to discharge.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Y

President, Standing Court Martial

A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C.1885	Private	Joseph Edward BURSHAW	No. 3 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field Service Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For Sec 15 (1)	1	times	7	times
For Sec 24 (2)	Nil	times	1	times
For		times		times
For		times		times

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 3 days in military custody, making a total of 3 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 years

6. The date of his attestation specified in his attestation paper is 4 Apr 44

9. The accused is in possession of or entitled to no military decoration, or military reward

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Nil

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

~~SCHEDULE~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		Nil		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of September 1945

R. Hoffman Capt WPaD for Lieut Depot Capt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Reg. No. C.1885 Name BURSHAW, J.E. Corps Inf. RIFLE Date of enlistment or enrolment 4-Apr-44 Date of Birth

Signature O.C. Company, etc. Sgd: A.W. PARKER, Capt. Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
KIMBERLEY, Ont.	15-4-44	Sig.		AWL from 0800 hr. 15-4-44 until 0615 hr. 17-4-44. (Total 1 day 22 hr. 15 mins).	Bdr. C. Maroni.	7 days C.B.	17-4-44	Capt. G.M. Cunnington	2 dys pay FR&I Sgd: G.M.C.
KINGSTON, Ont.	20-Apr-44	Pte.		BREAKING OUT OF BARRACKS 1800 hr. 20-Apr-44 whilst a defaulter. AWL 1800 hr. 20-Apr-44 until 0615 hr. 23 Apr 44 Abs. 2 da. 12 hr. 15 min. AWL 0600 hr. 1 May 44 until 0615 hr. 3 May-44 Abs. 2 da 15 min.	Cpl. Adams Cpl. Adams Documentary Bdr. Maroni, C.	Forf. 4 days ordinary pay	3 May 44	Lt-Col. E.O. KEELER	Forf. 4 dys pay FR&I. Sgd: R.C.D.
D/C 40 St. Johns	20 JUN 44			AWL A.A.SEC. 15 (1) from 0600 20 JUN 44 to 0955 hr. 21 JUN 44 Absent: 1 day 3 hr. 55 min.	hr. Documentary L/Cpl. D. Whelen	Admonished	21 Jun 44	Maj. A.T. Stikeman	2 dys pay FR&I 149

Sgd: undecipherable.

(P.T.O.)

Reg. No. C.1885 Name BURSHAW, J.E.

Signature O.C. Company, etc. Sgd: A.W. PARKER, Capt.

Corps Inf. RIFLE

Date of enlistment or enrolment 4-Apr-44

Date of Birth

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
KIMBERLEY, Ont.	15-4-44	Sig.		AWL from 0800 hr. 15-4-44 until 0615 hr. 17-4-44. (Total 1 day 22 hr. 15 mins).	Bdr. C. Maroni.	7 days C.B.	17-4-44	Capt. G.M. Cunnington	2 dys pay FR&I Sgd: G.M.C.
KINGSTON, Ont.	20-Apr-44	Pte.		BREAKING OUT OF BARRACKS 1800 hr. 20-Apr-44 whilst a defaulter. AWL 1800 hr. 20-Apr-44 until 0615 hr. 23 Apr 44 Abs. 2 da. 12 hr. 15 min. AWL 0600 hr. 1 May 44 until 0615 hr. 3 May-44 Abs. 2 da 15 min.	Cpl. Adams Cpl. Adams Documentary Bdr. Maroni, C.	Forf. 4 days ordinary pay	3 May 44	Lt-Col. E.O. KEELER	Forf. 4 dys pay FR&I. Sgd: R.C.D.
D/C 40 St. Johns	20 JUN 44			AWL A.A.SEC. 15 (1) from 0600 hr. 20 JUN 44 to 0955 hr. 21 JUN 44 Absent: 1 day 3 hr. 55 min.	Documentary L/Cpl. D. Whelen	Admonished	21 Jun 44	Maj. A.T. Stikeman	2 dys pay FR&I 149

Sgd: undecipherable.

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
BTC 48 St.Johns	3 Jul		44	AWL A.A. SEC. 15 (1) from 0600 hr. 3 Jul 44 to 0950 hr. 11 Jul 44 Absent: 8 dys. 3 hrs. 50 mins. Total forf. 23 days pay	Documentary L/Cpl. Y. Quesnel	14 days summ forf. 14 dys CB	13 Jul 44 Sgd:	Lt.-Col. W.H.Watson Initials undecipherable	9 dys pay FR&I 149
BTC48 ST.Johns.	17-Jul-44			AWL A.A. SEC. 18(1) from 0600 hr. 17 Jul 44 to 0040 hr. 1 Aug 44. Absent: 14 days 18 hr. 40 mins.	Documentary L/Cpl.Leurin	15 days det.	2-Aug-44	Lt-Col. W.H.Watson	15 dys pay FR&I 149
	1st Charge								
	2nd Charge			LOSING BY NEGLECT HIS ARMS AA SEC. 24(2) Value of lost equipment $2.70	Capt.G.B.A. Johnson	placed under pay stoppages $2.70.	11-Aug-44	Major J.B. Nettlefield	
FARNHAM,P.Q.	21-Aug 44	Pte.		AWL from 0100 hr. 21 Aug 44 until 2220 hr. 7 Sep 44.(Abs. 17 dys 21 hrs. 20 mins.) AA. 15(1)	Pte.Creighton Doc. Pte. Lamarche	14 days detn. Sgd:	8 Sep 44 Initials	Col. A.T. Howard, undecipherable	Automatic forf. of 18 dys pay. FR&I 149
FARNHAM,Que.	2-Oct-44	Pte.		AWL from 0100 hr. 2-Oct-44 to 1630 hrs. 2-Oct-44.Abs. 15 hrs. 30 min. AA 15 (1)	L/Cpl.Runacres L/Cpl.Nolin (Doc)	7 dys C.B.	3-Oct-44 Sgd:	Major D. Williamson D.W.	Auto forf. 1 dys pay FR&I 149(1)

CERTIFIED TRUE COPY

(R.C.D.) Major
Officer having custody of original record

H.Q.C.55-B-1964 (JAG/D-4)
Your K. 55-B-1205

20 Sep 45

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

STANDING COURT-MARTIAL

C. 1885 Pte. Joseph Edward Burshaw,
No. 3District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(B. J. ORFE) Brigadier
Judge Advocate-General.

JOGR/MM

THIS COPY FOR: H.Q. C. 55-B-1964
M.D. K. 55-B-1205

G.S. MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. C-1885 Name Josephedward BURSHAW

Rank Pte. Unit No. 3A D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 16-8-45

Date of Arrest 10-9-45 Charge Signed 11-9-45

Orders for D.C.M.

Place and Date of Trial The Armouries, 13-9-45

Sentence Detention 90 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39755

Date 19-9-45

MEMO

M.D. 3 No. 3 D.D. C.A.

ABSENT
25 days.

SENTENCE
Det. 90 days.

D.G. Kelly, Capt.
for Judge Advocate-General

OM-8-45(M-189)

CANADA

IN REPLY PLEASE QUOTE No. K.55-W-3681
K.55-B-4779
K.55-B-1205

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Confidential

Kingston, Ontario, 14th September, 1945.

The Judge Advocate-General,
Dept. of National Defence,
Central Chambers,
OTTAWA, Ontario.

STANDING COURTS-MARTIAL
C.124398 Pte Thomas James Wilfred WOODCOCK
C.103241 Pte Pascal BARRE
C.1885 Pte Joseph Edward BURSHAW
No. 3 District Depot, C.A.

Herewith proceedings on the trials by Standing Court-Martial of the marginally named soldiers.

(J.E. Dowsley) Major,
President of
Standing Court-Martial.

Encls.

397735

H.Q.C.55-B-1065

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT MARTIAL

BRANCHAUD, MARCEL D-650039 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 21 1945				JAG	NEW FILE	CR	17-9-45
OCT 5 - 1945	4.10.45	PA	E.J.	Jag.			
DEC 7 - 1945	17 DEC 45	PA			For Requisition C.R. DEC 4 1945		
				JAG	With Papers C.R. DEC 7 1945		
OCT 8 - 1945				CMBR	To note pls		8.12.45
DEC 11 1945	11 Dec	PA			To note pls		16 DEC 45
DEC 10 1945							
DEC 13 1945	13/12/45	PA		D. Adm.	For Requisition C.R. DEC 12 1945		
DEC 17 1945	17 DEC 45	PA		CMBR	PER B.F. DEC 17 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

File pls
GSB

DEPARTMENT OF NATIONAL DEFENCE

ARMY

File. M.1-B-17908 A(DIS)
MONTREAL QUE.
3rd December, 1945.

13107
DEC 4 1945
650-B-1965
CMBR 4-2
admin

Secretary,
Department National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CH CARO 5913.
D-650039 - Pte. BRANCHAUD, Marcel

Reference HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to the r/n soldier.

2. Attached hereto MFH 288 duly completed in respect to the r/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(E.J. Renaud) Major-General
DOC HQ No. 4.

Encl.

GSB

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-650039 (Number) Pte. (Rank) BRANCHAUD, Marcel (Name in full)

Les Fus du St.Laurent, C.A. (Unit) Att'd to No.4 District Depot,C.A. (Attachment (if any))

Sentenced to 180 days detention

on 30th day of August, 1945 at Montreal South,Que.

being served at No.65 M.D.B. Longueuil, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years and 11 months - 15 Oct 43

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~xxx~~ committed to undergo his sentence, which I recommend should (~~xxx~~ be ~~xxxxxxxx~~) (put into execution) (~~xxxxxxxx~~ date) for reasons given in paragraph X.

Place MONTREAL, P.Q.,

Date 29 Sep 45

(Confirming Authority) (E.J. RENAUD) Major General, D.C.C., M.D. No. 4

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

(Superior Military Authority)

Date

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

(Confirming Authority)

Date

M.F.M. 288
(Army Form A-3104)
15M—5-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
10 Oct 45	No suspension No remission RF 20 Nov 45	D Bastien Capt for DOC MD 4	
26 Nov 45	Sentence remitted wef 30 Nov 45.	(E.J. Renaud), Maj Gen, DOC MD No. 4.	
30 NOV45	"RELEASED"30NOV45	(C.Potter)Major Commandant No.65 M.D.B. Montreal Sth,Que	Marks earned 744

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE: Sec.15 (1), A.A. ABSENTING HIMSELF WITHOUT LEA VE, in that he, at Valcartier, Que., at 0800 hrs on 27th December, 1944, absented himself without leave from his Unit, Les Fusiliers du St.Laurent, C.A., until he surrendered himself to the Military Police, at Montreal South, Que., at 2330 hrs. on 10th July, 1945.	27-11-44	30-8-45

Signature of Officer making entry

(E.I. AUERBACK) Capt.,
General List, C.A., attached
to No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26-9-45	I do not recommend any remisson of sentence in this soldier's case. (J.BIBEAU) Lieut.Colonel, A/Commanding Officer, No.4D.D., C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
29 Sep 45	Sentence considered fair and reasonable. 1st review on 30 Nov 45.	(E.J. RENAUD) Major General, D.O.C., M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FILE NO: M.1-B-17908 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

MONTREAL, QUE. 6th December, 1945.

CENTRAL 13827
CO
DEC 7 1945
File
Chgd. to
Referred

The Secretary,
Department National Defence,
Ottawa Ontario.

D-650039 - Pte. BRANCHAUD, M.

Ref HQC 55-B-1965.

2. Attached hereto form for remission in respect to the m/n soldier.

(E.J.RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

ENCL.

LK

To
Refer
CMBR 4
10 DEC 45

To
Notify Lt Col Clarke
DOL

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-B-1945
District File No. M.1- B-17908 (A/DIS)

PART I

No. D.650039 Rank Pte. Name BRANCHAUD, M.
Unit No. 4 D.D.

PART II

Date of Trial 30 August, 1945
Charge (s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence 180 Days Detention.
Date of sentence 30th August, 1945.
Confirmation -- (a) Authority: Det. 4
(b) Date : 30 Aug. 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 30 Nov 45.

Signed at Montreal this 26 Nov. day of 1945.

(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission ~~XXXXXXXXXXXXXXXXXXXXXXXXX~~ promulgated and extracts taken at Montreal S. outh, Que. this 3rd day of December 1945.. (1)

Ass- Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-650039 Rank Pte. Name BRANCHAUD, M. STANDING
The sentence of 180 Days Detention awarded by ~~XXXXXXX~~ Court Martial on the 30th August 1945, has been REMITTED on the 30 November 1945 by D.O.C.
UNIT Military District No. 4 Montreal Quebec
Certified true Extract of Daily Orders Part II of No. 4 District Depot C.A.
No. 290 Place Jacques Cartier Barracks Date 1 December 1945
Montreal South, Que.

Adjutant

(J. [illegible] CHARLEBOIS) Capt-Adjt.
General List, C.A., att'd to
No. 4 District Depot, C.A,

* Strike out and initial words not applicable

HQC 55-D-1965 (JAG/D-5)

4th October 1945

District Officer Commanding,
Military District No. 4,
Montreal, P.Q.

Standing Court-Martial
D-650039, Pte. M. Franchaud.

Receipt is acknowledged of your M.1-D-17908(J) dated 1st October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:MJ

OK.

CANADA

IN REPLY PLEASE QUOTE
No. M. 1-B-17908 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

REGISTERED

Montreal, P.Q., October 1st 1945.

The Secretary
Department of National Defence
O T T A W A, Ontario.

CENTRAL REGISTRY Army
COMMERCE.
642
OCT 3 1945
File C 55-B-1965
Chgd. to
Referred to

STANDING COURT MARTIAL
D-650039, Private Marcel BRANCHAUD,
Les Fusiliers du St. Laurent, C.A.,
attached to No. 4 District Depot, C.A.

Reference your H.Q.C. 55-B-1965 (JAG/D-4), dated 21st September, 1945, enclosing the proceedings of the marginally-noted Standing Court Martial.

2. Same are returned, herewith, for custody, as requested in paragraph 2 of your above-mentioned letter.

(E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

N.D. 23
1,500M—7-42 (5219)
H.Q. 1772-101-23

MEDICAL OFFICER'S REPORT

I certify that No. D-650039 Pte. BRANCHAUD. M.
Les Fus. du St.Laurent,CA
of att. No. 4 D.D. CA. is in a good state of health,
and fit. to undergo Trial by Court martial.

W.F. Fisher Lt.
W.FISHER,Lt Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 30th August 1945

J. A. G. Williams major
President SCM

M. F. B. 246

50M—5-45 (254)
H.Q. 1772-30-400

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A., Montréal-sud, Que.

le 30ième jour de août 1945 à 1000 heures,

pour le procès de D-650039, Pte. Marcel BRANCHAUD, Les Fusiliers du St-Laurent, C.A.,
Matricule Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. J.R. Panet-Raymond, C.I.C., C.A.,
Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-650039, Pte. Marcel BRANCHAUD, Les Fusiliers du St-Laurent, C.A., attached to No. 4 District Depot, C.A. coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-650039, Pte. Marcel BRANCHAUD, Les Fusiliers du St-Laurent, C.A., attached to No. 4 District Depot, C.A. à la détention pendant cent quatre-vingts jours.

Signé à Montréal-sud, Que. ce 30ième jour de août 1945

(J.A.G. DUBEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39724 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of Sep 19 45

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det. CMSC, C.A., quartiers-généraux, District Militaire No.4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. C. G. Dubois major
President SCM

B

CHARGE SHEET

The Accused, D-650039, Private Marcel BRANCHAUD, Les Fusiliers du St.Laurent, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Valcartier, Quebec, at 0800 hours on 27th December, 1944, absented himself without leave from his Unit, Les Fusiliers du St.Laurent, C.A., until he surrendered himself to the Military Police, at Montreal South, Quebec, at 2330 hours on 10th July, 1945.

Signed at
Montreal South, Quebec,
20th July, 1945.

(S.Echenberg) Colonel,
Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... J.C.R.W
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~[illegible]~~ J.C.R.W

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur. (Voir CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

D'abord, je suis entré dans l'armée comme "gunner" dans l'artillerie. L'artillerie, c'est une chose qui m'intéressait, j'aimais ça. Quand ils ont voulu me transférer dans l'infanterie, j'ai demandé au lieutenant Arsenault et il m'a dit que c'était impossible de m'envoyer de l'autre bord comme "gunner".

Dans l'infanterie, tout le "training" que j'ai fait...j'étais tout le temps à bout de nerfs et je n'étais pas capable de faire ça. Je courais pendant dix minutes et je tremblais pendant quinze minutes.

Si ça avait été comme "gunner" j'étais prêt à traverser...d'ailleurs je l'ai offert et ils m'ont absolument pas voulu, ils m'ont dit que c'était impossible. C'est pour ça qu'ils m'ont donné une passe et je ne suis pas retourné.

Pendant le temps que j'ai été parti, j'ai rencontré deux frères qui étaient restés en campagne et ils m'ont offert de travailler pour eux autres et j'ai travaillé pour eux autres tout le temps que j'étais parti. Quand j'ai décidé de me rapporter, j'étais tanné de me cacher de même, j'ai décidé de m'en venir et je me suis en venu.

Avant d'entrer dans l'armée, j'étais à l'Ecole des Beaux-Arts, j'apprenais l'art commercial. J'ai 20 ans, je ne suis pas marié. J'ai travaillé durant mon absence à Ste-Thérèse et St-Janvier pour les deux frères ...de temps en temps chez un et de temps en temps chez l'autre.

Aux alentours de février, ils ont marqué sur les journaux que ceux qui cachaient les A.W.L's seraient punis et quand j'ai parti, ils m'ont fait faire serment de ne pas dire leur nom, alors, je ne peux pas dire leur nom, je ne veux pas me mettre dans le trou avec ça.

L'hiver j'ai fait du bois et rendu au printemps j'ai travaillé sur la terre avec un tracteur. De plus j'ai passé à l'hôpital et le psychiâtre m'a recommandé pour un S-5 (Stabilité).

J.C.B.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur (Par l'entremise de mon officier défenseur - Voir E-3)

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

" E - 3 "

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Monsieur le président,

Je demanderais la clémence de la cour pour le soldat BRANCHAUD, parce qu'il avait certains motifs pour s'absenter sans permission. Au début, il était dans l'artillerie et il aimait ça, mais quand on l'a transféré dans les Fusiliers du St-Laurent et qu'il vit qu'il était sur une "draft" pour outre-mer, lorsqu'il se sentait physiquement incapable de remplir la tâche dans l'infanterie, il est parti absent sans permission.

Durant son absence, il a travaillé pour des fermiers à un salaire d'environ $20.00 par semaine. Il s'est rapporté lui-même à Montréal; son "crime-sheet" est blanc, et une autre chose...un lieutenant-colonel au Montréal Military Hospital a suggéré qu'il devrait avoir un S-5.

J.C.R.U

"F"

DAILY ORDERS PART II

by

LT.COL. P.H. L'HEUREUX
Commanding

No. 2

Place VALCARTIER, P.Q.

Date 5 JAN 44

1st BATTALION FUSILIERS DU ST-LAURENT CA

(Last Order issued No. 1 , d/ 4 Jan 43

RECEIVED
JUL 27 1945
CONTROLLER
No. 4 DISTRICT ARMY

"E" - OTHER RANKS

3. ABSENT WITHOUT LEAVE

(a) The u/n are A.W.L. from the hours and dates shown

D-650039 Fus BRANCHAUD M. 0800 hrs 27 Dec 44

4. STRENGTH DECREASE

(a) The u/m personnel, A.W.L. from hours and dates shown, are S.O.S. to No. 5 D.D. while absent without leave 31 Dec 44 (Auth: HQ MD No.5)

(Signed) L.A. Pellerin, Capt.,
(P.H. L'HEUREUX) Lt.Col.,
for Officer Commanding,
1 Bn Fusiliers du St-Laurent CA

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records, N.D.H.Q.
DATE JUL 24 1945

Prepared by:
and
Checked by:

J. C. E. Nichols major
President SCM

"G"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. S. ECHENBERG, Commanding No. 4. District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-650039. Pte. Branchaud, Marcel.
(Number) (Rank) (Name in full)

of the FUS DE ST LAURENT, C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXXXX~~ (surrendered to) D-14065. CPL.
(Number) (Rank)

BRITTON, G. No. 4. District Depot Police, C.A.
(Name) (Unit or appointment)

at MONTREAL SOUTH QUE., at 2330 hours,
(Place) (Hour)

on the 10 day of JUL 19 45.

Strike out words not applicable } ~~XXXXXXX~~ as a deserter, ~~XX~~ absentee without leave), and that at the time of his arrest he was wearing military (~~XXXXX~~ uniform (~~XXXXXXXXXXXXXXX~~

Dated at MONTREAL SOUTH QUE., this 11 day of JUL 19 45.

(Signature, Number, Rank, Unit or appointment)
COMMANDING (S. ECHENBERG,) Colonel.
No. 4. District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

J. C. G. Walker major
President SCM

"Y"

M.D. 188
5050—9-43 (5992)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-650039	Pte.	Marcel BRANCHAUD	Fus. du St. Laurent, C.A. att'd to No. 4 D.D. C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service, Regimental General, Regimental and Squadron, Battery, Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed of summary awards under Section 47 of the ~~Air Force~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
~~For~~	~~times~~	~~times~~

Number of instances of gallantry or distinguished conduct ~~nil~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 51 days in ~~military~~ Air Force custody, making a total of 51 days in custody, of which 33 days were spent in hospital.

5. The present age of the accused according to his ~~service records is attested paper is~~ enrolment 20 years, 8 months. (25 Nov. 1924)

6. The date of his ~~commencement~~ enrolment specified in his ~~record of service is attested paper~~ enrolment 15 October, 1943

7. ~~The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, as~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30 August 45 day of .....

W. Baird, Captain,
C.G.G., C.A., att'd to
No. 4 District Depot, C.A.,
Officer i/c Records,
No. 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the prisoner and forms part of the proceedings.

J. C. G. Nelson major
President SGM

No. D-650039 Name BRANCHAUD Marcel Regt., Battery, or Company 24 Corps 20 FD REGT RCA Date of enlistment 15 Oct 43 G.C. Badges Tradesmen's Rates of Pay

No. and date of last drunk NIL Period not reckoning towards freedom from extra fine Sheet No. one Signature O.C. Company, etc. (Signed) E.Lepage Lt. Character

M.F.M. 6 (A.F.B.122) 750M—12-42 (7537) H.Q. 1772-39-1052

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY (W. BAIRD) CAPTAIN G.G.C., C.A., att'd to No. 4 District Depot, C.A. Officer i/c Records, No. 4 District Depot, C.A.					

O.C. E. Lepage mt
Expulsion Sen

H.Q.C.55-B-1965 (JAG/D-4)
Your M. 1-B-17008

21 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 650089 Pte. Marcel Branchaud,
Les Fus. du St.Laurent, C.A.,
att. No. 4 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

JOGR/MM

THIS COPY FOR: H.Q. C. 55-B-1965
M.D. M. 1-B-17008

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. D-650039 Name Marcel BRANCHAUD

Rank Pte. Unit Les Fus. du St.Laurent. C.A. Att No. 4 DD C

Charge AA 15 (1) AWL

Date of Crime 27-12-44

Date of Arrest 10-7-45 Charge Signed 20-7-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 30-8-45

Sentence Detention 180 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39724

Date 19-9-45

Balance of sentence remitted by Conf. Auth.

MEMO

M.D. 4 Les Fus du St. Laurent Att No. 4 D.D. C.

ABSENT SENTENCE

6½ mos. Det. 180 days.

for Judge Advocate-General

10M-8-45(M-189)

JAGD/S

CANADA

In reply quote No. M. 1-R-17008 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
11th September, 1945

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

C-55-B-1965

STANDING COURT-MARTIAL
D-650039, Pte. Marcel BRANCHAUD,
Les Fusiliers du St-Laurent, C.A.,
attached to No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 30th August, 1945

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. DUBEAU) Major,
Headquarters, Military District No.4,
President - S.C.M.

ENC.

M.F.A. 1326
1,000M—5-43 (8995)
H.Q. 1772-39-2009

39724

H.Q.C. 55-B-1966

CONFIDENTIAL

H.F.B. 3078
2554—2-45 (6609)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BOHEMIER, REAL D-156342 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 20 1945				JAG	NEW FILE	CR	17-9-45
SEP 29 1945	29 9 45	P.A.	E.L.M.	J.A.G.	SEP 28 1945		

CONFIDENTIAL
H.Q.C. 55-B-1966

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-Bp1966 (JAG/D-5)

29 September, 1945.

District Officer Commanding
Military District No. 4
Montreal, Quebec.

Standing
~~D-156348 Rec. Reed Submitted~~ Court-Martial
Infantry (R) C.A., attached to
C.I.T.C. A 12, C.A.

Receipt is acknowledged of your M.1-R-18591 (J) dated 27 Sept 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

EAM

LCC:,d

for (R.J. Orde), Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE No. M. 1-B-18591 (J)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

344222

Montreal, P.Q.,
September 27th, 1945.

REGISTERED

The Secretary
Department of National Defence
OTTAWA, Ontario.

CONF. SEC.
SEP 28 1945
File C 55-B-1966
Chgd. to
Referred to

STANDING COURT MARTIAL
D-156342, Pte. Real BOHEMIER,
Infantry (R) C.A., attached to
C.I.T.C. A 12, C.A.

Reference your H.Q.C. 55-B-1966 (JAG/D-7), dated 20th September, 1945, enclosing the proceedings of the marginally-noted Standing Court Martial.

2. Same are returned, herewith, for custody, as requested in paragraph 2 of your above-mentioned letter.

Justin Moreau Capt
for (E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

NAT. DEF. B. 480
25000M-4-45 (4321)
H.Q. 1772-39-767

MEDICAL OFFICER'S REPORT

I certify that No D-156342 Pte. Bohemier R. Inf. (R)

to

~~of~~ A-12 CLILT.C. is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

Medical Officer
(L. LECLERC) CAPT. RCAMC

Station Farnham, Que.

Date 29-8-45.

J. C. G. Wilson major
President SCM

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-99-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à C.I.T.C. No. A-12, C.A., Farnham, Que.

le 29ième jour de août 1945 à 1010 heures,

pour le procès de D-156342, Pte. Real BOHEMIER, Infantry (R) C.A.,
Matricule Grade Nom et prénoms

attached to C.I.T.C. No. A-12, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine H. Primeau, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. L.M. Champagne, General List, C.A.,
Grade Nom et prénoms

attached to C.I.T.C. No. A-12, C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-156342, Pte. Real BOHEMIER, Infantry (R) C.A., attached to C.I.T.C. No. A-12, C.A. coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La cour condamne l'accusé, D-156342, Pte. Real BOHEMIER, Infantry (R) C.A., attached to C.I.T.C. No. A-12, C.A. à la détention pendant quatre-vingt-dix (90) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $0.70, coût de transport et de retour à son unité -- et $13.45, coût des articles perdus.

Signé à Farnham, Que. ce 29ième jour de août 1945

(J.A.G. DUBEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39756 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of Sept 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous à~~

D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det. CMSC, Quartiers-généraux, District Militaire No. 4

Question à l'accusé. Vous opposez-vous à C.A., comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète le cas échéant sont~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(~~premier~~)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ~~s deux~~ chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. A. G. Walker maj
Ruddel scm

Ba

C H A R G E S H E E T

The accused D-156342 Private Real BOHEMIER, Infantry (R) C.A. attached to C.I.T.C. A-12, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:

1st Charge
Sec. 15 (I)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE.

in that he

At C.I:T.C. A-12, C.A., Farnham, Que., absented himself without leave from C.I.T.C. A-12, C.A., from 0001 hours on 4th April 1945, until he surrendered himself to the Military Authorities at Montreal South, Que., at 1515 hours on 14th August 1945, wearing military uniform. Cost of transportation and return to Unit $0.70

2nd Charge
Sec.24(2)
Army Act.

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES.

in that he

At C.I.T.C. A-12, C.A., Farnham, Que., on 24 th August 1945, was deficient of the following articles of his clothing, equipment and regimental necessaries viz:
Clothing, Equipment and Regimental necessaries at 75% of Vocabulary rates C.A.R.O. 2972.

		100%		75%
Clothing Division "A"				
Gloves, knitted drab prs	1	.66		.50
Coat, waterproof Army	1	6.91		5.18
Clothing Division "B"				
Beret, khaki	1	1.20		.90
Drawers, woollen prs	2@ 1.40	2.80	@1.05	2.10
Jersey, pullover	1	1.65		1.24
Socks, prs	2@ .46	.92	@ .35	.70
Vests, woollen	2@ 1.20	2.40	@ .90	1.80
Trouser khaki drill short prs	1	1.31		.98
Clothing Division "D"				
Badges, cap	1	.07		.05
TOTAL		17.92		13.45

A T Howard
(A.T.Howard) Colonel
Commanding Officer
C.I.T.C. A-12, C.A.

Dated at
Farnham, Que.
24th August 1945.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ~~premier et au deuxième~~ ..... chef d'accusation, il est déclaré coupable ~~de ces accusations~~ desdites accusations.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement ~~à l'accusation~~ aux accusations dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~XXXX

" CC - 3 "

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Les raisons pour lesquelles j'ai été A.W.L., j'ai été en passe et j'ai été malade de la fièvre des foins, j'ai ça à toutes les années à peu près au même temps. J'étais chez un de mes oncles, monsieur Lebeau, à son camp d'été à sept milles de St-Jérôme, à St-Colomban dans le bois. Quand j'ai arrivé chez nous, j'étais un peu mieux et le lendemain la fièvre m'a poigné encore pire. J'ai été chez mon oncle passer une journée et c'est là que ça m'a pris.

Après ça, j'ai eu peur de me rapporter, je n'aime pas la détention. Aussi mon petit frère s'est cassé une jambe et ma mère a été obligée d'aller avec lui à l'hôpital, alors il a fallu que j'aide à mon père, il a une boutique de forge et il y a sept enfants à la maison.

Durant mon absence, j'ai aidé à mon père dans la forge. Je n'ai pas travaillé continuellement, j'ai travaillé trois à quatre jours par semaine parce qu'il n'y a pas toujours d'ouvrage. J'ai demeuré chez nous à St-Jérôme. Ils sont venus une fois les M.P's chez nous mais je n'y étais pas, j'étais parti à Montréal.

La fièvre des foins, c'est une maladie qui ne se guérit pas. Je suis dans l'armée depuis le 26 mai 1944. Avant d'entrer dans l'armée, je travaillais comme "steam-fitter" pour Thomas O'Connell, Montréal. Je ne suis pas marié.

La raison pour laquelle je me suis rapporté, c'est mon député, Lionel Bertrand, qui est venu me voir et il m'a donné une lettre pour me rapporter à Longueuil.

J.G.H.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: "A St-Jérôme, c'était en dehors du camp...les quatorze jours "que j'ai poigné...c'était le premier soir que j'étais à "St-Jérôme et j'avais pris un peu de boisson. J'ai rencontré "une fille que je connaissais et je ne savais pas qu'elle "était mariée avec un sergent du camp, et le sergent a fait "un rapport le lendemain matin.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur (Par l'entremise de mon officier défenseur - Voir E-3).

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Monsieur le président,

Les raisons pour lesquelles ce type-là s'est absenté sans permission...la première c'est sa maladie, la fièvre des foins, et ils n'ont pas trop de remèdes pour guérir ça; ensuite il est arrive autre chose, son frère s'est blessé accidentellement, et là il a cru bon de rester pour aider à son père.

Je voudrais que vous considériez qu'il s'est rapporté lui-même et je voudrais aussi que vous considériez son "crime-sheet" qui n'est pas trop pire... il y a seulement une entrée.

Pour ces raisons, je demande la clémence de la cour.

J.C.H.

"F" 15

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT: A-12 C.I.T.C. Farnham, Que.

J. C. G. Walker major
A President SCM

PART II ORDERS

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 83
STATION A-12 C.I.T.C.
DATE 5 Apr. 45
"Last Order Issued No. 82 dated 4 Apr. 45

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN. COY. ETC.	CASUALTY & REMARKS	DATE
		HOLDING ESTABLISHMENT				
	ABSENT WITHOUT LEAVE					
Para. 10 (a)	Sheet No. 3					
		D-156342	Pte BOHEMIER, R.	"TS"	AWL from 0001 hrs (1st Pub.)	4 Apr.45
		Signed by for	(R.K.PUTTEE)Capt. Adjt. Col. A.T.HOWARD, V.D., COMMANDANT A-12 C.I.T.C.			

CERTIFIED TRUE EXTRACT

J. E. Major Lieut.
(J.E.Major) Lieut.
Asst. Adjt. i/c Records
A-12 C.I.T.C. Farnham, Que.

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

Officer Commanding or Adjutant

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1773-39-254

J.C.G. Lukeman major
President SCM

"G"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. E CHENBERG Commanding No. 4 District Depot C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-156342 BOHEMIER, Real
(Number) (Rank) (Name in full)

of the (infty)
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) D-121570 Cpl
(Number) (Rank)

Lafond, E. Att'd No. 4 District Depot C.A.
(Name) (Unit or appointment)

at Montreal South, Que. at 1515hrs.
(Place) (Hour)

on the 14 day of August 19 45

Strike out words not applicable } as ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was wearing military ~~civilian~~ uniform (~~[illegible]~~

Dated at Mtl South, Que. this 14 day of August 19 45

(Signature, Number, Rank, Unit or appointment)
(S.ECHENBERG) Colonel
Commanding No. 4 District Depot C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

"H"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

J. C. G. Nadeau maj
President SCM

Fill in complete description — I, Capt. J.R. PATERSON (RCA) Movement Officer No. 4 D.D. CA.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~xxxxxxxx~~ the hereinafter itemized transportation for escort

Complete — to proceed from Montreal, Que., (Place) to Farnham, Que., (Place)

and return to NIL (Place) for the purpose of escorting

Full description of soldier being escorted — D-156342 (Number) Pte. (Rank) BOHEMIER, Real (Name in full)

Inf. att. T.C. A-12, Farnham, Que., (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~xxxxxxxxxxxxxxxx~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Warrant No. D:23252 dated 20th August 1945	
TRANSPORTATION WAS FURNISHED AS FOLLOWS:	
1 single R.R. Ticket from Montreal, Que. to Farnham, Que. for absentee	-.70
TOTAL	$ -.70

Dated at Montreal South this 20th day of August A.D. 1945

J. R. PATERSON Capt (RCA) Movement Officer No. 4 D.D. CA.
Signature, rank and attachment (if any) and appointment of officer (issuing transport warrants) (authorizing transportation)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
125m—10-42 (9668)
H.Q. 1772-99-1851

CLOTHING SIZES RECORD

ARTICLE	SIZES
aklets	2
attle Dress, blouse	8
attle Dress, trousers	5
ap or bonnet	7 1/4
oots, ankle	8 1/2 D.
loves	M.
ucepiece, respirator	
reatcoat	5
elmet steel, lining	
veralls, combination	6
ersey, pullover	M
hirts, Angola, drab	15
est, woollen	
rawers, cellular	36
rawers, woollen	

OVERSEAS—Militia Book M. 1 Part III
40/P & S/1894 (2570)
CANADA —M.F.C. 800
750M 11-43 (2570)
H.Q. 1772-39-1643
K.P. 98282

Certified true copy.
(N.W. Brown) Lieut. Q.M.,
B.W., R.H.R.
Att'd. A-12, C.I.T.C.
Farnham, Q.P.

CERTIFIED TRUE COPY.

CANADIAN ARMY CLOTHING AND EQUIPMENT STATEMENT

RC

Regt'l. No. D-156342.

Rank PTE

Name BOHEMIER Real R.C.O.C.

Date of Attestation 26 May 44.

Original Unit 4 DD Station Mtl-South, Que.

Home Address
(Reserve Unit Personnel Only)

INSTRUCTIONS TO SOLDIER
(OVERSEAS ONLY)

1. You will always carry this book on your person and re responsible for its safe custody. (Officers need not carry this book on their person but will be responsible for its safe custody).

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS ONLY)

1. Unit equipment (e.g. compasses, binoculars, special clothing for cooks, m/cyclists, etc.) will not be recorded on this statement.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS AND CANADA)

1. This statement will be used to record articles of personal clothing and equipment issued to each soldier.

2. All entries will be made in ink. Blank spaces in columns will be ruled through. All columns used will be initialled in the space provided by soldier and by the QM, or his representative.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AT EACH KIT INSPECTION

Certified that the record detailed in this statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE	DATE	SIGNATURE	DATE
[illegible]	MAR 30-44		
[illegible]	30-4-44		
[illegible]	12-44		
[illegible]	28 DEC 44		
[illegible]	26/10/45		

ARTICLE	QUANTITY					
adges, shoulder, Canada, drill, prs.	1					
lacking, tins	1					
oot dressing, tins	1					
ootlaces, prs.	3					
rotectors, ear						
ponge, pipeclay						
anyard, pistol						
Initials of Soldier	R.B.					
Initials of QM or Rep.	[illegible]					

23

3. Items withdrawn from soldier will be marked off by an "X" in ink, over the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner

ARTICLE	QUANTITY					
Anklets, web, prs.	1	1	1	1		
Blouses, Battle-dress	2	2	2	2		
Bonnet, tam-o'shanter						
Boots, ankle, prs.	2	2	2	2		
Boots, rubber, high, prs.						
Boots, leather, high, prs.						
Bonnet, drab, Irish						
Cap, field service	2	2	2	1		
Cap, mechanic						
Cap, ~~tank battalion~~ BERET				1		
Drawers, ~~Cellular~~ (cotton) short, prs.	2	2	2	2		
Drawers, Woollen, prs.			2	2		
Gloves, knitted, drab, prs.	1	1	1	1		
Greatcoat, drab		1	1	1		
Initials of Soldier	RB	RB	RB	RB		
Initials of QM or Rep.	RJ	RJ	RJ	RJ		

ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.	1	1				
Muffler, kháki	1	1				
Necktie, black	1	1				
Pin, collar, safety	1	1				
Puttees, prs.	1	1				
Rubbers, prs.		1				
...A.K.E.R.S.H.O.E.S		1				
Shirts, khaki, cotton	3	3				
Shirts, undercotton	2	2				
Shoes, leather, black, prs.	1	1				
Socks, black, prs.	2	2				
Trousers, khaki drill, prs.	1	1				
Trousers, khaki drill, short, prs.	3	3				
Trousers, serge, drab, N.P. prs.	1	1				
Initials of Soldier	RB	RB				
Initials of QM or Rep.	RJ	RJ				

ADDITIONAL ISSUES — CANADA ONEY

ARTICLE	QUANTITY					
Belts, waist, leather, brown or web 1½"		1				
Boots ankle, felt, prs.						
Boots, insoles, prs.						
Boots, lumberman's rubber prs.						
Buttons, G.S., large	4	4				
Buttons, G.S., small	4	0				
BUCKLE BRASS	1	1				
Cap, winter, melton cloth						
Coat waterproof	1	1				
		1				
Helmet, sun	1	1				
Jackets, Khaki drill O.C.	1	1				
Jackets, serge, drab, O.C.	1	1				
Initials of Soldier	RB	RB				
Initials of QM or Rep.	RJ	JT.				

ARTICLE	QUANTITY					
Jacket sweater, or jersey pullover	1	1				
Overalls, combination	1	1				
Overalls, blouses, denim						
Overalls, trousers, denim						
Shirts, Angola, drab or flannel khaki						
Shoes, canvas, prs.	1	1				
Socks, prs.	4	4				
Trousers, battle-dress, prs.	3	2				
Vests, woollen		2				
Badges, cap F.M.R.	1	1				
Badges, arm, drab, crowns						
Badges, arm, drab, crown in wreath						
Badges, arm, Tank Bn.						
Badges, shoulder, "CANADA", prs.	4	4				
Initials of Soldier	RB	RB				
Initials of QM or Rep.	RJ	JT.				

ARTICLE	QUANTITY
dges, arm, drab, Royal Arms	
dges, arm, drab, Royal Arms in Wreath	
gs, kit, universal... Mk. II	4
nces	4
ass, cleaning	1
ush, button, brass	1
ush, clothes	4
ush, hair	4
ush, shaving	1
ush, shoe, blacking	1
ush, shoe, polishing	1
ush, tooth	4
p, comforter	4
evrons	1
tials of Soldier	RB
tials of QM or Rep.	CB

ARTICLE	QUANTITY
Rifle No. 11 1 (Regt'd No.) (.....)	1
Bayonet No. ..... w/scabbard	1
Bottles, oil	2
Pullthroughs, single	4
Rods, cleaning, pistol	
Carbine, Mach. (.....) (Regt'd No.)	
Magazines, Carbine	
Pistol Revolver No. ..... (.....) (Regt'd No.)	
Ctges, SA, revolver .380 in.	
Ctges, SA, .303 in Mk VII	
Initials of Soldier	RB
Initials of QM or Rep.	CB

ARTICLE	QUANTITY						
Veil, face, camouflage							
Yoke							
BELT. WAIST. WEB 1½			1				
Capes, A/G	1	1	1				
Respirators, A/G, complete with haversack (Lgd)	1	1	1				
Outfits, A/D	1	1	1				
Ointment, A/G (No. 1)	1	1	2				
Eyeshields, A/G, pk of 6	1	1	1				
Detectors, Individual prs. (WASTE SLEEVES)	1	2	2				
Wallet, A/G							
Blanket			1				
Mug, drinking			1				
Sheet, ground		1	1				
Initials of Soldier	RB	RB	RB				
Initials of QM or Rep.	RB	RB	RB				

ARTICLE	QUANTITY						
Combs, hair	1	1					
Discs, identity, sets, with cord	9	1					
Dressing, field	2	2					
Fork, NS Table	1	1					
Holdall	1	1					
Housewife, complete	1	1					
Knife, clasp		1					
Knife, table	1	1					
Lanyard, knife		1					
Razor, safety, with blade	1	1					
Patches, distinguishing, prs.		1					
Shorts, gymnasium (ATHLET. DRILL)	1	1					
Spoons, NS dessert	1	1					
Vest, cotton, gym. (UNDER)		2					
Initials of Soldier	RB	RB					
Initials of QM or Rep.	RB	RB					

ARTICLE	QUANTITY					
wels, hand	1	1				
nit or Corps titles, prs.	5	5				
tachments, brace						
g, ration	1	1				
ita, waist	1	1				
ttles, water	1	1				
nces, WE (Right)	1	1				
(Left)	1	1				
rriers, cartridge						
rriers, waterbottle	1	1				
ses, binoculars						
ses, pistol						
vers, breech, rifle		1				
itials of Soldier	RB	RB				
itials of QM or Rep.	RB	RB				

ARTICLE	QUANTITY					
Cover, mess tin		1				
Frogs, web, bayonet	1	1				
Haversack	1	1				
Helmet, steel	1	1				
Net camouflage helmet		1				
Packs		1				
Pockets Compass						
Pouches, amm, pistol						
Pouches, basic	2	2				
Pouches, utility { Front / Rear						
Slings, rifle, web		1				
Straps, shoulder, haversack { left / right	2	2				
Straps, web, supporting	2	2				
Tins, mess, TP	1	1				
Initials of Soldier	RB	RB				
Initials of QM or Rep	RB	RB				

J. C. G. Parker major
Printed 5 cm.

"Y"

A.F.B. 386
75M—5-44 (148)
H.Q. 1773-39-620
A.F.B. 256

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-156712	Pte	BOHEMIER, Real	INF(R)CA, att'd A-12, C.I.T.C.

1. The following is a fair and true summary of the entries in the ~~Service and Regimental~~ Conduct sheet ~~or Company Conduct Sheet~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For Conduite prejudiciable etc..	1 times	Conduite prejudiciable etc...	1 times
For Without leave was Out Bounds	1 times	Without leave was Out Bounds	1 times
For	times		times
For	times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheet of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act / Air Force Act, and dispensations with trial under A.F.A. 75 / A.A. 75 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for N I L days in civil custody, and 15 days in military custody, making a total of 15 days in custody, of which N I L days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 years 10 Months

6. The date of his ~~commission~~ attestation, specified in his ~~record of service~~ attestation paper is N.R.M.A. 26 May 44
Active-17 Oct. 44

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~or has no~~ military decoration, or ~~or has no~~ military reward (~~or is in possession of or entitled to ..... State any Air Force decoration or reward obtained~~).

10. ~~If the accused is a warrant officer, the accused before he was made a warrant officer had held the regimental rank of .....~~

J. E. M.

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29th day of Aug. 45 (J. E. Major) Lieut. Asst. Adjt.
I/C Records Gen. List att'd A-12 C.I.T.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "X" signed by the president, and annexed to the proceedings.

J. C. G. Chubeau Maj
President SCR

B-156342

No. Name BOHERIER, Real.

Date of last entry in Company Conduct Sheet

Sqn., Battery, or Company

No. and date of last drunk

Corps C.I.C. CA.

Period not reckoning towards freedom from extra fine

Date of enlistment 26 May 44

G.C. Badges

Sheet No. one

Signature O.C. Company, etc. L.T.Chartrand, Lieut.

Service or Proficiency Pay

Character

M.F.M. 6 (A.F.B. 122) 100M—11-40 (3025) H.Q. 1772-43-18

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
St. Jerome, Que.	18 Jan 45	Pte		Conduite prejudiciable etc. a insulte des civils sur la rue AA sec. 40	Sgt. Robert I/C Reins	14 days det'n	20 Jan45	Lt.Col. P. Brosseau	
St. Jerome, Que.	18 Jan45			A ete vu en dehors des limites du camp sans permission AA Sec. 15 (3)	Sgt. Robert I/C Reins		20 Jan45	Lt.Col. P. Brosseau	

CERTIFIED TRUE COPY

J.E. Major Lieut.

(J. Major) Lieut.
Asst. Adjt. I/C Records
A-12 C.I.T.C. Farnham, Que.

H.Q.C.55-B-1966 (JAG/D-7)
Your M. 1-B-18591

20 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 156342 Pte. Real Bohemier,
Inf.(R) C.A.,att.A-12 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde) Brigadier
Judge Advocate-General.

LJR/MM

THIS COPY FOR H.Q. C. 55-B-1966
M.D. M. 1-B-18591

G.S. MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. D-156342 Name Real BOHEMIER

Rank Pte. Unit Inf. (R) C.A. Att A-12 C.I.T.C. C.A.

Charge AA 15 (1) AWL

(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 4-4-45 (2) 24-8-45

Date of Arrest 14-8-45 Charge Signed 24-8-45

Orders for D.C.M.

Place and Date of Trial A-12 C.I.T.C. C.A. 29-8-45

Sentence Detention 90 days. Stoppages $14.15

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39756

Date 19-9-45

REMO

M.D. 4 Inf.(R) C.A. Att A-12 C.I.T.C. C.A.

ABSENT
4 1/3 mos.

SENTENCE
Det. 90 days.

for Judge Advocate-General

GM-8-45(M-189)

JAGD/S

CANADA

In reply quote No. M. 1-B-18591 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
11th September, 1945

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

C-55-B-1966

STANDING COURT-MARTIAL
D-156342, Pte. Real BOHEMIER,
Infantry (R) C.A., attached
to C.I.T.C. No. A-12, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 29th August, 1945

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. DUBEAU) Major,
Headquarters, Military District No.4,
President - S.C.M.

ENC.

M.F.A. 1328
1,000M—5-43 (9995)
H.Q. 1772-39-2009

3975-6

H.Q.C. 55-B-1967 CONFIDENTIAL

N.F.B. 5018
15M—2-45 (A.G.)
H.Q. 301-1-66

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BLANK, GLEN ROLAND H-30753 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 19 1945				JAG	NEW FILE	CR	17-9-45
SEP 27 1945				JAG	PER B.F. SEP 28 1945		
OCT 1 6 1945	16/10/45	PAS	JB	JAG	Papers C.R. OCT 15 1945		

CONFIDENTIAL
H.Q.C. 55-B-1967

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-1967 (JAG/D-5)

16 October, 1945.

Assistant Judge Advocate-General,
Military District No. 10
Winnipeg, Manitoba.

Standing
H- 0753 Pte. Blank, G.R.

.....Court-Martial

W.44-B-7454 (J)

13th October 5

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.A.M.
for (R.J. Orde), Brigadier,

LCC:jb

Judge Advocate-General.

ar

IN REPLY PLEASE QUOTE

No. W.44-B-7454 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba. 13th October 1945

3036
OCT 15 1945
File C55-B-1967
Clngd. to
Referred to JAG.

Judge Advocate-General,
Dept. of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
H-30753, Pte.BLANK, G.R.

Reference H.Q.C.55-B-1967 (JAG/D) dated 9th October, 1945.

2. The proceedings of the m/n court-martial, having been reviewed, are returned herewith for custody.

(E.A.Fletcher) Major,
Assistant Judge Advocate-General,
M.D.No. 10.

vep
enc.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

(A)

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Headquarters, Shilo Camp, Manitoba

on the 26th day of September 1945 at 1000 hours,

for the trial of: No. H-30753 Private Glen Roland BLANK
Number Rank Full Name

A-15 Canadian Infantry Training Centre, C.A.,
Unit Attachment, if any

PRESIDENT: Major F. J. Killeen, District Headquarters, M.D. No. 10.

PROSECUTOR: Captain D. R. Chapman, District Headquarters, M.D. No. 10.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieutenant E. L. MEISLER
A-15 Canadian Infantry Training Centre, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, No. H-30753, Private Glen Roland BLANK, A-15 Canadian Infantry Training Centre, C.A., is Guilty of the first charge, and not Guilty of the second charge.

SENTENCE: The Court sentence the accused, No. H-30753, Private Glen Roland BLANK, A-15 Canadian Infantry Training Centre, C.A., to undergo detention for ninety (90) days.

Signed at Shilo Camp, Manitoba, this 26th day of September, 1945.

F. J. Killeen Major
(F.J. Killeen) Major President, Standing Court-Martial

M.F.B. 1116
25M-6-44 (1826)
H.Q. 1772-39-2296

Extracts entered as No. 10133 in the Register of Courts Martial kept in the Office of the Judge Advocate General this 9 day of Oct 1945

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~Question to the accused~~ ~~Do you object to~~ ~~as interpreter?~~

~~Answer~~

Question to the accused. Do you object to No. H-35618 S.M.(A/W.O.I) A. C. Bryant, District Headquarters, M.D. No. 10, acting as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~ ?

Answer: Yes, Sir, he has, under Routine Order 4563 -- ~~see~~ Paragraph 10.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2 ..... President, S.C.M. 5

Pursuant to Paragraph 10, C.A.R.O. 4563, the Accused has elected to be tried by Standing Court-Martial.

CHARGE SHEET

The Accused, No. H.30753, Private Glen Roland BLANK, A15 Canadian Infantry Training Centre, C.A., a G.S. soldier of the Canadian Army, placed on Active Service, is charged with:

FIRST CHARGE
Sec. 18(4)
Army Act.

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

- in that he -

at Shilo Camp, Manitoba, on the 8th day of September, 1945, stole a wallet containing the sum of $20.75, the property of No. H.23101, Private Peter MONCHKA, A15 Canadian Infantry Training Centre, C.A., a person subject to military law.

SECOND CHARGE
(Alternative)
Sec. 40
Army Act.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

- in that he -

at Shilo Camp, Manitoba, on the 8th day of September, 1945, was improperly in possession of a wallet containing the sum of $20.75, the property of No. H.23101, Private Peter MONCHKA, A15 Canadian Infantry Training Centre, C.A., a person subject to military law.

Shilo Camp, Manitoba,
24th September, 1945.

J.M. Meldram, Col

(J.M. Meldram) Colonel
Commandant,
A15 Canadian Infantry
Training Centre, C.A.

9/13

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No. H.23101 Private Peter MONCHKA, A-15 Canadian Infantry Training Centre, C.A.,

being duly sworn, is examined by the Prosecutor.

Question Will you tell the Court your Regimental number, your rank, and your full name?

A No. H-23101 Private Monchka, Peter.

Q What Unit do you belong to, and what Company?

A A-15 C.I.T.C., No. 2 T. S. Company.

Q Where is that Unit located?

A Shilo Camp, Manitoba, Sir.

Q Do you know H.30753 Private Glen Roland Blank?

A No, Sir.

Q You don't know him?

A No, Sir.

Q Do you know something about him?

A Yes, Sir.

Q Where is he now?

A He is right in this room.

Q Do you recognize him?

A Yes, Sir.

Q Who is he? Which one?

A He is the one in the centre there, Sir. (indicating the accused).

Q When did you see him before?

A September 8th.

Q September 8th, 1945?

A Yes, Sir.

Q And at what time of the day?

A At seven o'clock, Sir, at night.

Q What day of the week was the 8th September?

A Saturday.

Q When did you see him at seven o'clock? What day?

A 8th September.

Q What day were you on that duty? What were you doing?

A I was on W.T.O. Guard in G-6 Drill Hall.

Q From what time were you on guard?

A From six o'clock in the evening to six o'clock in the morning.

Q What evening?

A September 8th.

Q What day of the week was that?

A Saturday.

Q Would you like to study this calendar? Supposing you look at this calendar and see exactly when you were on duty -- what day?

A I went on duty at six o'clock 8th September, and was on guard duty.

Q You still say it was the 8th September?

A Yes, Sir.

Q It was Saturday night, Eh?

A Yes,Sir.

Q So you went on duty Saturday evening?

A Yes, Sir.

Q And how did you happen to see the accused? What were you doing?

A Well, I was making rings in G-6 Drill Hall.

Q Why did you happen to be making rings?

A I was making plastic rings. One of the fellows at A-3, he wanted me to make him a ring and I was making that. I pulled out my wallet and I placed my wallet on the couch.

Q Where was this couch?

A In G-6 Drill Hall.

Q What Camp?

A A-15 C.I.T.C.

Q Shilo Camp?

A Yes, Shilo Camp, Sir.

Q What hour of the day? What night did you place this wallet there?

A It was 0300 hours in the morning.

Q In the morning of what day?

A The 8th, Sir.

Q And what day was it you say you started on duty -- Saturday night?

A It was on the 7th when I started, Sir.

Q Say that plainly. Tell the Court when you started?

A When I was making the ring it was at 0300 hours, September 8th.

Q What time did you start on duty? Do you want to correct your evidence in that respect?

A Yes; it was Friday night when I went on duty.

Q And it was on the 8th, at 0300 hours on the 8th September you were there in a room in the Drill Hall at Shilo Camp, and you placed your wallet on the couch?

A Yes, Sir.

Q What was in the wallet?

A Two pictures, a train ticket, and $20.75.

Q Where is that wallet now?

A I have got it with me, Sir.

Q You say you saw the accused at the time? What did he do?

A He was sitting on the edge of the couch.

Q What did he do?

A He was looking at the way I was making the ring.

Q How long did he stay with you?

A Fifteen or twenty minutes.

Q What happened when he left?

A When he left -- he went out and I was still working at that ring. After I finished the ring I took my clothes and put it in a little pack I had, and after I started looking for my wallet and I didn't find it.

Q And what happened then?

A So Corporal Vandergrift, he came in and I reported to him my wallet was gone.

Q Well, what did you do then?

A Me and Corporal Vandergrift started looking for it, Sir; and we came out from the Drill Hall and went to 1 T. S. Company huts and we found Blank playing cards in I-6 hut.

Q You saw him there?

A When I came in I clicked my heels, stood at attention, and he turned around, picked the money up from the table and he said, 'I borrowed your money', and I said, 'is this the way to borrow it', and he did not say anything.

Q And then what did he do?

A He started giving me the money back.

Q How much money did he give you?

A $20.75, Sir.

Q Who was with you at the time?

A Corporal Vandergrift.

Q What did you do after that?

A I asked him 'where is my wallet'.

Q Asked who?

A The accused.

Q Yes, go on?

A He went down to the steps and he got the wallet out and he gave me the wallet and then he left to go to the Guard Room.

Q Which wallet is that?

A My wallet, Sir.

Q And how do you know it was your wallet he gave back to you?

A I had pictures of me and a picture of my cousins, Sir.

Q Where were these pictures then?

A In the wallet, Sir.

Q Still in the wallet?

A Yes, Sir.

Q What had the accused said to you when he was with you in the Drill Hall on that occasion?

A He never said nothing to me, only that he said, 'I am going to go for a drink'.

Q He said that, did he?

A Yes, Sir.

Q Anything else?

A No, Sir.

Q What dealings or relations did you ever have with him before?

A I didn't have none, Sir, with him.

Q How did you first find out his name?

A Corporal Vandergrift, he told me, because Corporal Vandergrift knew him.

Q When was that?

A The same night, Sir.

Q Before or after you lost your wallet?

A After I lost my wallet, Sir.

Cross-examined by the Defending Officer:

Q Tell me, Private Monchka -- you went on duty at what time of the day?

A On the 7th September, Friday.

Q 1945?

A Yes, Sir.

Q And you went on duty at what hour?

A Six o'clock in the evening, Sir.

Q And you were on duty until what hour?

A To six o'clock in the morning.

Q Will you repeat that again?

A From six o'clock Friday evening to Saturday morning at six o'clock.

Q What time did you first come across the accused?

A On Friday night, Sir, at seven o'clock.

Q And what were you doing at the time?

A I was sitting on the couch.

Q What time was that?

A I believe it was seven o'clock.

Q Seven o'clock in the evening?

A Yes, Sir.

Q When did you see the accused again?

A It was three o'clock in the morning, Sir, September 8th.

Q Between seven o'clock and three o'clock did you have any intoxicating liquors?

A No, Sir.

Q Did you detect any intoxicating liquor on any people you came across?

A No, Sir.

Q You didn't detect any on the accused?

A No, Sir.

Q Were you ever in close contact with the accused?

A No, Sir.

Q Do you understand when I say 'intoxicating liquor' I mean Beer?

A Yes, Sir; I didn't drink that night.

Q Did you detect any on the accused?

A No, Sir.

Q Will you repeat again what you said or what the accused said to you when you came across him in the Barrack room -- when you first spotted him in the so-called Guard Room?

A He says to me, 'I borrowed your money' when he seen me.

The Prosecutor declines to re-examine this Witness.

Questioned by the Court:

Q Before the accused made that remark about borrowing your money, did you speak to him?

A No, Sir.

Q Did Corporal Vandergrift speak to him?

A No, Sir.

Q When you went to where they were playing cards did he have his back turned to you or was he facing you?

A He was facing the table, Sir.

Q You came up behind him?

A Yes, Sir.

Q How did he know who you were?

A I clicked my heels and he turned around and saw me.

Q And then he made that statement?

A Yes, Sir.

Q Without anything being said by you at all?

A Yes, Sir.

Q Now, when you say you had no relations with the accused prior to the 8th September, you are not right, are you?

A No, Sir.

Q You just told the Defending Officer you saw him on the evening of the 7th September this year, at seven o'clock on that evening?

A Yes, Sir.

Q Now, what conversation did you have with him at that time?

A Nothing, Sir; he was just walking around with the fire picquet.

Q And you didn't speak to him?

A No, Sir.

Q Did the accused speak to you?

A No, Sir.

Q There was no conversation?

A No, Sir.

Q That was the first time you saw him?

A Yes, Sir.

Q Why did he come around at three o'clock in the morning?

A I don't know; he was on R.P. Guard, Sir.

Q He passed where you were on his patrol or picquet?

A Yes, Sir.

Q And after that when he said, 'I borrowed your money' he returned to you the $20.75?

A Yes, Sir.

Q And then subsequently returned your wallet?

A Yes, Sir.

By the Court: That will be all.

The Witness withdraws.

Second Witness for the Prosecution: No. B.105194 Lance Corporal James Cooper VANDERGRIFT, A-15 Canadian Infantry Training Centre, C.A., having been duly sworn, is examined by the Prosecutor:

Q Will you tell the Court your Regimental number, your rank and full name?

A B-105194 Lance Corporal James Cooper Vandergrift.

Q To what Unit do you belong and what Company and station?

A "D" Company, A-15 C.I.T.C., at Shilo Camp, Manitoba, Sir.

Q Do you know H.30753 Private Glen Roland Blank?

A Yes, Sir.

Q Where is he now?

A He is between the two escorts, Sir (indicating the accused).

Q How long have you known him?

A Since approximately 1st September, Sir.

Q Since the 1st September this year?

A 1945, Sir.

Q How do you happen to know him?

A He was placed under my charge on R.P. duties, Sir.

Q And you know there is a charge against him at present. What can you tell the Court about that?

A Well Sir, at Shilo Camp, A-15 C.I.T.C., on the 8th September, 1945, I entered the Drill Hall at 0300 hours, and Private Monchka was there and he reported to me his wallet was missing.

Q And what did you do then?

A I started to look for Private Blank, Sir.

Q Where did you go?

A I went down to the Ablution Room in the dust bowl and I located him.

Q Who was with you?

A Private Monchka.

Q You located whom?

A Private Blank.

Q And who is he?

A The man between the two escorts, Sir.

Q What was he doing when you saw him?

A I believe he was playing cards, Sir.

Q And what happened then?

A On seeing us he turned and walked out the door, and Private Monchka stopped him just as he got outside the door. As soon as he got outside the door he said to Private Monchka, 'I borrowed your money', and he started giving it back.

Q How much money?

A Twenty dollars, and approximately seventy-five cents.

Q So you saw him give the money to Monchka, and what did you see happen after that?

A I saw him go to I-3 hut and produce the wallet from the steps or thereabouts, and give it back to Private Monchka.

Q And what did the wallet look like then?

A It was sandy -- there was quite a bit of sand in it, Sir.

Q And about what hour of the day was this?

A It was approximately 0300 hours.

Q What date?

A 8th September, 1945.

Q During what hours was the accused on guard duty?

A From 1200 hours to 0600 hours, Sir.

Q 1200 hours on what day?

A 8th September, 1945, Sir.

Q Until when? Can you tell the Court what hours the accused was on duty?

A I mean 2400 hours to 0600 hours, Sir.

Q What date would this 0600 hours be?

A 8th September, Sir.

Q You said you saw the accused give a wallet to Private Monchka?

A Yes, Sir.

Q What did you do after that?

A I placed him under open arrest?

Q Who?

A I placed Private Blank under open arrest, Sir.

Q Open arrest?

A Yes, Sir.

Cross-examined by the Defending Officer:

Q Lance Corporal Vandergrift, what time did you go on duty?

A The same time as Private Blank, Sir.

Q What time was that?

A 2400 hours.

Q What date?

A 7th September, 1945.

Q What had you been doing during the evening before you went on duty?

A I believe I had just got up, about eleven o'clock.

Q Had you seen Private Blank during the evening?

A I can't remember, Sir.

Q Well, what had you been doing during the evening? When I say 'during the evening' I mean from seven o'clock to approximately eleven or twelve o'clock?

A I was in bed, Sir.

Q You were in charge of a picquet, were you?

A Yes, Sir.

Q How many men were in the picquet?

A One, Sir.

Q When you went into the Drill Hall, say, approximately 0300 hours, was Private Blank with you?

A No, Sir.

Q Was he not in your picquet?

A Yes, he was in my picquet. I told him to meet me at the Drill Hall.

Q Why did he not remain with you?

A I had left him with the fire picquet, and I went down to see the N.C.O. in charge of the fire picquet to make the rounds.

Q Did you detect any intoxicating liquor on Private Blank during the evening?

A No, Sir.

Q Or on Private Monchka?

A No, Sir.

Q Were you in close contact with the two of them?

A Yes, Sir.

Q When you came across this card game did the card game break up?

A No, Sir.

Q Did it lose any of its members?

A Private Blank, Sir.

The Prosecutor declines to re-examine this Witness.

Questioned by the Court:

Q When you went into the hut where the card game was in progress did you go behind or did you precede Monchka?

A I went behind Monchka.

Q Where was Blank?

A Blank was at the corner of the table, Sir.

Q What was he doing?

A He was playing cards.

Q What did he do when you came in?

A He turned around and went out the door immediately upon seeing us enter, Sir.

Q Was he facing the door that you came in?

A No, he was standing beside the table.

Q He wasn't sitting down at the table?

A No, Sir.

Q When you came in he started to walk out the door?

A Yes, Sir.

Q What did Monchka do?

A Monchka followed him to the door.

Q How far away were you from them?

A About ten feet, Sir.

Q And you could hear the conversation between them?

A The first two or three words, I imagine, I missed, Sir, but I heard the rest.

Q And what did you hear?

A I heard Private Blank say, 'I borrowed your money', and I think Monchka said, 'is that the way to borrow money', and I believe Private Monchka said, 'give the money back to me'.

Q And you were standing ten feet away from them then?

A No, Sir; I was closer to them then.

Q And later you saw the accused go to Hut I-3 and then give the wallet to Monchka?

A Yes, Sir.

By the Court: That is all.

The Witness withdraws.

Third Witness for the Prosecution) No. H.70172 Company Sergeant Major John BRYSON, A-15 Canadian Infantry Training Centre, C.A., having been duly sworn, is examined by the Prosecutor:

Q Will you tell the Court your Regimental number, your rank, and your full name?

A H.70172 C.S.M. John Bryson, Sir.

Q And you belong to A-15 C.I.T.C., and are stationed at Shilo Camp?

A Yes, Sir.

Q What is your duty at the present time?

A At the present time I am in charge of Regimental Police of A-15 C.I.T.C.

Q And before that you were what?

A I was Acting Company Sergeant Major of 1 T. S. Company, A-15 C.I.T.C.

Q During the time you were Acting Company Sergeant-Major of No. 1 T. S. Company did you know H.30753 Private Glen Roland Blank?

A Yes, Sir.

Q What day in particular?

A On the 8th September, 1945.

Q What happened then?

A Lance Corporal Vandergrift, accompanied by Private Monchka, reported to me at the 1 T. S. Company Orderly Room, and he stated he wished to have a charge laid against Private Blank.

Q Where was Private Blank at that time?

Q When I first saw the accused was when I went to see him,

Q Where was he then?

A In I-9 hut -- in his hut.

Q And you knew him by what name?

A Private Blank.

Q And what happened then?

A I warned him that anything he would say would be used in evidence against him, and I asked him how he was in possession of the wallet.

Q And what did you do then?

A I laid a charge against him, Sir.

Cross-examined by the Defending Officer:

Q On the 8th September, Sergeant-Major, what Company were you with?

A No. 1 T. S. Company, Sir.

Q What Company was Corporal Vandergrift with?

A I couldn't exactly say off-hand; I think it was "B" Company.

Q What Company was Private Blank with?

A 1 T. S., Sir.

The Prosecutor declines to re-examine this Witness.

The Witness withdraws.

By the Prosecutor: That is the case for the Prosecution, Sir.

a JJ

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. By Defending Officer: He has nothing to say, Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. By Defending Officer: No, Sir.

The Prosecutor makes a closing address.

The Defending Officer makes a closing address.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. .....

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(Defending Officer speaks on behalf of the accused -- See Page "F" attached).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

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"Y" A. J. Miller
President, S. C. M.

M.F.B. 358
30M—5-42 (1002)
H.Q. 1772-30-620
A.F.B. 256

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H.30753	Private	Glen Roland BLANK	A-15 Canadian Infantry Training Centre, C.A.

1. The following is a fair and true summary of the entries in the FIELD ~~Service Regulations~~ Conduct sheets ~~Regulations~~ sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Appendix~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	1 times	A.W.L.	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of military offences dealt with summarily~~

~~The~~ ~~Regulations~~ ~~Appendix~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or civil court of summary jurisdiction~~ ~~Appendix~~

~~Previous punishments awarded under Section 47 of the Army Act~~ ~~Appendix~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is undergoing sentence of imprisonment~~ ~~Appendix~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ attestation paper is 18 yrs. 7 mos. 8 days

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation~~ attestation paper is 5th February, 1945.

7. ~~The service in which the accused has served subsequently to his enlistment~~

8. ~~The accused is entitled to wear the undermentioned medals~~

9. The accused is in possession of or entitled to no ~~military~~ military decoration, or any ~~military~~ military reward ~~possession of or entitled to any military decoration or award~~

10. ~~(If the accused is an warrant officer.) The accused has never been made a warrant officer~~ ~~Appendix~~ ~~the regiment~~

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~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of September, 1945.

LIEUT. ADJUTANT
A 15, CANADIAN INFANTRY TRAINING CENTRE

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y signed by the president, and annexed to the proceedings.

F. J. Gallen

Date of Birth 18 Jan 27

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	G.C. Badges	Tradesmen's Rates of Pay	M.F.M. 3 (A.F.B. 122)
H.30753	BLANK, Glen Roland	No. and date of last drunk	CIC(R)	5 February 1945			700M—12-42 (7337) H.Q. 1772-39-1022
			Period not reckoning towards freedom from extra fine	Sheet No. One	Signature O.C. Company, etc.	Character W.J. Cummings Capt.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield, Ont.	3 May 45	Pte.		AA 15 (1) A.W.L. 1500 hrs 3 May 45 1430 hrs 4 May 45	Sgt. Hoch Documentary	Forf 2 days pay 46AA.	4 May 45	Lt.-Col. WO Wurtele	forf one days pay PR&I 149 PWM Lt.

CERTIFIED TRUE COPY

H.G. Perner Lt

ASST. ADJUTANT

A 15. CANADIAN INFANTRY TRAINING CENTRE

J. J. Killeen ... 39
President, S.C.M.

"F"

DEFENDING OFFICER'S STATEMENT IN MITIGATION

Sir, Private Blank joined the Army in January, 1945. Immediately he joined Active Service. He had no child life to speak of. He was adopted by his Grand parents at an early age, and at fourteen years of age he went to work and worked until the day he joined the Army. There are no other children in his adopted family. He is very young -- his record is good. He has possibly met up with a few fellows in the Army who put him on a bad track, you might say, as regards to gambling, but he could be straightened out in quick order with a good talking to. He was brought here from the East just before he was giving the job as Picquet. For that reason we have no character reference on him -- there are very few people here that know him due to his short stay. At present Private Blank is actually only seventeen years old. I have obtained his Birth Certificate, made out by the Department of Health and Public Welfare, and I will submit a certified true copy with this statement in mitigation.

(See Document attached).

Under the circumstances he has no doubt more or less joined the Army with big ideas, got in with other people with big ideas and possibly got off on the wrong track, and his education has been sadly neglected; and I asked the Court to be lenient in sentencing this man in view of the fact that if this man was up on this charge in a Civilian Court, in view of his age and it being his first offence he would no doubt be given a suspended sentence.

7 JK

111

DEPARTMENT OF HEALTH
AND
PUBLIC WELFARE
Legislative Building, Winnipeg

B Series

No. 3923

N. J. Gillen
President, S.C.M.

CERTIFICATE OF BIRTH

THIS IS TO CERIFY that the following details of birth are on record in the office of the Recorder of Vital Statistics.

N A M E.....Gerald.Glenn.BLANK.....Male.....

BORN IN MANITOBA ON THE .....9th.....day of .....March.....1928

Registration No.....1181.....Year..1928...
Vol. 11 - #509

GIVEN under my Hand and Seal of the Department of Health and Public Welfare, this.....21st.....
day of...September.....1945...

L.S. STEWART

Acting Recorder, Province of Manitoba.

GB

Form 9-1M-5-44

This is to certify that I have compared this document with the original, and find it to be a true copy thereof.

N. J. Gillen Major
President
Standing Court-Martial.

PRECIS OF EVIDENCE

in the case of

H.30753 Private Glen Roland BLANK, A-15 Canadian Infantry Training Centre, C.A. a G.S. soldier of the Canadian Army, placed on Active Service.

CHARGES: 1. STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

2. CONDUCT TO THE PREJUDICE (Alternative)

TO PROVE THE ABOVE CHARGES, the following evidence is available:

Verbal: H.23101 Pte. MONCHKA, Peter, A-15 C.I.T.C., C.A., will give evidence that he is the owner of the wallet in question which contained $20.75 and that on the 8th September, 1945, at about 0300 hours at the G-6 Drill Hall, Shilo Camp, Manitoba, he was making plastic rings - had placed the wallet in question on a chesterfield when Private H.30753 BLANK, Glen Roland came in and conversed with him, leaning on the arm of the chesterfield and close to the wallet. That said Private Blank was the only one person from the time he came in till the time of the disappearance of wallet. That Private Monchka missed his wallet a few minutes after private Blank left and he then immediately reported the loss to L/Cpl. Vandergrift.

B.105194 L/Cpl VANDERGRIFT, J.C., i/c special Regimental Police, A-15 C.I.T.C. This witness will give evidence that immediately on it being reported to him by Private Monchka of the loss of the wallet, he contacted Private Blank, G.R., at the wash room at I-6 in company with Private Monchka and asked the accused if he had taken Private Monchka's wallet containing this money. In the presence of L/Cpl. Vandergrift and Private Monchka, the accused admitted taking the money and returned the amount of $20.75 to Private Monchka, Private Blank, at the time, was engaged in a card game and some of the money in question was on the card table. Private Blank then led L/Cpl Vandergrift and Private Monchka to Hut No.I-3, where he produced the empty wallet from under the steps. This took place about 0330 hours on the 8th day of September, 1945, and L/Cpl. Vandergrift then placed Private Blank under arrest.

H.70172 Sgt. BRYSON, John, A/CSM of No.1 T.S. Coy., A-15 C.I.T.C., will give evidence that at approximately 0800 hours on the 8th day of September, 1945, on a report from L/Cpl. Vandergrift and Private Monchka, he contacted the accused and after properly warning him, obtained an admission by the accused that he had taken Private Monchka's wallet.

NOTICE

TAKE NOTICE that I propose to present No. H.30753 Private Glen Roland BLANK, A-15 Canadian Infantry Training Centre, C.A., for trial by the Standing Court-Martial at 1000 hours on Wednesday, the 26th day of September, 1945, at Shilo Camp, Manitoba.

Shilo Camp, Manitoba,

23rd September, 1945.

J.M. Meldrum, Col.

(J.M. Meldram), Colonel,
Commandant,
A-15 Canadian Infantry
Training Centre, C.A.

REPRESENTATION FOR ACCUSED

I, No.H.30753 Private Glen Roland BLANK, desire (~~do not desire~~) that an officer be assigned to represent me at my trial by Standing Court-Martial.

Signed at Shilo Camp, Manitoba, this 23rd day of September, 1945.

G. R. Blank. Pte.
(G.R. Blank)

MEDICAL OFFICER'S REPORT

I certify that No. H-30753 Pte. Blank G.R.
of AISCITC, CA is in a good state of health,
and fit to undergo Trial by Court martial.

Capt R.C.A.M.C.
Medical Officer
AISCITC, CA.

Station Shilo Camp, Manitoba.

Date September 26th, 1945.

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

H.Q.C.55-B-1967 (JAG/D-9)
Your W. 44-B-7454 (J)

9 Oct 45

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

STANDING COURT-MARTIAL

H.30753 Pte. Glen Roland Blank,
A.15 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

RMM/MM

THIS COPY IS

H.Q.C. 55-B-1967
M.D.W.44-B-7454

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

GS

No. H. 30753 Name BLANK, Glen Roland

Rank Pte Unit A15 CITC CA

Charge (1) AA 18 (4) Stealing property...

(2) AA 40 Conduct to the prejudice.....

Date of Crime (1) 8-9-45 (2) 8-9-45

Date of Arrest Charge Signed 24-9-45

Orders for D.C.M.

Place and Date of Trial Headquarters, 26-9-45

Sentence Det 90 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40133

Date 9-10-45

MEMO (2) not guilty

MD 10 A15 CIT C CA

CM-S-45(M-189)

for Judge Advocate-General

DEPARTMENT OF NATIONAL DEFENCE W.44-B-7454 (J)
- ARMY -

Winnipeg, Manitoba
28th September, 1945.

Judge Advocate-General
Department of National Defence (Army)
OTTAWA, Ontario.

1224
OCT 15 1947
Referred to JAG

STANDING COURT-MARTIAL
No. H-30753 Pte. BLANK, Glen Roland
A-15 C.I.T.C., C.A.,

Herewith for review, are the proceedings of the marginally-noted Standing Court-Martial.

ACB.
Enc.

D. J. Killeen Major
President
Standing Court-Martial

40133.

H.Q.C.55-B-1987(JAG/D)

19th Sept 1945.

District Officer Commanding,
Military District No. 10,
Winnipeg, Man.

H-30753 Pte. BLANK, G.R.,
A-15 C.I.T.C., C.A.

Copy of Charge Sheet and Precis of Evidence in the case of the marginally named soldier has been considered and it is felt that a prima facie case is disclosed.

2. The Charge Sheet is accordingly approved pursuant to K.R.(Can) para 540.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

CANADA

IN REPLY PLEASE QUOTE
No. W.44-B-7454 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba,
14th September 1945.

Judge Advocate-General,
Department of National Defence(Army),
OTTAWA, Ont.

Re: H.30753, Pte. BLANK, G.R.,
A15 C.I.T.C., C.A.

Enclosed herewith is copy of Charge Sheet and Precis of Evidence in the case of the marginally-named soldier.

2. These documents are submitted for review pursuant to Para. 540 K.R. (Can).

E.A. Fletcher Capt
(E.A.Fletcher) Major,
Assistant Judge Advocate-General
Military District No. 10.

CHJ/HRM
Encls.

N.D. 23
4—10-44 (5769)
1772-101-23

Pursuant to Paragraph 10, C.A.R.O. 4563, the Accused has elected to be tried by Standing Court-Martial.

CHARGE SHEET

The Accused, No. H.30753, Private Glen Roland BLANK, A15 Canadian Infantry Training Centre, C.A., a G.S. soldier of the Canadian Army, placed on Active Service, is charged with:

FIRST CHARGE
Sec. 18(4)
Army Act.

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

- in that he -

at Shilo Camp, Manitoba, on the 8th day of September, 1945, stole a wallet containing the sum of $20.75, the property of No. H.23101, Private Peter MONCHKA, A15 Canadian Infantry Training Centre, C.A., a person subject to military law.

SECOND CHARGE
(Alternative)
Sec. 40
Army Act.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

- in that he -

at Shilo Camp, Manitoba, on the 8th day of September, 1945, was improperly in possession of a wallet containing the sum of $20.75, the property of No. H.23101, Private Peter MONCHKA, A15 Canadian Infantry Training Centre, C.A., a person subject to military law.

Shilo Camp, Manitoba,
September, 1945.

(J.M. Meldram) Colonel
Commandant,
A15 Canadian Infantry
Training Centre, C.A.

PRECIS OF EVIDENCE

in the case of

H.30753 Private Glen Roland BLANK, A-15 Canadian Infantry Training Centre, C.A., a G.S. soldier of the Canadian Army, placed on Active Service.

CHARGES: 1. STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

2. CONDUCT TO THE PREJUDICE (Alternative)

TO PROVE THE ABOVE CHARGES, the following evidence is available:

Verbal: H.23101 Pte. MONCHKA, Peter, A-15 C.I.T.C., C.A., will give evidence that he is the owner of the wallet in question which contained $20.75 and that on the 8th September, 1945, at about 0300 hours at the G-6 Drill Hall, Shilo Camp, Manitoba, he was making plastic rings - had placed the wallet in question on a chesterfield when Private H.30753 BLANK, Glen Roland came in and conversed with him, leaning on the arm of the chesterfield and close to the wallet. That said Private Blank was the only one person from the time he came in till the time of the disappearance of the wallet. That Private Monchka missed his wallet a few minutes after Private Blank left and he then immediately reported the loss to L/Cpl. Vandergrift.

B.106194 L/Cpl. VANDERGRIFT, J.C., i/c special Regimental Police, A-15 C.I.T.C. This witness will give evidence that immediately on it being reported to him by Private Monchka of the loss of the wallet, he contacted Private Blank, G.R., at the wash room at I-6 in company with Private Monchka and asked the accused if he had taken Private Monchka's wallet containing this money. In the presence of L/Cpl. Vandergrift and Private Monchka, the accused admitted taking the money and returned the amount of $20.75 to Private Monchka. Private Blank, at the time, was engaged in a card game and some of the money in question was on the card table. Private Blank then led L/Cpl. Vandergrift and Private Monchka to Hut No.I-3, where he produced the empty wallet from under the steps. This took place about 0330 hours on the 8th day of September, 1945, and L/Cpl. Vandergrift then placed Private Blank under arrest.

H.70172 Sgt. BRYSON, John, A/CSM of No.1 T.S. Coy., A-15 C.I.T.C., will give evidence that at approximately 0800 hours on the 8th day of September, 1945, on a report from L/Cpl. Vandergrift and Private Monchka, he contacted the accused and after properly warning him, obtained an admission by the accused that he h taken Private Monchka's wallet.

NOTICE

TAKE NOTICE that I propose to present No. H.30753 Private Glen Roland BLANK, A-15 Canadian Infantry Training Centre, C.A., for trial by the Standing Court-Martial at 1000 hours on Wednesday, the 12th day of September, 1945, at Shilo Camp, Manitoba.

Shilo Camp, Manitoba,

10th September, 1945.

(J.M. Meldram), Colonel,
Commandant,
A-15 Canadian Infantry
Training Centre, C.A.

REPRESENTATION FOR ACCUSED

I, No.H.30753 Private Glen Roland BLANK, desire ~~(do not desire)~~ that an officer be assigned to represent me at my trial by Standing Court-Martial.

Signed at Shilo Camp, Manitoba, this 10th day of September, 1945.

G. R. Blank. Pte.
(G.R. Blank)

No. H-~~37948~~ 30753 Name BLANK Sqn., Battery, or Company Glen Roland Corps CIC(R) Date of enlistment } Sheet No. One G.C. Badges } Signature O.C. Company, etc. } Tradesmen's Rates of Pay } Date of Birth 18 Jan 27 Character

M.F.M. 6 (A.F.B.122) 750M—12-42 (7587) H.Q. 1773-39-1032

No. and date of last drunk } Period not reckoning towards freedom from extra fine } W.J. Cummings Capt.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield, Ont	3 May 45	Pte.		AA 15(1) A.W.L. 1500 hrs 3 May 45 1430 hrs 4 May 45	Sgt. Hoch Documentary	Forf 2 days pay 46 AA.	4 May 45	Lt.-Col. Wurtele	WG. forf one days pay FR&I 149 FWM Lt.

CERTIFIED TRUE COPY
D. Macdonald
MAJOR ADJUTANT
A.15. CANADIAN INFANTRY TRAINING CENTRE

(P.T.O.)

H.Q.C. 55-B-1968 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BLACHE, ARMAND D-648903 PTE.

CONFIDENTIAL H.Q.C. 55-B-1968

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		cancelled					
					(Purpose for which referred cannot be expressed on one line, add minute to file and return here with minute)		
SEP 21 1945	21			JAG	JAG NEW FILE	CR	17-9-45
					JAG With Papers C.R. OCT 6 - 1945		
OCT 9 - 1945				Admin	2c note pls		
- 1945	27 Nov 45			CMBR	2c note min & pls		10
				CMBR	For Acquisition NOV 15 1945		
JAN 8 1946	7-1-46			Adm 3	Recommendation		DEC 17 1945
				CMBR	With Papers C.R. JAN 15 1946		
JAN 16 1946	16-1-46			adm 3	2c note remission		16 Jan 46
				Admin	For Acquisition JAN 26 1946		
JAN 28 1946	29-1-46			PM	Memo		26 Jan 46
JAN 29 1946	29 Jan 46						
FEB 1 - 1946	1/2/46			Admin	For Acquisition JAN 31 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

26 Jan 46

PM

Attn Col Nicholson

RECEIVED
JAN 28 1946
PROVOST
5-1-20

You will be interested in perusing this file after our discussion of this case yesterday.

A B Fleming Lt Col
Adjt 3

655-B-1968

FILM NO: M. 1-B-15011 (ADIS)

CENTRAL REGISTRY Army
JAN 17 1946

~~801-B-6033~~

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.
16th January, 1946.

1

The Secretary,
Department of National Defence,
Ottawa, Ontario.

D-648903, Pte. BLACHE, Armand

xxxxxxxx

2. Attached hereto, form for remission in respect to the marginally named soldier.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURE

11 C.R. PA on confidential file please
ABE 24
21 Jan 46

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No.....
District File No. M. 1-R-15011 (A/DIS).....

PART I

No D.648903 Rank Pte. Name BLACHE, Armand
Unit 4.D.D.

PART II

Date of Trial 11th September 1945
Charge(s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence One year detention
Date of Sentence 11th September 1945
Confirmation -- (a) Authority: D.C.
(b) Date : N.D.H.Q.

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~(commutation/mitigate)~~* wef 10 Jan 46.

Signed at MONTREAL QUE. this 28 day of DECEMBER 1945.
(Appointment) (E.J. Renaud), Maj Gen, DOC MD No. 4.
To be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission ~~(commutation/mitigation)~~* promulgated and extracts taken at Montreal South, Quebec this 10th day of January 1946... (1)

Ass- Officer i/c Documents. (L.R. HAMBLIN) Lieut.
C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D-648903 Rank Pte. Name BLACHE, Armand
The sentence of One year detention awarded by ~~District~~ Court Martial on the 11th September 1945 has been remitted on the 10th January 1946 by D.O.C. UNIT. Military District No.4, Montreal, Quebec
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No. 9 Place Jacques Cartier Barracks Date 10th January, 1946.

Adjutant

(R. de G. STEWART) Captain
A/Adjudant, Gen List., C.A.,
att'd to No.4 D.D., C.A.

*Strike out and initial words not applicable.

FILE NO: M. 1-B-15011 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ A R M Y /

MONTREAL, Que.,
January 14th, 1946.

CENTRAL REGISTRY Army
COMD. SEC.
2179
JAN 15 1946
File 55-13-1968
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM CARO 5913.
D-648903, Pte. BLACHE, Armand

Reference HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Attached hereto WFM 288 duly completed with respect to the m/n soldier, submitted to NDHQ, in accordance with instructions containe in Para 4 of the above mentioned letter.

(E.J.RENAUD) Major-General,
DOC MD No. 4.

Encl.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-648903 (Number) Private (Rank) BLACHE, Armand (Name in full)

C.I.C., C.A., (Unit) atta ched to No.4 District Depot, C.A. (Attachment (if any))

Sentenced to 1 year detention

on 11th September, 1945 at Montreal South, Que.

being served at No.65 Military Detention Barracks, Montreal South, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 26 years and 5 months - 13 Aug 1943

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~xxx~~ committed to undergo his sentence, which I recommend should ~~xxxx~~ be ~~xxxxxxxx~~ (put into execution) (~~xxxxxxxxx~~ date) for reasons given in paragraph X.

Place MONTREAL, P.Q.,

Renaud (Confirming Authority)

Date 3rd October 1945. (E.J. RENAUD) Major General, D.O.C., M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date (Confirming Authority)

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
28 Dec 45	Sentence remitted wef 10 Jan 46	(E.J. Renaud), Maj Gen, DOC MD No. 4.	
10 JAN46	"RELEASED"10JAN46	(C.POTTER)Major Commandant No.65 Mil.Det.Brks. Montreal Sth,Que.	Marks earned 982

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE s.15 (1) Army Act	ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Sorel, Que., at 2300 hrs., on 15th September, 1943, absented himself without leave from his Unit, C.I.(B)T.C.45, C.A., until he was apprehended by the Civil Authorities at Montreal, Que., at 0530 hrs. on 18th August, 1945, dressed in civilian clothes.	15Sep 43	11Sep 45

Signature of Officer making entry

(E. Laurence AUERBACH) Capt.,
General List, C.A.,
No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
29th Sep 45	I do not recommend any remission of sentence in this soldier's case. (S. EOHENBERG) Colonel, Commanding No.4 District Depot, C.A.	

26

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
3 Oct 45	Sentence considered fair and reasonable 1st review on 26 Oct 45	(E.J. RENAUD) Major General, D.O.C., M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

RECEIVED
DEC 26 1945

ROYAL CANADIAN SIGNALS
Woods Bldg.
OTTAWA
DEC 26 1945
Phone
Army Signals

VER V CIM NR 62

FROM COMMANDING FOUR MONTREAL UQE 261645R

TO SECTY D N D OTTAWA

R 39 BT

DIS 198 UNCL

ETEL RANKS 1518 DATED 19 DEC 45 REFERRING D 648903

TE BLACHE A STOP SENTENCE OF SOLDIER BEING REMITTED

EF 10 JAN 46

261720R

T 261717R MP B

IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO SOCIETY

DATE	TIME	SIGNATURE

69638

ARMY MESSAGE
ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION TO THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

HQC 55-B-1968
FILE: Adm 3(a)

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 4
MONTREAL P Q

OTTAWA ONTARIO 19 DEC 45

RANKS 1518 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REFERS D 648903 PTE BLACHE A (.) CMHR

RECOMMENDS REMISSION OF SENTENCE WEF 10 JAN 1946 (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: CMHR

JAG

GDB/MA

GD Bick Cpt

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
Major-General Adjutant-General		IMMEDIATE	1400

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

HQC 55- D-1966 (CMBR- 4)/N
15 Nov 45. 1520
Case No----------

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: D-648903 Pt. BLACHE, A

2. Unit at date of offence: 45 C.I. (B) I.C. C.A. Sorel, Quebec.

3. Charge: A Sec 15 (1) AWL
(From 15 Sep 43 until apprehended in civilian clothes 18 Aug 45.
Absent: 1 year 11 mos.)

Plea: Guilty

. Place and Date of Trial: 4 D.D. C.A. Montreal South, Que. 11 Sep 45.
DGCM (DGM) (SCM)

. Finding: Guilty

. (a) Sentence: 1 year detention.

(b) Date of Sentence: 11 Sep 45

Date of Confirmation:

Date of Promulgation:

Being served at: 65 MDD in M.D. 4
1518

(N.B. - Discharged under R.O. 1029 ( ) for
wef).

29

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(1) Civil Convictions:	NIL	(in one Month of service	
(2) Courts-Martial:	NIL	(prior to	
(3) Summary Convictions:	NIL	(commission of present offence	

(b) After conviction: Good
Expected date of release 11 Mar 46
(c) Date of enrolment: 13 Aug 43 Present Age: 28

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

STATEMENT BY ACCUSED IN MITIGATION

Accused has been married for 10 years. He has four children. His wife has Tuberculosis, suffers from nerves and has heart trouble. One of his children who is five years old has bad legs. Accused himself suffers from rheumatism. During the month he served in the army he never had drill, just went on parade. Before going AWL he received a telephone call from his mother-in-law that his wife was sick and requested a pass, but this was refused so he left. While absent he worked on the farm, presumably that of Mr. C. Brassard. Accused produced a medical certificate stating that he was under treatment by a civil doctor on account of his legs, and a letter from his Chaplain corroborating that fact. He also produced a certificate from Agricultural representative and from farmers of the village of St. Leonard de Port Maurice certifying that Mr. Brassard has a large farm and needs farm labour and requesting farm leave for the accused. NOTE: These letters are all dated subsequent to apprehension.

PLEA IN MITIGATION BY DEFENDING OFFICER

The accused went absent to earn money to support his family. While absent he worked for farmers.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Officer, etc.)

REVIEWING OFFICER

This soldier has rendered the army no useful service. Moreover, had he stayed in the army his family would have benifited more than from his meagre earnings while absent. However, because it would appear that his wife and children would suffer most from his detention recommend release at half sentence 11 Mar 46.

Reviewed by A.B. Gold, Lieut.

---

14. Recommendation of the Board: Release on 10 Jan 46

Date DEC 17 1945

D.A. Stikwell, Maj
Secretary
Courts-Martial Board of Review.

28

H.Q.C. 55-B-1963 (JAG/D/5)

9th October, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.
Standing
D-648903 Pte. Armand Blache,
CIC, CA, attached to No. 4 DD, CA.
.....Court-Martial

4th October 5 M.1-B-15011 (II)

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

LCC:jb

EKM
for (R.J. Orde), Brigadier,

Judge Advocate-General.

II C.M.B.R.
to have in hand
to proceedings re
ill-treatment of soldier, his
wife + request to be
returns to Shirley Ave

Cal Orders
10 10 45
M.H.

III noted
OBE
CMBR 4
15 NOV 45

76

IN REPLY PLEASE QUOTE No. M.1-B-15011(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
4th October, 1945.

R-146

REGISTERED

CENTRAL REGISTRY Army
CONF. SEC.
1565
OCT 6 1945
File B-1968
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
D-648903 Pte. Armand BLACHE,
CIC, CA, attached to No. 4 DD,CA.

Reference your HQC.85-B-1968 (JAG/D-4) dated 21 Sep 45.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, please.

Justin Morneau Capt.
(E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1772-39-297

MEDICAL OFFICER'S REPORT

I certify that No. D-648903 Pte. BLACHE. A.
C. I. C., C. A.,
of att. No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

H. Hazell

H. Hazell Lieut. Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 11th September 1945

M. F. B. 246

50M—5-43 (254)
H Q 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot, C.A., Montréal Sud, P.Q.

le 11ième jour de septembre 19 45 à 11.05 heures,

pour le procès de D-648903 Private Armand BLACHE
Matricule Grade Nom et prénoms

C.I.C., C.A., attached to No.4 District Depot, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. Belleau, Quartiers Généraux, District Militaire No.4.

PROCUREUR: Capitaine H. Primeau
Grade Nom et prénoms

Quartiers Généraux, District Militaire No. 4.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant J.R. Panet-Raymond
~~ou AVOCAT~~ Grade Nom et prénoms

C.I.C., C.A., attached to No.4 District Depot, C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-648903 Private Armand BLACHE, C.I.C., C.A., attached to No.4 District Depot, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-648903 Private Armand BLACHE, C.I.C., C.A., attached to No.4 District Depot, C.A., à la détention pendant un an.

23

Signé à Montréal-Sud, P.Q. ce 11ième jour de septembre 1945

L.J.E. Belleau
Président de la cour martiale permanente
(L.J.E. Belleau) Major

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 31725 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 19 day of Sep 19 44

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à comme interprète ?~~

Réponse:

Question à l'accusé. Vous opposez-vous à D-625377 Cpl. H.Turcot,No.4 District Depot, comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermentés.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

22

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. Belleau Major
Res. CM.

"B2"

CHARGE SHEET

The Accused, D 648903, Private Armand BLACHE, C.I.C., C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec 15 (1),
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Sorel, Quebec, at 2300 hours on 15th September, 1943, absented himself without leave from his unit, C.I.(B)T.C. #45, C.A., until he was apprehended by the Civil Authorities at Montreal, Quebec, at 0530 hours on 18th August, 1945, dressed in civilian clothes.

Signed at
Montreal South, Quebec.
28th August, 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C.A.

21

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3).

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d). Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Je suis marié, monsieur, depuis dix ans. J'ai quatre enfants. Ma femme est tuberculose, elle fait de la dépression nerveuse et elle a la maladie de coeur. J'ai un petit bonhomme de cinq ans qui fait de la faiblesse des jambes. Il est soigné depuis deux ans par le docteur Samson. Moi-même j'ai la même chose, j'ai été soigné pour les rhumatismes articulaires par le docteur Foisy et par le docteur Lévesque. Quand j'ai parti d'ici pour aller à Sorel, mon lieutenant de compagnie, le lieutenant Tassé, m'a jamais fait faire de "drill". J'allais juste sur la parade le matin. J'ai jamais eu une passe les trois semaines que j'ai été à Sorel. La troisième semaine j'ai eu un téléphone de ma belle-mère que ma femme était malade. J'ai demandé une passe, la passe m'a été refusée. J'ai parti le lendemain matin, ma femme était grandement malade, j'ai resté quinze jours. Après çà j'ai eu peur, j'ai été travailler sur les fermes. Mon dernier patron a été Casimir Brossard de St-Léonard de Port-Maurice qui a rempli les documents pour une exemption pour moi. A l'appui de ma déclaration je produis les documents suivants:

une lettre de médecin dont la signature est illisible.
un certificat par l'abbé Robert, aumônier de la S.V.P., paroisse de la Nativité.
un certificat du docteur Maurice Foisy.

"Les documents ci-dessus mentionnés sont lus, marqués CC-5, CC-7 et CC-9 respectivement, signés par le Président et versés au dossier".

Avant de m'absenter j'ai été cinq semaines en tout dans l'armée. Avant j'ai travaillé dans l'amiante dans la construction. Au cours des cinq semaines ici j'ai subi seulement un examen médical. Je me suis pas présenté au "medical inspection room" ici; à Sorel j'ai été voir le médecin, il s'est pas occupé de rien. J'avais demandé à mon officier, le lieutenant Tassé, j'ai pas entendu parler de rien, j'ai parti avant, pour passer un examen médical pour mes jambes. Pendant mon absence j'ai travaillé sur la ferme. Mon dernier bourgeois, monsieur Brossard, a fait une demande pour m'avoir une exemption. Avant d'entrer dans l'armée, j'avais déjà travaillé, lorsque j'avais seize ou dix-sept ans, sur la terre. Après je suis venu travailler en ville dans la construction. Je désire également soumettre à la cour copies des documents adressés à l'officier commandant a/s du capitaine Rochon, relativement à une demande de congé.

"Une lettre signée par Léopold Demers, agronome, en date du 23 août 1945, une lettre de monsieur Albert Léonard, en date du 24 août 1945, une lettre de monsieur Jules Vaes, même date, une lettre de monsieur J.A. Lafortune endate du 25 août 1945, une lettre de monsieur Casimir Brossard, même date, et une lettre de monsieur Elie Lalumière en date du 8 septembre 1945; les lettres précitées sont lues, marquées CC-11, CC-13, CC-15, CC-17, CC-19 et CC-21 respectivement, signées par le Président et versées au dossier.

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CC-5

Montreal 23rd 8th 43

-11-

This is to certify that Armand Blanchet has been my patient and I did treat him for gangrene at legs.

At these times specially in winter he was oblige to lose about three days a week on account of his legs.

Truly Yours

W. A. Stevens M.D.

1554 Mt Royal E.

18

PAROISSE DE LA NATIVITÉ DE LA S. V.
HOCHELAGA, MONTRÉAL.
1855 DÉZERY - FR. 4666

MONTRÉAL, 24 août 1943

A qui de droit,

Ceci pour attester que je connais Armand Blache depuis nombre d'années ainsi que sa famille. Il a toujours eu une faiblesse dans les jambes ce qui lui a fait perdre plusieurs emplois dans des industries où il fallait demeurer debout. Ce mal existe encore au dire de son médecin, j'espère que vous prendrez en considération ce cas afin de réaliser le bien fondé de cette affirmation

R. Robert ptre
aumonier de la S.V.P.

17

CC-9 -15-

Tél. CA. 1960. Consultations: 1 à 3 et 7 à 9 p.m.

Docteur Maurice Foisy
Médecin - Chirurgien
ex-interne de Notre-Dame et de Ste-Justine

1987 Blvd. Rosemont, près Bordeaux Montréal

M. Le fils de droit

R/ Je soussigné déclare avoir soigné le 20 novembre 194[illegible] Dame L. Humatiane [illegible] souffrant d'une [illegible] generalisée, empêchant [illegible] de son congé [illegible] — lors de son congé [illegible] il n'était particulière [illegible] ment pas requis — Me [illegible] Blache

Dr M. Foisy

4/ mars 1943.

Me Blache

Cette prescription sera remplie avec soin et suivant l'art. chez

A. DESAULNIERS, Pharmacien

2304 Beaubien est ● Tél. DO. 6300

MONTREAL

Montreal 23 aout 1945

A QUI DE DROIT:

Je, soussigné, Léopold Demers Agronome et membre de la Corporation des Agronomes de la Province de Quebec dépose et dis:

Que je connais depuis bien longtemps M. Casimir Brassard cultivateur de St-Leonard Port Maurice.

Que M. C. Brassard exploite une vaste ferme sur laquelle il pratique sur une haute échelle la culture des legumes les plus variés.

Que M. C. Brassard manque de main-d'oeuvre sur sa ferme surtout pour l'arrachage de ses légumes d'automne qui devrait se faire durant les mois de septembre d'octobre et de novembre.

Que d'aider a M. Brassard a se procurer la main-d'oeuvre experte dont il a besoin c'est aider l'agriculture a s'acquitter du rôle providentiel qui est confié a cette derniere.

Espérant que vous voudrez bien prendre ma requête comme étant sérieuse et honnête,

Je demeure

Votre bien dévoué

Leopold Demers

Leopold Demers Agronome
11936 Blvd Rédd Montreal

15

St Léonard de Port Maurice, 24 août, 194[illegible]

A qui de droit,

Je soussigné Albert Léonard cultivateur de St Léonard de Port Maurice et je dis:

Que Casimir Brossard cultive une ferme d'environ trente arpents, qu'il a beaucoup de légumes en terre et qu'il a grand besoin de main d'oeuvre. Dans le moment il n'a qu'un homme et ce personnel est insuffisant pour rentrer sa récolte.

Votre bien dévoué,

Albert Léonard

Assermenté par: Anastase Pigeon Maire

14

Saint-Léonard de Port Maurice, 24 août, 1945.

A qui de droit

Je soussigné Jules Veas cultivateur de St Léonard de Port-Maurice et je dis:

Que Casimir Brossard est mon voisin qu'il a environ 30 arpents de terre en culture ce qui représente beaucoup de travail. Il n'a qu'un homme dans le moment. S'il vous était possible de l'aider à se procurer de la main-d'oeuvre expérimentée, il pourrait sauver sa récolte qui sera en danger sous peu.

Votre Bien dévoué

Jules Veas

Assermenté par Anastase Pigeon Maire

13

CC-17

MINISTÈRE DE L'AGRICULTURE
PROVINCE DE QUÉBEC

152 est, rue Notre-Dame,
MONTREAL, le 25 août, 1945.

Officier Commandant,
Casernes Jacques-Cartier,
Montréal-Sud, P.Q.

Re: BLACHE, Armand, D-648903

Cher monsieur,

La présente est pour appuyer la demande de monsieur Casimir Brossard, cultivateurs maraicher de St-Léonard de Port-Maurice pour obtenir les services de monsieur Armand Blache, D-648903, qui est actuellement sous vos ordres à Longueuil. Monsieur Blache était déserteur de uis deux ans environ avant d'être repris par les autorités militaires il y a environ une semaine.

Monsieur Brossard cultive une ferme de 30 arpents de culture sur laquelle il fait environ 20 arpents de culture maraîchère comprenant, céleri, carottes, oignons, pâireaux, laitue, etc. Monsieur Brossard vend ses légumes sur les marchés de Montréal à tous les jours.

Pour faire tous ses travaux de récolte, sarclage, préparation de marchés, il n'a qu'un seul homme alors qu'il en aurait besoin de trois ou quatre autres.

Monsieur Blache qui est actuellement sous vos ordres a travaillé chez-lui environ trois mois avant son retour dans l'armée.

Vu le manque de main d'oeuvre et le travail considérable qu'a à faire monsieur Brossard, je recommande fortement un congé militaire en faveur de ce soldat afin qu'il puisse continuer à aider monsieur Brossard.

Votre tout dévoué,

J.A. Lafortune
(J.A. LAFORTUNE)
Agronome officiel des comtés de Laval,
Hochelaga, Jacques-Cartier

jal/ml

12

Le 25 août, 1945.

Officier Commandant,
Casernes Jacques-Cartier,
Montréal Sud, P.Q.

Re: Armand Blachette, D-648903

Cher monsieur,

Je certifie par la présente que je suis propriétaire d'une ferme d'environ 30 arpents en culture située à 14 St-Léonard de Port Maurice.

Je fais une vingtaine d'arpents de culture maraîchère comprenant céleri, carottes, oignons, poireaux, laitue, etc.

Je n'ai qu'un seul homme engagé pour faire les travaux de récolte, de préparation pour le marché de tous ces produits, alors que normalement il m'en faudrait quatre ou cinq. Comme je viens au marché à tous les jours, il m'est impossible de laisser un homme seul pour voir à tous les travaux de mon exploitation agricole.

Vous connaissez comme moi le manque de main d'oeuvre dans ces travaux spécialisés de culture maraîchère et après maintes démarches je n'ai pu me trouver de main d'oeuvre supplémentaire.

Monsieur Blachette qui est actuellement à Longueil après une désertion de deux ans, a travaillé chez moi depuis une couple de mois. Il connait très bien les travaux de culture et c'est un homme sur qui je peux me fier lorsque je dois laisser ma ferme pour venir sur les marchés de Montréal.

Ce serait me rendre un grand service si vous pouviez libérez ce jeune homme pour qu'il puisse venir travailler chez-moi, car si je n'ai pas de main d'oeuvre supplémentaire, je prévois une perte assez considérable de légumes.

Vous remerçiant à l'avance, je vous prie de me croire,

Votre tout dévoué,

Casimir Brossard

CASIMIR BROSSARD,
14 St-Léonard de Port Maurice,
Laval, P.Q.

Assermentée devant moi
à Montréal ce 24ième
jour d'août 1945.

J. A. Lafontaine C.C.S.

81 ouest, rue St-Jacques,
Montréal, (1), le 8 septembre 1945

M. l'Officier Commandant,
a/s Capitaine Rochon,
Edifice Sun Life,
Montréal.

Re: D-648203, Sdt BLACHE, Armand

Cher monsieur,

Nous vous demandons avec instance de bien vouloir régulariser la situation du jeune homme ci-haut mentionné.

Son ancien employeur, M. Brossard, cultivateur-maraîcher de St-Léonard de Port-Maurice, a un grand besoin de main-d'oeuvre expérimentée vu le travail considérable qu'il a à faire sur sa ferme.

Nous comptons sur votre bonne coopération et nous demeurons

Vos tout dévoués,

L'Office de la main-d'oeuvre agricole
du Québec

[illegible]

E./JM

10

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

(voir page E-3)

9

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

E-3

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Monsieur Le Président,

Le soldat Blache est marié, il a quatre enfants. Lui-même était malade avant d'entrer dans l'armée. Il n'est resté que cinq semaines et le découragement l'a pris, à cause de sa maladie et à cause de l'affaire de sa femme qui est gravement malade. Elle souffre de tuberculose et de la maladie de coeur. Il s'est absenté et durant son absence il a travaillé chez les cultivateurs à St-Paul l'Ermite et chez monsieur Brossard à St-Léonard de Port-Maurice. Le soldat Blache faisait une moyenne de salaire d'environ $20.00 à $22.00 par semaine pour soutenir sa famille dont il était le seul soutien. Je ferai remarquer aussi à la cour que sa feuille de conduite est blanche. Je demande la clémence de la cour pour le soldat Blache parce que durant son absence, alors qu'il avait des motifs et des circonstances assez difficiles, il a travaillé chez un cultivateur, ce qui se trouve être un rôle qui aide son pays meme s'il n'est pas dans l'armée. Je demande la clémence de la cour.

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Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT C.I.(E)A.C.No.45.

PART II ORDERS

by

Lieut.Col.J.A.Boivin. O.C.

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 216-B.

STATION Sorel, Que.

DATE 16 Sept 43.

"Last Order Issued No.215-B dated 15 Sept 43.

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN. COY. ETC.	CASUALTY & REMARKS	DATE
	ABSENTS SANS PERMISSION					
8.			Les soldats sous-mentionnés sont absents sans permission depuis 2300 hrs., le..... .....15 sept 43.			
		D-648903	Sldt BLACHE A.	INF	(R) Cie C.	

Compiled by EJ
Checked by
Verified by

Certified True Extract
Signed
District Records Officer
having custody of Regimental
PART II ORDERS kept by
District Headquarters M.D. 4.
Date 6 9

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

(M.RIOPEL) Capt., Adjt.,
pour le Lieut-Col., J.A. Boivin,O.
C.I.(E) A.C. No.45. Sorel, Que.
Officer Commanding or Adjutant

M.F.D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-39-254

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG, Commanding No.4 District Depot, C.A.,
(Number) (Rank) (Name) (Unit)

hereby certify that D-648903, Pte. BLACHE, Armand
(Number) (Rank) (Name in full)

of the C.I.C., C.A., attached to No. 4 District Depot, C.A.,
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~surrendered to~~ Const. O. Morin of the
(Number) (Rank)

High Constables Office Police Court
(Name) (Unit or appointment)

at Montreal, Quebec at 0530 hours
(Place) (Hour)

on the 18th day of AUGUST 1945

Strike out words not applicable } as a deserter ~~[illegible]~~, and that at the time of his arrest he was ~~[illegible]~~ ~~[illegible]~~ (dressed in civilian clothes). and on the 18th August, 1945, was taken into custody of No. 4 District Depot, C.A., on arrest.

Dated at Montreal South, P.Q. this 28th day of August 19 45.

(Signature, Number, Rank, Unit or appointment)

(S. Echenberg), Colonel,
Commanding, No. 4 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
50M—5-42 (4731)
H.Q. 1772-39-1936

6

J. H. Sullivan. Major.
Pres. Cont.

-37-

M.F.D. 355
75M—5-43 (145)
H.Q. 1772-39-639
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment (or unit)

D 648903 Private Armand BLACHE, C.I.C., C.A., attached to No. 4 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Regimental Pay Squadron Battery or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and ~~nil~~ 24 days in military custody, making a total of ~~nil~~ 24 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of birth is~~ enrolment ~~attested by proper~~ 28 yrs 5 mos. (31 March 1917)

6. The date of his ~~commission~~ ~~attestation~~ enrolment specified in his ~~record of birth is~~ enrolment ~~attested by proper~~ 13 August 1943.

7. ~~The service which the accused is entitled to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(specify possession of or entitled to). Specify air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Air Force Unit Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitte

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 Sep 45 day of

(P. PARADIS) Lieut,
Regt de Maisonneuve, C.A.,
Att'd to No. 4 District Depot, C.A.
Ass't Officer i/c Records
No 4 District Depot, C.A.

The above statement (with the schedule of convictions and dispensations with trial annexed with) is read, marked.....signed by the president, and annexed to the proceedings.

-39-

NRMA CLEARING DEPOT 4

Date of Birth

Reg. No. D648903 Name BLACHE, Armand Corps

Date of enlistment or enrolment 13-8-43

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc. J.C.M. Cote, Lieut.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY P. Paradis Lieut. (P. PARADIS) Lieut, Regt de Maisonneuve, C.A., Att'd to No. 4 District Depot, C.A., Ass't Officer i/c Records, No. 4 District Depot, C.A.					

(P.T.O.)

Attestation book "Z" Pers. Corr.

H.Q.C.55-B-1968 (JAG/D-4)
Your M. 1-B-15011

21 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 648903 Pte. Armand Blache,
C.I.C., C.A.,att. No. 4District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

JOGR/MM

(R.J.Orde) Brigadier
Judge Advocate-General.

3

THIS COPY FOR: H.Q. C. 55-B-1968
M.D. M. 1-B-15011

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-648903 Name Armand BLACHE

Rank Pte. Unit C.I.C. C.A. Att No. 4 D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 15-9-43

Date of Arrest 18-8-45 Charge Signed 28-8-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 11-9-45

Sentence Detention 1 year.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39725

Date 19-9-45

MEMO

M.D. 4	C.I.C. C.A. Att No. 4 D.D. C.A.
ABSENT	SENTENCE
23 mos.	Det. 1 yr.

for Judge Advocate-General

OM-6-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-15011

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 14th September 1945.

CONFIDENTIAL.

Judge Advocate General,
National Defence Headquarters,
Ottawa, Ont.

C-55-B-1968

STANDING COURT MARTIAL
D-648903 Private Armand BLACHE,
C.I.C., C.A., attached to
No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/11 Sept. 1945.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. Belleau) Major
Headquarters, Military District No.4
President of Standing Court-Martial.

33725

H.Q.C. 55-B-1969

CONFIDENTIAL

M.F.B. 5119

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BIGRAS, EMILEIN D-648022 FUS.

CONFIDENTIAL
H.Q.C. 55-B-1969

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 21 1945				JAG	NEW FILE	CR	17-9-45
OCT 5 - 1945	4-11-45	PA	C.O.	Jag			
DEC 7 - 1945	17 DEC 45	BB	ABE	C.M.B.R.	For Regulation C.R. DEC 4 1945		
				C.M.B.R.	PER B.F. DEC 17 1945		
DEC 19 1945							
DEC 20 1945	8-1-46	cancelled	LOL	adm	Look Remission pls.	ABE	19 DEC 45
	~~8-1-46~~	~~PA~~	~~m~~	admin	With Papers C.R. DEC 21 1945		
				~~C.M.B.R.~~	~~[illegible]~~		
DEC 26 1945	24-5-46	PA	pu	JAG	Remind	—	—
				JAG	For Regulation C.R. JAN 9 1946		
				C.M.B.R.		C.J.	15-1-46
JAN 1 1 1946							
JAN 1 5 1946	15/1/46	PA	LOL	adm	Look remission pls	ABE	17 JAN 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
19th December, 1945.

CENTRAL REGISTRY
16443
DEC 20 1945
C.S.S. B. 1969

The Secretary,
Department of National Defence,
Ottawa, Ontario.

FORMS FOR REMISSION

Attached hereto, Forms for Remission with respect to the undermentioned soldiers:

NDHQ FILE NOS	MD FILE NOS A(DIS)	REGT'L NOS	RANK	NAME
HQC 55-A-455	M.1-A- 1955	D-163125	PTE	AUBIN, J.A.G.R.
HQC 55-B-2155	M.1-B-18419	D-605070	PTE	BARELL, A.
HQC 55-B-2127	M.1-B- 9132	D-636944	PTE	BEAUVAIS, E.
HQC 55-B-2202	M.1-B-18235	D-651518	PTE	BELISLE, J.
HQC 55-B-759	M.1-B- 7765	D-449094	PTE	BERGERON, M.R.
HQC 55-B-2077	M.1-B-6501	D-605887	PTE	BERGERON, P.
HQC 55-B-1969	M.1-B-14577	D-648022	PTE	BIGRAS, E.
HQC 55-B-2102	M.1-B-18247	D-654963	PTE	BOISVERT, M.
HQC 55-C-1556	M.1-C-17070	D-653352	PTE	CARDINAL, P.E.
	M.1-C-14140	D-657573	PTE	CHAMPAGNE, J.
HQC 55-C-1481	M.1-C-11678	D-488624	PTE	CLERMONT, J.J.
	M.1-C-12992	D-139348	PTE	CLERMONT, L.
HQC 55-C-1555	M.1-C-11630	D-648846	PTE	COUTU, J.
	M.1-D- 1183	D- 63094	PTE	DAVIS, H.J.
	M.1-D-16771	D-628113	PTE	DESHARNAIS, B.
	M.1-F- 4703	D-625794	PTE	FAVREAU, J.
	M.1-G-10860	D-652160	PTE	GIGUERE, M.
HQC 55-G-1196	M.1-G- 8841	D-156714	PTE	GINGRAS, J.B.
	M.1-H-4515	D-456243	PTE	HEBERT, L.
HQC 55-H-984	M.1-H-5100	D-648658	PTE	HUOT, P.
HQC 55-L-1534	M.1-L-5142	D-135547	PTE	LAMY, R.
HQC 55-L-1572	M.1-L-13060	D-647782	PTE	LECLERC, H.P.
HQC 55-L-1635	M.1-L-16250	D-654036	PTE	LEGROS, P.A.
HQC 55-L-1625	M.1-L-17199	D-656047	PTE	LEMIRE, K.
HQC 55-M-2011	M.1-M-6976	D-127222	PTE	MEUNIER, L.
HQC 55-R-947	M.1-R-4060	D-647460	PTE	ROY, B.
HQC 55-S-1679	M.1-S-9230	D-156395	PTE	SANCOUCY, M.
HQC 55-S-1689	M.1-S-7524	D-647240	PTE	SEVIGNY, L.
HQC 55-S-1709	M.1-S-5344	D-638928	PTE	ST. DENIS, R.
HQC 55-S-1708	M.1-S-8299	D-649721	PTE	STEPANOVITCH, M.
HQC 55-T-734	M.1-T-5883	D-146496	PTE	TARDIF, S.
HQC 55-T-702	M.1-T-3163	D-639674	PTE	THEBERGE, C.A.
HQC 55-T-737	M.1-T-6093	D-650669	PTE	THEORET, R.
	M.1-V-2628	D-652815	PTE	VALLEE, Y.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCL.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-B-1969
District File No. M.1-B-14577

PART I

o. D-648022 Rank Pte. Name BIGRAS, E.
nit No.4 District Depot

PART II

ate of Trial. 30th August, 1945
harge (s) Absent by himself without leave
Two hundred and twenty-five (225) days detention
entence
ate of sentence 30th August, 1945
onfirmation -- (a) Authority: D.O.C. M.D. 4
(b) Date : 30-Aug 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention

17th., Dec.45.

Signed at Montreal this 3 Dec. day of 1945.

(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (commutation) (mitigation) x promulgated and extracts taken at Montreal South, Quebec this 17th day of December, 194... (1)

Asst Officer i/c Documents. (L.H.Hamelin) Lieut. C.I.C., C.A., att'd to No.4 District Depot, CA

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D648022 Rank Pte. Name BIGRAS, Emilien
The sentence of 225 days detention awarded by District Court Martial on the 30th August, 1945 194... has been remitted on the 17th December, 194... by D.O.C.
UNIT. No.4 District No.
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No. 302 Place Jacques Cartier Barracks, Montreal South, Quebec. Date 17th December, 1945

Adjutant (J. [illegible]) Capt. Adjt., General List, C.A., attached to No.4 District Depot, C.A.

x Strike out and initial words not applicable.

HQC 55-B-1989
(JAG/D-6)

OTTAWA, 24 December, 5

District Officer Commanding
Military District No 4
MONTREAL, Que

D-648022 - Pte BIGRAS, E

Receipt is acknowledged of your M. 1-B-14577 A(DIS) dated 18th December, 1945, under cover of which you forwarded to this headquarters for custody MFM 288 in respect of the m/n soldier.

/jm

(R J Orde) Brigadier
Judge Advocate General

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

File. M.1-B-14577 A(DIS)
MONTREAL QUE.
18th December, 1945.

16310
DEC 20 194
6-55-13-1969
nc
admin

Secretary,
Department National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES ON CARO 5913.

D-648022 - Pte. BIGRAS, E.

Reference HQC 9039-1, Adm 3 (b). 3, dated 8 Sep 45, pertaining to th m/n soldier.

2. Attached hereto HFM 288 duly completed in respect to the m/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(B.J. Renaud) Major-General,
DOC MD No. 4.

Encl.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-648022 (Number) Fusilier (Rank) BIGRAS, Emilien (Name in full)

1st Bn. Les Fus du St-Laurent, C.A., Att'd to No.4 District Depot C.A. (Unit) (Attachment (if any))

Sentenced to 225 days detention

on 30th August 1945, at Montreal South, Que.

being served at No.65 Military Detention Barracks, Montreal South, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years and 5 months - 5 Jul 43

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

For details of offences see Part VII.

To Adjutant General, National Defence Headquarters, Ottawa, (Superior Military Authority)

I have directed that the above-named be XMXM committed to undergo his sentence, which I recommend should (XMX be (suXMXMXMX (put into execution) (XMXMXMXM (date))) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 28 Sep 45

(E.J. RENAUD) Major General, D.O.C., M.D. No. 4. (Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

To ..... (Superior Military Authority)

This man was again convicted on ..... and sentenced to .....

, and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-2104)
15M—6-43 (44)
H.Q. 1772-59-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
10 Oct 45	No suspension or remission AF. 10 Oct 45	[illegible] 10 Oct 45	
30 Nov 45	Sentence remitted wef 17 Dec 45	(E.J.Renaud) Major General DOC MD 4	
17 DEC45	"RELEASED"17DEC45	(C.POTTER)Major Commandant No.65 Mil.Det.Brks. Montreal Sth,Que	Marks earned876

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15 (1) A.A. ABSENTING HIMSELF WITHOUT LEAVE, in that he at Valcartier,Quebec,at 0800 hrs on the 27th December,1944, absented himself without leave from his Unit, les Fusiliers du St.-Laurent,C.A., until he was apprehended by the Military Police at Montreal,Quebec, at 0930 hrs on 9th Aug,1945	27-11-44	30-8-45

Signature of Officer making entry

(E.I. AUERBACK)Capt.,
General List, C.A.,
Att'd to No.4 D.D.,C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26-9-45	I do not recommend any remisson of sentence in this soldier's case	(J.BIBEAU) Lieut.Colonel, A/Officer Commanding,No.4DisD. CA

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
28 Sep 45	Sentence is considered fair and reasonable. 1st review on 15 Oct 45.	(E.J. RENAUD) Major General, D.O.C. M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

VER V CIM NR 121

FROM CMDG FOUR MONTREAL 181730R

TO SECRETARY D N D OTTAWA

GR 38 BT

ADIS 912 UNCLASS

RETEL CMBR 43 DATED 17 DEC 45 REFERRING TO D 648022

FUS BIGRAS E STOP SENTENCE OF SOLDIER REMITTED

WEF 17 DEC 45

BT 1819191R RS B

ROYAL CANADIAN SIGNALS
DEC 18
Army Signal Corps

THIS CONTROL SLIP
IF INCORRECT BY DESTROY COMPLETE
BELOW AND RETURN TO C.O. WOODY
62942

1819379R

Noted

W.F.M. 337
2000-9-41 (1577)
R.P. 1975 H.Q. 1212-10-2

ARMY MESSAGE
(OUTGOING)

CLEAR

FILE: HQC 55-B-1969 (CMBR-4)

PLACE: OTTAWA, Ontario

DATE: 17 Dec 45

District Officer Commanding,
Military District No. 4,
MONTREAL, P.Q.

CMBR 43 UNCLASSIFIED

REF M.1-B-14577(J) REFERS D 648022 FUS BIGRAS E STOP FORWARD LATEST REPORT ON CONDUCT EXPECTED DATE OF RELEASE

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT EXCEPT INCLUDING { WIRELESS } WRITTEN BY (A.E. Walford) Major-General, Adjutant-General

DEGREE OF PRIORITY

TIME OF ORIGIN: 1045

SIGNED

COPY 2

HQC 55-B-1969(JAG/D-5)

4th October 1945

District Officer Commanding,
Military District No. 4,
Montreal, P.Q.

Standing Court-Martial
~~DWECCZZ, Fus. R.EIORIS.~~

Receipt is acknowledged of your M.1-B-14577(J)
dated 1st October 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

LCC:MJ

(H.J.Crde) Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE No. M.1-B-14577(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

R93

Montreal, P.Q.,
1st October, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
636
OCT 3 1945
C 55-B. 1969
Referred to JAG

STANDING COURT-MARTIAL
D-648022 Fus. Emilien BIGRAS,
1st Bn. les Fus. du St.Laurent,CA.

Reference your H.Q.C.55-B-1969 (JAG/D-4) dated 20 Sep 45.

2. As regards para.3 of your above quoted letter, your remarks have been noted. However, it was impossible to correct the description of the accused in the Charge Sheet as the President of the marginally-noted Standing Court-Martial is on leave at the present time.

3. It may, also, be added that the attention of the President has been called to para. 2 of your above quoted letter regarding the proper manner of expressing sentences of imprisonment and detention in accordance with K.R. (Can) 565.

4. Returned herewith, proceedings of the marginally-noted Standing Court-Martial.

noted
JAG
H.Q.

Enc.

(E.J.Renaud), Major-General,
for D.O.C., M.D. No. 4.

MEDICAL OFFICER'S REPORT

I certify that No. D-648022 Pte. BIGRAS. E.
of Les Fus. de Sher., C.A., att. No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

W. FISHER, Lt. Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 30th August 1945

J. C. G. Dubeau major
President SCM

M. F. B. 246
50M—5-43 (354)
H Q 1772-39-190

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A., Montréal-sud, Que.

le 30ième jour de août 1945 à 1030 heures,

pour le procès de D-648022, Fusilier Emilien BIGRAS, 1st Bn. Les Fusiliers du
Matricule Grade Nom et prénoms

Saint-Laurent, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. J.R. Panet-Raymond, C.I.C., C.A.,
~~XXXXXXXXXX~~ Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-648022, Fusilier Emilien BIGRAS, 1st Bn. Les Fusiliers du St-Laurent, C.A. coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-648022, Fusilier Emilien BIGRAS, 1st Bn. Les Fusiliers du St-Laurent, C.A. à la détention pendant deux cent vingt-cinq (225) jours.

Signé à Montréal-sud, Que. ce 30ième jour de août 1945

J.A.G. Dubeau (J.A.G. DUBEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No 34726 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of Sep 19 45

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé. Vous opposez-vous à~~

~~Réponse:~~

Question à l'accusé. Vous opposez-vous à D-137479, CSM (WO II) J.K.R. Simon, No. 4 Det. CMSO, C.A., Quartiers-généraux, District Militaire No. 4. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~[illegible]~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~[illegible]~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. C. E. Heublein major
President SCM

CHARGE SHEET

The Accused, D 648022, Fusilier Emilien BIGRAS, 1st Battalion, Les Fusiliers du Saint Laurent, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Valcartier, Quebec, at 0800 hours on 27th December, 1944, absented himself without leave from his Unit, Les Fusiliers du Saint Laurent, C.A., until he was apprehended by the Military Police at Montreal, Quebec, at 0930 hours on 9th August 1945.

Signed at
Montreal South, Quebec.
22nd August, 1945.

(S. Echenberg) Colonel
Commanding No 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... J.C.R.W
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~XXXX

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur (Par l'entremise de mon officier défenseur)

PAR L'OFFICIER DEFENSEUR:

"Je demanderais la clémence de la cour pour le soldat "BIGRAS, car d'après ses documents il a toujours eu "un assez bon record dans l'armée.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

J. C. G. Nelson, major
President SCM

"F"

RECORD of the Declaration of a Court of Inquiry assembled at LAUZON, P.Q., on the 6th day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-648022 Pte. BIGRAS E. F. DE ST LT. Att'd to No. 5 Dist Depot, C.A.

DECLARATION

The Court declare that No. D-648022 Pte. BIGRAS E. Les Fusiliers du Saint Laurent, C.A., attached to No 5 District Depot, C.A. illegally absented himself without leave from Les Fusiliers du Saint Laurent C.A. at Valcartier, Que. 0800 hours on the 27th day of December 1944 that he is still so absent, and that on the 6th February 1945 he was deficient, and that he is still deficient of the following articles:-

ARTICLES		VALUE	ARTICLES		VALUE
Anklets webb pr.	1	.74	Brush hair	1	.39
Caps winter melton	1	1.05	Brush shaving	1	.42
Dresing first field	1	.22	Brush tooth	1	.09
Gloves woollen khaki	1	.66	Comb hair	1	.04
Greatcoat	1	15.54	Fork table	1	.08
Overall combination	1	2.52	Holhall	1	.22
Cap mechanic	1	.16	Houswive	1	.35
Battle dress blouse	2	13.00	Knife clasp	1	.99
Battle dress trousers	2	13.10	Knife table	1	.18
Boots ankle	2	11.64	Knectie black	1	.19
Cap field service	2	1.40	Pin collar	1	.06
Jersey pullover	1	1.65	Razor safety	1	.42
Shirts khaki cotton	1	1.54	Spoon table	1	.08
Shirts flanel khaki	2	3.26	Towell hand	2	.62
Shoes canvas	1	2.29	Badge cap	1	.09
Shoes leather black	1	4.84	Bag ration	1	.04
Socks woollen pr.	4	1.84	Havresac	1	2.29
Trousers khaki drill	11	1.31	Pack	1	2.26
Beret khaki	1	1.20	Strap shoulder left	1	.31
Bag kit	1	1.27	Strap shoulder righ	1	.31
Belt waist leather	1	.35	Tin Mess	1	.57
Blacking tin	1	.05	Sheet ground	1	2.38
Bo th laces	2	.06			
Braces pr.	1	.28	TOTAL:		$92.88
Brass button stick	1	.04	75%		$69.73
Brush b ot	1	.21			
Brush button	1	.11			
Brush cloth	1	.17			

(F.J.BERARD) Cap. President
(C.I.C., C.A. Att'd to No. 5 D.D.
(J.A.R. PARENT) Lt. Member
C.I.C. Att'd to No. 5 D.D.
(Y.LORTIE) Lt. St-John Fus. Member
Att'd to No. 5 Dist Depot, C.A.

Signed at Lauzon, P.Q.
this 6th day of February 1945

Signature of Commanding Officer
(JEAN LA FONTAINE) Colonel.

Certified true copy
(Signature of Officer having custody of original record)
(J.F. Thomas) Lieut C.I.C.,
A/Adjutant,
No. 5 Dist Depot, C.A.

MFB 375

J.A.G. Nelson major President SCM

"G"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. POULIOTTE, O.C. Composite Provost Companies M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-648022 Fusilier BIGRAS, Emilien
(Number) (Rank) (Name in full)

of the Lst Bn Fus. St-Laurent Valcartier, Que.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~[illegible]~~ D-125444 Corporal
(Number) (Rank)

JOYCE, W. Composite Provost Companies M.D. 4
(Name) (Unit or appointment)

at Montreal, Que. at 0930
(Place) (Hour)

on the 9th day of August 19 45

Strike out words not applicable } as a ~~deserter or~~ absentee without leave) and that at the time of his arrest he was wearing military ~~civilian~~ uniform (~~dressing gown~~).

Dated at Montreal, Que. this 10th day of August 19 45

PG...

(R.W. POULIOTTE) Major R.W. Pouliotte Maj
(Signature, Number, Rank, Unit or appointment)

O.C. Composite Provost Companies M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

An "R" Recruit called under N.R.M.A.

G. A. P. Wilson major
President SCM

"Y"

M.F.G. 353
75M—5-43 (345)
H.Q. 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment (or unit)

D 648022 Fus. Emilien BIGRAS, 1st Bn, Les Fusiliers du St. Laurent, attached to No 4 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Regimental, General, Regimental, Squadron, Battery, Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For	times	Conduct to the prej	1 times
For	times		times
For	times		times
For	times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 21 days in military custody, making a total of 21 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment is ~~attested paper~~ 21 yrs 6 mos (10 Feb 1924)

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ enrolment is ~~attested paper~~ 5 July 1943

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~service~~ military decoration, ~~or airman's award (or is in possession of or entitled to). Style any air force decoration or reward.~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30 August 45

(P. PARADIS) Lieut,
Regt de Maisonneuve, C.A.
Att'd to No 4 District Depot, C.A.
Ass't Officer i/c Records,
No. 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president and annexed to the proceedings.

J. C. G. Cullen major
President SCM

Fusiliers du St. Laurent, C.A. NRMA clearing depot No 4.

Reg. No. D 648022 Name Bigras, E. Corps C.I.C. Date of enlistment or enrolment 5-7-43 Date of Birth

Signature O.C. Company, etc. ????????????????Capt Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Oyster River	30-5-44	Pte.		Accuse de conduite prejudiciable au bon ordre et a la discipline militaire, en ce qu'il quitta son devoir sans permission A.A. Sec. 40	Cpl. Savard	Admonished	31-5-44	P.H.L'Heureux, O.C.	

(P.T.O.)

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY					
				(P. PARADIS) Lieut,					
				Regt de Maisonneuve, C.A.,					
				Att'd to No 4 District Depot, C.A.					
				Ass't Officer i/c Records, C.A.					
				No 4 District Depot, C.A.					

H.Q.C.55-B-1969 (JAG/D-4)
Your M.1-B-14577

20 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

Standing Court-Martial
D.648022 Fus. Emilien Bigras,
1st Bn. les Fus. du St.Laurent, C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. It is observed that the accused was sentenced to undergo detention for two hundred and twenty-five days. May the attention of the President be called to K.R.(Can) 565 which sets out the proper manner of expressing sentences of imprisonment and detention. In this case the Sentence should have been expressed in months and days.

3. It is also observed that the accused is described in the Charge Sheet as "D-648022, Fusilier Emilien Bigras, 1st Battalion, Les Fusiliers du Saint Laurent, C.A.", and that the said Charge Sheet is signed by "S. Echenberg, Colonel, Commanding No. 4 District Depot, C.A." It will be noted that the attachment of the accused is not shown and it is assumed that he was, in fact, attached to No. 4 District Depot.

4. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R. . 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

JOGR/MM

THIS COPY FOR: H.Q. C. 55-B-1969
M.D. M. 1-B-14577

NFMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. D-648022 Name Emilien BIGRAS

Rank Fus. Unit 1st Bn. les Fus. du St. Laurent C.A.

Charge AA 15 (1) AWL

Date of Crime 27-12-44

Date of Arrest 9-8-45 Charge Signed 22-8-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. M.A. 30-8-45

Sentence Detention 225 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39726

Date 19-9-45

MEMO. Balance of sentence remitted by Conf. Auth.

M.D. 4

1st Bn. Les Fus du St. Laurent C.A.

ABSENT

7 1/3 mos,

SENTENCE

Det. 225 days.

J. DeKoluge capt.
for Judge Advocate-General

10M-8-45(M-189)

JAGD/S

In reply quote No. M. 1-B-14577 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
11th September, 1945

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

C-55-B-1964

STANDING COURT-MARTIAL
D-648022, Fusilier Emilien BIGRAS,
1st Bn. Les Fusiliers du St-
Laurent, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 30th August, 1945

2. Submitted for your information, consideration and approval, please.

J. A. G. Duheau

(J.A.G. DUHEAU) Major,
Headquarters, Military District No.4,
President - S.C.M.

ENC.

M.F.A. 1326
1,000M.-5-43 (1993)
M.G. 1772-29-2009

39726

H.Q.C. 55-B-1970 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BENEDICT, WALTER D-133618 TROOPER

CONFIDENTIAL
H.Q.C. 55-B-1970

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and refer here "Minute on file")		
SEP 21 1945	10			JAG	NEW FILE	CR	17-9-45
				JAG	With Papers C.R. OCT 6 - 1945		
OCT 9 - 1945	10	P.A.		Admin	To note explanation	EKM	8-10-45
OCT 10 1945	10-25						
NOV 6 - 1945	5 11/45	P.A.		Admin	With Papers C.R. NOV 3 1945		
NOV 12 1945	11.11.45	P.A.		Admin	Per Requisition C.R. NOV 9 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

OK
Completed file

FILE NO: M-1-B-18971 ADIS

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

MONTREAL, Que
3 Nov 45.

7275
admin 3-11
CMBR

The Secretary,
Department of National Defence,
OTTAWA, Ontario

D-133618 BENEDICT W.

Ref HQC 55-B-1970

1 Att hereto form for remission in respect to the marginally named soldier.

(E J RENAUD) Maj Gen
DOC MD No 4

ENCL

Copy file per
G.D.B

HDMS

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-8-1970
District File No. M.X-B-10971 A/DIS

PART I

No. D133618 Rank Pte. Name BENEDICT, W.
Unit No. 4 District Depot

PART II

Date of Trial 31st August, 1945
Charge(s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence 120 days detention
Date of Sentence 31st August, 1945
Confirmation -- (a) Authority: D.R.C. 4
(b) Date : 31 Aug 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~(commutation)/mitigation~~

Balance of term of detention

Signed at MONTREAL this 18 day of Oct 45
(Appointment) (J.J. RENAUD) Major General, DOG
To be signed by the Remitting Authority M.D. No.4 personally.

PART IV

PROMULGATION

Remission ~~(commutation)~~ ~~(mitigation)~~ promulgated and extracts taken at Montreal South, Que. this 30th day of October, 1945 (1)

L.R. Hamelin
Ass-Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-133618 Rank Pte. Name BENEDICT, W. Standing
The sentence of 120 days detention awarded by ~~District~~ Court Martial on the 31st August, 1945 has been remitted on the 30th October, 1945 by D.O.C.
UNIT Military District No. 4 Montreal, Que.
Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A. No. 292 Place Jacques Cartier Barracks, Date 30 October, 1945
Montreal South, Que.
Adjutant

(J. M. McCAULEY) Capt. Adjt., General List, C.A., att'd to No.4 District Depot, C.A.

~~Strike out and initial words not applicable.~~

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

M-1-B-18971 ADTS

MONTREAL, Que. 1 Nov 45.

CENTRAL REGISTRY Army
NOV 2 1945
C.55-B - 1970
Referred to Admin

Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM. CARO 5913
D-133618 BENEDICT W.

Reference HQC 9039-1, Adm 3(b) 3, dated 8 Sep 45, pertaining to the marginally named soldier.

2. Attached hereto MFM 288 duly completed in respect to the marginally named soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

D. Bretton Capt
(E.J. RENAUD) Major General,
~~D.O.C.~~, M.D. No. 4.

Encl.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-133618 (Number) Tpr. (Rank) BENEDICT, Walter (Name in full)

31st Alta Recce Regt., C.A., (Unit) attached to No.4 District Depot, C.A. (Attachment (if any))

Sentenced to 120 days detention

on 31st August, 1945, at Montreal South, Que.

being served at No.65 Military Detention Barracks, Montreal, South, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years and 2 months - 17 March 1944

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XMXM~~ committed to undergo his sentence, which I recommend should ~~XMXM~~ be ~~XMXMXMX~~ (put into execution) ~~XMXMXMXM~~ (date) for reasons given in paragraph X.

Place MONTREAL, P.Q.,

Date 3rd October 1945.

(Confirming Authority)
(E.J. RENAUD) Major General,
D.O.C., M.D. No.4

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to.....) (of which I remit.....) (be suspended) (be put into execution) (and) be reviewed on.....

Place.....

Date.....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on..... and sentenced to....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place.....

Date..... (Confirming Authority)

M.F.M. 288
(Army Form A-8104)
HM—6-43 (441)
H.Q. 1772-39-2013

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
9 Oct 45	No suspension No remission B.F. 30 Oct 45	D. Potter Capt for DOC HQ	
18 Oct 45	Sentence remitted wef 30 Oct 45 CARO 5913	(E.J. RENAUD) Major General, D.O.C. MD No 4	
30 OCT 45	Released 30 OCT 45	(C.Potter) Major COMMANDANT NO. 65 MIL.DET.BKS., MD-4	Marks earned 488

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15 (1) Army Act ABSENTING HIMSELF WITHOUT LEAVE, in that he at Nanaimo, B.C., at 0600 hrs on the 31st of January, 1945, absented himself without leave from his unit, 31st (Alta) Regt.Recce., C.A.C., C.A., until he surrendered himself to the M.P. at Montreal South, Que. at 2100 hrs. on the 1st August, 1945.	31 Jan45	31Aug 45

Signature of Officer making entry
(E.I. AUERBACK) Capt.,
General List, C.A.,
Att'd to No.4 D.D., C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
27 Sep 45	I do not recommend any remisson of sentence in this soldier's case.	(J. BIBEAU) Lieut.-Colonel, ~~Acting Officer Commanding~~, No.4 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
3rd Oct 45	Sentence is considered fair and reasonable 1st review on 15th October 1945	(E.J. RENAUD) Major General,

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

H.Q.C. 55-B-1970 (JAG/D-5)

9th October, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

Standing
~~D-133318, Trooper~~ Court-Martial
~~Gendict~~,
31st (Alta) Recce Regt., C.A.,
att'd to No. 4 District Depot, CA

Receipt is acknowledged of your M. 1-B-18971 (J) dated 4th October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial. The explanation of delay in this case has been noted.

EKM
for (R.J. Orde), Brigadier,
Judge Advocate-General.

LCC:jb

Noted
for Col Orde
10 10 45

CANADA

IN REPLY PLEASE QUOTE No. M. 1-B-18971 (J)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

Montreal, P.Q.,
October 4th, 1945.

The Secretary
Department of National Defence
O T T A W A, Ontario.

CENTRAL REGISTRY ARMY
CONF. SEC.
1573
OCT 6 1945
File C55-B-1970
Chgd. to
Referred to DAG

STANDING COURT MARTIAL
D-133618, Tpr. Walter BENEDICT,
31st (Alta) Recce Regt., C.A.,
att'd to No. 4 District Depot, CA

R 154

Reference your H.Q.C. 55-B-1970 (JAG /D-4), dated 21st September, 1945.

2. Hereunder, for your information, an explanation as to why the accused spent 30 days in military custody awaiting trial:

1-8-45	Surrendered to Military authorities in DD 4.
2-8-45	Documents and Part II Orders requested.
4-8-45	Remanded for Standing Court Martial.
11-8-45	Documents received.
18-8-45	Tracer to Part II Orders request.
28-8-45	Proceedings forwarded with MFB 375 in lieu of Part II Orders extracts.
29-8-45	Application for Standing Court-Martial received at this Headquarters and trial of the accused scheduled to take place on the 31st August, 1945.
31-8-45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

(E.J. Renaud) Major-General,
District Officer Commanding,
Military District No. 4.

Capt.

enc.

MEDICAL OFFICER'S REPORT

I certify that No. D-133618. Pte. BENEDICT, Walter.
31st (Alts) Recce Regt, C.A.
of Att'd. No. 4. DD. is in a good state of health,
and fit to undergo Trial by Court martial.

W. Fisher RCAMC.
W. FISHER, Lt. Medical Officer
No. 4. Dist. Coy. RCAMC.
ATT'D. No. 4. Dist. Depot, C.A.

Jacques Cartier Barracks,
Station MONTREAL SOUTH QUE.,

Date 31 Aug 45.

J. C. G. Hubert major
President SCM

M. F. B. 246
50M—5-43 (354)
H.Q. 1772-39-480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 4 District Depot, C.A., Montreal South, Que.

on the 31st day of August 1945 at 1120 hours,

for the trial of: D-133618, Trooper Walter BENEDICT, 31st (Alta.) Recce. Regiment,
Number Rank Full Name

C.A.C., C.A., attached to No. 4 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major J.A.G. Dubeau, E.D., Headquarters, Military District No. 4.

PROSECUTOR: Captain J.E.R. Labelle, Headquarters, Military District No. 4.
Rank Full Name Unit Attachment, if any

DEFENDING OFFICER: Lieut. J.R. Panet-Raymond, C.I.C., C.A., att'd to No.4 D.D., C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, D-133618, Trooper Walter BENEDICT, 31st (Alta.) Recce. Regiment, C.A.C., C.A., attached to No. 4 District Depot, C.A. guilty of the charge.

SENTENCE: The Court sentence the accused, D-133618, Trooper Walter BENEDICT, 31st (Alta.) Recce. Regiment, C.A.C., C.A., attached to No. 4 District Depot, C.A. to undergo detention for one hundred and twenty (120) days.

Signed at Montreal South, Que. this 31st day of August 1945

(J.A.G. DUBEAU) Major,
President,
Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Tracks entered as No. 34777 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of Sep 1945

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det. CMSC, C... Headquarters, Military District No. 4. as shorthand writer?

Answer: No, Sir.

The shorthand writer is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, Sir.

The accused is arraigned upon the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the charge against you, which you have heard read?

Answer: Guilty, Sir.

~~*Question to the accused.* Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

J. C. F. Nelson major
President SCM

B2

CHARGE SHEET

The Accused, D-133618, Trooper Walter BENEDICT, 31st (Alta.) Recce. Regiment, C.A.C., C.A., attached to No. 4 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Nanaimo, British Columbia, at 0600 hours on the 31st of January, 1945, absented himself without leave from his unit, 31st (Alta.) Recce. Regiment, C.A.C., C.A., until he surrendered himself to the Military Police at Montreal South, Quebec, at 2100 hours on the 1st of August, 1945.

Signed at
Montreal South, Quebec,
6th August, 1945.

(S. Eenenberg) Colonel
Commanding No. 4 District Depot, C.A.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge. J.C.V.

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, Sir.

~~(Statement of the accused to be recorded on a separate page.)~~ J.C.V.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Yes, Sir. (See CC-3)

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, Sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, Sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

STATEMENT BY THE ACCUSED IN MITIGATION OF PUNISHMENT.

After being in the Army eight months, I asked for my furlough...most of the other boys had got theirs... and I wanted to have mine, but I was told that it was cancelled. I was paraded to the Major and he told me: "If you sign active, you'll get your furlough". I signed active with the understanding that I would get my furlough, but instead about a week after I was put on a draft. I again asked the Major for my furlough and he said: "I can't do much about it now". Of course, I was transferred in the infantry in the meantime, and I did not like that either. Then I was told that my furlough was cancelled.

I got embarkation leave, the same as the others, but I was unable to go and see my folks...my folks had gone to the States. I went to the C.P.R., to the C.N.R. and also to the Immigration Office and they told me: "You can't go across the line".

I went to the Orderly Room at the Sun Life Building in order to have my pass changed to another destination, but they could not do it. I had not seen my folks since I was in the Army.

As you know I am an Indian and we are supposed to be exempt from military services. After getting my first call I went to see the Chief of Indian Affairs and he told me to go for my medical examination. A few weeks afterwards I was called again and I went to see him again and he told me: "Get your exemption papers" and I said: "It's not necessary, I don't want to go to all that trouble", so I went in war plants for a couple of weeks and when I came home the Mounties picked me up, they put me in jail and they threw me in the Army afterwards. There was a friend of mine who had tried to get exempted but he did not succeed, that's why I didn't think it was necessary to go to all that trouble. Then I was in the Army and just took the rap, that's all. I signed active with the understanding that I would get my furlough.

I signed active the day conscription was passed during November or December of last year. My pass was for Odanak, Que. eighteen miles outside of Sorel in Yamaska County. There's an Indian reserve there. I had not heard of my father for months and when I got here I found out they had moved to the States. He is a machinist in some war plant there, that's why I wanted my leave changed and I went to the Sun Life, but they were unable to change it, and I had to hang around during that time.

During my absence without leave I worked in Montreal as second cook in a restaurant, my employer was a Greek fellow, his name is "John". I don't know his second name, I was there for about six months. I am single and twenty-three years old.

I surrendered because I felt it would have probably affected my status in civil life later on, because I figure going in business after the war. I figured going in business before, but the Army has kind of blocked that. My father was in the basket business and I intend going into that business myself, it's a business that lasts about three months a year, but we make very good out of it during that time.

J.C.B.L.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

J. C. G. Sullivan major
President SCM

"F"

RECORD of the Declaration of a Court of Inquiry assembled at Jacques Cartier Barracks, Montreal South, Quebec. on the 4 day of July 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D 133618, Tpr. BENEDICT, W. C.A.C., C.A., Attached to #4 District Depot, C.A.

DECLARATION

The Court declare that No. D 133618, TPR. BENEDICT, W. (Regt'l No.) (Rank) C.A.C., C.A., Attached to #4 District Depot, C.A., (Full Name) (Unit) illegally absented himself without leave from 31st (Alta) RECce Regt, CA, at Nanaimo, B.C. (Place) at 0600 hours on the 31 day of January 1945, that he is still so absent, and that on the 4 July 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
As there is no M.F.C. 800 available for the a/m it is impossible to establish deficiencies in kit.			

K.G.AUBUT, Capt.Gen List,C.A. President
Att'd # 4 DD C.A.
(Name) (Rank) (Unit)

Signed at Montreal-South, Quebec

W.POWER,Lieut,15th,Arm,Regt,CA Member
Att'd # 4 DD C.A.
(Name) (Rank) (Unit)

this 4 day of July 1945

J.R.MASSUE,Lieut,FMR, CA Member
Att'd # 4 DD C.A.
(Name) (Rank) (Unit)

Signature of Commanding Officer (S. ECHENBERG) Colonel
Commanding No. 4 District Depot, C.A.

Certified true copy (P. PARADIS) Lieut,
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)
Regt de Maisonneuve, C.A., att'd to #4DD, CA
Asst. Officer i/c Records, No. 4 District Depot, CA

M.F.B. 325
A.F.B. 115
200M—1-44 (3476)
H.Q. 1772-39-257

J. A. G. Wilson, major
President - SCR

"G"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, COL. S. ECHENBERG, Commanding No. 4. District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-133618. Pte. BENEDICT, Walter.
(Number) (Rank) (Name in full)

of the 31st. (Alta) RESCR. C.A.C., Nanaimo, B.C.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) D-121022. CPL.
(Number) (Rank)

CARRIERE, A. No. 4. District Depot Police, C.A.
(Name) (Unit or appointment)

at MONTREAL SOUTH QUE., (Place) at 2100 hours, (Hour)

on the 1 day of AUG 19 45.

Strike out words not applicable } ~~a deserter or~~ absentee without leave), and that at the time of his ~~arrest~~ SURRENDER he was wearing military ~~civilian~~ uniform ~~[illegible]~~.

Dated at MONTREAL SOUTH QUE. this 2 day of AUG. 19 45.

(Signature, Number, Rank, Unit or appointment)

(S. ECHENBERG,) Colonel.
Commanding No. 4. District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

J. C. G. Nelson Maj
President SCM

M.F.B. 3[illegible]
50M—4-42 (3992)
H.Q. 1772-39-020
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-133618	Tpr.	Walter BENEDICT	31st Alta. Recce. Regt., C.A.C., C.A., att'd to No. 4 D.D., C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service or General Regimental and Squadron Battery Conduct Sheets or Conduct~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~Nil~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 30 days in ~~military~~ ~~Air Force~~ custody, making a total of 30 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 23 years, 7 months (7 Jan. 1922)

6. The date of his ~~enlistment~~ ~~attestation~~ specified in his ~~record of service is~~ attestation paper 23rd November, 1944. (enrolled 17 March 1944).

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the substantive rank of .....~~

20

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps), the rank of .....dated.....

Permanent Force unit

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused Number.....Rank.....

Name.....of.....Regiment Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 31st August 1945 day of .....

W. Baird, Captain,
C.G.C., C.A., att'd to
No. 4 District Depot, C.A.,
Officer i/c Records,
No. 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "A" signed by the president, and annexed to the proceedings.

J. C. G. Wilson major
President

31st Alberta RECME Regt. C.A.C. C.A.

Date of Birth.....

Date of enlistment or enrolment 23 Nov. 44

Sheet No.....of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Reg. No. D-133618 Name Benedict Walter Corps.....

Signature O.C. Company, etc. J.N. Copeman Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks

Certified true copy.....(Sgd) W. Baird Capt.
(W. Baird) Capt.
Officer i/c Records
No. 4 District Depot, C.A.

CERTIFIED TRUE COPY

W. Baird Capt

.....
W. Baird, Captain, C.G.C., C.A., att'd to
No. 4 District Depot, C.A., Officer i/c Records,
No. 4 District Depot, C.A.

(P.T.O.)

H.Q.C.55-B-1970 (JAG/D-4)
Your M. 1-B-18951

21 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 133618 Tpr. Walter Benedict,
31st (Alta) Recce Regt., C.A.
att. No. 4 Distdict Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 30 days in custody awaiting trial. May an explanation of this delay be furnished, please.

(E.A. Lindal) Brigadier
Judge Advocate General.

JOGR/MM

THIS COPY FOR:

H.Q. C. 55-B-1970
M.D. M. 1-B-18951

G.S.

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. D-133618 Name Walter BENEDICT

D.D. C.A.

Rank Tpr. Unit 31st (Alta.) Recce. Regt. C.A. Att No. 4

Charge AA 15 (1) AWL

Date of Crime 31-1-45

Date of Arrest 1-8-45 Charge Signed 6-8-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 31-8-45

Sentence Detention 120 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39757

Date 19-9-45

REMO

M.D. 4	31st (Alta.) Recce. Regt. Att No. 4 DD C.A.
ABSENT	SENTENCE
6 mos.	Det. 120 days.

D. Kelly, capt
for Judge Advocate-General

OM-B-45(M-189)

JAGD/S

CANADA

In reply quote No. M. 1-B-18951 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
12th September, 1945.

SC-B-1970

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT-MARTIAL
D-133618, Trooper Walter BENEDICT,
31st (Alta.) Recce. Regiment, C.A.C., C.A.,
attached to No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 31st August, 1945

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. DUBEAU) Major,
Headquarters, Military District No.4,
President - S.C.M.

ENC.

39757

M.F.A. 1326
1,000M—3-43 (9095)
H.Q. 1772-35-2009

H.Q.C. 55-B-1971 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BERGERON, DONAT D-650533 PTE.

CONFIDENTIAL
H.Q.C.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 20 1945				JAG	NEW FILE	CR	17-9-45
OCT 2 - 1945				Judge			
				CMBR	For Requisition C.R. JAN 5 1946		
JAN 7 1946				Admin	To note, pls.		9-1-46
JAN 9 - 1946					With Papers C.R. JAN 29 1946		
JAN 30 1946				MBR	To note pls		30/1/46
FEB 1 1946	1-2-46			admin	To note —		3/2/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. Q:-39-B-8357 (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE..26 JAN.46.....

CENTRAL REGISTRY Army
4659
JAN 29 1946
File
Chgd. to
Referred to

THE SECRETARY
Department of National Defence
OTTAWA ONT

REMISSION OF SENTENCE
D 650533 Pte BERGERON, D.
R de Jol (Att No 5 DD)

1. Ref HQC. 55-B-1971 (JAG/D-7) 19 SEP 45.

2. A remission of sentence in this case has been granted w.e.f. 7 JAN 46.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(EDMOND BLAIS) Brigadier
District Officer Commanding
Military District No 5.

Noted.
Adj
Cpl.
31/46. CMBR-3

NAT. DEF. B. 440
(300M-4-44 (4321)
H.Q. 1772-38-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-B-1971(JAG/D-7
District File No. A.39-B-8357(D4)

PART I

No. D 650533 Rank Pte Name BERGERON, Donat

Unit A.de.J.Cl.Att.No.5.DRL

PART II

Date of trial 11.SEP.45

Charges Sec.12(1)(a)AA Sec.24(2)AA

Sentence 9 months of detention & stoppages of pay for $3.40

Date of Sentence 11.SEP.45

Confirmation - (a) Authority SCM

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to D.650533.Pte.BERGERON.Donat

7.JAN.46

Signed at QUEBEC, P.Q., this 7th day of JAN.46.

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Montreal South, Quebec

this 21st day of January, 1946.

Ass-Officer i/c Documents (1)(L.R.HAMBLIN)L
C.I.C. C.A., att
to No.4 Distric Dep

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-650533 Rank Private Name BERGERON, Donat

The sentence of 9 months detention

awarded by Court-Martial on the 11th September, 1945

has been remitted

on the 7th January, 1946 by D.O.C.

Unit Military District No.5, Quebec, Que.

Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.

No. 18 Place Jacques Cartier Barracks, Montreal South, Que. Date 21st January, 1946.

Adjutant. (R.de O. STEWART) Capt. A/
General List, C.A., att'd
No.4 District Depot, C.A.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-650533 (Number) Pte. (Rank) BERGERON, D. (Name in full)

Le Regiment de Juliette (Unit) Att.No.5 D.D. (Attachment (if any))

Sentenced to 9 months det.

on 11 Sep 45 at Lauzon, P.Q.

being served at Val. Mil. Det. Brrks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 years 5 months. 16-11-43

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (~~xx~~) be (suspended) ~~xxxxxxxxxxxxxxxxxx~~ 28th September 1945 (date) for reasons given in paragraph X.

Place QUEBEC, PQ.

Edmond Blais
(Edmond BLAIS) - Brigadier,
DOC MD No.5, (Confirming Authority)

Date 26 Sep 45.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... (Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-30-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be passed here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
26 Sep 45.	Suspension of Sentence w.e.f. 28 Sep 45.	Edmond Blais (Edmond BLAIS) Brig DOC MD No.5.	
26 JAN 46	Remission of sentence granted effective 7 JAN 46	Edmond Blais (EDMOND BLAIS) Brigadier District Officer Commanding Military District No 5	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA SEC 12(1)(a)		
AWL from 0800 hrs on 27 Dec 44 until he surr. at 1400 hrs on 28 Aug 45, in civ. clothes.	27-12-44	11-Sep-45
AA SEC 24(2)		
LOS BY NEGL HIS EQUIP CLOTH AND REGT'L NECES. for $103.84 — for Pierius Capt. Signature of Officer making entry	9-Feb-45	11-Sep-45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 Sep 45	In view of this soldier's character, it is requested that his sentence be reviewed at a later date.	Paul Mathieu (PAUL MATHIEU) Colonel.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26 Sep 45.	Unusual conditions on the farm.	Edmond Blais (Edmond BLAIS)-Brigadier DOC MD No.5.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

CMBR

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.S.O. WOODS

BRANCH	TIME	SIGNATURE

ROYAL CANADIAN SIGNALS
Wood. Bldg.
OTTAWA
JAN 8
Army Signal Office

V

ER V CIQ NR 39

FROM CMDG FIVE QUEBEC 08 1648R

TO SECRETARY D N D OTTAWA ONT

GR 36 BT

A 246 RETEL CMBR 68 UNCLD DATED 7 JAN 46 REF
D 650533 PTE BERGERON D STOP UNEXPIRED PORLION
OF SENTENCE REMITTED WEF 7 JAN 46

BT 08 1721R

EC B

55339

O'Keefe

ARMY MESSAGE ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE

HQC 55-B-1971(CMBR-1)/ MGE
7 Jan 46
Case No.....

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: D-650533 Pte BERGERON D.

2. Unit at date of offence: No 5 District Depot CA

3. Charge: AA 12(1)(a) - DESERTION: When on active service was AWL from 27 Dec 44 until surrendering himself to the military police on 28 Aug 45 dressed in civilian clothes.

Plea: Not guilty

4. Place and Date of Trial: No 5 District Depot, Lauzon, P.Q.
(XXXXX (XXXX (DCM) 11 Sep 45

5. Finding: Not guilty of desertion, but guilty of AWL.

6. (a) Sentence: 9 months detention

(b) Date of Sentence: 11 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being Served at: ? in MD.....

(N.A. - Discharged under RO 1029)) for
wef).

CONFIDENTIAL

11. (a) Prior to conviction:

	Offence	Date	Sentence
(1) Civil Convictions	NIL		
(2) Courts Martial	NIL		
(3) Summary Convictions	NIL		

(b) After Conviction: Earliest date of release - 11 Mar 46.

(c) Date of enrolment/xxxxxxxxxx 16 Nov 43 Present Age: 20

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) The Defending Officer stated that the accused has never had a crime until the present one. The reason he went AWL was to support his family. He was afraid that if anything happened to him his family would not get enough from the government for them to live on. Documents were presented to prove his family's poverty.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc)

Reviewing Officer: Recommend release after serving one-half of sentence.

Reviewed by A.B. O'Keefe
(A.B. O'KEEFE) Capt

14. Recommendation of the Board:

Date--------19--

Secretary
Courts-Martial Board of Review.

27

INCLUDE ORIGINATOR'S NO. AS THE FIRST GROUP IN THE TEXT OF THE MESSAGE.

FORWARD COPY 1 TO ARMY SIGNAL OFFICE

ARMY MESSAGE

CLEAR (OUTGOING) FILE: HQC 55-B-1971 (CMBR-1)

PLACE DATE

OTTAWA ONTARIO 7 JAN 46

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 5
QUEBEC P Q

CMBR 68 UNCLASSIFIED REFERENCE Q 39-B-8357 (JA) (.)
FORWARD EARLIEST PLACE OF CONFINEMENT AND LATEST REPORT
ON CONDUCT FOR D-650533 PTE BERGERON D

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING WIRELESS	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED W. A. Stewart (S.O. WERS) Major-General, Adjutant-General		1150

COPY 5 FOR ORIGINATOR'S FILE 26

HQC 55-B-1971 (JAG/D-5)

1st October 1945

District Officer Commanding,
Military District No. 5,
Quebec, P.Q.

Standing Court-Martial
~~Quebec, P.Q. D. Lorgeron.~~

Receipt is acknowledged of your Q.39-B-8357(JA) dated 27th September 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M.

for (P.J.Orde) Brigadier,
Judge Advocate-General.

LCC:BJ

24

AR

IN REPLY PLEASE QUOTE No. Q. 39-B-8357 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

344493

Headquarters MD No.5,
QUEBEC QUE 27 Sep 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY Army
COMP. SEC.
SEP 29 1945
File 6.55-B-1971
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL
D-650533 Pte Donat BERGERON
Le Regt de Joliette CA
Att No.5 DD CA.

1. Ref HQC.55-B-1971 (JAG/D-7) dated 19 Sep 45.

2. The proceedings of the ~~an~~ SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

PT/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding
Military District No.5.

23

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au dépôt régional No.5,A.C., /P.Q. Lauzon

le 11ème jour de septembre 1945 à 11:15 heures,

pour le procès de D-650533, Soldat Donat BERGERON, Le Rgt. de Joliette, A.C.,
Matricule Grade Nom et prénoms

att. dépôt régional No. 5, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Q.G., R.M. No. 5.

PROCUREUR: Capitaine TASCHEREAU, Pierre,
Grade Nom et prénoms

Procureur Permanent, Q.G., R.M. No. 5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant de BILLY, Gilles
~~XXXXXXXX~~ Grade Nom et prénoms

Essex Scottish Rgt., A.C., att. dépôt régional No.5, A.C.
Unité Détachement, le cas échéant

VERDICT: La Cour déclare le prévenu non coupable de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation, sauf que le montant des effets perdus est de $3.40 au lieu de $103.84.

SENTENCE: La Cour condamne le prévenu à la détention pendant NEUF (9) mois, et à une suppression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, savoir: $3.40.

22

Signé à LAUZON, P.Q. ce 11ème jour de septembre 194 5.

-Major

Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39727 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of Sept. 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non Monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous à comme interprète~~

Question à l'accusé. Vous opposez-vous à Mlle Thérèse Leclerc comme sténographe ?

Réponse: Non Monsieur.

Le sténographe ~~[illegible]~~ est dûment assermentée.(Minute d'ajournement et de reprise d'audience, voir document "F" ci-joint.)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non Monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui Monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

~~*Question à l'accusé.* Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

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(L'accusé s'étant avoué coupable sur le ..... chef ~~d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.~~

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

ACTE D'ACCUSATION

Le prevenu, D-650533 Soldat Donat BERGERON, Le Regiment de Joliette, A.C., attache au Depot Regional No.5, A.C. un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE,
DESERTE LE SERVICE DE SA MAJESTÉ,

en ce que,

a Valcartier, Que. a 0800 heures, le 27 decembre 1944, il s'est absente sans permission du Regiment de Joliette, A.C., jusqu'a ce qu'il se livre aux autorites militaires, a Quebec, Que., a 1400 heures, le 28 aout 1945, en tenue civile.

DEUXIEME CHEF
Art. 24(2)
Army Act

D'AVOIR PERDU PAR NEGLIGENCE SES EFFETS D'EQUIPEMENT D'HABILLEMENT ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Valcartier, Que. le 9 fevrier 1945, il etait deficient des articles suivants:

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "A"		
2 Anklet web pr	1.48	1.10
1 Dressing first field	.22	.17
1 Gloves woollen khaki pr	.66	.49
1 Greatcoat drab	15.54	11.65
1 Overall comb.	2.52	1.89
HABILLEMENT DIVISION "B"		
2 Battle dress blouses	13.00	9.74
2 " " trousers	13.10	9.78
2 Boots ankle prs	11.64	8.72
2 Drawers cotton short	.84	.62
2 Drawers woollen	2.80	2.10
1 Jacket sweater	1.37	1.03
1 Shirt flannel khaki	3.26	2.44
1 " woollen	1.20	.90
1 Shoes canvas pr	2.29	1.72
4 Socks woollen prs	1.84	1.38
HABILLEMENT DIVISION "C"		
1 Bag Kit	1.27	.95
1 Braces pr	.28	.21
1 Brass button	.04	.03
1 Brush boot pol.	.21	.16
1 " buttons	.11	.08
1 " cloth	.17	.13
1 " hair	.39	.29
1 " shaving	.42	.31
1 " tooth	.09	.07
1 Cap comforter	.41	.31
1 Comb hair	.04	.03
1 Fork table	.08	.06
1 Holdall	.22	.16
1 Housewives	.35	.26
1 Knife clasp	.99	.74
1 " table	.18	.13
1 Razor safety set	.42	.31
1 Spoon table	.08	.06
2 Towels hand	.62	.46

...../ 2

20

ACTE D'ACCUSATION (suite)

HABILLEMENT DIVISION "A-1"	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
1 Bag ration	.04	.03
1 Belt waist web	.67 .25	.50 .25=19
1 Bottle water	.62	.46
1 Brace left	.35	.26
1 " right	.32	.24
1 Carrier-water bottle	.37	.28
1 Cover mess tin rect.	.08	.06
1 Frog bayonet	.18	.13
1 Haversack	2.29	1.72
1 Helmet steel compl.	2.39	1.79
1 Helmet steel cover	.26	.20
1 Helmet sun	.68	.51
1 Pack	2.26	1.69
2 Pouches basic small	2.06	1.54
1 Sling rifle web	.18	.13
2 Straps web supp.	.28	.21
1 Tin mess rect.	.57	.43
1 Cover breech	.34	.25
1 Container light	1.00	.75
SECTION "A-2"		
1 Face piece light	1.25	.94
1 Haversack light	1.75	1.31
1 Outfit anti-dimming	.15	.11
1 Cape A.G.	4.70	3.52
2 Detector gas sleeves prs	.50	.37
2 Ointments A.G.	.52 .26	.39 =20
1 Wallet camouflage	.27	.20
1 Rifle No. 6893 22L	33.74	25.30
1 Bayonet	1.87	1.40
1 Scabbard	.62	.46
1 Pullthrough	.14	.10
1 Bottle oil	.06	.04
TOTAL:	$138.64	$103.84 = $3.40

Lauzon, Que.
8 septembre 1945

Pierre Tascheau
(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent 5e District Militaire.

19

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse:

Oui Monsieur. (Minute d'ajournement et de reprise d'audience, voir document "J" ci-joint.)

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~La procédure procède à l'appel des témoins.~~

~~Étant donné qu'aucun témoin n'est interrogé par le procureur~~

~~Question.~~

Le PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE.

- - - - - - - - - - - - - - - - -

1° Extrait certifié des Ordres du Jour Partie II, No. 147, en date du 28 décembre 1944, émis par le Rgt. de Joliette, A.C., se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier."

2° M.F.B. 375 en date du 9 février 1945, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier."

3° M.F.M. 216, en date du 28 août 1945, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "I", signé par le Président et versé au dossier."

LE PROCUREUR N'A PAS DE TEMOINS A APPELER.

Le procureur n'a pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Non Monsieur.

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Oui Monsieur, sur la deuxième charge.

Question à l'accusé. Est-ce uniquement un témoin à l'appui de votre réputation?

Réponse: Non, sur les faits. (Voir page D-3 et suiv.)

17

TEMOIN DE LA DEFENSE: E-14676, RQMS C.C. BOILY, dépôt régional No. 5, A.C., étant dument assermenté, est interrogé par l'Officier Défenseur:

Q Voulez-vous dire à la Cour si vous avez eu l'occasion de faire un kit inspection pour le soldat Bergeron, D-650533?

R Oui Monsieur. J'ai reçu du district No. 4 un kit inspection de certaines marchandises qui avaient été reprises en charge par le dépôt No. 4, Montréal, Longue Pointe. Nécessairement les articles qui ont été repris en charge ont éte effacés dans la 800.

Q Voulez-vous dire à la Cour les articles dont Bergeron est encore déficient?

R Oui Monsieur:

2 caleçons coton 0.42 chacun	0.84
1 brass button	0.04
1 brush hair	0.39
1 brush shaving	0.42
1 brush tooth	0.09
1 comb	0.04
1 dressing first field	0.13
1 couteau	0.15
1 fourchette	0.08
1 cuiller	0.08
1 razoir	0.42
2 serviettes 0.31 chacune	0.62
1 bag ration	0.04
1 net camouflage	0.26
1 outfit anti-dim.	0.15
1 ointment	0.26
1 belt waist web	0.25
1 wallet	0.27

ce sont les articles que je vous ai nommés dont il est déficient. Les autres ont été retournés par le district No. 4.

Q Voulez-vous dire si les prix que vous avez donnés sont les prix à 75% ou du vocabulaire?

R C'est 100%.

16

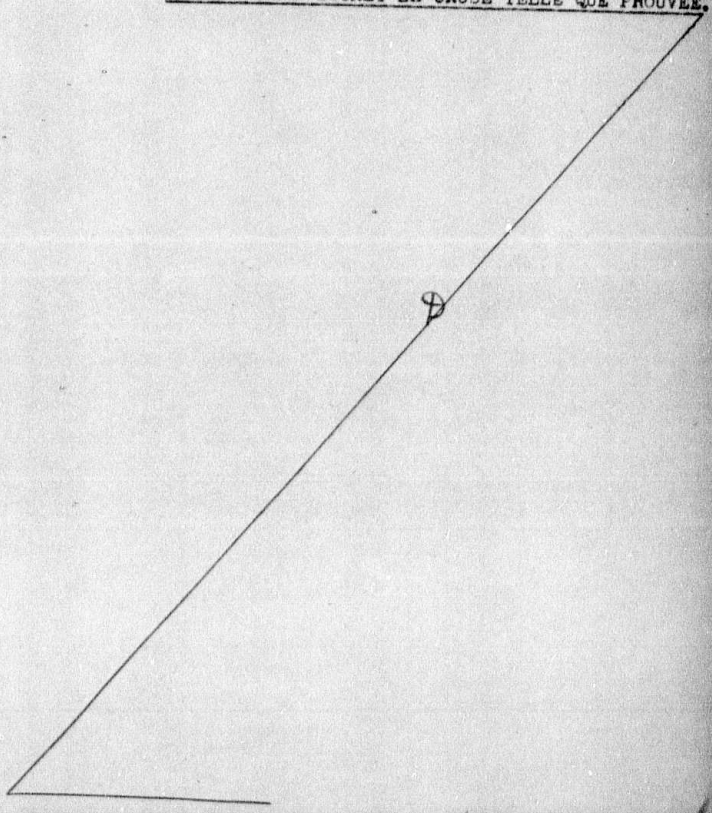
LE PROCUREUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

LE TEMOIN SE RETIRE.

L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE.



E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: L'accusé, par son Officier Défenseur, dit: "Le soldat Bergeron, D., est enrolé dans l'Armée depuis le 16 novembre 1943. Il n'a aucune tache sur sa feuille de conduite à venir jusqu'au 28 déc.45 alors qu'il s'est absenté sans permission. La raison c'est qu'il était soutien de famille. Le famille recevait $45.00 par mois dont $20.00 étaient assignés sur sa paye. Bergeron s'est dit que si jamais il lui arrivait un accident, ses parents n'auraient pu suffire à leurs besoins. J'ai ici une lettre pour prouver que ses parents ont besoin de lui pour les faire vivre. Je comprends que c'est un certificat à l'occasion d'une demande d'allocation, mais ça suffit à prouver que la famille avait besoin de lui. Je soumets ces arguments à la considération du Tribunal, avec le bon record du soldat Bergeron, j'implore la clémence de la Cour."

L'OFFICIER DEFENSEUR REMET AU PRESIDENT LE DOCUMENT SUIVANT SE RAPPORTANT A L'ACCUSÉ.

1° Certificat signé par le Secrétaire-Trésorier d'Arthabaska, en date du 12 nov. 43, ce certificat est également signé par M. le Curé Henri Bernier.

"Ce document est lu par la Cour, marqué "K", signé par le Président et versé au dossier."

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

14

"F"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - - - - - - - - - - -

A 11:17 heures le 11 septembre 1945

La Cour s'est ajournée.

A 11:55 heures le 11 septembre 1945

la Cour se rassemble.

LE PROCES SE POURSUIT

"G"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

DAILY PART II ORDERS.

BY

LIEUT-Col. R. BOULAY.

COMMANDING

LE REGIMENT DE JOLIETTE, CA.

Order No. 147
d/28 Dec 44
Valcartier Camp.

(Last Order Issued No. 146 d/27 Dec 44)

"B" OTHER RANKS.

7.- ABSENT WITHOUT LEAVE.

a) Absent without leave from time and date opposite their names.

x x x x x x x x x x x x

D-650,533 Pte BERGERON, D. 0800 hrs 27-12-44

x x x x x x x x x x x x

(R.P. BOULAY) Lieut.-Col.
Officer Commanding,
LE REGIMENT DE JOLIETTE, CA.

CERTIFIED TRUE EXTRACTS.

(P. LESSARD) Capt.
A/District Records Officer, MD. 5
11 Sep 45.

12

ARTICLES		VALUE		ARTICLES	VALUE	
Outfit anti-gimming	1		15			
Cape A.G.	1	4	70			
Detector gas slee ves prs	2		50			
Ointment A G	2		52			
Wallets camouflage	1		27			
Rifle No. 6893 22L	1	33	74			
Bayonet	1	1	87			
Scabbard	1		62			
Pullthrough	1		14			
Bottle oil	1		06			
TOTAL		138	64			
75 %		103	98			

"H"

PW

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at LAUZON, P.Q.,

on the 9th day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-650533 Pte BERGERON, D., 1 Bn. Regiment de Joliette

DECLARATION

The Court declare that No. D-650533 Pte BERGERON D. 1 Bn. Regiment de Joliette CIC illegally absented himself without leave from 1 Bn. Regiment de Joliette CIC at VALCARTIER at 0800 hours on the 27th day of December 1944 that he is still so absent, and that on the 9th February 1945 he was deficient, and that he is still deficient of the following articles:-

ARTICLES		VALUE	ARTICLES		VALUE
Anklet web pr	2	1 48	Housewives	1	35
Dressing first field	1	22	Knife clasp	1	99
Gloves woollen khaki	1	66	" table	1	18
Greatcoat drab	1	15 54	Razor safety set	1	42
Overall combination	1	2 52	Spoon table	1	08
Battle dress blouse	2	13 00	Towels hands	2	62
" " trousers	2	13 10	Bag ration	1	04
Boots ankle Prs	2	11 64	Belt waist web	1	67
Drawers cotton short	2	84	Bottle water	1	62
" woollen	2	2 80	Braces left	1	55
Jacket sweater	1	1 37	" right	1	32
Shirt flannel khaki	1	3 26	Carrier water bottle	1	37
" woollen	1	1 20	Cover mess tin rect	1	08
Shoes canvas prs	1	2 29	Frog bayonet	1	18
Socks woollen prs	4	1 84	Haversack	1	2 29
Bag kit	1	1 27	Helmet steel complete	1	2 39
Braces pr	1	28	Helmet steel cover	1	26
Brass button	1	04	Helmet sun	1	68
Brush boot polishing	1	21	Pack	1	2 26
" buttons	1	11	Pouches basic small	2	2 06
" cloth	1	17	Sling rifle web	1	18
" hair	1	39	Strap web supporting	2	28
" shaving	1	42	Tin mess rect	1	57
" tooth	1	09	Cover breech	1	34
Cap conforter	1	41	Container light	1	1 00
Comb hair	1	04	Face piece light	1	1 25
Fork table	1	08	Haversack light	1	1 75
Holdalls	1	22			

(J.A.M. CARON) Major N.S.D.D. ... President

(R. DESMEULES) Lieut. No.5 D.D. ... Member

Signed at LAUZON, P.Q. (Y. LORTIE) Lieut. No.5 D.D. ... Member

this 9th day of February 1945

Signature of Commanding Officer. (JEAN LAFONTAINE) Colonel
O.C. No.5 District Depot.

Certified true copy [signature]
(Signature of Officer having custody of original record)
Records Office,
No.5 District Depot, Lauzon P.Q.

MFB 375

11

"I"

Pierre Decary

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in Order No. 127, 1942.

(PIERRE DECARY) Major
PRÉSIDENT, S. C. M.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major J.B. Martineau, A/D.A.P.M., M.D. No. 5,
(Number) (Rank) (Name) (Unit)

hereby certify that D-650533 Pte. BERGERON, D.
(Number) (Rank) (Name in full)

of the Regt. de Joliette, No. 5 District Depot,
(Unit and attachment, if any)

Strike out words not applicable } ~~[illegible]~~ (surrendered to) the Undersigned,
(Number) (Rank)

(Name) (Unit or appointment)

at Headquarters, M.D. 5, Quebec, P.Q. at 1400
(Place) (Hour)

on the 28th day of August, 1945.

Strike out words not applicable } as a deserter (~~[illegible]~~), and that at the time of his ~~[illegible]~~ surrender he was ~~[illegible]~~ ~~[illegible]~~ dressed in civilian clothes).

Dated at Quebec, P.Q. this 28th day of August, 1945.

(J.B. Martineau)-Major,
A/D.A.P.M., M.D. No. 5.
(Signature, Number, Rank, Unit or appointment)

MM/bp

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

10

"J"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - - - - - - -

A 11:57 heures le 11 septembre 1945

la Cour s'est ajournée.

A 13:50 heures le 11 septembre 1945

la Cour se rassemble.

LE PROCES SE POURSUIT

"K"

La Corporation de la Ville d'Arthabaska

Bureau du Secrétaire

Arthabaska, P. Q., 12 nov. 1943 193

A qui de droit,

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

Ceci est pour certifier que le porteur Donat Bergeron est le soutien de son père et de sa mère qu'ils ont besoin de son salaire pour vivre.

Connaissant très bien sa situation je vous demande respectueusement d'accorder unesaa allocation de subsistance à ses parents.

Votre dévoué,

Félix Houlemsec-trés.

Je ,soussigné,curé de cette paroisse d'Arthabaska, connais bien la famille de Donat Bergeron,et je souscris en toute vérité à ce que le Sécrétaire-Trésorier affirme dans la présente requête.

Henri Berier,prêtre,curé.

Henri Bernier, ptre, curé.

8

"Y"

Pierre Decary
M.F.B. 355
(PIERRE DECARY, Major)
R.Q. 1773-30-230
PRÉSIDENT, S. C. M. B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-650533	Private	BERGERON D.	N.R.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by court-martial or a civil court, of summary awards under Air Force Act or Section 47 of the Army Act and dispensations with trial under A.F. 373 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in ~~Air Force~~ civil custody, and 14 days in military custody, making a total of 14 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 20 years, 5 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 16-11-43

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in military possession of or entitled to). State any air force decoration or award.~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

1

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(B. TASCHEREAU) Lieut.
Ass. Records Officer
No. 5 D.D. Lauzon, Que.

Signed this 11th day of SEPTEMBER 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

D-650533 No. Name BERGERON D. Sqn., Battery, or Company Corps N.R.M.A. Date of enlistment 16-11-4 C.C. Badges Tradesmen's Rates of Pay

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. one Signature O.C. Company, etc. M. LAMBERT Capt

B.F.-1 (A.F.R. 13) 500M—11-41 (3498) H.Q. 1772-30-1602

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				-- N I L --					

CERTIFIED TRUE COPY
(E. TASCHEREAU) Lieut
Ass. Records Officer
No.5 DD. Lauzon, Que.

(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No 06507533 PTE Bergeron D.
of D D # S is in a good state of health,
and fit to undergo Trial by Court martial.

[illegible]
Medical Officer

Station Sayon Guard Room.

Date 11 Sept 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

Medical Inspection Room
D.D. M.D. No. 6
SEP 11 1945
LAUZON, P.Q.

5

RESUME DE LA PREUVE

Proces de D-650533 Soldat Donat BERGERON, Le Regiment de Joliette, A.C., attache au Depot Regional No.5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No.147 d/ 28 decembre 1944, a Valcartier, Que.

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

~~OXXXX: L: Lettre officielle XXXX

H.Q.C.55-B-1971 (JAG/D-7)
Your Q. 39-B-8357

19 Sep 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

D. 650533 Pte. Donat Bergeron,
Le Regt. de Jol., C.A., att.
No. 5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

3

THIS COPY FOR H.Q. C. 55-B-1971
M.D. 5 39-B-8357

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-650533 Name Donat BERGERON

Rank Pte. Unit Le Regt. de Jol. C.A. Att No. 5 D.D. C.A.

Charge (1) AA 12 (1) (a) WOAS DESERTION.....

(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 27-12-44 (2) 9-2-45

Date of Arrest 28-8-45 Charge Signed 8-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. 11-9-45

Sentence Detention 9 mos. Stoppages $3.40

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39727

Date 19-9-45

MEMO Balance of sentence remitted by Conf. Auth. 27-76 Guilty AWL

M.D. 5 Le Regt. de Jol. C.A. Att No. 5 D.D. C.A.

Absent 8 mos. Sentence Det. 9 mos.

2

R J Ryan Lt

for Judge Advocate General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No.

Q:39-B-8357

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Quebec, P.Q., Sept. 14th. 1945.

SS-B-1991

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

D/650533, Pte. Donat BERGERON,
Le Regt.de Joliette, C.A.,
(Att.to No.5 D.D., C.A.)

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

(PIERRE DECARY) - Major
Permanent President S.C.M.

397 27

H.Q.C. 55-B-1972 CONFIDENTIAL

W.F.B. 2570
25M—2-45 (6508)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BANKS, LLOYD HASTINGS F-36113 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1972

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and "Note Minute")		
				ADMIN	NEW FILE	CR	19-9-45
				JAG	To note	wof	21.9.45
SEP 26 1945	26.9.45	PA	wof	Admin	To note pl		25.9.45
				Admin	For Registration C.R. DEC 29 1945		
	9/1/46			Admin	for review		11-1-46
JAN 14 1946							
JAN 15 1946	29/1/46			JAG	Attn Lt-Col Carroll		1/1/46
JAN 21 1946	21/1/46	PA	was	Admin	PER B.F. JAN 18 1946		
					With Papers C.R. JAN 24 1946	OK	
				JAG	Proceedings	was.	25/1/46
FEB 7-1946							
JAN 31 1946	4-2-46	PA		Admin	Passed pl		1/46
MAR 20 1946	18.3.46	PA		Admin	With Papers C.R. MAR 16 1946	OK	
APR 1 - 1946	30-3-46	PA		Admin	With Papers C.R. MAR 27 1946	OK	

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE

No. 6/F-36113 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, M. D. No. 6,
Halifax, N. S., 22 MAR 46. 104

CONFIDENTIAL

14377
MAR 26 1946
File 6-50-B-192
Chgs. to
Referred to admin

Secretary,
Department of National Defence,
Ottawa, Ontario.

F-36113 Pte BANKS, L.H.
No.6 D.D., SUS #69 MDB.

Ref Camp Borden letter numbered CE 1-4-8-2 (SCA) dated 13 Mar 46 and which was addressed to Secretary, NDHQ, and DOC, M.D.6, among others.

2. The m/n soldier completed his sentence with earned remission for good conduct on 21st March, 1946.

3. Forwarded herewith AF A3104 in respect of this man duly completed in Part VI.

noted
JAR

100

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

N.D. 23
1000M—10-44 (5769)
H.Q. 1772-101-23

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. F36113 Pte Lloyd Hastings BANKS Unit Nth N.S. Highrs

Sentenced to 18 months' detention on 22 Mar 45

Age on, and date of enlistment 19 yrs, 17 Sep Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(39819) W14672-276 100,000 2/42 A.S.S.W.Ltd. Gp.698 Forms/A3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION- RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy Adjutant General, Canadian Military Headquarters 22 JUN 1945	
22 MAR 46	Released on completion of sentence, 21st MARCH, 46.	(J.C.Stewart) Brigadier, D. O. C., M. D. No. 6.	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA Sec 12(1)(a) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE, in that he, in the Field (Germany), after having been warned for action, absented himself without leave with intent to avoid such action, from 0100 hrs 5 Mar 45 until 0920 hrs 8 Mar 45. (Absent 3 days, 8 hrs, 20 min) M J Heffernan Capt adjt Signature of Officer making entry. North Nova Scotia Highlanders	5 Mar 45	22 Mar 45
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
23 Mar 45	I recommend that the sentence be carried out in full.	Forbes LtCol

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
29 Mar 45	I recommend the sentence as mitigated be served in full	J M Rockingham (J M Rockingham) Brig Comd 9 Cdn Inf Bde

CB 1-4-5-2 (SCA)
and Personal File

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

Headquarters, Camp Borden,
Camp Borden, Ontario,
13 MAR 46.

District Officer Commanding,
Military District No. 6
HALIFAX, Nova Scotia.
Officer Commanding,
No. 2 District Depot,
TORONTO, Ontario.

The Commandant,
No. 86 R.D.B.,
CAMP BORDEN, Ont.

CENTRAL REGISTRY Army
CONF. SEC.
MAR 13 1946
12360
File No. 53-3-1772
Chgd. to
Referred to admin

~~W 36113 Pte. BANKS, L.H.~~ CANO 1029 (8)
SUS - [illegible] at No. 86 R.D.B.

The m/n soldier under sentence by Court Martial O/S and presently serving his sentence at No. 86 R.D.B. will have completed **two thirds** of his sentence on **21 Mar 46** and will therefore be eligible for discharge in accordance with CANO 5913 para 9.

2. In this connection Report on Conduct and AFA 3104 are enclosed for this soldier. May these forms be forwarded to NDHQ when they have served their purpose.

3. This SUS is being despatched to his home District Depot in accordance with A.D.H.Q. letter HQS 9039-1-1(Adm 3) dated 31 Oct 45 (R363A) for discharge as indicated after his name.

4. This SUS will be despatched to **No. 6 D.D. on 15 Mar 46 as per schedule below. O.C. No. 48 Coy. C. Pro. C. Camp Borden will provide necessary escort and arrange movement including necessary meals and transportation en route.**

Train Schedule:

Leave	Allandale	0510 Hrs	15 Mar 46
Arrive	Toronto	0700 Hrs	15 Mar 46
Leave	Toronto	0915 Hrs	15 Mar 46
Arrive	Montreal	1745 Hrs	15 Mar 46
Leave	Montreal	1930 Hrs	15 Mar 46
Arrive	Halifax	2230 Hrs	16 Mar 46

Mrs Sargent Capt

6 (J.F. Bingham)
Colonel
T/Commander, Camp Borden.

Copies to: The Secretary,
Department of National Defence,
OTTAWA, Ontario.

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

Officer Commanding,
No. 6 District Depot,
HALIFAX, Nova Scotia.

Officer Commanding,
No. 48 Coy. - Pro. C.,
CAMP BORDEN, Ontario.

noted

THIS COPY FOR

H.Q. C.55-B-1072
M.D. 20/Ret Can Dis/1

GS

FIELD GENERAL
MEMORANDUM ~~DISTRICT~~ COURT-MARTIAL

No. F-36113 Name BANKS, Lloyd Hastings

Rank Pte Unit North NS Highrs CAO

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 5-3-45

Date of Arrest 8-3-45 Charge Signed 9-3-45

Orders for ~~D~~FG.C.M. Brig Comd 9 CIB

Place and Date of Trial In the field 22-3-45.

Sentence Det 2 yrs.

Date of Confirmation 22-3-45

Date of Promulgation 23-3-45

Entered in Records of J.A.G. as No. 4638

Date 25-1-46

MEMO Conf Auth remits six months detention.
Reviewed at CMHQ, also at NDHQ.

for Judge Advocate-General

10M-11-43 [M-425]

HQ 55-B-1972
(JAG/D-6)

OTTAWA, 23 January, 6

Canadian Military Headquarters
2 Cockspur Street
LONDON, SW 1, England

Att - Maj Gen i/c Admin

Field General Court-Martial
F-36113, Pte BANKS, Lloyd Hastings

Receipt is acknowledged of your 20/Ret Can Dis/1 dated 17 Jan 46, under cover of which you forwarded to this HQ proceedings in respect of the m/n FGCM.

E.L.M.

for (RJ Orde) Brigadier
Judge Advocate General

/jm

Quote No. 20/Ret Can Dis/1

AIR MAIL

CANADIAN MILITARY HEADQUARTERS.

London

17 Jan. 1946

C. S. S. C.
3703
JAN 23 1946
C-55-B-1972

The Secretary,
Dept. of National Defence,
OTTAWA, Canada.

R.A.M.C. Proceedings- B.A.R.

1. Ref your cable JAG 961, d/14 Jan 46.

2. Herewith proceedings as requested for the n/m soldiers.

B.92782	Spr.	Agnew, W.
F-36113	Pte.	Banks, L.A.
B-267	Pte.	Besmer, E.R.
B-159109	Pte.	Cameron, D.E.
D-6[illegible]31	Pte.	Chard, W.F.
L-108448	NUN.	Christianson, C.P.
B-22490	Pte.	Couture, M.
D-59372	Pte.	Daigneault, G.
H-9309	Rfn.	Drury, A.P.
F-55616	Pte.	Francis, H.
G-2650	Pte.	Gibson, G.
F-37072	Pte.	Jackson, A.P.
K-37377	Pte.	MacDonald, G.A.
P-56776	Pte.	MacDonald, J.P.
G-49722	Pte.	Mazerôlle, J.D.A.
F-30085	Pte.	McKenzie, J.H.
D-56843	Pte.	St-Laurent, A.
D-143116	Pte.	Vandermeersehen, L.
B-22678	Pte.	Vandervliet, H.

(JC. Murchie) Lieutenant-General
Chief of Staff.
CANADIAN MILITARY HEADQUARTERS.

Encl. 19
COPY.

Too late for CMBR

Extracts entered as No. 1638 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 25 day of October 1946

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F 36113 Pte Lloyd Hastings BANKS Nova Scotia Highrs

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 12(1)(a) AA	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, ~~of which ..... days were spent in hospital.~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

~~To serve penal servitude for the term of two years~~

To undergo detention for a period of two years

(Sgd) ..... Judge-Advocate, if any. 22 May. 45 Date awarded. (Sgd) J.G. Stothart President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the court, but remit six months detention

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (*)

(1. AA 57A. Delete if not used.)

(Sgd) J M Rockingham (J M Rockingham) Brig

Date 22 Mar 45 Commanding 9 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F 36113 Pt Lloyd HASTINGS BANKS NORTH NOVA SCOTIA HIGHLANDERS	23 MAR 45	M J Hefferman Capt adjt North Nova Scotia Highlanders

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5 F-15

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF A21) 40/F & B/1698 (E1-24) 4/365

Convening Order of J. M. Rockingham Brig. Comd 9 C.I.B. dated 21 Mar. 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F 36113	Pt		Lloyd Hastings	Banks	Nova Scotia Hgrs

PROCEEDINGS REVIEWED
J. Lalique Capt
2 Mar 45
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held at the Fd in (country) Germany on (date(s)) 22 Mar. 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 27/90

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 47 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 11.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans no (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj.	J. G. Stothart D.S.O.	S.D. & G. Hghrs.
Member	Capt.	N.A. Pearce	H.L.I. of C.
Member	Lt.	S.B. McCourt	S.D. & G. Hghrs.
~~Judge-Advocate~~			
Prosecutor	Lt.	G.L. Monkley	N.S. Hghrs.
Defending Offr	Lt.	J.L. MacDonald	N.S. Hghrs.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69(B) and fn 2 were not followed. See DI p 3.)

A8. The accused F 36113 Pte Lloyd Hastings BANKS Nova Scotia Hgrs before arraignment make(s) (no) ~~(or)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(AB160 Vol G1-85)

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E*3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B*5 *such parts only of the Summary of Evidence are read as relate to the charges dealt with under C*2. *If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 535. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D*8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114*, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 3.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A*95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E*1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, *117*(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)~~
Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (6). *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)~~
Ans.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex....A..... and Ex....B.... respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1*B*), 68(*I*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JSS

CHARGE SHEET

The accused, F.36113 Pte. Lloyd Hastings BANES, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
Section 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field (Germany) after having been warned for action absented himself without leave, with intent to avoid such action, from 01.00 hours 5 Mar 45 until 0920 hours 8 Mar 45.
(Total time absent 3 days 8 hours and 20 minutes)

M G Clennett Maj

In the Field
9 March 1945

(M.G. Clennett) Major
A/Comd.,
North Nova Scotia Highlanders

To be tried by Field General Court Martial

J M Rockingham

In the Field
21 Mar 45

(J M Rockingham) Brig
Comd 9 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-36113	Pte		Lloyd Hastings	Banks	Ntn NS Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 21 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J G Stothart (Must be named. RP 106.)	SD & G Highrs (Unit.)

MEMBERS.

Capt	D A Pearce	HLI of C
Lt (Rank.)	G B McCourt (Named or detailed. RP 106.)	SD & G Highrs (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Germany (Country.)

J M Rockingham (Signed personally. RP 105 fn 2.) — Brig (Rank.)
(J M Rockingham)

Date 21 Mar 45 — Commanding 9 Cdn Inf Bde — Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (61d)

MEDICAL CERTIFICATE

I certify that I have this morning examined F.36113 PTE. BANKS, L. H., North Nova Scotia Highlanders, and in my opinion he is fit to undergo Trial by Court-Martial.

STATION:- In the Field

DATE:- 22 Mar 45.

K A Campbell

(K. A. Campbell Capt),
Medical Officer,
North Nova Scotia Highlanders.

H 7142 Cpl. Sinclair M. N.N.S. Fusiliers sworn states

First Witness - I am H 7142 Cpl. Sinclair M. a member of B Coy. No. 11 pl. 6 section the Nth. N.S. Regtns. At approximately 0045 hrs. 5 Mar. 45. I warned the accused F 36112 Pte. Banks whom I recognize as the accused, to put his equipment on, as we were moving off. At 0100 hrs. we moved off and Pte. Banks was not present. When I warned the section that we were moving into action Pte. Banks said he couldn't go with us and wished to know where the R.A.P. was. I told him to follow along the section and I would see the platoon comd. about getting him back to the R.A.P. I saw the platoon comd. and when the section and Pte. Banks was not present.

Question - When you told Pte. Banks to follow in the section did you tell him the reason.

Ans. - Yes sir.

Ques. - What was the reason.

Ans. - That we were going forward to make another attack.

Ques. - Did you tell this to Pte. Banks.

Ans. - Yes sir.

Ques. - Did Pte. Banks take part in the attack

Ans. - No sir.

Ques. - At what time did Pte. Banks report back to your section.

Ans. - At 0920 hrs. 8 Mar. 45.

Cross exam. by defence

Ques. - Did Pte. Banks say that he would not go with the section after he had been warned.

Ans. - Not exactly sir, he said he couldn't go

Ques. – Did Pte Banks ever act in such a manner before in your section

Ans. – No sir.

Ques. – Did you tell Pte. Banks where the R.A.P. was located.

Ans. – No sir. I didn't know at the time where it was.

Ques – Did Pte. Banks tell you what was wrong with him

Ans. – Yes sir.

Ques. – What did he say

Ans. – He said his nerves were gone.

Q Exam. by the Court.

Ques. – How long was Pte Banks in your sec

Ans. – about 2 months.

Ques. – Had he been in action with you during that time

Ans. – Yes sir.

Ques. – Several actions

Ans. – Yes sir. and never acted in that manner before.

Ques. – How did Pte Banks act when you warned him to put on his equipment and come along with the section.

Ans. – He just said he couldn't come.

Ques. – Did he appear normal to you.

Ans. – Yes sir.

Ques. – What is your pl. comds name.

Ans. – Lt. Tulloch

Ques. – What answer did your pl. comd. give you when you asked him about Pte. Banks

Ans. – He told me to see if he was with the section and he would see what he could do about sending him to the R.A.P.

Ques. - When you went to find your Pl. cond. did your section move up with you.

Ans. - Yes sir.

Ques. - Did Pte. Banks follow along

Ans. - No sir.

Ques. - How far forward did you move at this time.

Ans. - 200 to 300 yds.

Ques. - Did you attempt to locate Banks at this time

Ans. - No sir, time did not permit me to do so.

Ques. - Are you sure Pte. Banks knew his sect. was moving when it did.

Ans. - Yes sir. I went right to his slit trench and warned him and he said he couldn't come.

R.P. 83B Complied with

Second Witness B20287 Pte. Thomas H. N.S. Rifles sworn states -

I am B20287 Pte. Thomas H. a member of 6 Sect. 11 Pl. B Coy Nth. N.S. Rifles.

On the night of 5 Mar. we were dug in a woods, Pte. Banks the accused whom I recognize he shared the same trench. Cpl. Lindall came to our trench and warned us to put on our equipment and be ready to move ~~out~~ off in ten minutes. Pte. Banks told the Cpl. that he couldn't go because his nerves wouldn't stand it. I put my equipment on and moved off with the section. I do not know whether or not Pte. Banks put his equipment on. Our section had been fully briefed on the coming operation the day before as to what our objectives and how we were

attain it. I believe in my mind that Pte. Banks was present at our briefing.

Ques. - Did Pte. Banks take part in the attack

Ans. - No. I didn't see Pte. Banks again until he rejoined the section a couple of days later.

Cross exam. by Defence

Ques. - Do you know Pte. Banks well.

Ans. - Yes. sir

Ques. - Has he gone into any attacks with you in no. 6. sect.

Ans. - Yes sir.

Ques. - Has he completed these attacks.

Ans. - Yes sir.

Ques. - Can you remember having seen Pte. Banks act in this way before.

Ans. - No sir. I do not.

Re exam. by Pros.

Ques. - How long were you and Pte. Banks in the same sect.

Ans. - Four or five weeks previous to this attack

RP 83 B Completed with

H. 7142 Cpl. Sinclair M. recalled as a witness by the court, and on his former oath was questioned.

Ques. Cpl. Sinclair did you previously brief your section for this attack

Ans. Yes sir. I briefed them on the evening of the fourth after I had been briefed by the pl. comd.

Ques. - Was Pte. Banks present at this briefing

Ans. - Yes sir.

Ques. - Did the accused ask any questions or make any reference to his condition at this time.

Ans. - No sir.

RP 83B Complied with

Defence

Address by defending officer:

I propose to show that Pte Banks did not go A.W.L. to avoid enemy action but to show that he was in such a state of mind to be mentally incapable of going into action with his section and therefore cannot be held responsible for desertion. I would like to call upon Pte Banks to give sworn evidence.

F 36113 Pte. Banks. L. H. Nth. N.S. Highs. sworn states: I am F 36113 Pte. Banks L. H. B. Coy 11 Pl. 6 Sect. Nth. N.S. Highs.

On the evening of 4 Mar. after we had been briefed by Cpl. Sinclair on the coming operation, I felt that I could carry on in the attack for 5 Mar. When he told us to get our equipment on and that we were moving up to clear this certain patch of woods, I was pretty shaky on account of my nerves. I thought I would be of no use to the section that night so I told him I couldn't go. I asked him where the R.A.P. was but the section moved off so quickly I didn't have time to find out. I didn't know where the R.A.P. was so I stayed in my dugout over night and the next morning I went back to D coy. cookhouse until they moved forward a couple of days later. I then went to Bn. H.Q. stayed over night and on to my coy. the next morning.

The prosecution declined to cross examine the witness.

Questioned by the Court.

Ques. - Did you make any attempt to find the R.A.P. while at D coy. cooker.

Ans. - Yes sir and they said it was away forward.

Ques. - Why did you not go forward to your coy.

at any earlier date

Ans. — Because of my nerves, they would not steady down.

Ques. — Did you make any attempt to get to our lt your coy. know where you were.

Ans. — No sir I didn't think of that.

Ques. — How did your nerves differ on this night from previous attacks.

Ans. — I was just shaky and felt as though no matter what I did I could not fight.

Ques. — How long have you been serving with your present unit.

Ans. — "I have been with my unit since 21 Aug. 44. to the present time and have had no previous charge against me.

RP83B Complied with

Character Witness

Lt. H. G. Tullock Nd N.S. Highrs sworn states.

I came to 1 Pl. B Coy. N.N.S. Highrs. about the first week of Dec. and Pte. Banks was a member of the pl. at that time. He was just holding at this time and he was doing a very good job with his section. Later about 3 weeks his sec. leader was evacuated and from then on I used his as second in command of the section. He continually did a very good job while we were in the holding role and also in the start of the push.

VIII

After a bit of a show opposite Emmerich he seemed to change. On this particular show a cousin of his was hit and from then on until the time that he stayed behind he seemed to be very nervous. He did not however ask to see the M.O. during this period.

R.P. 83B Complied with.

Re: Mitigation Pte Banks L.H. (F36112) JPS

Pte Banks, an active soldier who was in action with the N.N.S.H from Aug 21, 1944 until March 5, 1945 excepting month of November when he was in hospital.

He proved himself a good reliable soldier during that time - on one occasion took over his section when the sec. leader became a casualty and lead the section to its objective successfully.

He began to lose control over himself at Emmerich and in subsequent actions was getting worse and worse until he finally cracked under the strain Mar. 5th and could not go into action. He did not deliberately say he would not go into action but that he was unable to go.

He did not leave the battalion at any time while he was away from his section and he returned voluntarily 3 days, 8 hours, 20 minutes later.

Had Pte Banks gone into action in the state he was in he would have been no help but actually a burden to his section.

All who have been his superiors hold him to be a good soldier with a clean clean conduct sheet.

Such a man could hardly go A.W.L to avoid enemy action unless he was mentally unstable to do so and therefore cannot be held responsible.

J.L. MacDonald Lt.

Exhibit A

9

ARMY FORM B.236.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F36113	Pte	Banks, L.H.	North Nova Scotia Highlanders

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

* Within last 12 months.	*Since Enlistment.
~~xxx~~	~~xxxx~~
~~xxx~~	~~xxxx~~
~~xxx~~	~~xxxx~~
~~xxx~~	~~xxxx~~
~~xxx~~	~~xxxx~~

Number of instances of gallantry or distinguished conduct, NIL

~~xxx~~

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, ~~or~~

~~xxxxxx xxxxxxxxxx of the accused by a court martial or of a court commonly known as under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act are set out in the schedule annexed to this statement.~~

3. ~~The accused is not under sentence at the present time, or The accused at the present time is under sentence for~~

~~xxxxxxxxx

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F36113 Rank Pte Name Banks, L.H. of NNS Highrs Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		------ N I L ------		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of Mar 45

M J Heffernan Capt Adjt

(M. J. Heffernan) Capt. Adjt.,
North Nova Scotia Highlanders.

13. Transgressions recorded against the soldier since last attestation, or since last entry in Part II of this book.

[illegible]		[illegible]	
[illegible]		[illegible]	
[illegible]		[illegible]	
[illegible]		[illegible]	

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

MFM 6
(AFB 122)
40/P&S/136 (3428)

TEMPORARY SHEET ONLY

No F36113 Name BANKS, L.H. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 17-9-43 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY OF TEMPORARY SHEET, AS OF 12 MAR 45					
				M.J. Heffernan Capt Adj't					
				(M.J. Heffernan) Capt. Adjt,					
				North Nova Scotia Highlanders,					
				Officer having custody of original.					

(PTO)

JS.

Summary of Evidence in the case of F36113 Pte Lloyd Hastings Banks, B Company, North Nova Scotia Highlanders, a soldier of the Canadian Army Overseas.

The commanding officer directs that the evidence be taken on oath.

The accused was informed as to his rights.

First witness for the Prosecution H 7142 Cpl. Sinclair M, sworn, states: I am H7142 Cpl. Sinclair, M, B Company, North Nova Scotia Highlanders. At approximately 0045 hrs on 5 March 45, I personally warned Pte Banks to get his equipment on and that we were moving forward to attack an enemy position. He replied that he couldn't go forward with us. He asked me where the RAP was. I told him again to get his equipment on,

to proceed forward with the section and that I would contact the Platoon Commander as regards Banks going to the RAP. The section was 6 Section of which he was a member and I was leader. When I reached the office, with the section, at approximately 0100 hrs, Pte Banks was absent. I next saw Pte Banks when he returned to the Platoon at approximately 0920 hrs 8 Mar 45.

Q When Pte Banks told you he could not proceed forward with the Section, did he say anything else?

A. yes Sir. He said that his nerves were gone in words to that effect. It was after he had said this that I again ordered him to proceed forward with the Section.

Sgt Sinclair

The accused declines to cross examine this witness.

JBC.

2nd Witness B 20287 Pte Thomas, H, sworn, states:

The Prosecution I am B 20287 Pte Thomas, H, B Company, North Nova Scotia Highlanders. On 5 March 45, I was a member of 6 Section, 11 Platoon. Cpl. Sinclair was the Section Commander and Pte Banks was a member of the same Section. Sometime after midnight, at approximately 0030 hrs 5 March 45, Cpl. Sinclair, Pte Banks and myself, to get our equipment on and to be prepared to move forward as quickly as possible. On the afternoon of the 4 March 45, Cpl. Sinclair briefed the Section for an attack on an enemy position and warned everyone that we were to notice to proceed forward. Pte Banks, when ordered by Cpl. Sinclair to get his equipment on, at 0030 hrs 5 March 45, said that he couldn't make it because his nerves were shot and that he wanted to go to the RAP.

I do not recall any further conversation between Cpl Sinclair and Pt Banks. I was busy getting my equipment together and did not hear any more. I did not see Banks after that until the morning of 8 March 45.

M Thomson

H7142 Cpl. Sinclair, M, recalled as a witness and on his former oath, was questioned:

Q Did you, at any time, brief the section for this coming attack?

A Yes Sir. On the early evening of 4 March 45, I briefed the complete section. Pt Banks was present at this briefing.

M Sinclair

The accused declines to cross examine this witness.

Q Do you wish to make any statement or to give any evidence on Oath? you are not obliged to say anything or to give any evidence but whatever you say or any evidence you may give, will be taken down in writing and may be used in evidence ~~against you~~

A No Sir.

Q Do you wish to call any witnesses at this point?

A No Sir.

L H Banks.

Rules of procedure 4(c)(D)(E)(F) and (G) have been complied with

I certify that the foregoing summary of evidence, consisting of five pages, was taken down by me in writing in the presence of the accused this ninth day of March 1945

M J Heffernan Capt
North Nova Scotia Highlanders
Officer i/c Summary

In the Field
9 Mar 45

SUMMARY OF EVIDENCE

BANKS, Brendan Noten Nova

Case of Lieut Pte. Lloyd Hamilton

Court Martial, Overseas

Composing Officer Overseas

THE DOMINIONS AND COLONIES

Witness

Pte. Lloyd Hamilton

Sworn

Examined by Lieut Col. Stuart

Q. Are you the person named in the charge?

A. Yes Sir. On the evening of 4 March 47, I
driven the complaint Sergeant. Pte Banks was present.

Q. Did you see any fire, did Sergeant Lor take
coming to you, by any question?

A. No Sir.

H.L42 Cpl Stuart, M., recalled as witness and on
his former oath.

(signed) **H. Thomas**

H.L42 Cpl Stuart, M., recalled and duly
Banks driver under the warning of C Marcon 47.

Q. Did anything happen on the night of 4 March 47, said Pte
Banks driver, that was H.A.F.? I do not recall any
he warned to go to the H.A.F.? said not that
he made to operate the driver were said now, he
quipment, he 0030 hrs 5 March 47 Cpl. Stuart to get the
Pte Banks, that we ordered on motor to proceed forward
evertyone on an enemy position and walked the Se-
tion of the 4 March 47, Cpl. Stuart driver. Q. Pte Banks
room, quipment as quickly as possible. Q. Pte driver
to move forward and walked the same Section
Section Headquarters. Q. Cpl Stuart, I was a member of
myself, to get our equipment and ordered Pte Banks
Marcon 47, Cpl. Stuart, driver, at approximately 0030
hrs 5 March 47, Cpl. Stuart, driver, was the same Se-
tion. Sometime after midnight, at member of the Section
Commander and Pte Banks. Cpl Stuart, driver, was a member
of Section, it Pte room. Cpl Stuart 47, I was a member of
Section Headquarters. Q. Cpl Stuart, driver, was same Se-
tion 5 March 47, Cpl. Stuart, driver, was the same Section
Headquarters.

Examination
for the
Prosecution

I am B.C20/ Pte. Thomas, H. Smith, "B" Squadron
Section Headquarters and Cross-examine this witness.

(signed) **H. Stuart**

Witness
Pte. Lloyd Hamilton

Sworn
Cross-examined by
Pte. Banks

Q. Did you see any fire, did the driver, said Pte Banks
that I do care, I was driver, he said Pte Banks
Section.

Q. Did you see any burning stove?

A. Yes Sir. He said driver, did he say burning stove
warm us. He said we were that we could, I go for-
ward with the Section to H.A.F. Q. Pte Banks
embarrassment, a band we were moving Pte. Banks to get his
5 March 47, I personally a Sergeant, M. "B" Squadron 47 on the
Pte room Commander as regards Banks would I would proceed for-
Section, I say Section of Headquarters. Q. Pte Banks
sion I was leader. Q. Section Headquarters was a member
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Examination
for the
Prosecution

H.L42 Cpl. Stuart, M., recalled.

Witness
Pte. Lloyd Hamilton

Sworn

Examined by Lieut Col. Stuart

Q. Are you the person named in the charge?

A. Yes Sir.

Q. Did you see any fire, did the driver said Pte
Banks driver, that we ordered on motor to proceed forward
equipment, he 0030 hrs 5 March 47 Cpl. Stuart to get the
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Commander and Pte Banks. Cpl Stuart, driver, was the same Se-
tion. Sometime after midnight, at member of the Section
Section, it Pte room. Cpl Stuart 47, I was a member of
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Marcon 47, Cpl. Stuart, driver, said Pte Banks
5 March 47, Cpl. Stuart, driver, said Pte Banks
Section Headquarters.

Examination
for the
Prosecution

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Witness
Pte. Lloyd Hamilton

Sworn

Examined by Lieut Col. Stuart

Q. Are you the person named in the charge?

A. Yes Sir. On the evening of 4 March 47, I
driven the complaint Sergeant. Pte Banks was present.

Q. Did anything happen on the night of 4 March 47, I
coming to you, by any fire, did the Sergeant for the
question, was question.

H.L42 Cpl Stuart, M., recalled as witness and on
his former oath.

(signed) **H. Thomas**

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Commander and Pte Banks. Cpl Stuart, driver, was the same Se-
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Marcon 47, Cpl. Stuart, driver, said Pte Banks
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myself, to get our equipment and ordered Pte Banks and
Marcon 47, Cpl. Stuart, driver, said Pte Banks
5 March 47, Cpl. Stuart, driver, said Pte Banks
Section Headquarters.

at this briefing.

(signed) M. Sinclair

The accused declines to cross-examine this witness

Q. Do you wish to make any statement or to give any evidence on Oath? You are not obliged to say anything or to give any evidence but whatever you say or any evidence you may give, will be taken down in writing and may be used in evidence.

A. No Sir.

Q. Do you wish to call any witnesses at this point?

A. No Sir.

(signed) L.H. Banks

Rules of proceedure 4 (C) (D) (E) (F) and (G) have been complied with.

I certify that the foregoing summary of Evidence, consisting of five pages, was taken down by me, in writing in the presence of the accused this ninth day of March 1945.

(Signed) M.J. Heffernan Capt
North Nova Scotia Highlanders
Officer i/c Summary

In the Field
9 Mar 45

File CB 1-4-8-2 (SC1)
& Pers Files

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

Headquarters Camp Borden,
Camp Borden, Ontario,
11 JAN 46.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUS - HMS KHEDIVE

Receipt is acknowledged of AFA 3104 and CMHQ letter for under-mentioned personnel.

D.163157	Dionne, P.E.	Adm 3 (b)2	C 55-D-1394
B.159109	Cameron D.E.		C 55-C-1134
D.143116	Vandermeerschen, L.		C 55-V-268
B.22678	Vandervliet, H.		C 55-V-290
K.52795	Taylor, O.J.		C 55-T-788
D.56842	St Laurent, A.		C 55-S-1629
K.574552	Smith, W.H.		C 55-S-559
A.106134	Smith, G.W.		C 55-S-1740
F.56576	MacDonald, J.B.		C 55-M-1993
K.37377	MacDonald, G.A.		C 55-M-1992
D.72163	Grandchamp, R.		C 55-G-222
G.2650	Gibson, G.		C 55-G-1129
F.55616	Francis, H.		C 55-F-580
B.138275	Dart, L.R.		C 55-D-1207
E.22490	Couture, M.		C 55-C-1489
D.59372	Deigneault, G.		C 55-D-1385
C.43503	Cousineau, M.		C 55-C-1589
L.108448	Christianson, C.P.		C 55-C-1435
E.5477	Chouinard, H.		C 55-C-1436
D.6831	Chard, W.F.		C 55-C-1491
B.83908	Cassels, R.P.		C 55-C-1460
D.63558	Boucher, R.		C 55-B-2053
B.37643	Bigley, J.H.		C 55-B-2269
D.144190	Belanger, L.N.		C 55-B-1902
B.267	Beamer, H.D.		C 55-B-1953
D.137961	Baratte, J.J.		C 55-B-2183
F.36113	Banks, L.H.		Unnumbered
D.157656	Bailly, A.E.		C 55-B-2271
B.92782	Agnew, W.		C 55-A-477

(A.C. Spencer)
Major-General
Commander, Camp Borden.

COPY OF A R M Y M E S S A G E
(OUTGOING)

FILE HQC.55-C-1134(JAG/D-[illegible]
OTTAWA 14 JAN 46

TO CANMILITARY

UNCLASSIFIED

JAG 981 PLEASE FORWARD EARLIEST BOMBER MAIL FGCM PROCEEDINGS RE FOLLOWING SOLDIERS (.) B 159109 PTE D E CAMERON (.) H9309 RFN A D DRURY (.) F 55616 PTE H FRANCIS (.) F 87072 PTE A P JACKSON (.) B 267 PTE H D BEAMER (.) D 143116 PTE L VANDERMEERSCHEN (.) B 22678 PTE H VANDERVLIET (.) D 56842 PTE A ST LAURENT (.) K 37377 PTE G A MACDONALD (.) F 30085 PTE J H MCKENZIE (.) F 56576 PTE J B MACDONALD (.) G 49722 PTE J D A MAZEROLLE (.) G 2650 PTE G GIBSON (.) D 59372 PTE G DAIGNEAULT (.) D 6831 PTE W F CHARD (.) L 108448 RFN C P CHRISTIANSON (.) E 22490 PTE M COUTURE (.) F 36113 PTE L H BANKS (.) B 92782 SPR W AGNEW

DEFENSOR

This message may be sent in CLEAR

Important 141130 Q JAN

E.L. McCormack
for (R.J. Brigadier, Capt
Judge Advocate-General

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario
10 Jan 46
HQS 8536-6 Vol 5
AGA 3(b)-2

Commander,
Camp Borden,
Ontario.

F.36113 Banks L.H.
SUS - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is AFA3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(9).

4. [illegible] be discharged with igaominy under CARO 1029(9).

5. [illegible] has been reviewed by CMDR who have recommended [illegible]

6. Ack.

(E.G. Weeks)
Major-General
Adjutant-General

JAG:
A/Col Carroll - Maj. Stilwell spoke re this and other files without FGCM proceedings.
May same be obtained, pls.
M.A. Stilwell. Maj

JAN 11 1946

Secretary
Courts - Martial Board of Review

2

SECRET
CONFIDENTIAL

AIR MAIL

Quote No. 10/Banks, L.H./1

CANADIAN MILITARY HEADQUARTERS

LONDON 7 Sep 45.

22-8-1972

The Secretary,
Department of National Defence,
OTTAWA, Canada.

F-36113 Pte Banks, L.H.

1. The m/n soldier is now serving a sentence of 18 months detention awarded by FGCM 22 Mar 45 for deserting His Majesty's Service after having been warned for action (AA Sec 12(1)(a)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 21 Mar 46.

3. This soldier enlisted 17 Sep 43 at Halifax, N.S. and he is now 20 years of age. His documents show no previous offences.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. The Neuropsychiatrist and S.F.O. who have examined this soldier state that he is an individual of average intelligence who appears to be conscientious and responsible, but who is inclined to be immature and somewhat dependent; that he states that he became increasingly nervous after he had been in action for some time until he felt he could not go into an attack for which he had been briefed; that he maintains he feels much better now, and is sure he could stand up to service in action again; and that his motivation is good.

6. In view of the serious nature of the offence of which this soldier has been convicted and the necessity for exemplary punishment in such cases, and since it is now not practicable to return this soldier to action in this theatre, it is considered that despite his previous clear record he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier has deliberately misconducted himself in order to avoid battle and he must have realized that his offence might lead to his discharge.

7. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original A.F.A3104 in respect of the FGCM held 22 Mar 45, on which this direction has been endorsed.

AR

MKeppard Major
for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters

Enc. 1.

Copy to OIC Records.

1/39B CMHQ 1000-57 40 P & S 3810 (E)

1

H.Q.C.55-B-1973 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

REDARD, R. D-170461 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 25 1945				JAG	NEW FILE	CR	19-9-45
OCT 9 - 1945	9-10-45	PA		JAG	Papers C.R. OCT 9 1945		
OCT 17 1945	26 OCT 45	PA		CMBR			
OCT 19 1945	18-10-45	PA		JAG	Papers C.R. OCT 18 1945		
OCT 25 1945	25 OCT 45	PA		CMBR	ER B.F. OCT 26 1945		
DEC 14 1945	14 DEC 45	PA		CMBR	DEC 14 1945		

CONFIDENTIAL H.Q.C.55-B-1973

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M.1-B-18093 A/DIS

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

MONTREAL, Que 16 Oct 45

The Secretary,
Department of National Defence,
OTTAWA, Ontario

3579
OCT 17 1945
File 55-B-1973
Clegd. to
Referred to JAB

D-170561 - Pte. BEDARD, R.

Ref HQC 55-B-1973.

1 Att hereto form for remission in respect to the marginally named soldier.

(E J RENAUD) Maj Gen
DOC ME No 4

ENCL

Wpt
Cmbl 4
25 Oct 45

AR

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-4-1977
District File No. N.1-B-16063 A/DIS

PART I

No. D170461 Rank Pte Name BEDARD, R.
Unit No. 44 C.I.B.T.C. St. Jerome

PART II

Date of Trial 23 Aug 45
Charge(s) Absenting himself without leave
Sentence 120 days detention
Date of Sentence 23 Aug 45
Confirmation -- (a) Authority: DOC
(b) Date : 23 Aug 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (~~commutation/mitigate~~)

balance of term of suspended sentence

Signed at MONTREAL this 6 day of Oct 45
(Appointment) (E.J. RENAUD) Major General, DOC
To be signed by the Remitting Authority personally. M.D. No. 4

PART IV

PROMULGATION

Remission (~~commutation/mitigation~~) promulgated and extracts taken at St. Jerome, Que. this 15th day of October 1945.

(A.F.X. LUPIEN) Lieut.-Adjt. Gen. List C.A.
Officer i/c Documents. Att No. 44, CI(B)TC

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-170461 Rank Pte Name BEDARD, R.
The sentence of 120 days detention awarded by District Court Martial on the 23 Aug 45 194 has been remitted ~~commuted~~ as at the 10 Oct 194 5 by Major-General E.J. Renaud
UNIT D.C.C. W.C.M.D. 4
Certified true Extract of Daily Orders Part II of No. 224 Place St. Jerome, Que. Date 15 Oct 45

Adjutant (A.F.X. LUPIEN) Lieut.-Adjt. Gen List C.A.
Att No. 44, C.I.(B)T.C.

~~Strike out and initial words not applicable.

H.Q.C. 55-B-1973 (JAG/D-5)

9th October 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

Standing
D-170481 Pte. R. Bedard,
Les. Fus. Mont-Royal, C.A.
~~Att'd. to Court-Martial~~ 44 C.A.

3rd October 5 M. 1-D-18093 (J)

Receipt is acknowledged of your dated 194 . , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

(R.J. Orde), Brigadier,

Judge Advocate-General.

LCC:jb

IN REPLY PLEASE QUOTE No. M. 1-B-18093 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
October 3rd, 1945.

P-132

REGISTERED

CENTRAL PENITENTIARY ARMY
CONF. ROOM
1296
OCT 5 1945
File 55-B-1973
Chgd. to
Delivered to 24

The Secretary
Department of National Defence
O T T A W A, Ontario.

STANDING COURT MARTIAL
D-170461, Private H. BEDARD,
Les Fusiliers Mont-Royal, C.A.,
att'd to C.I. (B) T.C. 44, C.A.

Reference your H.Q.C. 55-B-1973 (JAG/D-7), dated 25th September, 1945, enclosing the proceedings of the marginally-noted Standing Court-Martial.

2. Same are returned, herewith, for custody, as requested in paragraph 2 of your above-mentioned letter.

Justin Renaud
(E.J. Renaud) Major-General, Capt
for District Officer Commanding,
Military District No. 4.

enc.

17

MEDICAL OFFICER'S REPORT

124114

20 June 1945

I certify that No. D-170461 Pte Bedard, R.
of St-Jerome, Que is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer

(J.HETU)CAPT RCAMC (AF)
M.O. i/c M.I.R. #44 C.I.(B)T.C.

Station #44 CIBTC St-Jerome, Que.

Date Aug. 23rd 1945.

M. F. B. 246
50M—9-45 (5437)
H.Q. 1772-29-480

16

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.44 CA.(B)T.C,CA

le 23e jour d'août 1945 à 1000 heures,

pour le procès de D-170461 (Matricule) Private (Grade) R. BEDARD (Nom et prénoms)

F.M.R., CA, (Unité) attached to No. 44 C. I. (B) T. C., CA (Détachement, le cas échéant)

PRÉSIDENT: Major L.-J.-E. BELLEAU, Quartiers-Généraux, District Militaire No. 4

PROCUREUR: Capitaine (Grade) J.-E.-R. LABELLE (Nom et prénoms)

Quartiers-Généraux, (Unité) District Militaire No. 4 (Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) J.-M.-R. CYR (Nom et prénoms)

C.I.C.,CA. (Unité) att'd to No. 44 C.I. (B) T.C., CA (Détachement, le cas échéant)

VERDICT

La cour déclare l'accusé, D-170461, Private R. BEDARD, F.M.R., CA, attached to No. 44 C. I. (B) T.C., CA, coupable à l'égard du chef d'accusation.

SENTENCE:

La cour condamne l'accusé, D-170461, Private R. BEDARD, F.M.R., CA, attached to No. 44 C.I. (B) T.C., CA, à la détention pendant c ent-vingt jours.

Signé à St-Jérome, P.Q. ce 23e jour d'août 1945.

(L.J.-E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39778 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 21 day of Sept 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. [redacted]

Réponse: [redacted]

Question à l'accusé. Vous opposez-vous à D-126762, S/M (WOI) Joseph La Rivière, No. 4 Det., CMSC, CA comme sténographe ?

Réponse: Non, monsieur.

Le sténographe [redacted] est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur le chef mentionné dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du [redacted] chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse: .....

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: .....

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: .....

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

14

Lt/Sullivan Major
Pres. Cmt.

"B2"

No. 44 C. I. (B) T. C.
St. Jerome, Que.

CHARGE SHEET

The accused, D-170461 Pte. BEDARD R., F.M.R. (C.A.), attached to No. 44 C.I.(B)T.C. (C.A.), St. Jerome, Que., a G.S. slodier of the Canadian Army placed on Active Service is charged with:-

CHARGE
SEC 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

In that he

At St. Jerome, Que., at 0200hrs on the 3rd of January 1945, absented himself without leave from No. 44 C.I.(B)T.C. (C.A.), St. Jerome, Que., until he surrendered himself to Military Authorities at Montreal South, Qu., at 1530hrs on the 10th of August 1945.

Signed on this 16th
day of August 1945
at St. Jerome, Que.

C. McPherson
(C. Mc PHERSON) Major
A/O.C. No. 44 C.I.(B)T.C.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au .....
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

(voir la page CC-3 ci-jointe)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d). Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

Monsieur le président,

Je ne peux pas donner grand'chose comme raison. Ce sont mes parents qui m'ont conseillé de laisser l'armée. Je regrette d'avoir parti. Il y a une grosse famille chez nous; nous sommes douze enfants et j'ai dix-neuf ans seulement. Je suis le deuxième; le dernièr n'a seulement qu'un an. Ca faisait onze mois que j'étais dans l'armée quand je me suis absenté. J'ai fait mon "basic" et mon "advanced".

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

(voir la page E-3 ci-jointe)

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

PLAIDOYER DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE

Monsieur le président,

Je n'ai que quelques mots à dire pour demander la clémence de la cour envers l'accusé Bédard qui, avant sa première offense, avait été onze mois dans l'armée et n'avait jamais eu la moindre tache sur sa feuille de conduite.

L'accusé Bédard était un solda t N.R.M.A., et losque la grande campagne de recrutement a été lancée l'an dernier, alors que les renforts manquaient, l'accusé, qui était à Petawawa, a signé "actif", lorsque des officiers du district sont allés faire du recrutement là-bas. Il s'est en venu à St-Jérome faire son entraînement afin de traverser "overseas". Ce n'est que lorsque ses parents furent au courant qu'il était pour partir, et sous la pression de sa mère qui était malade, que la volonté lui a manqué et qu'il est parti A.W.L.

Il s'est rapporté lui-même en habit militaire.

Vu son jeune âge, ainsi que la bonne volonté qu'il a manifesté en s'enrôlant, je demanderais la clémence de la cour.

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT No.44 C.I. (B) T.C.

PART II ORDERS

BY

LIEUT.-COLONEL P. BROSSEAU, E.D. - Commanding

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 4

STATION St-Jerome Que.,

DATE 5th January 1945

"Last Order Issued No. 3 dated 4 Jan 45"

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
13	ABSENCE WITHOUT LEAVE					
		D-170461	PTE BEDARD R.		AWL from 0200hrs	3Jan45

CERTIFIED TRUE EXTRACT:-

(P.A.D. LUPIEN) Lt. Ass/Adj.
No.44 C.I. (B) T.C.

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

S. F. D. 873A
(500,000-10-42 (6791)
H.Q. 1772-39-254

(SGD) (M.A. DESROCHERS) Capt. Adj.
No.44 C.I. (B) T.C.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG, Commanding No. 4 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-170461 Pte. BEDARD. Rene
(Number) (Rank) (Name in full)

of the F.M.R. att. T.C. 44, St. Jerome, Que.,
(Unit and attachment, if any)

Strike out words not applicable } ~~apprehended by~~ (surrendered to) D-114615 Sgt.
(Number) (Rank)

LOYER. P.A. No. 4 District Depot Police. C.A.
(Name) (Unit or appointment)

at Montreal South, Que., at 1530
(Place) (Hour)

on the 10th day of August 19 45

Strike out words not applicable } ~~a deserter~~ (or absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military ~~(or force)~~ uniform ~~(and carrying arms)~~

Dated at Montreal South this 10th day of August 19 45

S. Echenberg
(S. ECHENBERG) Colonel
(Rank) (Appointment)
Commanding No. 4 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

ARTICLES	VALUE	
"C"		
1C 950 Brushes Shaving		42
1C 1000 Brushes Tooth		09
1C 1100 Comb		04
1C 1350 Holdalls		22
1C 1400 Housewife		35
1C 1650 Nectie Black		19
1C 1700 Pin collar Safety		06
1C 1850 Razor Safety Set.		42
1C 2250 Sticks button		04
2C 2400 Towels Hand		62
	3	61
75% Vocabylary Rate	2	71

ARTICLES	VALUE	
"D"		
1 Badge Cap		09
75% Vocabulary Rate		07
"1A"		
1-1A 1450 Bags Rations MK IV		04
75% Vocabulary Rate		03
GRAND TOTAL	41	88

RECORD of the Declaration of a Court of Inquiry assembled at St-Jerome Que., on the 26th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.D-170461 Pte BEDARD R. F.M.R.(C.A.) att'd to No.44 C.I.(B) T.C. St-Jerome Que.,

DECLARATION

The Court declare that No. D-170461 (Regt'l No.) Private (Rank) BEDARD R. F.M.R. (C.A.) Att'd to No.44 C.I. (B) T.C. St-Jerome (Full Name) (Unit) illegally absented himself without leave from No.44 C.I. (B) T.C. St-Jerome Que., at St-Jerome Que. (Place) at 0200 hours on the 3rd day of January 1945, that he is still so absent, and that on the 26th Day of January 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
"A"			3B 7950 Shirts Cotton Khaki	4	62
1A 250 Dressing First Field		22	1B 7800 Puttees Drab prs.		97
1A 13000 Gl WI. khaki U.		66	2B 8600 Shirts Woolen	2	40
1A 13700 Greatcoat Drab	15	54	4B 8850 Socks Army Prs.	1	84
1A 24660 Overshoes 4Buckles	2	04	1B 10200 Trousers B.D. srg	6	55
	18	46		33	63
75% Vocabulary Rate.	13	85	75% Vocabulary Rate	25	22
"B"			"C"		
1B 300 Beret Khaki	1	20	1C 600 Braces		28
1B 450 Blouse Battle Dress	6	50	1C 750 Brushes boot pol.		21
1B 700 Boots Ankle Army Prs.	5	82	1C 800 Brushes botton		11
2B 3550 Drawers Woolen	2	80	1C 850 Brushes Cloth		17
1B Mufler Khaki		93	1C 900 Brushes Hair.		39

(L.T. Chartrand) Lt. CIC (Name) (Rank) (Unit) President

Att'd to No. 44 C.I.(B) T.C. (Name) (Rank) (Unit) Member

Signed at St-Jerome Que.,

St. Jerome, Que. (Name) (Rank) (Unit) Member

this 26th Day day of January 1945

Signature of Commanding Officer (P. [illegible]) Lt.-Col. R.de Mais. (Name) (Rank) O.C. No.44 C.I.(B) T.C. (Unit)

Certified true copy [illegible] Lt. C.I.C. Assist.-Adj. (Rank) (Unit)
Att'd to No.44 C.I.(B) T.C. (Signature of Officer having custody of original record)
St-Jerome Que.,

M.F.B. 375
A.F.B. 115
2093M—1-44 (3278)
H.Q. 1772-39-267

J. J. Belleau, Major,
Pres. GCM

M.F.B. 355
22M—5-41 (573-2)
H.Q. 1772-99-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-170461	Private	BEDARD R.	F.M.R. (W.A.), attached to No. 44 C.I.(B) T.C., St. Jerome, Que.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 days in military custody, making a total of 13 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 years, 8 months

6. The date of his attestation specified in his attestation paper 20 January 1944

7.

8.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

11. [redacted]

[redacted]

[redacted]

dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army / Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment / Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge on which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23 Aug 45 day of ..... (P.A.Y. LUPIEN) Lieut. Ass't-Adjt. No. 44 C.I.(B)T.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

5P/

N.R.M.A. 20-1-44

M.F.M. 8
(A.F.B.122)
750M—12-42 (7537)
H.Q. 1773-39-1052

No. D-170461 | Name BEDARD Rene | Sqn., Battery, or Company | Corps C.I.C. (R) | Date of enlistment 26Nov44 | G.C. Badges | Tradesmen's Rates of Pay | Character Major.

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. One. | Signature O.C. Company, etc. C.McPherson

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
St.Jerome, Que.				NEW SHEET CREATED WHEN ATTESTED G.S. 26 Nov 44.					
				CERTIFIED TRUE COPY					
				(M.DESROCHERS) CAPT. ADJT. NO.44 C.I.(B)T.C. ST.JEROME QUE.					

(P.T.O.)

H.Q.C.55-B-1973 (JAG/D-7)
Your M. 1-B-18093

25 Sept 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 170461 Pte. R. Bedard,
F.M.R.(CA) att. No. 44 C.A.(B) T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.L. Orde) Brigadier
Deputy Advocate General.

LJR/MM

THIS COPY FOR:

H.Q. C. 55-B-1973
M.D. M. 1-B-18093

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-170481 Name R.BEDARD

Rank Pte. Unit F.M.R.(C.A.) Att No. 44 C.I.(B)T.C. C.A.

Charge AA 15 (1) AWL

Date of Crime 3-1-45

Date of Arrest 10-8-45 Charge Signed 16-8-45

Orders for D.C.M.

Place and Date of Trial A-12 C.I.T.C. C.A. 23-8-45

Sentence Detention 120 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 19778

Date 21-9-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 4

F.M.R. C.A. Att No. 44 C.I.(B)T.C. C.A.

ABSENT

7½ mos.

SENTENCE

Det. 120 days.

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M.1-B-18093

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, P.Q.
September 17, 1945

Judge-Advocate General
National Defence Headquarters
OTTAWA, Ont.

C. 55-B-193

STANDING COURT-MARTIAL
D-170461, Private R. BEDARD,
FMR,CA, att'd to No. 44 CI(B)TC,CA

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court

b) Medic al Officer's Report, dated August 23, 1945.

2. Submitted for your information, consideration and approval, please.

(L.J.E.BELLEAU)Major,
Headquarters, Military District No. 4
President, Standing Court-Martial

encl.

39778

1

H.Q.C. C.55-B-1974 CONFIDENTIAL

M.F.B. 3478
ICM—3-G (6-44)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BELANGER, GUY E-630350 PTE.

CONFIDENTIAL
H.Q.C. C.55-B-1974

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 25 1945				JAG	NEW FILE	CR	19-9-45
OCT 3 - 1945				JAG	Papers C.R. OCT 6 - 1945		
				JAG	Papers C.R. OCT 11 1945		
OCT 12 1945	12				—		11.10.45
OCT 13 1945	10						
OCT 21 1945	20	PA	EKM		Papers C.R. OCT 19 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1974
(JAG/D-6)

OTTAWA, 20 October, 5

District Officer Commanding
Military District No 5
QUEBEC, Que

E-630350, Pte Guy BELANGER
GL CA, att No 5 DD CA

Receipt is acknowledged of your Q. 39-B-6912 (JA) dated 13 Oct 45, under cover of which you forwarded to this office for custody MPM 288, together with form Of remission, in respect of the m/n soldier.

EJM

for (R.J. Orde) Brigadier
Judge Advocate General

/jm

IN REPLY PLEASE QUOTE No. Q. 39-B-6912 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 13 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY Army
CONF. SEC.
3784
OCT 18 1945
Chgd. to C55-B-1974
Referred to Jab

REMISSION OF SENTENCE

E-630350 Pte Guy BELANGER
GL CA Att No.5 DD CA.

1. Ref HQC. 55-B-1974 (JAG).

2. A remission of sentence in this case has been granted w.e.f. 6 Oct 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-B-1974(JAG)
District File No. Q.39-B-6912 (JA)

PART I

No. B-630350 Rank Private Name Guy BELANGER

Unit GL.CA. Att. No.5 DD.CA.

PART II

Date of trial 14 Sep 45.

Charges AA: Sec. 12(1)(a) -- Sec 24(2)

Sentence 10 months detention & stopp for $17.46.

Date of Sentence 14 Sep 45.

Confirmation - (a) Authority Standing Court-Martial MD No.5.

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to B-630350 Pte. GUY BELANGER, GL.CA. Att. No.5 District Depot CA, effective 6th October 1945.

Signed at QUEBEC, P.Q., this 4th day of October 1945.

Edmond Blais

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon, P.Q.

this 9th day of October 194 5

(W. G. LAMOCHE) Capt.
NCOS Att. No. 5 DD
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. B-630350 Rank Pte Name BELANGER Guy

The sentence of 10 months detention Stopp $ 17.46

awarded by Court-Martial on the 14 Sep 194 5

has been remitted

on the 6th Oct 194 5 by Brig. EDMOND BLAIS CBE MC

D.C.C. M.D. 5

Unit No 5 District Depot

Certified true Extract of Daily Orders Part II of Lauzon

No. 249 Place Date 9 Oct 45

(W. A. LEDOUX) Capt.
Asst.Adjt.Att.5DD
Adjutant.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-630350 (Number) Pte. (Rank) G. BELANGER (Name in full)

Liste Generale. (Unit) AttNo.5 DD (Attachment (if any))

Sentenced to 10 months det.

on 14 Sep 45 at Lauzon, Que.

being served at Val. Mil. DEt. Barrks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years 3 months. 4-10-43

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General. (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~xxx~~committed ~~to~~ undergo his sentence, which I recommend should (~~xx~~) be ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ reviewed on 14 February 1946. for reasons given in paragraph X.

Place QUEBEC QUE

Date 3 Oct 45.

Edmond Blais
(Edmond BLAIS) - Brigadier,
DOC MD No.5,
(Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to.....) (of which I remit.....) (be suspended) (be put into execution) (and) be reviewed on.....

Place.....

Date.....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To.....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on..... and sentenced to..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place.....

Date.....

(Confirming Authority)

M.F.M. 289
(Army Form A-3104)
15M—5-43 (441)
H.Q. 1770-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
4 Oct 45.	Remission of Sentence w.e.f. 6 Oct 45.	Edmond Blais (Edmond BLAIS) Brig DOC MD No.5.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA SEC 12(1)(a) AWL from 1200 hrs on 29 Dec 44 until he surr. at 1445 hrs on 31 Aug 45.	29-12-44	14-9-45
AA SEC 24(2) LOS BY NEGL HIS EQUIP CLOTH AND REGT'L NEC. for $17.46	8-9-45	14-9-45

Signature of Officer making entry: Tiger Nivières Capt.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
29 Sep 45	In view of this soldier's character it is requested that his sentence be reviewed at a later date	Paul Mathieu (PAUL MATHIEU) Colonel

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
3 Oct 45.	Remission of Sentence to be considered on 14 Feb 46.	Edmond Blais (Edmond BLAIS)-Brigadier DOC MD No.5.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

K. 24-1-28 (AQ)

DEPARTMENT OF NATIONAL DEFENCE

- ARMY -

Kingston, Ont.
10th October 1945.

District Officer Commanding,
Military District No. 5,
QUEBEC, Que.

CENTRAL REGISTRY ARMY
2255
OCT 11 1945
File C55-B-1974
Diary No.
Referred to

Secretary,
Department of National Defence, (For Information)
Ottawa, Ontario.

Standing Court-Martial
E-630350 Pte. Guy HELANGER
GL CA Att No. 5 DD CA

1. The undermentioned letter, received from National Defence Headquarters this date in error, is forwarded.

HQC 55-B-1974 (JAG/D-5) dated 9th October 1945 and addressed to the District Officer Commanding, Military District No. 5, Quebec, Que.

(F.L.Armstrong) Brigadier
District Officer Commanding
Military District No. 5.

HLH/MES

as Enclosures
CR (conf)

2

HLQ.C. 55-B-1974 (JAG/D-5)

9th October, 1945.

District Officer Commanding,
Military District No. 5
Quebec, Que.

Standing
E-630350 Pte. Guy Delanger
GL CA Att No. 5 DD CA
.....Court-Martial

Q. 39-B63912 (JA)

3 October 5

Receipt is acknowledged of your Standing dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

EAM
for (R.J. Orde), Brigadier,

LCC:jb

Judge Advocate-General.

ar.

CANADA

IN REPLY PLEASE QUOTE No. Q. 39-B-6912 (JA)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 3 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT.

CENTRAL REGISTRY Army
CONF. SEC.
1627
OCT 6 1945
File CJS-B-1974
Chgd. to
Referred to JAG.

STANDING COURT-MARTIAL
E-630350 Pte Guy BELANGER
GL CA Att No.5 DD CA.

1. Ref HQC.55-B-1974 (JAG/D-7) dated 24 Sep 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier,
District Officer Comman ding
Military District No.5.

DEF. B. 440
1-9-44 (4321)
(772-39-767)

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à 5DD. A.C., Lauzon, P.Q.,

le quatorzième jour de septembre 1945 à 1028 heures,

pour le procès de E-630350 Soldat Guy BELANGER
Matricule Grade Nom et prénoms

Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C.,
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, Quartiers-Généraux, Région Militaire No.5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent, Quartiers-Généraux, Région Militaire No. 5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant J.Y.BERNIER,
OU AVOCAT Grade Nom et prénoms

R.C.E., attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

" LA COUR DECLARE LE PREVENU:-"

Mat. E-630350 Soldat Guy BELANGER, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C., innocent de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation et coupable sous le deuxième chef d'accusation.

SENTENCE: " LA COUR CONDAMNE LE PREVENU:-"

Mat. E-630350- Soldat Guy BELANGER, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C., à subir une peine de dix (10) mois de détention et à une supression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, à savoir:-$17.46."

Signé à 5DD, A.C., Lauzon, P.Q., ce quatorzième jour de septembre 1945.

Pierre Decary
Major,
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No 39779 in the Record of Courts Martial kept in the office of the Judge Advocate-General this 21 day of Sept 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.*~~ ~~Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à - - - Mlle HELENE LAVOIE - - - - - - - - - - comme sténographe ?

Réponse: Non, monsieur.

(POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir document marqué "F" ci-joint)

Le sténographe ~~et l'interprète (le cas échéant)~~ ~~sont~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.*~~ ~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le - - - deuxième - - - - - - chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

"B-2"

(PIERRE DECARY) MAJOR
PRÉSIDENT, G.C.M.

5

ACTE D'ACCUSATION

Le prevenu E-630350 Soldat Guy BELANGER, Liste Generale, A.C., attache au Depot Regional No.5, A.C., un soldat N.R.M.A. de l'armee canadienne mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE,
DESERTE LE SERVICE DE SA MAJESTÉ,

en ce que,

a Lauzon, Que. a 1200 heures, le 29 decembre 1944, il s'est absente sans permission du Depot Regional No.5, A.C., jusqu'a ce qu'il se livre aux autorites militaires, a Lauzon, P.Q., a 1445 heures, le 31 aout 1945, en uniforme militaires.

DEUXIEME CHEF
Art. 24(2)
Army Act

D'AVOIR PERDU PAR NEGLIGENCE SES
EFFETS D'EQUIPEMENT D'HABILLEMENT
ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Lauzon, P.Q., le 8 septembre 1945, il etait deficient des articles suivants:

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "A"		
1 Coat waterproof army	6.91	5.18
2 Dressing first field	.44	.32
1 Mitts leather pr	.93	.70
1 Rubber black pr	.62	.46
HABILLEMENT DIVISION "B"		
1 Boots ankle pr	5.82	4.36
2 Drawers woollen	2.80	2.10
1 Jersey Pullover	1.65	1.24
2 Shirts woollen	2.80	2.10
1 Braces pr	.28	.21
HABILLEMENT DIVISION "C"		
1 Comb hair	.04	.03
1 Holdall	.22	.16
1 Housewive	.35	.26
1 Pin collar safety	.06	.04
1 Towel hand	.31	.23
1 Badge cap	.09	.07
TOTAL:	$ 23.32	$ 17.46

Lauzon, Que.
10 septembre 1945

(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent 5e District Militaire.

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse:

.....Non, monsieur.....

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~Le témoin étant dûment assermenté, est interrogé par le procureur.~~

~~Question.~~

" LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE "

1.- Un extrait certifié des Ordres Partie II, Ordre No. 3, en date du 4 janvier, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2.- Une formule M.F.M.216A, en date du 31 août, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-

- LE PROCUREUR N'A PAS DE TEMOINS A APPELER-

- LA POURSUITE EST CLOSE-

-o-o-o-o-o-o-o-o-o-o-

~~Le poursuivant n'a plus de témoins à appeler.~~
~~La poursuite est close.~~

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sous serment. (voir page D-3 et suivantes).

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

Question à l'accusé. ~~Est-ce uniquement un témoin à l'appui de votre réputation?~~

Réponse:

D-3

TEMOIN POUR LA DEFENSE:-

L'accusé:- Mat. E-630350- Soldat Guy BELANGER, Liste Générale, A.C., attaché au Dépôt Régional No.5,A.C.

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR:-

Q.- Soldat Bélanger, est-ce que vous voulez dire à la Cour depuis quand vous êtes dans l'armée?

R.- Depuis le 4 novembre, 1943.

Q.- Est-ce que vous appartenez à une grosse famille, ou bien si vous êtes fils unique?

R.- Je suis fils unique.

Q.- Est-ce que votre père vit encore?

R.- Oui, monsieur.

Q.- Est-il encore capable de travailler?

R.- Non, monsieur.

Q.- Est-ce que vous avez déjà demandé une exemption pour aider à votre père?

R.- Oui, monsieur.

Q.- Est-ce que vous avez eu l'exemption?

R.- J'ai eu une exemption. J'ai fait une autre demande, je n'ai pas eu de nouvelles.

Q.- Pourquoi vous êtes-vous absenté?

R.- Parce-que mon père avait besoin de moi. Autrefois je travaillais à la Manufacture de laine avec lui, depuis quatre ans. Mon père souffre d'ulcères d'estomac, il m'a demandé d'aller travailler avec lui, j'y suis allé.

Q.- C'est ça que vous avez fait pendant votre absence?

R.- Oui, monsieur.

Q.- Pourquoi êtes-vous revenu ici?

R.- Parce-que le Député est venu chez-nous, il m'a dit de me rapporter et qu'on règlerait cela le plus vite possible parce-que chez-nous avait besoin de moi.

Q.- Est-ce que vous aviez l'intention de déserter quand vous êtes parti?

- PAR LE PROCUREUR:-

Objecté.

- OBJECTION MAINTENUE PAR LA COUR-

D-5

Q.- Est-ce que vous voulez dire à la Cour quelles étaient vos intentions par rapport au service militaire?

R.- Mon intention était de rester dans l'armée si chez-nous n'avaient pas eu besoin de moi.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:-

Q.- Bélanger, on vous accuse d'avoir été absent du 29 décembre 1944 au 31 août cette année. Est-ce que c'est vrai?

R.- Oui, monsieur.

Q.- Où est-ce que vous avez travaillé pendant ce temps-là?

R.- J'ai travaillé dans le bois.

Q.- Tout ce temps-là?

R.- Oui, monsieur, une partie du temps.

Q.- Le reste?

R.- J'ai travaillé pour mon père.

Q.- Depuis quand est-il malade votre père?

R.- Depuis dix ans comme faut, il souffre d'ulcères d'estomac, il est au régime depuis très longtemps.

Q.- Pourquoi avez-vous choisi au mois de décembre, la fin de décembre pour vous absenter?

R.- Parce-que j'ai fait une demande d'exemption, j'ai eu aucune nouvelle d'exemption. Chez-nous ont écrit; ils m'ont dit qu'ils avaient grandement besoin de moi.

Q.- Vous êtes-vous informé du résultat de votre demande d'exemption?

R.- Oui, monsieur.

Q.- Où?

R.- A Lauzon?

Q.- A qui?

R.- Celui qui s'occupe des demandes d'exemption.

Q.- Qu'est-ce qu'ils vous ont dit?

R.- Ils ont dit qu'ils n'avaient pas eu de réponse.

Q.- Qu'est-ce qu'il a votre p;ère?

R.- Des ulcères d'estomac.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

- LE TEMOIN REPREND SON SIEGE-

Le Procureur soumet la cause telle que prouvée et l'Officier-Défenseur prononce une plaidoirie.

-0-0-0-0-0-0-0-0-

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au deuxième - - - - - - - - - - - - chef d'accusation, il est déclaré coupable de ladite accusation.

LA COUR AU PROCUREUR:- "Avez-vous quelque chose à dire au sujet de la deuxième charge?

LE PROCUREUR:- "Si l'accusé avait plaidé non coupable j'aurais établi à l'aide d'une formule 375 et du témoignage du quartier-maître que le 8 septembre 45 il manquait à l'accusé des effets pour un montant de $17.46".

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: " Oui, monsieur. (L'accusé, par son Officier Défenseur, dit:) Le soldat Bélanger reçoit des appels pressants de sa famille. Pour remplacer son père malade il a demandé une exemption de service, laquelle lui fut refusée. Bélanger semble être un jeune homme qui subit l'influence du milieu. Il a subi l'influence d'autres personnes, il a suivi le conseil de son oncle, le Député, il est venu se rapporter. Je demande à la Cour de juger son cas avec clémence. Ici j'ai une lettre du Député Ludger Dionne, adressée au Commandant du Camp Militaire de Lauzon, que je produis comme exhibit."

(" Ce document est lu par la Cour, marqué "I", signé par le Président et versé au dossier.)

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

" F "

" MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE"

" A 1030 heures, le quatorzième jour de septembre, 1945, la Cour s'est ajournée".

-o-o-o-o-o-o-o-o-

" A 1430 heures, le quatorzième jour de septembre, 1945, la Cour se rassemble".

-o-o-o-o-o-o-o-o-o-

- LE PROCES SE POURSUIT-

"G"

MAGRAUD

DAILY ORDERS PART II

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

by
Colonel Jean La Fontaine,
Commanding

No. 5 District Depot, C.A.

Order 3
4 Jan 45
LAUZON, Que.

22. ABSENT WITHOUT LEAVE:

E-630350 Pte. BELANGER, G. 1200 hrs 29-12-44

(Sgd) J. Dumas, Lieut.,
for: (G. BONHOMME) Capt & Adj't.,
NO 5 DISTRICT DEPOT
LAUZON, Que.

CERTIFIED TRUE EXTRACT

Benoit Taschereau Lt.
(B. Taschereau) Lieut.,
Assistant i/c Records,
No. 5 District Depot,
LAUZON, P.Q.

"H"

Pierre Decary

23

CERTIFICAT en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 1942, tel que publié dans COM. C. 1877 et dans l'ordre général 127 de 1942.

(PIERRE DECARY) MAJOR
PRÉSIDENT.

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné Lt-Col. G.L. TASCHEREAU T/O.C. NO 5 D.D. C.A.
(Matricule) (grade) (nom) (unité)

certifie par les présentes que E-630350 PTE.
(Matricule) (Grade)

BELANGER Guy.
(Nom au complet)

de Attache au Depot Regional No 5 A.C.
(Unité et détachement, s'il y a lieu)

Biffer les mots inutiles } XXXXXXXXXXX s'est livré à) D-610313 PTE.
(Matricule) (Grade)

LABONTE L.P.
(Nom) ats au Depot Reg. No 5 AC.
(Unité ou emploi)

à LAUZON P.Q. (Lieu) à 1445 (Heure)

le 31ieme jour de aout 19 45

Biffer les mots inutiles } comme déserteur XXXXXXXXXXXXXX et qu'au moment de XXXXXXXXXXXX portait l'uniforme de l'armée (XXXXXXXXXXXXX

Inc

B-345 Pierre Decary

(PIERRE DECARY) MAJOR

"I"

DIONNE SPINNING MILLS CO.

ST. GEORGE, BEAUCE, QUE.

- le 6 septembre 1945

GENERAL REGISTRY
SEP 7 1945
No. 6 DISTRICT DEPOT
LAUZON, QUE.

Lieutenant-Colonel G.L. Taschereau,
Commandant du Camp Militaire de
LAUZON, Cté. Lévis.

Monsieur le Lieutenant-Colonel,

RE: Bélanger Guy, E-630,350.

Ce jeune homme, qui est mon neveu, s'est présenté à votre camp la semaine dernière, sur ma recommandation.

Je connais bien sa famille évidemment, et ce sont de bonnes gens. Toutefois, ce jeune homme a été mal conseillé par des jeunes gens qui pourtant auraient pu donner de meilleurs avis et il n'a peut-être pas eu toujours une conduite irréprochable au point de vue militaire.

Tout de même, vu qu'il s'est rapporté volontairement à ma demande, s'il vous est possible d'user de clémence à son égard je vous en serais reconnaissant.

Votre bien dévoué,

Ludger Dionne

LUDGER DIONNE
Député de Beauce.

Leo

"Y"

Pierre Decary 27

M.F.R. 168
(PIERRE DECARY) MAJOR
H.Q. 1772-30-620
PRESIDENT, G.C.M.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-630350	Private	BELANGER Guy	N.R.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	AASec 15(1)	2 times
For		times	AA Sec 24(2)	1 times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct.~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act ~~Air Force Act~~ and dispensations with trial under ~~A.A. 73~~ A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for~~ beginning on the ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 14 days in military ~~Air Force~~ custody, making a total of 14 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 21 years, 3 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 4-10-43

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or military reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force or the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit .....dated....., and in his regiment (or, corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Unit Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(B. T ASCHEREAU) Lieut
Asst. Records Officer
No. 5 D.D. Luzon, Que

Signed this 14th day of SEPTEMBER 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. L-63350 Name BELANGER G. Sqn., Battery, or Company } Corps N.R.M.A. Date of enlistment } 4-10-43 G.C. Badges } Tradesmen's Rates of Pay } M.F.M. 6 (A.F.B. 122) 500M—11-41 (3496) H.Q. 1773-29-1653

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No one Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lauzon, P.Q.	2-8-44	Pte	nil	AA Sec15(1) AWL from 1330hrs 1-8-44 until 0950hrs 4-9-44. Total:- 33days, 20hrs 20mns	Documentary	10 days DET.	9-9-44	Major Geo. Gulmond	Forf 3½ days pay.
		AA		Sec Losing by neglect articles $10.35					Stop. $19.95
Lauzon, P.Q.	24-5-44	Pte	nil	AA sec 15(1) AWL from 1330hrs 24-5-44 until he surrend. at Lauson at 0830hrs 1-8-44. Total: 68 days, 19hrs	Documentary	14 Days BET	2-10-44	Col. Jean LAFONTAINE	Forf 59 days' pay.

CERTIFIED TRUE COPY
(E. TASCHEREAU) Lieut
Ass. Records Officer
No. 5 D.D. Lauzon, Que

PIERRE DECARY, MAJOR
PRESIDENT

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No E630350 Pvt Belanger. G.
of D D # 5 is in a good state of health,
and fit to undergo Trial by Court martial.

Thibault Capt
Medical Officer

Station Lauyan Guard Room

Date 14 Sept 1945

Medical Inspection Room
D.D. M.D. No. 5
SEP 14 1945
LAUZON, P.Q.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-39-480

. . . .

RESUME DE LA PREUVE

Procès de E-630350 Soldat Guy BELANGER, Liste Generale, A.C., attache au Depot Regional No.5, A.C.

ACCUSATIONS:

1) DESERTION

2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No.3 d/ 4 janvier 1945, a Lauzon, P.Q.
2. M.F.B. 375
3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE: P-48788 CQMS LEBLANC, Liste Generale, A.C. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

H.Q.C.55-B-1974 (JAG/D-7)
Your Q. 39-B-6912

24 Sept 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 630350 Pte. Guy Belanger,
Gen.List., C.A.,att.No. 5 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate General.

LJR/MM

THIS COPY FOR: H.Q. C. 55-B-1974
M.D. 2. 39-B-6912

NRMA

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. Z-630350 Name Guy BELANGER

Rank Pte. Unit Gen. List. C.A. Att No. 5 D.D. C.A.

Charge (1) AA 12 (1) (a) WOAS DESERTION....

(2) AA 24 (2) Losing by negelct.....

Date of Crime 29-12-44 (2) 8-9-45

Date of Arrest 31-8-45 Charge Signed 10-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. 14-9-45

Sentence Detention 10 mos. Stoppages 17.46

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39779

Date 21-9-45

MEMO Balance of sentence remitted by Conf. Auth. 6.10.45 (1) Guilty ANT.

M.D. 5
~~ABSENT~~
8 mos.

Gen. List. C.A. Att No. 5 D.D. C.A.
~~SENTENCE~~
Det. 10 mos.

GM-8-45(M-189)

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. Q:39-B-6912

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Quebec, P.Q., Sept. 17th. 1945.

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

C55-B-1974

STANDING COURT MARTIAL
E/630350, Pte. Guy BELANGER,
General List, C.A.,
(Att. to No.5 D.D., C.A.)

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major
Permanent President S.C.M.

39779

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

H.Q.C. 55-B-1975 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS CONVENED FILE

SUBJECT FIELD GENERAL — STANDING COURT-MARTIAL

BUCKLE, F. B-85885 PTE.

CONFIDENTIAL H.Q.C. 55-B-1975

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				D. Adm.	NEW FILE	CR	19-9-45
				JAB	To note	wof	21.9.45
SEP 26 1945	26.9.45	PA	wof		To note plse	JD	25-9-45
DEC 21 1945	04-1-45	PA	JSB	D. Adm.	Per Requisition G.R. DEC 12 1945		
JAN 3 1946	3/1/46	PA	SOL	admin	Per Requisition G.R. JAN 3 1946		
				admin	Per R... JAN 4 1946		
JAN 5 1946				CMBR	to note plse	SOL	4/1/46
JAN 10 1946	10/1/46	PA	was	CMBR	Per Requisition G.R. JAN 8 1946		
JAN 21 1946	21 Jan 46	PA	PMS	CMBR	PER D.F. JAN 20 1946		
FEB 5 1946				CMBR	Per Requisition G.R. FEB 3 1946		
FEB 4 1946				JAG	To note please	wan	4 2/46
FEB 5 1946					PER D.F. FEB 18 1946		
FEB 16 1946	16.2.46	PA	AB	JAB	Per Requisition G.R. APR 1 1946		
JUN 12 1946 JUN 11 1946		PA	was	WJR	Per Requisition G.R. JAN 9 1947		
JAN 2 1947	20-1-47	PA	JJ	WJR	Per Requisition G.R. JAN 10 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B85885 Pte Buckle Frank 32 Cdn C.T. Coy RCASC.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date)~~ ..... (1) GHG

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

1. To undergo retention for one hundred and eighty days.
2. To be put under stoppages of pay until he has made good the sum of six shillings and three pence in respect of costs of apprehension and return to unit.

(Sgd) ..... Judge-Advocate, if any. 14 Oct 43 Date awarded. (Sgd) G.H. Graham Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ Same.

(1. AA 57A. Delete if not used.)

(Sgd) E. A. McCusker.

Date 13 Oct 43. Commanding E.A. McCusker, Brig. D.D.M.S., 1 Cdn Corps. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused B85885 Pte Buckle F. 32 Cdn C.T. Coy RCASC. Date 14 Oct 43. Signature of Offr. R. Buckner Major 32 Cdn C.T. Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

AR-66

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF A3) 40/P & S/1698 (2864)

Convened by Order of Brigadier E.A. McCusker Comd 7 D M S 1 Cdn Corps dated 9 Oct 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B85885	Pte		Frank	Buckle	32 Can C.T. Coy RCASC

G.H. Graham Capt Branch

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) United Kingdom on (date(s)) 14 Oct 43 20 Oct 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed. GHG

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) GHG GHG

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 11.30 hours trial commences. GHG

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) GHG ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ GHG

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans ..... GHG~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... GHG~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: GHG

President	Major	G.H. Graham	2 Cdn Inf Bde HQ RCOC
Member	Capt	T.K. Stephens	7 Cdn A/Tk Regt RCA
Member	Lieut	D.J. Block	32 Can C.T. Coy RCASC
Judge-Advocate	—	—	
Prosecutor	Lieut	C.L. Thomas	32 Can C.T. Coy RCASC
Defending Offr	Lieut	J.R. Granger	32 Can C.T. Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B85885 Pte Buckle F. before arraignment make(s) (no) ~~(or)~~ plea. GHG (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. GHG

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(~~s~~), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(~~s~~) of Guilty to Not Guilty on the charge(~~s~~). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is ~~(are)~~ not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

[redacted]CORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. "E" and Ex. "E" respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

6pd

CHARGE SHEET

The accused, B.85885, Pte. Frank BUCKLE of 32 Cdn.C.T.Coy., R.C.A.S.C. and a soldier of the Cdn Army Overseas, is charged with, when on Active Service:-

First Charge
Sec 15(1) of
the Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

IN THAT HE

in the Field, absented himself without leave from 1200 hrs 18 May 43 until he was apprehended by the Cdn Provost Corps S.I.S. C.M.H.Q. in London at 0830 hrs. 29 Sep 43. Time absent 133 days, 20 hrs. 30 mins. Cost of apprehension and return to unit 6/11.

R Buckner Maj
(R.Buckner)Major,
Comd. 32 Cdn.C.T.Coy.,RCASC.

Field,
7 Oct. 43.

To be tried by Field General Court-Martial.

E A McCusker
(E.A.McCusker) Brigadier
D.D.M.S. 1 Cdn Corps.

Signed in the Field,
this 9th day of October, 1943.

MEDICAL CERTIFICATE (K.R. (CAN) 227

I certify that I have this morning examined No. B.85885, Pte. Buckle, F.

of 32 Cdn. C.T. Coy., R.C.A.S.C. and in my

opinion he is fit to undergo trial by Court Martial.

STATION: Field

J. Hon Gray Rodenick
Medical Officer.

DATE: 12 Oct. 43.

CFA95 (In lieu of AFA3)
40/P&S/1697 (2563)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-85885	Private	Frank	BUCKLE	32 Cdn Corps Tps Coy, RCASC.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and dated (date) 9 OCT 43 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court Martial ". [illegible]

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ [illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C.H. Sifton	2 Cdn Inf Div Sub Pk RCOC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	A Captain to be detailed by 7 Cdn A/Tk Regt, RCA	
A Lieutenant	to be detailed by 31 Cdn C.T. Coy, RCASC.	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in U.K. (Country.)

Date 9 OCT 43

R. A. McCusker (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(E.A.McCusker)

Commanding D.D.M.S. 1 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

PLEASE ADDRESS YOUR REPLY TO

No. _____ Rank _____

Name _____

Address B-3 Statement of Accused

Date _____

To the C.

Sir,

I respectfully being in a sound and proper mind as possible under the circumstances wish to make the following statement as my testimony in my behalf I am under no threatening to make to the truth of the statement but I am about to make

After completing six months Ultimatum prison for a civilian charge of [redacted] being concerned in a theft I was released under escort arrived at the Holden street R.P.S.C. where I was brought before a Col. and given a talking to by the man for Ultimatum that I would be Shot if I should be liable imprisonment again

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PLEASE ADDRESS YOUR REPLY TO

No. Rank

Name

Address

Date

and read various documents as to my character as an individual in my former Unit, "after serving on N.C.O. in Civil Unit"

I then was paraded to the O.C. of the Holding Unit where I was given another second talking to as to the error of my ways since last escaped ect. I was told by him that I must go to 1st Corps Pioneers and Sikhs had refused from the opportunity of going back to the Jat Div and Original Corps.

After being informed that the Major Oldfield that he which I was serving under was a former O.C. of mine I immediately paraded to the O.C. and made him aware that I was going to a Unit where I was known and that I believed I

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No. _____ Rank _____

Name _____

Address _____

Date _____

That I would not be given the same chance to soldier there as I would have been in a Unit where I could make a fresh start. But he convinced me that I should try it any way. And that he would write the O.C. about me and to give me all possible assistance as I could make good.

Upon arriving at the Unit with which I was attached I was paraded to the O.C. My sir. Dingwall who agreed to let by-gones be by-gones and that I was to start fresh afresh and behave my-self which I agreed to do, as a further effort of his sincerity I proceeded to play Rugby League the next day.

I said to my-self at last

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PLEASE ADDRESS YOUR REPLY TO

No. Rank

Name

Address

Date

4

Yes we getting a break. After returning from Leave I settled down and I became an efficient soldier, and was later interviewed by Capt West and Lt Manning who I assumed been my guests and my being ex-Pat. and was given a good job as Foreman and Waiter in the Officers Mess. While to my knowledge I gave satisfactory service for some time until Sect Cl. Hasty a former N.C. of mine saw me acting in the capacity of waiter. And pointed me, Major a new O.C. to disgrace of my course as a waiter, I felt. I felt hurt beyond expression knowing that my past crimes limited my future. And I went immediately to the Padre with

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PLEASE ADDRESS YOUR REPLY TO

No. ..... Rank .....

Name .....

Address 5

Date .....

my Complaint. He seemed anxious to do anything for me but give his regrets. I proceeded after to get drunk and forget all about trying to solder then I went AWOL for 9 days & returned to my Unit at the end of that time and was sentenced to detention. At my trial the Major expressed regrets at the circumstances of the case and informed me that in the future if at any time I wished to see him about any raw deal I was supposed to have had. He would gladly grant me 3 or 4 days leave in which I was to blow off steam. And he also added that immediately I was released he would give

PLEASE ADDRESS YOUR REPLY TO

No. _____ Rank _____

Name _____

Address 6

Date _____

ms a good job. But as for the
good job nothing can become of the
offer. Shortly after this I
provided in 7 days privileges
leave. With 3 night add 30 days
Will on leave I met my
Brother who is on Active
Service in this County. He
was beginning a pass upon
the day I was to return
to my Unit, I immediately
sent a request to my O.C.
asking for extension of 48 hrs
I received no reply to this
telegram even though I enclosed
return prepaid slip. Upon the
Advice of a Sgt in the English
Army I took it for granted
my request had been O.K.d
But upon return to my Unit

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PLEASE ADDRESS YOUR REPLY TO

No. _____ Rank _____

Name _____

Address _____

Date _____

I was charged by W.O.II. and found guilty and punished accordingly. But finding out in the meantime that a Cpl. and Sgt. of this Unit requested extension of 72 hrs and that this request granted. After this I completely lost heart with my Unit, I was under the impression that there was no hope for me and that I would never again have a chance to soldier. Some time after this I was detailed with the rest of my Platoon to participate in a scheme which lasted. We remained on the scheme for approximately two weeks after the expiration of one week. I received from the Paymaster at Colyale. also

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No. _____ Rank _____

Name _____

Address _____

Date _____

with other privates and N.C.O.s of my Platoon £7-00. The expense of the scheme is equally toilet necessities food each soon diminished this money. We then proceeded Dutch to Bodmin with returning vehicles. Bad luck was cast for the main part of our Platoon a Lt being in command. Upon arrival in Bodmin barracks, we turned over the vehicle and found we were unable to obtain any transportation to our Unit, and that after applying to the O.C. in charge of Operations we were unable to obtain housing or rations. We then had to fend for ourselves for two days. The time at work was to secure transportation to

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No. _____ Rank _____

Name _____

Address _____

Date _____

9.

our Unit we therefore had to
sleep in the bush at Boden
and beg and borrow food from an
English Officer Agent. And
necessitates on the last of our
few shillings being spent. I
returned to my Unit broke
nothing to smoke and hardly
any hygienic commodities such
as soap blades ect. left in my
possession. That was on May 16.
on May the 17. I had applied
for a Sixpence. In the meantime
I was informed on pay parade
I could receive no money
I the only one of all present to
be refused I could not get any
money at all. My pass was
granted I received 7/6 for my
Sat. and proceeded on pass

NATIONAL WAR EFFORT. PLEASE USE BOTH SIDES OF PAPER.

PLEASE ADDRESS YOUR REPLY TO

No. _____ Rank _____

Name _____

Address TO

Date _____

with this money. Wondering how on earth I was able to be an efficient soldier on absolutely nothing for the next two weeks. In this frame of mind I met friends who generously drink at their expense. I continued drinking the next day in a worse frame of mind as the day previous. I stayed my leave, knowing my wrong and I feared the O.C. would take I summoned F.W.O. Ont ~~been~~ awaiting to return to my Unit to undergo Detention which I been soon or later I must do so I kept putting it off and off until apprehended.

I might add that I

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PLEASE ADDRESS YOUR REPLY TO

No. _____ Rank _____

Name _____

Address 11

Date _____

feel age I have soldiered as well as any one in my Unit while I was with my Unit on 30 shilling a month and I also might add that for tidiness and cleanliness of waiters a number of Ship passes which were issued for the neatest soldier. I am able to soldier but not if I am expected to soldier on no money at all. I have been on that pay now for a long time approximately 2½ yrs and it is difficult to be efficient on 30 shillings a month at the price of Commodities these days. But I am with help from home I have been able to continue. At the time of

PLEASE ADDRESS YOUR REPLY TO

No. _____ Rank _____

Name _____

Address 18

Date _____

may absenting myself my
mind was poisoned by what I
think injuries accumulated upon
me. And upon returning to
my Unit I was brought before
my O.C. and charged with
desertion. Something impossible
for me to do. I volunteered
to fight for my Country which
I was all more than willing
to do. My father was gassed
and was killed in the last
war. All my life I have not
had the pleasure of being
able to go to him for advice on
account of that I came over
here to avenge this. Also I
disbelieved in the policy
under which our enemies

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PLEASE ADDRESS YOUR REPLY TO

No. _____ Rank _____

Name _____

Address 13

Date _____

were passing the years. As fact I will be and that no one had more patriotic views at that time than I had. But since then I have been over mes after another, very little money and plenty of detention, still my views are getting to be those of a very sorrowing soldier.

and not the views I figured I started with. I have been in this country since 1939. am still here and have been in action in Italy during that time. When I left Canada I had two children one a girl with whom I was an equal partner. Now through my foolishness I have lost them

NATIONAL WAR EFFORT. PLEASE USE BOTH SIDES OF PAPER

PLEASE ADDRESS YOUR REPLY TO

No. Rank

Name

Address 14 Date

My wife for some time has been
with out her allowance through
no fault of hers she is made to
suffer. By my foolishness I ask
the please be given the oppor-
tunity of securing one break in
this prison Army. Give me
a chance to accomplish my
original intentions, I will re-
imburse pay for some time more
and I will be help my wife
to be certain of obtaining her
a long sentence will mean
more suffering for her. So I
plead for a chance to be sent
over to the fight as soon as
I possibly can. As for my
being unreliable there I
assure this court that of
would be reliable as there than

NATIONAL WAR EFFORT. PLEASE USE BOTH SIDES OF PAPER

PLEASE ADDRESS YOUR REPLY TO

No. _____ Rank _____

Name _____

Address 15

_____ Date _____

any-where, for as much as I know I am a complete Swiss boys soldier, And my mind would be undisturbed knowing at last there some one cares good for every one and else my-self. Detention is not a cure or a punishment in my case as on several occasions I have been released from it for with far more better thoughts than I had before. I have try and understand my position a man whose Christian doctrine of his trust, But at the same time must admit is efficiency while with the habit. And in conclusion May I once more state the

NATIONAL WAR EFFORT. PLEASE USE PO

PLEASE ADDRESS YOUR REPLY TO

No. _____ Rank _____

Name _____

Address 16 _____

Date _____

fact that after four yrs of training I would not like welcome action. Also the Wife allowance and the condition of my pay-book.

Cpl Dunkle J

~~Statement Made in mitigation in the case of~~
Witness as to Character in case of B85885 Pte. Frank Buckle, 32 Cdn Corps Tps Coy. RCASC

C 11405 L/Sgt Bowen F.E of 32 Corps Tps Coy RCASC being called to examined under oath :-

Q. How long have you been the accused

A. Approximately 10 or 11 months.

Q. What do you know of his record.

A. I have been his N.C.O. since he came to the unit. He has always been willing to work and do a good job. On numerous occasions he has obtained passes for being the neatest and most efficient soldier in the platoon. The statement he makes about "Whalo" is perfectly correct.

Prisoner declines to cross-exam

R.P. 83 (b) complied with.

Statement made in mitigation in the case of B85885 Pte Frank Buckle of 32 Cdn Corps Tps Coy R.C.A.S.C.

In reference to my crime sheet which I have is very poor. Upon my release from civilian prison I was informed by Lieut-Col Bannich of ICASC R.O. that my crime sheet would not go against me in the unit unless I got into trouble. My previous record would be forgotten and I would be given every chance to soldier. I obtained a good job in the officers Mess which meant that I got £1/0/0 a month extra wages. I was on short pay of ~~£~~ £1/10/0 per month and that pound was more than welcome. To my knowledge I gave complete satisfaction. I was held in a position of trust with the officers bar monies and books. At that time I was content and satisfied until I was told that on account of my past record I could no longer work in the Mess. This meant I lost a pound and also a good job. Since then I received no pay on the pay parade when everyone in the unit was paid. With these thoughts in mind I went A.W.L. and on numerous occasions had intended to give myself up but I didn't like the idea of when I was going when I did give myself up, I held back.

I'd like to get back to my unit and if given the opportunity, I promise to soldier properly.

E 3

Witnessed by Accused

BB

I CDN. CORPS TPS.
COY. (32 COY.) R.C.A.S.C.
1800 hrs
OCT 2 1943
CANADIAN ARMY
OVERSEAS.

(2644) Ex. A.40 (5-4)

S.I.S. C.M.H.Q. PROVOST.

LONDON. 29th Sept.1943.

B.85885 Pte. BUCKLE F. 32 Tps. Coy. R.C.A.S.C. L GIN.REV. Corps.

A.W.L. since 18th May 1943.

EXHIBIT "A"

1. On information received from No.3 Cdn Provost Coy on Sept.25th 1943, that the s/m was working at Frith Street, Soho, the necessary enquiry was made by writer and Sgt.C.A.E.Taylor of the S.I.S. on the 29th inst.

2/SIS/T-2-140

2. The s/m was located in civilian clothes employed as painter at a Cafe, he was placed under arrest and escorted to Henrietta Street Detention cells, where I interrogated him as to his movements since 18th May, and obtained the following voluntary statement;

STATEMENT of B.85885 Pte BUCKLE F. R.C.A.S.C.

"I, B.85885 Pte BUCKLE F. 32 Tps Coy RCASC. have been arrested this date by L-Cpl.Matthew of the Cdn.Provost Corps S.I.S. and cautioned by him that I need not make any statement regarding my period of A.W.L., but whatever I do say may be taken down in writing and used as evidence. To show that I understand this caution, I sign my name here;

Sgd. 'Buckle F.'

"I was released from Lewes Goal on the 1st December 1942, having served my sentence of six months on a larceny charge. I was returned to my unit and remained with my unit until the 18th May 1943, when I received a pass to visit London. I did not go back to the unit since that date.

30Cdn Prov. 22nd Sept43.

I had enough money to stay around, and when my money was gone I started to look for work, doing odd jobs mostly around the East end. I could not obtain steady employment as I had no civilian identity card. I had no particular place to stay and moved from one rooming house to another.

I have worked as painter on and off for the past eight weeks with one Johnnie KINKBI at Frith Street, Soho, he did not know my name, only knew me as Frank. I have stayed at Kennington for the past two months. I have had no trouble with the Civil Police or other authorities since I went A.W.L. I have no other identity cards other than my Part 1 and 111 M.B.H. I was wearing civilian clothes when arrested."

ENDS. Witness. A.Matthew. Sgd. 'Buckle F.'

3. The s/m was very reluctant to give any information as to who he worked for, and with whom he had lived from time to time, stating that he had enough trouble in being AWL without bringing innocent civilians into it, in fact he did not wish to disclose anything. The painter with whom he was working was interviewed by writer, he claimed that BUCKLE whom he knew only as 'Frank' had only worked at odd jobs, and that he knew little about him. BUCKLE stated that he had been expecting to be arrested soon, as he felt that a comrade who had returned to the unit would disclose his whereabouts. He is being escorted to his unit this date.

CONCLUDED. HANDED OVER.

Sgt. 30.9.43. A.Matthew
Cdn.Prov.Corps.S.I.S.

APM/1-5

H.Q. 1 Cdn Corps
1 Oct 43

O.C.,
32 Cdn Corps Tps Coy RCASC

For your information, please.

Chas. J. Wilson Capt.
for (R.C. Risley) Major,
A.P.M., 1 Cdn Corps.

O.C.,
No. 3 Cdn Pro Coy

For information, please.

(R.C. Risley) Major,
APM - 1 Cdn Corps.

EXHIBIT

615

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. B.85885. Rank Pte. Name Buckle, F.

Unit 22 Can Trp. Coy. R.C.A.S.C. was arrested at LONDON (place)

at ~~0900~~ 0830 (hour) on 29 Sept. 43. (date) and that at the time of his arrest he was wearing (~~xxxxxxxxxxxxxx~~) or (Civilian clothes)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
29 Sept. 43.

Capt.
(W. Forn) D. A. P. M.,
London Area

Expense Voucher Re—:

Exhibit "D"

Ref: K.R. & O. (Can) 539

Reg. No. B85885 Rank Pte. Name Buckle, J. Unit 32 C. Tpo. Coy. R.C.A.S.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
30 Sept 43.	Escorts return fare from LONDON To C. Grindstead		4	7
	Prisoners single fare to LONDON From			
	Prisoners fare from London To C. Grindstead		2	4
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		6	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

Capt.

Q. 1000:55
8/483(3287)

Exhibit "A"
6th

SUMMARY OF EVIDENCE

in the case of

B.85885, Pte. Buckle, Frank

32 Cdn. C.T. Coy., R.C.A.S.C.

By the direction of the Commanding Officer, the Summary of evidence is taken on oath.

FIRST WITNESS: C.11607, L/Sgt. Bowen, F.E. of 32 Cdn. C.T.Coy., R.C.A.S.C. having been duly sworn, states:-

At 1200 hrs. Sunday 17 May 43, the accused whom I now recognise as Pte. Buckle, F. proceeded on a twenty-four hour pass. On checking the men on pass at 1200 hrs. Monday 18 May 43 it was noticed that the accused had not returned. He was duly reported as absent without leave from this Unit, as of 1200 hrs. 18 May 43.

The accused declines to cross-examine the witness.

F.E. Bowen
(F.E.Bowen)L/Sgt. C.11607,
32 Cdn.C.T.Coy.,R.C.A.S.C.

SECOND WITNESS: M.36743, L/Cpl. Matthew, A. of the Cdn. Provost Corps, S.I.S., C.M.H.Q., having been duly sworn, states:-

1. On information received from No.3 Cdn. Provost Coy. on Sept. 28th 1943, that the a/m was working at Frith Street, Soho, the necessary enquiry was made by writer and Sgt.C.A.E. Taylor of the S.I.S. on the 29th inst.

2. The a/m was located in civilian clothes employed as painter at a Cafe, he was placed under arrest and escorted to Henrietta Street Detention cells, where I interrogated him as to his movements since 18th May, and obtained the following voluntary statement:-

STATEMENT OF B.85885, Pte. BUCKLE, R., R.C.A.S.C.

"I, B.85885, Pte. BUCKLE, F. 32 Tps Coy RCASC, have been arrested this date by L/Cpl. Matthew of the Cdn. Provost Corps S.I.S. and cautioned by him that I need not make any statement regarding my period of A.W.L., but whatever I do say may be taken down in writing and used as evidence. To show that I understand this caution, I sign my name here:

Sgd: 'Buckle F."

"I was released from Lewes Gaol on the 1st December 1943, having served my sentence of six months on a larceny charge. I was returned to my unit and remained with my unit until the 18th May 1943, when I received a pass to visit London. I did not go back to the unit since that date.

I had enough money to stay around, and when my money was gone I started to look for work, doing odd jobs mostly around the East end. I could not obtain steady employment as I had no civilian identity card. I had no particular place to stay and moved from one rooming house to another.

I have worked as a house painter on and off for the past eight weeks with one Johnnie KIRKBY at Frith Street, Soho, he did not know my name, only knew me as Frank. I have stayed at Kennington for the past two months. I have had no trouble with the Civil Police or other authority since I went A.W.L. I have no other identity cards other than my Part I and III NRS. I was wearing civilian clothes when arrested".
ENDS. Witness. A.Matthew. Sgd. 'Buckle F.'

.....

3. The a/m was very reluctant to give any information as to who he worked for, and with whom he had lived from time to time, stating that he had enough trouble in being A.W.L. without bringing innocent civilians into it, in fact he did not wish to disclose anything. The house painter with whom he was working was interviewed by writer, he claimed that BUCKLE whom he knew only as 'FRANK' had only worked at odd jobs, and that he knew little about him. BUCKLE stated that he had been expecting to be arrested soon, as he felt that a comrade who had returned to the unit would disclose his whereabouts. He is being escorted to his unit this date.

CONCLUDED. HANDED OVER.

(Original statement attached as exhibit "A")

The accused cross-examines the witness:

Q.1: Do you realize that I was aware that you were returning for me the morning after you first called at the Frith St. Cafe?

A.1: Yes.

Q.2: Do you remember accompanying me while I picked up my uniform?

A.2: Yes.

(A.Matthew)L/Cpl. M.36743,
Cdn.Prov.Corps,S.I.S.,CMHQ

THIRD WITNESS: C.11614, Cpl. Rocheleau, A.R. of 32 Cdn. C.T.Coy., R.C.A.S.C. having been duly sworn, states:-

I am Cpl of Regimental Police of 32 Cdn. C.T.Coy., R.C.A.S.C. On 30 Sep 43 at 1500 hrs I reported to railway station at East Grinstead where I took over custody of accused, B.85885, Pte. Buckle, F. from his escort. The accused was properly dressed, his pay book, MBM.1, Parts I and III, and personal belongings were given to me along with the documents concerning his apprehension which I now present as exhibit "B".

The accused declines to cross-examine the witness.

Rocheleau Cpl.
(A.R.Rocheleau)Cpl. C.11614,
32 Cdn.C.T.Coy., R.C.A.S.C.

FOURTH WITNESS: C.11383, Cpl. McKortel, R.L. of 32 Cdn.C.T.Coy., R.C.A.S.C. having been duly sworn, states:-

On 5 Oct 43 I checked the kit of the accused and found it to be complete and not deficient any articles of equipment.

The accused declines to cross-examine the witness.

R L McKortel Cpl
(R.L.McKortel)Cpl. C.11383,
32 Cdn.C.T.Coy., R.C.A.S.C.

...../

After having been duly warned the accused declines to make a statement.

Certified that the Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this fifth day of October 1943, at FIELD.

(J.R.Grainger)Lieut.
Officer Taking Summary of Evidence,
32 Cdn.C.T.Coy.,R.C.A.S.C.

No. B85885 Name BUCKLE. F. Sqn., Battery, or Company } Corps R.C.A.S.C. Date of enlistment } 5 Sept 39 G.C. Badges } Service or Proficiency Pay }

M.F.M. 1 (A.F.B. 122) 17551-7-41 (1216-3) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet } N.A. No. and date of last drunk } N.A. Period not reckoning towards freedom from extra fine } Sheet No. 1 Signature O.C. Company, etc } Sgd: J. FitzRandolph, Major. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with O/Seas R.O. 2084 previous sheet destroyed on completion of six months service from date of attestation. Sheet destroyed 5-3-40. Last entry Nil. Cases of drunkeness Nil. Last instance N/A. Sgd: J. FitzRandolph, Major.									
Field	22-5-40	Pte	Y	Sec 15(1)AA A.W.L. from 2359 hrs 11-5-40 to 1430 hrs 22-5-40. T.A. 10 days 14 hrs 30 min.	Documentary	28 days detn 28 days pay FRI 149(1)(b)	22-5-40	Major Dean	Forf 11 days pay FR&I 149 (1)(a)
Field	7-9-40	Pte		Sec 15(1)AA AWL from 2300 hrs 7-9-40 to 0830 hrs 9-9-40. T.A. 1 day 9 hrs 30 min.	Sgt Aldridge.	168 hrs detn 28 days pay FRI 149(2)	10-9-40	A/O.C. Y	2 days pay FRI 149(1)(a)
Field	26-11-40	Pte		Sec 15(1)AA AWL from 2359 hrs 26-11-40 to 0150 hrs 27-11-40. T.A. 1 hrs 51 min. Y	Sgt Aldridge Cpl Tickner.	28 days detn 28 days pay FRI 149(1)(b)	27-11-40	Major Coombs Y	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25-11-40	Pte		Charged under Civil Law with: (1) Driving without a license (2) Driving an unlicensed Motor Vehicle. (3) Driving without a Road Fund License.		Fined £1-5-0.	3-3-41	Petty Sessions Court Haywards Heath Division Sussex.	
Field T	23-1-41	Pte	1	Sec 15(1)AA A.W.L. 16 days 14 hrs. T	Sgt Lawrence Sgt Boston.	98 days detn 98 days pay	24-3-41 Y	F.G.C.M.	25 days pay FRI 149(1)(a)
Field T	23-1-41	Pte	2 3	Sec 22 AA Escaping close arrest Sec 15(1)AA AWL 8 days 1 hrs 50 min.	Pte Bowley.	" " " " " "	" " " " " "	" " " " " "	33 days pay FRI 149(1)(c)(i)
Field	31-5-41	Pte		Sec 15(1)AA. AWL from 2230 hrs 31-5-41 to 1000 hrs 2-6-41. T.A. 1 day 11 hrs 30 min.	CSM Hayward	7 days C.B.	4-6-41 T	Lt-Col Poppock.	2 days pay FRI 149(1)(a)
Field	23-10-41	Pte		Sec 15(1)AA AWL from 2300 hrs 23-10-41 to 0645 hrs 24-10-41 T.A. 7 hrs 45 min. T	Sgt Livemore Cpl Davies.	10 days C.B.	25-10-41 Y	Major Hastie	1 days pay FRI 149(1)(a)

M.F.M. 5
(A.F.B. 1221)
175M—7-41 (1210-20)
H.Q. 1772-39-1653

No. B85885 Name BUCKLE. F. | Sqn., Battery, or Company | Corps R.C.A.S.C. | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27-10-41	Pte		Sec 10(4)AA Breaking out of quarters while C.B.	Sgt Reid. CSM McWain	10 days detn	29-10-41	Major Hastie	10 days pay FRI 149(1)(b)
Field	14-5-42	~~Pte~~ L/Cpl		Sec 40 AA Took M/c out of park after duty without authority	Pte English	Dep'd L/Stripe	18-5-42	W.A. McArthur Capt.	
Field	18-5-42	Pte		Sec 15(1)AA AWL from 2300 hrs 18-5-42 to 1200 hrs 22-5-42. T.A. 3 days 13 hrs.	L/C Whetton	28 days pay 149(2) T	24-5-42	W.A. McArthur Major	4 days pay 149(1)(a)
Field	4-7-42	Pte		Civil conviction: being concerned in theft of £57-0-0.	Haywards Heath Police	6 months imprisionment. H.L.	31-7-42	Petty Sessions Haywards Heath	184 days pay 149(1)(b) 19 days pay 149(1)(c)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6-2-43	Pte		Sec 15(1)AA AWL from 1200 hrs 6-2-43 to 2000 hrs 15-2-43. T.A. 9 days 8 hrs. T Y	L/Sgt Harding.	14 days F.P. 14 days pay FRI 149(1)(b)	16-2-43	R. Buckner Major.	10 days pay FR&I 149(1)(a) T
Field	26-3-43	Pte		Sec 15(1)AA AWL from 0600 hrs 26-3-43 to 1000 hrs 28-3-43. T.A. 2 days 4 hrs.	L/Sgt Harding.	14 days C.B.	29-3-43	R. Buckner Major. T	3 days pay FRI 149(1)(a) T
				CERTIFIED TRUE COPY OF ORIGINAL		(A.J. MacRae.) Lieut & Adjutant, 32 Cdn C.T. Coy., R.C.A.S.C.			

Exhibit "E" 6/8

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-520
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.85885	Pte.	Frank BUCKIE	32 Cdn.C.T.Coy., R.C.A.S.C.

1. The following is a fair and true summary of the entries in the Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Sec.15(1) Improper use WD Vehicle	2 times	8 times
For Sec.40	times	1 times
For Sec.10(4)	times	1 times
For	times	times

Number of instances of gallantry or distinguished conduct NIL

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. Previous convictions of the accused by a court-martial or a civil court, ARE SET OUT IN the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for NO days in civil custody, and 14 days in military custody, making a total of 14 days in custody, of which NO days were spent in hospital.

5. The present age of the accused according to his attestation paper is 29 years

6. The date of his attestation specified in his attestation paper is 5 Sep 39

7. The service which the accused is allowed to reckon towards discharge is NIL

8. The accused is entitled to reckon no service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A Air Force

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of ////// years.

In the rank of ////////// years.

In the rank of ////// years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number B.85885 Rank Pte. Unit

Name Frank BUCKLE of 32 Cdn.C.T.Coy.,R.C.A.S.C. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	24 Mar. 41 FIELD	(1) Sec.15(1) AWL 16 days 14 hrs. (2) Sec.22 Escaping close arrest. (3) Sec.15(1) AWL 8 days 1 hr 50 mins.	98 days detention Automatic FORFEITURES 98 days pay FR&I 149(1)(b) 25 days pay FR&I 149(1)(a) 33 days pay FR&I 149(1)(c)(i)	
CIVIL CHARGES				
1. Petty Sessions Court Haywards Heath Division, Sussex.	3 Mar. 41 HAYWARDS HEATH	(1) Driving without a license. (2) Driving an unlicensed motor vehicle. (3) Driving without a road fund license.	FINED £1/5/0	
2. Petty Sessions Court Haywards Heath Division, Sussex.	31 Jun 42 HAYWARDS HEATH	(1) Being concerned in theft of £57/0/0.	6 months imprisonment. 184 days pay FR&I 149(1)(b) 19 days pay FR&I 149(1)(c)	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this seventh day of OCTOBER 1943.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Exhibit "E" signed by the president, and annexed to the proceedings.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-85885 Pte BUCKLE, F. - 1 CASCRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA (15) see	GUILTY	GUILTY	
2nd AA (22)	GUILTY	GUILTY	
3rd AA (15	GUILTY	GUILTY	
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... ~~beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with Hard Labour for One (1) Year and to be discharged with Ignominy from His Majesty's Service

(Sgd) ..... Judge-Advocate, if any. 11 JUN/45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ N/A

(1. AA 57A. Delete if not used.)

Date 14 Jan 45 (Sgd) [signature] Brig Commanding 8 Group CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-85885 Pte Buckle, F.	15 Jun 45	[signature] (W.J. Stewart), Lt-col A/Comd Holding Wing 1 Cdn ASC Rft Unit

D.O. 141 d/16 Jun 45.

T.G. Chesnutt capt

OFFICER I/C RECORDS

CD 1 A.S.C. REIN. UNIT.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5M-9

CFA96 (In lieu of AF A81) 40/P & S/1096 (E) (A) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by order of Brig A.B. Connelly Comd "B" Gp, CRU dated 8 Jun 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-85885	Pte		Frank	BUCKLE	1 CASCRU

PROCEEDINGS REVIEWED 28 June 45 [signature] capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 11 Jun 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused :~~ ~~Do you object to~~ ..... ~~as interpreter ?~~ Ans .....

~~The Interpreter is sworn.~~(1) Do you object to CSM/Cpl Bourgault, M as shorthand writer ? Ans NO. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ? Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-Col	D.L. Redman, VD	HQ CRU
Member	Captain	G.A. KNOTT	1 CCOD
Member	Lieutenant	H.E. THORNE	1 CCOD
~~Judge-Advocate~~			
Prosecutor	LT	W.H. HARPER	1 CASCRU
Defending Offr	LT	J.C. DRAGER	1 CASCRU

Questions by President : Is the Prosecutor a lawyer ? Ans NO. Is the Defending Offr a lawyer ? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~of~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RF 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N.O.S.M. (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. NO - SIR

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. [illegible] (NOTE ATT) (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 58(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-85885 Private Frank BUCKLE, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 15 (1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

IN THE FIELD, absented himself without leave from 2200 hours 21 Feb 44 until 1500 hours 14 December 44 when he was apprehended by the Civil Police at Westminster, dressed in plain clothes.

TOTAL TIME ABSENT :- 296 days 17 hours

SECOND CHARGE
Army Act
Sec 22

WHEN ON ACTIVE SERVICE WHEN IN CONFINEMENT ESCAPING

in that he

IN THE FIELD, at 1 Cdn ASC Rft Unit at approximately 0200 hours 26 December 1944, when in confinement in the Unit Guard Room did escape.

THIRD CHARGE
Army Act
Sec 15 (1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

IN THE FIELD, absented himself without leave from 0200 hours 26 December 1944 until 0430 hours 28 May 1945 when he surrendered to the Unit Guard Room, 1 Cdn ASC Rft Unit.

TOTAL TIME ABSENT :- 153 days 2 hours 30 minutes

H.L. Pease
(H.L. Pease) Colonel RCASC
Commanding
1 Cdn ASC Rft Unit

IN THE FIELD
1 JUNE 1945

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

A.B. Connelly
(A.B. Connelly) Brig
Comd "B" Gp
Cdn Rft Units

IN THE FIELD
8 JUN 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-85885	Pte		Frank	BUCKLE	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 8 Jun 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	1 CCOD
Lieutenant	to be detailed by CO	1 CCOD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(A.B. Connelly) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 8 Jun 45

Commanding "B" Gp, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (8143)

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certif.
K.R. (Can) para 557

I certify that I have this morning examined No: B 85885
Pte. BUCKLE FRANK and in my opinion he is fit to
(rank) (name)

undergo trial by Court Martial.

Station: No 1 CRSC RU

Date: 11 Jun 45.

D. Herscovitch Capt
(Medical Officer)
1 Cdn A.S.C. Rft Unit

PAGE 02

[illegible] Private [illegible] F [illegible] I I A J C R U

E-3 The accused states:-

In reference to this, I was sent to a motorcycle accident in the field of AC. I hurt my private. They asked me to take an operation to which I said, "No", as I thought it was a very serious thing. I was sent to an English detention barracks where it was very hard. If I couldn't perform my duty in the unit, how could I be expected to go detention. I was finally sent to hospital. They took it out. Since that day, I have been no good.

[illegible] CRIMINAL [illegible] [illegible] TO [illegible] ARTH [illegible] (3).

E-3

PLEA IN MITIGATION OF SENTENCE

11th June, 1945.

B.85885 Pte.BUCKLE, F.

The accused having pleaded guilty on all three charges wishes the Court to take the following facts into consideration when passing sentence:-

Civilian Life

The accused had a very unhappy and unstable home life prior to enlisting in the Army in September 1939. He was born in England. His father was killed in the last war. His mother remarried and the family came to Canada in 1922 settling in Hamilton, Ontario. He was the youngest child and there were also about 12 step-children. He worked on a farm for approximately a year and a half. Tiring of this type of work he drifted around the country doing practically no work until he reached the age of 21 when he married; he now has two children. From the time he married till he enlisted in the Army he had no settled employment for any length of time and was on relief for three years.

Army Life

The accused's first offence in the Army was absence without leave. He had been injured on duty as a m/c'st and given a floating category. Having not been kept fully employed he developed a mental state of unrest and went absent for 16 days. When he returned he was sentenced to 28 days detention; the M.O., however, examined him and decided he was not fit to undergo detention; he was held in custody for 11 days then re-examined by the M.O.who this time decided he was fit to undergo detention. The accused was then sent to the Aldershot Detention Barracks to serve his sentence.

As a result of this the accused began to develope an obsessional persecution complex. His reasoning was that his O.C.and the M.O.had deliberately got together and agreed to "give him the works". This mental attitude is evident throughout all his offences in the Army since that incident. His state of mind had never been healthy because of his troubled civilian life, and for each offence he has comitted he is firmly convinced, within his own mind, that he had a good reason and was forced to take the actions he did. This state of mind has grown on the accused beyond all imaginable proportions and in spite of the report (exhibit "A") submitted by Major D.Lamb, Psychiatric Specialist, No.14 Cdn.Gen.Hospital,dated the 7th June, 1945, I strongly urge the Court to consider C.R.U.Admin.Instr.No.45 (Section 2 para.D) d/18 Jun 45 and deal leniently with the accused.

I beseech the Court to remember that it is the Army's duty to return this soldier to civilian life with a clean, healthy mind so that he can face the problems of a post-war world without fear or prejudice. I am quite convinced if the Court impose a severe sentence of detention on this soldier he will, before,release, be a chronic psycho-path, to all intents and purposes a raving madman.

Gentlemen of the Court this man's very life is in your hands as surely as if you held a loaded pistol to his head. It is your duty having found him guilty to punish him; it is also your duty to Canada to return a good citizen who has learned the lesson of properly administered justice. The accused fully realises that he is guilty and must be punished, he also will realise, if he is given a lenient sentence, that the Army is interested in his welfare. He has proved during his periods of absence when he was actually employed as foreman of a Bomb Damage Repair Squad in London that he is capable of filling the role of a citizen and accepting a citizen's responsibilities. Let us make sure that when he has been punished and repatriated to Canada he will still be able to fulfil these duties and not be a burden on the State.

J.G.Drager Lt.(Defending Officer)
1 Cdn ASC Rft Unit.

E-3

OUT PATIENTS DEPARTMENT No.....
NO. 22 CANADIAN GENERAL HOSPITAL

DEPARTMENT OF Neuropsychiatry.

No. B85885 Rank Pte Name Buckle F. Unit C.A.S.C. R.C.

Date of Enl. - Sept/39. Age 32 -

Date O/S - Dec/39 Category A -

DATE 7. June. 45.

DEMONT:-

AWOL - 1½ yrs. Sent to NP consultation previous to C.M.

History - Born in England. Father killed in last war. Mother remarried. Family came to Canada in 1922. Settled in Hamilton, Ont. Youngest of 4 siblings. There are about 12 stepsiblings.

School - Completed 1½ yrs Tech School - 15 yrs. Frequent truancy. Several times picked up for truancy. Appeared before magistrate for theft. In juvenile at age of 14 yrs - stealing - probated. Numerous police charges for vagrancy. Has served 1 wk in jail for theft. Other sentences 30 day periods for misdemeanors.

Difficult home environment. Stepfather's character. Frequent shifts. Did not get along with stepfather. He left home at 15 yrs. - went to work on farms for 1½ yrs - then travelled around the country doing jobs. Finally ended up at age of 21 yrs - married - thought this would keep him out of trouble - 3 children - Have seen little from him - apparently fairly considerate. Has had very little to do with our family after he left home. After marriage did a few odd jobs for relatives for 3 years. Had charge of shift and barrooms for a few months. Worked about 8-9 mos. for landowner at Jordan Harbour in 1937. Had 3 more wives for odd jobs before the war - 2 years. Wife also wounded.

Impression - A rather undisciplined individual who has never shown himself to be amenable to authority and discipline even from early youth. Raised in a somewhat unstable environment complicated by financial difficulties he has always been a quick tempered self centered individual, always in difficulties, quick to throw the blame upon others. Has been a rather chronic delinquent who has shown no ability of being able to profit by experience. A true psychopathic personality with many undesirable trends as evidenced by his school and work history. Has shown a lack of sustained effort and of proper social adjustment. Has many crimes, he blames on others, feels he has always been picked upon and he feels that his only reaction to this attitude is to go AWOL. He is quite aware of his irregular behaviour and is conscious of his limitations. He of average intelligence and there are no psychiatric reasons to prevent him from undergoing trial by court martial.

W. D. Rambo Major
Specialist, NPC

SUMMARY OF EVIDENCE

IN THE CASE OF B-85885 Private Frank BUCKLE, RCASC, on strength of 1 Cdn ASC Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st WITNESS (For the Prosecution)

Lt A.R. Mumford, RCASC, on strength of 1 Cdn ASC Rft Unit, having been duly sworn states:-

I am Lt A.R. Mumford, RCASC, on strength of 1 Cdn ASC Rft Unit, and pursuant to Overseas RO 5352 I produce the following documents relating to the accused, whom I now recognize, which have been read over and shown to the accused and which are attached hereto as Exhibits.

(a) Certified True Copy of Record of the Declaration of a Court of Inquiry, certifying that B-85885 Pte Buckle, F. illegally absented himself without leave from 1 Cdn ASC Rft Unit at 2200 hours 21 February 1944.
Marked Exhibit "A"

(b) AF 01618, Descriptive Return of a Deserter or Absentee Without Leave, purporting to be signed by J.P. Saudbach, Marlborough St Police Court, London, certifying that B-85885 Pte Buckle, F. was apprehended at Westminster at 3:00 p.m. on 14 December 1944, wearing plain clothes.
Marked Exhibit "B"

(c) Certified True Copy of Record of the Declaration of a Court of Inquiry, certifying that B-85885 Pte Buckle, F. illegally absented himself without leave from 1 Cdn ASC Rft Unit at 0200 hours 26 December 1944.
Marked Exhibit "C"

(d) Certificate under P.C. 2797 of 10 Apr 42, purporting to be signed by Colonel H.L. Pease, Commanding 1 Cdn ASC Rft Unit, certifying that B-85885 Pte Buckle, F., surrendered himself to M-107392 L/Cpl Bell, W.E. at the Unit Guard Room, 1 Cdn ASC Rft Unit at 0430 hours 28 May 1945.
Marked Exhibit "D"

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

A.R. Mumford
(A.R. Mumford) Lt RCASC

2nd WITNESS (For the Prosecution)

K-25840 Sgt Hunter, W.E., RCASC, on strength of 1 Cdn ASC Rft Unit, having been duly sworn states:-

I am K-25840 Sgt Hunter, W.E., RCASC, on strength of 1 Cdn ASC Rft Unit. On 26 December 1944 I was employed as the Cpl in charge of No 1 detail of No 1 Guard Room, 1 Cdn ASC Rft Unit and I made my rounds hourly. I inspected the cells at 0100 hours on 26 December 1944 and I saw B-85885 Pte Buckle, F., the accused, whom I now recognize, in his bed. At approximately 0155 hours 26 December 1944 while making my rounds on the outside of the Guard Room of Blenheim Barracks, I discovered a hole in the wall of the room containing the urinal. I immediately went into the guard room and I could not find B-85885 Pte Buckle, F. I did not see him again until 28 May 1945.

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS

W.E. Hunter

(K-25840 Sgt Hunter, W.E.)

The accused was cautioned as follows, "Do you wish to make a statement or give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME

I hereby certify that the foregoing Summary of Evidence consisting of Two (2) pages was taken down by me in writing in the Field on this 1st day of June 1945 in the presence and hearing of the accused and that R.P. 4 (c) (d) (e) and (f) have been complied with.

W.H. Harper Lt

(W.H. Harper) Lt RCASC
Officer detailed to take
Summary of Evidence.

E+A
VMy

IN THE FIELD
1 JUNE 1945

Exhibit A

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Blenheim Barracks, Farnborough, Hampshire on the 15th day of March 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-85885 Pte. Buckle, F., 1 Cdn A.S.C. Rft. Unit

DECLARATION.

The Court declare, that B-85885 Pte. Buckle, F., 1 Cdn A.S.C. Rft. Unit, illegally absented himself without leave from Blenheim Barracks, Farnborough, Hampshire, at 2300 hours, 21 February 1944 and that he is still so absent and that on this 15th day of March 1944 he is deficient in equipment, clothing and Regimental necessities to the value of £1-3-9½, 75% of the value being £0-17-10; as per attached list Appendix "B".

and is still so deficient.

C.W. Bunting

(C.W. Bunting) Capt, RCASC — PRESIDENT
1 Cdn A.S.C. Rft. Unit.

D.A. Gourley

(D.A. Gourley) Lieut, RCASC — MEMBER
1 Cdn A.S.C. Rft. Unit.

F.A. Manning

(F.A. Manning) Lieut, RCASC — MEMBER
1 Cdn A.S.C. Rft. Unit.

Names of President and Members

H. P. Bonnick

Signature of Commanding Officer ..... (H. P. Bonnick) Col.
Commanding,
1 Cdn A.S.C. Rft Unit.

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

T16058) W.L.38982/1365 120,000 1/41 A.& E.W.Ltd. Gp.498
(17936) W.L.11504/173 200,000 5/41 " " Forms/B113/56

DESCRIPTIVE RETURN OF Frank Buckle B/85885 Private R.C.O.R.

~~was apprehended~~ ~~arrested~~ at Trenton (hour) 3 p.m. on the 14th who ~~was arrested~~ and was ~~committed to confinement at~~ on the 15th day of December, 1944 as a Deserter ~~(or Absentee without leave)~~ from the ~~Pn. of the~~ Royal Canadian Army Service Corps ~~Regiment of~~

Age 33 Height 6 feet 2 inches

Complexion Pale Hair Dark brown Eyes Brown

Marks Tattoo left arm & chest ~~In uniform or plain clothes~~ in plain clothes

Probable date and place of attestation	5th September, 1939, Ontario, Canada
Probable date of desertion or beginning of absence and from what place	15th March, 1944 Fm Farnborough
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	John Marchant Det. Sergt. C

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what [illegible] he was apprehended. The fullest possible details to be given.

(→) Who states on oath as follows:- At 3 p.m. on the 14th instant I stopped the prisoner in Farnsby Street and questioned him. On consequence of his answers I charged him with being a deserter. In reply to the charge he said "I am an absentee"

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is an absentee from the before-mentioned Corps.

Stan Bach — Signature
Northbrook Post Office Lond — Residence
London — Post Town
of Committing Magistrate.

15 DEC 1944 — Date of Signature

F. Buckle — Signature of Prisoner

John Marchant, Det. Sgt. — Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then being [illegible]

I HEREBY CERTIFY that the above-named [illegible] confessed to the circumstances stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the [illegible] day of [illegible] for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.

Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Farnborough, Hampshire. on the 18th day of January, 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.85885 Pte. Buckle, F., 1 Cdn ASC Rft Unit

DECLARATION.

The Court declare that No. B.85885 Pte. Buckle, F., 1 Cdn ASC Rft Unit illegally absented himself without leave from 1 Cdn ASC Rft Unit at 0200 hours 26 Dec 44 and is still so absent, and that on 18 Jan 45 he was deficient and that he is still deficient of clothing, equipment and regimental necessaries to the value of £10-16-2, 75% of the vocabulary price being £8-3-7, as per attached list Appendix "A"

W. D. Stewart Capt. PRESIDENT
(W.D. Stewart) Capt.

G R Fuller Lt. MEMBER
(G.R. Fuller) Lieut.

Names of President and Members

Signature of Commanding Officer N. T. Bean Col.

CERTIFIED TRUE COPY.

E. G. Pressin Capt & Adj
Signature of Officer having custody of the Original Record.

(26627) Wt.51040/360 100,000 2/44 A.& E.W.Ltd. Gp.698 Forms/B.115/60

Exhibit P.

CERTIFICATE UNDER P.C. 2797 OF 10 APR 42

I, Colonel H.L. Pease certify that

Reg. No. B.85885 Rank Pte. Name Buckle, F.

REGIMENT R.C.A.S.C.

UNIT 1 Cdn ASC Rft Unit

STATIONED AT In the Field

Surrendered himself to No. M.107392 Rank L/Cpl.

Name Bell, W.E. of the Unit Guard Room

on the 28th day of May 1945, at 0430 hours

AS AN ABSENTEE WITHOUT LEAVE

at the time of his surrender he was wearing (military uniform) ~~or~~
(~~xxxxxxxxxxxxxxx~~)

Signature of the Commanding Officer of the portion of His Majesty's Forces into whose custody the above named person was taken on surrender

H.L. Pease
(H.L. Pease) Colonel,
Commanding,
1 Cdn ASC Rft Unit.

* Strike out part inapplicable

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-85885	Pte	Buckle, F.	1 Cdn ASC Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) 8 times.

For A.A. Sec 10 (4) 1 times.

For A.A. Sec 40 1 times.

For ..... times.

Date of first entry in Field Conduct Sheet 22 May 40

Date of last entry in Field Conduct Sheet 12 Oct 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. The accused did present himself at the place fixed for beginning his march ~~ day~~.~~

4. The accused has been awaiting trial on the present charges for N/A days in civil custody; and for ..... days in military custody, *i.e.*, ... days in open arrest, ~~5~~ 14 days in close arrest; of which N/A days were spent in hospital. 14

5. The present age of the accused is 31 years

6. The date of his attestation ~~taking up his military service~~ is 5 Sep 39

7. The service which the accused is allowed to reckon is 3 yrs, 265 days

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ C.V.S.M. & Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of NOT APPLICABLE	

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(28594) Wt.42129/4399 42,000 11/44 A.& E.W.Ltd. Gp.698 Forms B.2.6(War)/4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Petty Sessions Court	3 Mar 41 Haywards Heath	Driving without a licence Driving an unlicensed motor vehicle Driving without a road fund license	Fined £1-5-0	
FGCM	24 Mar 41 Field	A.A. Sec 15 (1) AWL 16 days 14 hrs A.A. Sec 22. Escaping from close arrest A.A. Sec 15 (1) AWL 8 days 1 hr 50 mins	98 days Detn	
Petty Sessions	31 Jul 42 Haywards Heath	theft of £57-0-0	6 months imprisonment with H.L.	
F.G.C.M.	12 Oct 43 Field	A.A. Sec 15 (1) AWL 133 days 20 hrs 30 mins	180 days Detention	Remission earned 55 days

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~xxx~~ 11th day of June 1945

A. Hagen Capt

G.R. Munford Lt.
Officer having custody
of Regimental Books

M.F.M. 6
40/F & S/136 (2637)

No. B85885 Name Buckle, F. | Sqn., Battery, or Company | Corps RCASC | Date of enlistment 5Sep39 | G.C. Badges | Service or Proficiency Pay N.A. (A.F.B. 122)

Date of last entry in Company Conduct Sheet N.A. | No. and date of last drunk N.A. | Period not reckoning towards freedom from extra fine N.A. | Sheet No. I | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with Overseas R.O. 2084 previous sheet was destroyed on completion of six months service from date of attestation. Sheet destroyed 5-3-40; last entry nil; cases of drunkenness nil; last instance on N.A.									
Field	22May 40	Pte.		Sec 15(1) AA AWL from 2359 hrs 11 May 40 to 1430 hrs 22 May 40. TA. 10 days 14½ hrs.	Documentary	28 days detn	22May40	Major Dean	Forf 11 dy pay FR&I 149/1/a 28 days pay FR&I 149(1)(a)
Field	7Sep 40	Pte.		Sec 15(1) AA AWL from 2300 hrs 7 Sep 40 to 0830 hrs 9 Sep40. TA: 1 day 9½ hrs.	Sgt Aldgridge	168 rhs detn	10Sep40	A/ O.C.	Forf 2 days pay FR&I 149/1/a. Forf 28 dy pay FR&I 149/1/b.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26Nov 40	Pte.		Sec 15(1) AA AWL from 2359 hrs 26 Nov 40 to 0150 hrs 27 Nov 40. TA: 1 hr 51 mins.	Sgt Aldgridge Cpl Tickner	28 days Detn	27Nov40	Major Coombs	Forf 28 days pay FR&I 149/1/b
Field	25Nov 40	Pte.		Charged under the Civil Law with (1) Driving without a license. (2) Driving an unlicensed motor vehicle. (3) Driving without a road fund license		Fined £1.5.0	3Mar41	Petty Sessions Court, of Haywards Heath Division,	Sussex.
Field	25Jan 41	Pte.		Sec 15(1) AA AWL 16 days 14 hrs	Sgt Lawrence Sgt Boston	98 days Detn	24Mar41	FGCM	Forf98 days pay FR&I 149(1)(b)
Field	25Jan 41	Pte.		Sec 22 AA Escaping close arrest. Sec 15(1) AA AWL 8 days 1 hr 50mins	Pte. Bowley			FGCM	Forf 25 days pay FR&I 149(1)(a) Forf 33 days pay FR&I 149(1)(c)(i)

M.F.M. 6
(A.F.B. 122)
40/P & S/13d (2637)

No. B65885 Name Buckle, F. Sqn., Battery, or Company Corps RCASC Date of enlistment 5Sep39 G.C. Badges Services or Proficiency Pay Character

Date of last entry in Company Conduct Sheet N.A. No. and date of last drunk N?A. Period not reckoning towards freedom from extra fine N.A. Sheet No. 2 Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31May 41	Pte.		Sec 15(1) AA AWL from 2230 hrs 31 May 41 to 1000 hrs 2 Jun 41. T.A. 1 day 11½ hrs	CSM Hayward	7 days C.B.	4Jun41	Lt-col Pocock	Forf 2 days pay FR&I 149 (1)(a)
Field	23Oct 41	Pte.		Sec 15(1) AA AWL from 2300 hrs 23 Oct 41 to 0645 hrs 24 Oct 41. T.A. 7 hrs 45 mins.	Sgt Livemore Cpl Davies	10 days C.B.	25Oct41	Maj Hastie	Forf 1 days pay FR&I 149 (1)(a)
Field	27Oct 41	Pte.		Sec 10(4) Breaking out of quarters while C.B.	Sgt Reid CSM McWain	10 days Det'n	29Oct41	Maj Hastie	Forf 10 days pay FR&I 149 (1)(b)
Field	14May 42	L/Cpl		Sec 40 AA Took motorcycle out of park after duty without authority	A.9500 Pte.H English	Depd. Lce Stripe.	18May42	Capt W.A. McArthur	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18May 42	Pte.		Sec 15(1) AA AWL from 2300 hrs 18 May 42 to 1200 hrs 22 May 42. TA 3 days 13 hrs.	M.20608 L/Cpl Whetton, G.	Forf 28 days pay FR&I 149 (2)	24May42	W.A. McArthur Capt.	Forf 4 days pay FR&I 149(1)(a)
Field	4Jul 42	Pte.		Civil Conviction - being convicted in theft of £57.0.0	Haywards Heath Police	6 mons impris H.L.	31Jul42	Petty Sessional Div of Haywards Heath	Forf 184 days pay FR&I 149(1)(b) Forf 19 days pay FR&I 149(1)(c)
Field	6Feb 43	Pte.		Sec 15(1) AA AWL from 1200 hrs 6 Feb 43 to 2000 hrs 15 Feb 43. TA 9 days 8 hrs.	B84109 L/Sgt Harding, M.	14 days F.P.	16Feb43	R Buckner, Major.	Forf 10 days pay FR&I 149(1)(a) Forf 14 days pay FR&I 149(1)(b)
Field	26Mar 43	Pte.		Sec 15(1) AA AWL from 0600 hrs 26 Mar 43 to 100 hrs 28 Mar 43. TA 2 days 4 hrs.	B84109 L/Sgt Harding, M.	14 days C.B.	29Mar43	R Buckner, Maj.	Forf 3 days pay FR&I 149(1)(a)

No. B85885 Name Buckle, F. | Sqn., Battery, or Company | Corps RCASC | Date of enlistment 5 Sep 39 | O.C. Badges N.A. | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet N.A. | No. and date of last drunk N.A. | Period not reckoning towards freedom from extra fine N.A. | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18May 43	Pte.		AWL from 1200 hrs 18 May 43 till he was apprehended by the Cdn Prov Corps, SIS, CMHQ in London at 0830 hrs 29 Sep 41. Contrary to Sec 15(1) AA.	L/C Mathew (SIS) Cpl Rocheleau L/Sgt Bowen	180 days Detention	12 Oct43	FGCM	
						FORFEITS: 180 days pay FR&I 149(1)(b) 12 days pay FR&I 149(1)(c)(i) 134 days pay FR&I 149(1)(a)			
	Released from Detention Bks 12 Feb 1944. Remission of sentence - 55 days.								

CERTIFIED TRUE COPY

A.R. Mumford

(A.R. Mumford) Lt & Admin Offr.
Holding Wing. 1 Cdn ASC Rft Unit
Officer having custody of original.

1/Buckle, F/S
6 Jun 45

Commanding Officer
1 Cdn ASC Rft Unit

Sir:

I, Lt. J.C. Drager, 1 Cdn ASC Rft Unit was requested by the accused, B-85885 Pte Buckle, F., to act as defending Officer in his forthcoming Court Martial.

In the last two days I have made extensive enquiries into Pte Buckle's case and have engaged the accused soldier in lengthy conversation. As a result of these enquiries it is my opinion, that the accused is a chronic psycho-path, and has been, for at least the last two years. I have consulted both the SPO and MO and they are in accordance with my views.

I therefore strongly recommend that court martial proceedings be held in abeyance and that the accused be subjected to an extensive psychiatric examination, auth CRU Administrative Instruction No.45, para 2(c).

I respectfully submit this recommendation for your consideration and action, Sir.

J.C. Drager Lt.
(J.C. Drager) Lieut
"I" Wing
1 Cdn ASC Rft Unit

IAO/AS

DISTRIBUTION:

CO
RHQ
Holding Wing
Lt J.C. Drager

IN THE CASE OF

B-85885 Pte BUCKLE, F. RCASC

==========

LIST OF WITNESSES FOR THE PROSECUTION

Lt A.R. Mumford	1 Cdn ASC Rft Unit
K-25840 Sgt Hunter, W.E.	1 Cdn ASC Rft Unit

LIST OF WITNESSES FOR THE DEFENCE

N I L

LIST OF EXHIBITS

"A" Certified True Copy of the Declaration of a Court of Inquiry, certifying that B-85885 Pte Buckle, F. illegally absented himself without leave from 1 Cdn ASC Rft Unit at 2200 hrs 21 February 1944.

"B" AF 01618, Descriptive Return of a Deserter or Absentee Without Leave, purporting to be signed by J.P. Saudbach, Marlborough St Police Court, London, certifying that B-85885 Pte Buckle, F. was apprehended at Westminster at 3:00 p.m. on 14 Dec 1944, wearing plain clothes.

"C" Certified True Copy of the Declaration of a Court of Inquiry, certifying that B-85885 Pte Buckle, F. illegally absented himself without leave from 1 Cdn ASC Rft Unit at 0200 hrs 26 December 1944.

"D" Certificate Under P.C. 2797 of 10 Apr 42, purporting to be signed by Colonel H.L. Pease, Commanding, 1 Cdn ASC Rft Unit, certifying that B-85885 Pte Buckle, F., surrendered himself to M-107392 L/Cpl Bell, W.E. at the Unit Guard Room, 1 Cdn ASC Rft Unit at 0430 hours 28 May 1945.

TO WHOM IT MAY CONCERN

This is to certify that I, the accused, B-85885 Pte Buckle, F., have received one copy of Charge Sheet and Summary of Evidence in connection with my forthcoming Trial by Field General Court Martial.

F. Buckle

(B-85885 Pte Buckle, F.)

I, the accused, B-85885 Pte Buckle, F. desire the services of a competent officer to defend me at my forthcoming Trial by Field General Court Martial.

Lt Dugan, J.C.

F. Buckle

(B-85885 Pte Buckle, F.)

T-36-10-232 Vol.3(AJAG)
T-20-B-763
T-20-B-604 T-20-M-6039
T-20-H-6392 T-20-W-10519

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
30th January 1946.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
FEB 5 1946
File 6-55-B-1975
Filed to
Referred to LMRR

Remission of Sentences - SUS ex ITALY and U.K.

B-73229	Pte. BELL, W.G.E.	- 1029(9)
B-85885	Pte. BUCKLE, F.	- 1029(9)
B-44886	Pte. HOWARD, W.W.J.	- 1029(9)
B-84116	Pte. McGRATH, J.	- 1029(8)
B-78715	Pte. WELLER, G.L.	- 1029(8)

Reference K.S. 374(A) dated 10th December 45 and 28th December 45.

2. Herewith completed Appendices "C" to C.A.R.O. 5913 and AFsA 3104 referring to the marginally-named SUS.

3. Discharge under the provision of C.A.R.O. 1029 as indicated after the name in each case was effected 4 Jan 46 and remission of sentence, effective date of discharge, granted.

P.P. Delgarno
for (G.C. Mann)
Brigadier
D.O.C. M.D. 2.

COPY TO : The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

APPENDIX "G" TO CANADIAN ARMY PROTOCOL ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY C.M.

Unit File No.
District File No. T-20-B-604

PART I

No. B-85885 Rank Pte. Name BUCKLE, F.
Unit No. 2 District Depot, C.A. (formerly 1 Cdn ASC Rft. Unit)

PART II

Date of Trial 11 Jun 45 (FGCM)
Charge(s) (1) AWL (AA Sec. 15(1)) (2) When in confinement, escaping (AA Sec. 22)
(3) AWL (AA Sec. 15(1))
Sentence 1 year's Imprisonment with Hard Labour - Discharge with Ignominy
Date of Sentence 11 Jun 45
Confirmation - (a) Authority A.B. Cameron, Brig. Comd B.Gp.CRU
(b) Date

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act (xxxx

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B-85885 Pte Buckle, F. Unit 1 Cdn ASC Rft Unit

Sentenced to imprisonment with Hard labour One year to be discharged with ignominy on 11 Jun 45

Age on, and date of enlistment 26 5 Sep 39 Term of service Duration

---

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20018) Wt.46072-276 100,000 2/42 A.& E.W.Ltd. Gp.698 Forms/A.3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION-RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 24 JUL 1945	
2 Jan. 46	Remit effective date of discharge.	(A.E. Potts) Major-General D.O.C. M.D. No.2.	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.	21 Feb 44	11 Jun 45
	26 Dec 44	11 Jun 45
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
18 Jun 45	B.85885 Pte Buckle, F. will be confined to Cdn Det Bks. His pay has a large Dr balance. Salvage value - negligible. It is recommended that the sentence of 1 year's imprisonment with hard labour be fully served except for remission earned for good behaviour	(H.L. Pease) Col., Comd., 1 Cdn ASC Rft. Unit

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
20 Jun 45	I recommend no remission or suspension	Comd B Lines

V11 - FIRST TRIAL A.A. Sec 15(1) WOAS ABSENTING
HIMSELF WITHOUT LEAVE in that he in the Field
absented himself without leave from 2200 hrs 21
Feb 44 till 1500 hrs 14 Dec 44 when he was appre-
hended by the Civil Police at Westminster
TOTAL TIME ABSENT :- 296 days 17 hrs

.A. Sec 22 - WOAS WHEN IN CONFINEMENT ESCAPING
in that he in the Field at 1 Cdn ASC Rft Unit at
pprox 0200 hrs 26 Dec 44 when in confinement in
he Unit Guard room did escape.

.A. Sec 15 (1) - WOAS ABSENTING HIMSELF WIHTOUT
EAVE innthat he IN THE FIELD absented himself
ithout leave from 0200 hrs 26 Dec 44 till 0430
rs 28 May 45 when he surrendered to the Unit Guar
oom 1 Cdn ASC Rft Unit
TAL TIME ABSENT :- 153 days 2 hrs 30 mins

T-36-10-282 Vol.3(AJAG)
T-20-B-765
T-20-B-604 T-20-M-6039
T-20-H-6392 T-20-W-10519

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
2nd January, 1946.

The Officer Commanding,
No. 2 District Depot, C,A.,
Stanley Barracks,
TORONTO, Ontario.

REGISTRY Army
SEC.
No. 516
C S JAN 16 1946 973
File
Origin to Adjgen
Referred to

Remission of Sentences - SUS ex ITALY and U.K.

B-73339	Pte. BELL, W.G.E.	- 1029(9)
B-85885	Pte. BUCKLE, F.	- 1029(9)
B-44286	Pte. HOWARD, W.W.J.	- 1029(9)
B-84116	Pte. McGRATH, J.	- 1029(8)
B-78715	Pte. WELLER, G.L.	- 1029(8)

Reference K.S. 674(A) dated 10th December 45 and 28th December 45.

2. The District Officer Commanding, Military District No. 3, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A. for discharge under the provision of C.A.R.O. 1029 as indicated after each name and remission of balance of sentence.

3. The District Officer Commanding, M.D. 2, has remitted the balance of the sentence now being served by the marginally-named SUS effective the date of discharge and hereby authorizes discharge as indicated above.

4. Enclosed herewith Appendix "G" to C.A.R.O. 5913 effecting remission.

5. May Promulgation of the remission be made to the said respective SUS effective the date of discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

SPECIAL DELIVERY

KINGSTON, Ontario, December 29, 1945.

District Officer Commanding,

Military District No. 2,

TORONTO, Ontario.

Director of Personnel
A. G. Branch
Jan
Nat Defence HQ
Ottawa - Canada

Army
249
JAN 3 1946
File
Chgd. to Admin 3-1-46
Referred to

B.85885 Pte. BUCKLE, F.

Ref HQC 55-8-1975 Adm 3(b)2 d/20 Dec 45. Confidential

2. Enclosed herewith:

(a) AFA 3104

(b) ~~xxxxxxxxxx~~

3. Please be advised that the marginally named Soldier Under Sentence will be released from No.89 Military Detention Barracks, Fort Henry, Barriefield, Ontario ~~xxxxx~~ on 2 January 1946 and will be despatched under escort to No.2 District Depot, Toronto, Ontario

4. Your Headquarters will be advised by radiogram as to the date and hour of this soldier's arrival in your district.

5. May a receipt for these documents be forwarded to this Headquarters, please.

Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

Copy to: The Secretary,
Department of National Defence, (for infm)
OTTAWA, Ontario.

C-55-B-1975-

C. SIG
NATIONAL DEFENCE BLDG
OCT 1945
OTTAWA
ARMY

D Adm

RECEIVED
DEC 31 1945
A.D.M.(A)
3B

VER V CIB NR 4

FM-CMDG TWO TORONTO 310950R

TO SECY DND OTTAWA

GR 44 BT

71399

TZ 140 UNCL AFA 3104 URGENTLY REQUIRED FOR B85885 PTE BUCKLE F BEING TRANSFERRED TO NO 2 DISTRICT DEPOT FOR DISCHARGE AND [redacted] REMISSION ON 2 JAN 46 STOP ADDRESSED CMDG THREE RPTD DEFENSOR

3 110300

ET 311022R

MC B

Rg

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.S.O. WOODS

BRANCH	TIME	SIGNATURE

ARMY MESSAGE
ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE
ARMY MESSAGE

C O P Y

CIB V CIA NRS 7 & 8

VER V CIA NR 65

FROM CMDG THREE KINGSTON ONT DEC 281615R

TO DOC MD TWO TORONTO

TO OFFICER COMMANDING 2 DD TORONTO

TO SECY DND OTTAWA ONTARIO

GRS 103 BT

KD 1433 RESTRICTED TELET KS 674 (A) DATED 28 DEC 45 STOP B 85885 PTE BUCKLE F SUS PRESENTLY HELD AT 89 MDB FORT HENRY WILL CEASE ATTACHMENT THAT UNIT AND SOS THREE DD TO TWO DD WEF 2ND JAN 46 STOP THIS SOLDIER WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE UNION STATION TORONTO 1730 HRS SAME DATE STOP REQUEST CMDG TWO HAVE ESCORT DETAILED TO MEET THIS TRAIN ON ITS ARRIVAL AT TRAINSIDE STOP ADDSD CMDG TWO RPTD OC TWO DD RPTD DEFENSOR

BT 281953R EC B

noted
GCR

CR(c) PAmfield
C55-B-1925
G.D. Butler Capt
Admin 3(b)2

HQC 55-B-1975
Adm 3(b)2

CONFIDENTIAL

20 Dec 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

B.85885 Pte BUCKLE, F
SUS XUK W/1043

Further to this HQ letter HQS 8536-6 Vol 5 dated 20 Dec 45:

2. Enclosed herewith AF A3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(9).

G.D.B.
p(A E Walford)
Major-General
Adjutant-General

Encl.

GDB:da

SECRET
CONFIDENTIAL

AIR MAIL

Quote No. 10/Buckle, F./1

CANADIAN MILITARY HEADQUARTERS

LONDON 6 Sep 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

H-85885 Pte Buckle, F.

1. The m/n soldier is now serving a sentence of 1 year imprisonment with hard labour and discharge with ignominy awarded by FGCM 11 Jun 45 for the following offences: an absence without leave from which he was apprehended by the civil police after 296 days (AA Sec 15(1)), escaping (AA Sec 22) and an absence without leave from which he surrendered after 153 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which his sentence of imprisonment with hard labour should terminate if he continues to do so, is 10 Feb 46.

3. This soldier enlisted 5 Sep 39 at Hamilton, Ont., and he is now 33 years of age. Since enlistment he has been found guilty of 13 offences under AA Sec 15(1), of 2 offences under AA Sec 22 and of 1 offence under each of AA Sec 10(4) and AA Sec 40. He has had 2 previous FGCsM. On 24 Mar 41 he was awarded a sentence of 98 days detention for an absence without leave of 16 days (AA Sec 15(1)), an absence without leave of 8 days (AA Sec 15(1)), and an offence under AA Sec 22. On 12 Oct 43 he was awarded a sentence of 180 days detention for an absence without leave of 133 days (AA Sec 15(1)). He has also had 2 civil convictions. On 3 Mar 41 he was fined £1-5-0 on charges of driving an unlicensed motor vehicle, driving without a road fund license and driving without a license. On 31 Jul 42 he was sentenced to 6 months imprisonment with hard labour on a charge of theft.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is a smooth, superficial individual who is a rapid talker; that his civilian record shows irresponsibility and lack of stability; that he is independent and does not like taking orders; that he is not interested in soldiering and not interested in his wife, although he is not pleased by the prospect of explaining his conduct at home; and that he is not likely ever to become an efficient soldier.

6. In view of the extreme length of this soldier's illegal absences, his poor previous record which includes 2 FGCsM and 2 civil convictions, as well as the unfavourable nature of the report outlined in para 5 above, it is considered that his sentence including discharge with ignominy is appropriate and fully deserved and that he should be required to serve his sentence of imprisonment with hard labour in full and be discharged with ignominy under the provisions of para 9 of Appx to GAMO 1089. It is considered that this soldier has deliberately misconducted himself in order to avoid rendering any effective service to the army and it is highly probable that he had his discharge in view.

7. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original A.F.A3104 in respect of the FGCM held 11 Jun 45, on which this direction has been endorsed.

Enc. 1

Copy to OIC Records.

for (H.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters.

H.Q.C. C.55-B-1976 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT FIELD GENERAL — COURT-MARTIAL

BECHARD, HERMAN LEO A-117014 PTE.

CONFIDENTIAL H.Q.C. C.55-B-1973

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
(If purpose for which referred cannot be expressed on one line, add minute to file and ...)							
				D. Adm.	NEW FILE	CR	19-9-45
				JAG	In note	WOS	21.9.45
SEP 26 1945	26.9.45	PA	WOS	Admin	[illegible]	[illegible]	25.9.45
	[illegible]	[illegible]	WAS	CMBR	[illegible] NOV 21 1945		
NOV 16 1945	[illegible]	[illegible]	[illegible]	JAG	Min pls	WAS	17/11/45
NOV 16 1945				CMBR	Red mins + to note action Cabs	E.L.M.	16/11/45
NOV 17 1945	19.11.45	PA	[illegible]	JAG	Min pls	WAS	17/11/45
NOV 28 1945	28/11/45	BF	WAS	CMBR	PER B.F. NOV 28 1945		
				Adm.	With Papers C.R. DEC 3 1945		
DEC 5 1945				CMBR	With proceedings per report Cabs pass to Admin	E.L.M.	5-12-45
DEC 14 1945	5.2.46	BF	[illegible]	Admin	Recommendation	WAS	DEC 12 194
FEB 15 1946	15.2.46	Pa	[illegible]	Admin	With Papers C.R. JAN 19 1946		
FEB 16 1946	16/2/46	PA	[illegible]	JAG	Per BF 15/12/45 CR		15/2/46
MAR 1 1946	9.3.46	Pa	[illegible]	Admin	With Papers C.R. MAR 8 1946		
MAR 20 1946	18.3.46	Pa	[illegible]	Admin	With Papers C.R. MAR 16 1946		
OCT 25 1946	24.9.46	PA	[illegible]	ORB	For Research SEP 16 1946		
[illegible] 20 1947	20-8-47	PA	[illegible]	MGR	FOR REGISTRATION CR MAY 7 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 15 (1) AA	Guilty	Guilty	
2nd 41 AA	Guilty	Guilty	
3rd 15 (1) AA	Guilty	Guilty	
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....(1) NC

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of fifteen months (15)

(Sgd) "EE Wasson" Maj ..... 12 May 45 ..... (Sgd) "HH Clarke" Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) NC

(1. AA 57A. Delete if not used.)

(Sgd) "W P Bell Irving" Brig

Date 18 May 45 Commanding 10 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A107014 Pte Bechard L	20 May 45	"R L Rogers" Capt Capt, Adjt, Lincoln & Welland Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 169 55-126

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40/P & S/1698 (40/90) 4/38B

Convened by Order of Lt Col GD Wotherspoon Comd 10 Cdn Inf Bde dated 10 May 45

RECEIVED 5 June 45 JAG BRANCH

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A117014	Pte		Herman Leo	BECHARD	Linc & Welld Regt

PROCEEDINGS REVIEWED.

PROCEEDINGS REVIEWED "JM Miquelon" Capt 13 June 45 REVIEWING OFFICER, JAG BRANCH

CERTIFIED TRUE COPY DWRose Capt

DWRose Capt D. J. A. Cdn Sec 1 Ech, HQ 21 Army Gp 31/137

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 12 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1110 hours trial commences. NC

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) NC The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn (1). Do you object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2) NC

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	HH	Clarke	29 Cdn Armd Recce Regt
Member	Capt	GE	Grandbois	Alq Regt
Member	Lieut	HJ	Purdie	Alq Regt
Judge-Advocate	Major	EE	Wasson	DJA HQ 4 Cdn Armd Div
Prosecutor	Capt	WH	Gow	Linc & Welld Regt
Defending Offr	Lieut	EB	Rudden	Linc & Welld Regt

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea NC
.....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. NC

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B NC

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CJH 31 May 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

President to accused : Do you wish to make a statement ? Ans. No Sir (5)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly~~.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(G) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(6) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes By Defending Officer (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would effect the amount of punishment. RP 37(F) fn X)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICER'S CERTIFICATE

(KR(Can) Para 55

I certify that I have this day examined A117014

Pte Richard H L and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station Lincoln & Welland Regt

Date 12 May 45

"F L Clinckett" Capt
Medical Officer
Lincoln & Well Regt
Unit

FIELD GENERAL COURT-MARTIAL

CFAES (In lieu of AFAB) 40/Fd.3/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A117014	Pte		Herman Leo	BECHARD	Linc & Welld Re

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~"and also it is not practicable to delay the trial for reasons to a superior qualified offr"~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	HH CLARKE	29 Cdn Armd Recce Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	GE GRANDBOIS	Alq R
Lt	HJ HEARN	A & S H OF C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	HJ PURDIE	~~xxxxxxxxxxxxxxxxxx~~ Alq Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
GERMANY	EE WASSON	HQ 4 Cdn Arm'd Div

On Active Service in the Fd

in GERMANY (Country.)

"GD Rotherspoon" (Signed personally. RP 105 fn 2.) Lt Col (Rank.)

Date 10 May 45

Commanding 10 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

RAC

CHARGE SHEET

The Accused, A117014 Herman Leo BeCHARD, Lincoln & Welland Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
(Sec 15(1)AA)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.

In that he in the field at 1000 hr 26 Mar 45 absented himself without leave from his unit until apprehended at Eindhoven, Holland, at 2000 hr 10 Apr 45, absent 11 days 10 hours.

SECOND CHARGE
(Sec 41 AA)

WHEN ON ACTIVE SERVICE DOING SOMETHING A CIVILIAN OFFENCE, that is to say, stealing.

In that he at a time between 2230 hr 9 Apr 45 and 1900 hr 10 Apr 45 stole a packet of cigarettes and a wrist watch, value approximately 150 guilders, the property of Antonius Van Der Greek, a civilian of Eindhoven, Holland.

THIRD CHARGE
(Sec 15(1)AA)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

In that he in the field at 1600 hr 21 Apr 45 when in arrest escaped the custody of F-32235 Sgt Whitfield D T and absented himself without leave until apprehended at Zutphen, Holland, at 2130 hr 24 Apr 45, absent 3 days 5 hours 30 minutes.

Charges approved
pursuant to KR Can
540
"E E Wasson" Capt
ADJA

"R C Coleman"
(R C COLEMAN) Lt Col
Comd-Linc & Welld R

Field, 2 May 45

To be tried by Field General Court Martial.

In the Field
10 May 45

"G D Ortmerspoon"
(G D Ortmerspoon) Lt Col
A/Comd 1 Can Inf Bde

Ex A
W H Clarke Maj President

SUMMARY OF EVIDENCE

In the case of A117014 Pte Herman Leo BECHARD, Lincoln & Welland Regt, a soldier of the Canadian Army Overseas charged with (1) Absenting himself without leave, (2) Theft, (3) Escaping custody and (4) Absenting himself without leave.

The CO directs that evidence be taken on oath.

Certified true copy of Lincoln & Welland Regt Part II Order No 16, para 5 (a), dated 8 Apr 45, showing date and time of absence of the accused is read over to the accused, marked Exhibit "D", signed by me, and attached hereto.

Certificate of Apprehension in accordance with Sec 169 (1,(11) of the Army Act is read over to the accused, marked Exhibit "E" signed by me, and attached hereto.

FIRST WITNESS

L/Cpl Smith A W, 59 Provost Company, Corps of Military Police.

Document purporting to be the signed statement of evidence of L/Cpl Smith A W, 59 Pro Coy, CMP, is read over to the accused, marked Exhibit "A", signed by me, and attached hereto.

I certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the time of the taking of the Summary of Evidence cannot be readily procured.

"W H Gow" Capt
Signature of Officer
Taking Summary

I do not demand the presence of this witness at the taking of the Summary of Evidence.

"H L Bechard"
Signature of Accused

SECOND WITNESS

Antonius Van Den Broek, 152 Hoogstraat, Eindhoven, a citizen of Holland.

Document purporting to be the signed statement of evidence of Antonius van den Broek, a civilian, was read over to the accused, marked Exhibit "B", signed by me, and attached hereto.

I Certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the time of the taking of the summary of evidence cannot readily be procured.

"[illegible]"
Signature of Officer
Taking Summary.

I do not require the presence of this witness at the time of the taking of the summary of evidence.

"H L Bechard"
Signature of Accused

THIRD WITNESS

Cornelis van de Locey, 270 Hoogstraat, Eindhoven, a citizen of Holland.

Document purporting to be the signed statement of evidence of Cornelis van de Locey, a civilian, was read over to the accused, marked Exhibit "C", signed by me, and attached hereto.

I certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the time of the taking of the summary of evidence cannot be readily procured.

"W H Gow"
Signature of Officer
Taking Summary

I do not demand the presence of this witness at the time of the taking of the summary of evidence.

"H L Bechard"
Signature of Accused

FOURTH WITNESS

B32235 Sgt Whitfield D T, Lincoln & Welland Regiment, having been duly sworn states:

"I, B32235 Sgt Whitfield D T was detailed to pick up two prisoners in Eindhoven. One of them was the accused, A11/014 Pte Bechard H, whom I recognize. On the way back to 'B' Echelon from Eindhoven, I was held up at Zutphen by a convoy. I was alone with the two prisoners because the man who had accompanied me as an escort had gone AWL in Eindhoven. I let the prisoners out to urinate, and Bechard ran around the corner of the house. I put the other prisoner back on the TCV and went to hunt for Bechard, but could not find him. It was at 1600 hr 21 Apr 45 that Pte Bechard broke from my custody.

"D T Whitfield"
Signature of Witness

The accused declined to cross-examine this witness.

"H L Bechard"
Signature of Accused

Certificate of apprehension in accordance with sec 163(1)(jj) of the Army Act is read over to the accused, marked Exhibit "F", singed by me, and attached hereto.

The accused was warned as follows.

Do you wish to make any statements or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused: "I do not wish to make a statement at this time".

"H L Bechard"
Signature of Accused.

The accused declined to call witnesses on his own behalf.

I certify that RP 4 (d)(e)(f)(g) have been complied with.

Taken by me in the field in the presence and hearing of the accused this 29 Apr 45.

"W H Gow" Capt
Signature of Officer
Taking Summary

EXHIBIT "A"

CHARGE

Army Form B252
(See King's Regulations)

The Lincoln & Welland (Canadian Army). . . . . Regiment

'D' . . . . . ~~Battery~~ ~~Squadron~~ ~~Troop or~~ Company

CHARGE against No . . . . A117014 . . . . . Rank . . . Pte . . . . . .

Name. . . . . Bechard D . . . . . .

Place . . . . . ? . . . . . Date of Offence . . . ? . . .

OFFENCE . WOAS (1) Absent from ? until apprehended by the Military Police in GROOTE BERG, EINDHOVEN, on the 10th April 1945 about 2000 hrs. (2) Stealing civilian property. . . . . .

Names of Witnesses:—

L/Cpl Smith A.W. 59 Provost Company. C.M. Police.
L/Cpl Mason W. 59 Provost Company. C.M. Police.

Signature of O.C. Battery,)
Squadron, Troop or Company). . . . . .

Punishment)
Awarded). . . . . .

By whom)
Awarded) . . . . . .

. . . . . Adjutant

Back of AF B252

Statement of EVIDENCE in the case of:-

No. A117014 Pte Bechard D.
D Company, Lincoln & Welland Regt.
4th Canadian Div. C.A.O.S.

Sir,

At EINDHOVEN on the 10th April 1945 about 2000 hrs, I was on duty in GROOTE BERG, when I was approached by MRS. A. VAN DEN BROEK, 352, HOOGSTRAAT, EINDHOVEN, who said that a soldier had slept at her home for the night, and after he had left the following morning she missed a gold wrist watch, and she now knew where the soldier was.

I proceeded to CAFE DRIESPRONG, GROOTE BERG, EINDHOVEN, where she pointed out the above named soldier.

I questioned him and not being staisfied I conveyed him to PROVOST H.Q. for further questioning, where he admitted being absent from his unit and taking a watch and three packets of cigarettes from the premises of MR. A VAN DEN BROEK where he had slept the night of the 9th to 10th.

He stated that he had sold the watch to LOOY, CORNELIS, 270, HOOGSTRAAT, EINDHOVEN for one hundred (100) Guilders. I proceeded to these premises and recovered the watch which is now held by the Civilian Police Eindhoven.

I obtained his particulars verbally and verified same from his M.B.M. 1. and told him he would be charged and conducted him to the TOWN GUARD ROOM and handed him over to the NCO i/c Guard to be detained.

(A.W.Smith) L/Cpl
C.M. Police

B.L.A.
10 Apr 45

I have read over and corroborate the above statement.

(W. Mason) L/Cpl
C.M. Police

B.L.A.
10th Apr 45

CERTIFIED TRUE COPY

(R L ROGERS) Capt. Adjt
Lincoln & Welland Regt

EXHIBIT "B"

Copy-Statement (Translation).

Statement made by: VAN DEN BROEK, ANTONIUS, living 352 HOOGSTRAAT, EINDHOVEN.

Who says,

On Monday, 9th April 1945 about 2230 hrs, a soldier (Canadian) entered my cafe and ordered a glass of beer. I noticed that he was not sober, but in my opinion, he was not so drunk as he intended to look., but after a few minutes he fell on the floor.

I asked the soldiers, who were present in my cafe, if they knew him and if they would take him to his unit, but they did not, because nobody knew him. So I let him sleep that night in my cafe.

The next morning I tried to wake him, but he refused to rise.

Because it was impossible that he could stay longer in my cafe, I took him upstairs into one of my bedrooms. About 1200 hrs, I tried again to awake him, whereupon he came downstairs into the kitchen for a wash and shave.

A few customers came in, and after a few hours he left my cafe.

About 1630 hrs, I intended to get a packet of cigarettes, which was in an unlocked cupboard and discovered that they had gone, together with my wrist watch.

I suspected the soldier because nobody else had been in the kitchen at that time.

My wife informed the Police concerning that theft, and the watch which was shown to me by the Pllice, I recognize as my property.

Eindhoven, 11th April 1945.

(Signed) A.W.v.d.Bosch
Civil Policeman.
Attd. 59 Provost Company.
C.M.Police.

CERTIFIED TRUE COPY

(R L ROGERS) Capt, Adjt
Lincoln & Welland Regt

EXHIBIT "C"

Copy-Statement (Translation).

Statement made by: VAN DE LOOY, CORNELIS, living 270 HOOGSTRAAT, EINDHOVEN.

Who says,

On Tuesday, 10th April 1945, about 1630 hrs, a soldier came into my cafe, and asked me if I would buy his golden watch for 100 Guilders, because he was short of money.

He showed me a quite nice watch, and because I have no watch, I bought it for 100 Guilders from him.

I believe, but I am not sure, that I paid the soldier in notes as follows: 2 of 25 Guilders, 2 of 20 Guilders and 1 of 10 Guilders, or 2 of 25 Guilders and 5 of 10 Guilders.

Eindhoven, 11th April 1945. (Signed) C.van de Looy.

I certify that the above statement was taken by me on the 11th of April 1945.

Eindhoven, 11th April 1945. (Signed) A.W.v.d. Bosch
Civil Policeman.
Attd 59 Provost Company. C.M. Police

CERTIFIED TRUE COPY

(R L ROGERS) Capt, Adjt
Lincoln & Welland Regt

EXHIBIT "D"

THE LINCOLN & WELLAND REGIMENT
Part II Orders issued by
CANADIAN SECTION 2ND ECHELON HEADQUARTERS
21 ARMY GROUP

Last Order
No 17
6 APR 45

No 18
8 APR 45

---

9 ABSENT WITHOUT LEAVE

(a) AWL from 1000 hrs 30 MAR 45
A117014 Pte BECHARD H

(Signed)

(J R FENELON) Captain
for Officer ic
CANADIAN SECTION 2ND ECHELON HEADQUARTERS
21 Army Group

/mms

CERTIFIED TRUE COPY
of Part II Order No 18/45
of the Lincoln & Welland
Regt.

(R L ROGERS) Capt, Adjt
Offr having custody of
the Regt Books.

EXHIBIT "E"

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT. SECTION 163(i)(ii)

I certify that No. A117014 . . . . . Rank. Pte. . Name. Bechard D . .

of D Coy Lincoln & Welland Regt. 4th Can. Div. CAOS . (unit) was arrested at

. . . . . Eindhoven . . . . . (place) at. 2000 . .hrs on . .

. . . 10 Apr 45 . . . . (date) He was dressed in uniform/~~[illegible]~~

Date . . 10 April 1945 . . . . Signature of Provost Marshal, APM, or other officer into whose custody the a/n person was taken on arrest.

Signature and rank . . (J Glen) . . . . . Capt

Unit or appointment 59 Provost Company, CM Police

1. This certificate must be signed personally by the officer concerned.
2. In no circumstances may it be signed by one officer for another, or by anyone not holding commissioned rank.
3. In no circumstances should the place of apprehension be described as 'In the Field'. The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

CERTIFIED TRUE COPY

(R L ROGERS) Capt, Adjt
Lincoln & Welland Regt.

EXHIBIT "F"

NO.11 CDN PROVOST COMPANY

THIS IS TO CERTIFY:

REG NO A117014 RANK PRIVATE NAME BECHARD, H.L.

UNIT "D" COY, LINCOLN & WELLAND REGT, 4 CDN ARMD DIVISION

WAS APPREHENDED AT 2130 HOURS 24 Apr 45 DATE

AT ZUTPHEN, HOLLAND PLACE. AT THE TIME OF APPREHENSION WAS DRESSED

IN MILITARY UNIFORM - XXXXXXXXXXXXXXXX

(Signed) . . . . . Capt
XXXXXXXXXX (M.A. Fitz-Gibbon)
Officer Commanding
No.11 Provost Company

CERTIFIED TRUE COPY

(R L ROGERS) Capt, Adjt
Lincoln & Welland Regt

Mr President and members of the court:

The accused Norman Leo Bechard wishes this court to know the circumstances which surrounded his stealing a watch in the town of Eindhoven Van der Broek of Eindhoven on the morning of 10 April 1945.

He hopes that this court will take these circumstances into consideration on the charge of stealing.

On Monday 9 April 1945 Private Bechard the accused entered the Van der Broek Cafe in an intoxicated condition as the proprietor of the cafe noted this, after a few minutes he fell on the floor and had to be carried out on the floor. He then recommenced and drank more whisky and liqueurs until he awoke the next morning in a bed in the upstairs part of the Van der Broek Cafe at about 12 o'clock. He was dizzy, sick and had a large bruise on his forehead as a result of his fall. He got up and went down stairs to shave in the kitchen of the Cafe. He opened a cupboard to see if he could find a razor. At this time he saw a gold watch but did not touch it. Later Van der Broek supplied him with a shaving kit. The Cafe owner also had his beer to drink with the accused in the kitchen of the cafe. Private Bechard the accused soon found himself quite intoxicated again, at this time he took the articles from the cupboard. Later he left the Cafe. He became saved over the stolen articles - afraid of being caught with them in his possession. In order to dispose of them he sold them to Cornelis Van de Loey of Eindhoven for 100 Guilders - this was about 1630 hours - the accused did not sell the watch to procure additional money to drink - When arrested at 0 hours on 24 Apr by the Provost Corps in Eindhoven he still [illegible] the 100 Guilders [illegible] 14 days later.

The accused cooperated in every way with the authorities he told them where they could find the watch at the cafe of Van de Loey. He had saved the 100 Guilders to settle with the owner of the watch for the trouble he had caused. 100 Guilders was the approx value of watch. The accused stole this watch when still suffering from the ill effects of a fight on the road and also the beer given to him by the cafe proprietor, that morning. Later realizing his grave error in sold the watch he sent it for his wife and saved the 100 Guilders to give to the civilian. He asks for the court to take this into consideration [illegible] the civilian.

The accused has never been in trouble before [illegible] stealing [illegible] the accused was in the Dutch [illegible] and sent in a yard [illegible] at the [illegible] Loey [illegible] sold [illegible]

3/17 MFM 6
(AFB 122)
40/PAS/136 (5412

No. A117014 Name BECHARD Herman | Sqn, Battery, or Company | Corps CIC | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				-------First Sheet destroyed 30 Mar 44----------					
Ipperwash Ont.	1943 19Jul	Pte		AWL from 1200 hrs 19 Jul 43 til a prehended in Widsor at 1530 hrs 17 Aug 43 (29days 3 hrs 30 mins)AA 15(1)	Witner, R Documentary	28 days det'n	20Aug43	B.McPherson Major	FOP 30 days FRI 149 (1a) Costs 9.15
Camp Ipperwash	1943 11 Oct	Pte		AWL from 1200 hrs 11 Oct 43 until apprehended at 0330 hrs 23 Dec 43 (72 dys 15 hrs 30 min) AA 15 (1) Close arrest)	L/Cpl Meharry	28 days det'n	26 Apr 44	A Farmer Lt Col	FOP 73 dys 149(1a)FR&I
Camp Ipperwash	1944 17 Jul	Pte		AA 15(1) AWL from 1330 hrs 17 Jul 44 until 0210 hrs 23 Jul 44 (Absence:- 5 dys 12 hrs 40 min)	Cpl Smithers H (Doctry)	Forf 21 dys 46(2)(d)(AA) Cost of apprehension 6.55	25 Jul 44	A Garrod Lt Col	FOP 6 dys 149(1a) FR&I

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Ipperwash	1944 10 Aug	Pte		AA 15(1) AWL from 1200 hrs 10 Aug 44 until 1100 hrs 20 Oct 44 (Absence: 70 dys 23 hrs)	TO Gilchrist (doctry) (Cost of Apprehension 4.05)	28 days detention	20 Nov 44	A.Garrod	FOP 71 dys 149(1)(a) FR&l

CERTIFIED TRUE COPY AS TAKEN FROM ORIGINAL DOCUMENT IN MY CUSTODY

"R L Rogers" Capt
(R L ROGERS) Capt
Adjt Linc & Welld R
Offr having custody
of the original document.

Exhibit I
"HH Clarke" Maj
President

Cpl X Staff Sgt Bres

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case ma
A117014	Pte	Bechard HL	Lincoln & Welland Re

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For AWL two 4 times

For .... times

For .... times

For .... times

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* The accused at the present time is under nil sentence for .....

beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 28 days in military custody, making a total of 28 days of which nil days were spent in hosp.

5. The present age of the accused is 29

6. The date of his attestation is 6 Jan 43

7. The service which the accused is allowed to reckon is 2 yrs 4 mos

State the military decorations (if any) held by accused.

8. The accused is in possession of #

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -

	Date of Promotion
In the substantive rank of N.A.	.....
In the war substantive rank of	.....
In the acting rank of	.....

RNOR

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

No previous trials or convictions

by Court Martial.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this .....12th.. day of ..May 1945.....

......"R L Rogers" Capt.....
ADJT LINCOLN & WELLAND RGT

File: L28-B-716 (DAPM)

Date: 13 Mar 46.....

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

CENTRAL REGISTRY
CONF. REC.
12357
MAR 14 1946
File 6.55-B-1276
Chgd. to
Returned to admin.

NFW 288 for Disposal.

Re: A-117014 Pte. BECHARD, H.

Herewith returned in accordance with HQS 9089-1 Adm. 3(b)3 d/8 Sep 45 (Rd)2a) para 4. XXXXXXXXXX AF A3104 concerning the m/a soldier, duly completed.

2. For disposal on XXXXXXXXX termination of sentence.

for (P. Earnshaw) Brigadier,
D.O.C., M.D. 1.

Encl.-- 1

noted
JGR

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. A117014 Pte BECHARD Herman Leo Unit Linc & Welld R

Sentenced to undergo detention for fifteen (15) mths on 12 May 45

Age on, and date of, enlistment 27 - 6 Jan 43 Term of service 2yrs 4 mos

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To

Superior Military Authority.

I have directed that the above-named be ~~not~~ REF committed to undergo his sentence, which I recommend should be ~~suspended~~ (put into execution) (1) for reasons given in paragraph X.

Place Field

Date 22 May 45

H H Beaufort Maj

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on (3).

Place

Date

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To

Superior Military Authority.

This man was again convicted on and sentenced to and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of and be reviewed on (3).

Place

Date

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is omitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*26503) Wt.49340/415 38,000 1/44 A.& E.W.Ltd Gp.698 Forms/A.3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	NO REMISSION - RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	for (Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 17 AUG 1945	

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. See att charges. Signature of Officer making entry. Adjt. Lincoln & Welland Regt.	30 Mar	12 May
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
20 May 45	I recommend that sentence be served in full	(R C COLEMAN) Lt Col Comd Linc & Welld R

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
21 May 45	I concur with CO's recommendation	W P Burbrow Brig

I. - First Trial

		Date of Offence	Date of Trial
	The Accused, Herman Leo BECHARD, Lincoln & Welland Regiment, a soldier of the Canadian Army Overseas, is charged with:		
Sec 15 (1) Army Act	WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE, in that he in the field at 1000 hr 30 Mar 45 absented himself without leave from his Unit until apprehended at Eindhoven, Holland, at 2000 hr 10 Apr 45, absent 11 days 10 hours.	30 Mar 45	12 May 45
Sec 41 Army Act	WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, that is to say, stealing, in that he at a time between 2230 hr 9 Apr 45 and 1630 hr 10 Apr 45 stole a packet of cigarettes and a wrist watch, value approximately 100 guilders, the property of Antonius Van der Broek, a civilian of Eindhoven, Holland.	9-10 Mar 45	12 May 45
Sec 15 (1) Army Act	WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE, in that he in the field at 1600 hr 21 Apr 45 when in arrest escaped the custody of B32235 Sjt Whitfield D T and absented himself without leave until apprehended at Zutphen, Holland, at 2130 hr 24 Apr 45, absent 3 days 5 hours 30 minutes.	21 Apr 45	12 May 45

SUB 1-4-8-2 (SCA) -
and Personal File

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Headquarters, Camp Borden,
Camp Borden, Ontario,
6 MAR 46.

CENTRAL REGISTRY
11131
MAR 8
File 55-B-1976
Chgd. to
Referred to admin

District Officer Commanding,
Military District No. 1
LONDON, Ontario.

Officer Commanding,
No. 2 District Depot,
TORONTO, Ontario.

The Commandant,
No. 86 M.D.B.,
CAMP BORDEN, Ont.

A 117014 Pte. BECHARD, H.L.C. RC 1029 (8)
SUS - KOR at No. 86 M.D.B.

The m/n soldier under sentence by Court Martial O/S and presently serving his sentence at No. 86 M.D.B. will have completed two thirds of his sentence on 11 MAR 46 and will therefore be eligible for discharge in accordance with CARO 5913 para 9.

2. In this connection Report on Conduct and AF. 3104 are enclosed for this soldier. May these forms be forwarded to NDHQ when they have served their purpose.

3. This SUS is being despatched to his home District Depot in accordance with N.D.H.Q. letter HQC 9039-1-1(Adm 3) dated 31 Oct 45 (RB53A) for discharge as indicated after his name.

4. This SUS will be despatched to No. 1 D.D. on 9 Mar 46 as per schedule below. O.C. No. 48 Coy. C. Pro. C. Camp Borden will supply the necessary escort and arrange movement including necessary meals and transportation en route.

Train Schedule:

Leave	Camp Borden	1315 hrs	9 Mar 46
Arrive	Toronto	1545 "	9 Mar 46
Leave	Toronto	1740 "	9 Mar 46
Arrive	London	2050 "	9 Mar 46

noted
GOR

(J.F. Bingham)
Colonel
T/Commander, Camp Borden.

Copies to: The Secretary,
Department of National Defence,
OTTAWA, Ontario.

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

Officer Commanding,
No. 1 District Depot,
LONDON, Ontario.

Officer Commanding,
No. 48 Coy. C. Pro. C.,
CAMP BORDEN, Ontario.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

CONFIDENTIAL
OTTAWA, Ontario

HQC
5528-1976 Adm 3(b)2

District Officer Commanding,
Military District No 2,
TORONTO, Ontario.

13 Feb 46

Commander,
Camp Borden Military Camp,
CAMP BORDEN, Ontario

A-117014 Pte BRCHARD H L

1. Further this HQ letter HQS 8536-6 Vol 5 dated 2 Feb 46 and 12 Feb 46.

2. Herewith is AFA 3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(8).

3. It will be noted that this SUS was sentenced to [illegible] with ign- [illegible]

4. The sentence awarded has been reviewed by CMER who have recommended no remission.

5. Ack.

(E.G. Weeks)
Major-General
Adjutant-General.

HQC 55- B-1976 (CMBR- 1 /EH
6 Dec 45.

CASE NO.....1311.....

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: A-117014 Pte BECHARD, H.L.

2. Unit at date of offence: Lincoln & Welland Regt. B.W.E.F.

3. Charge: (1) AA Sec 15 (1) W.O.A.S. was A.W.L. until apprehended 11 days 10 hrs later.

(2) AA Sec 41 W.O.A.S. committed a civil offence by stealing a package of cigarettes and a wrist watch valued approximately 100 guilders.

(3) AA Sec 15 (1) W.O.A.S. was A.W.L. while under Close Arrest until apprehended 3 days 5 hrs later.

Plea: GUILTY all charges.

4. Place and Date of Trial: In the field - Germany - 12 May 45.
(FGCM) (XXXX) (XXXX)

5. Finding: GUILTY

6. (a) Sentence: 15 months Detention.

(b) Date of Sentence: 12 May 45.

7. Date of Confirmation: 18 May 45

8. Date of Promulgation: 20 May 45

9. Being served at: To be ascertained. in M.D._____

(N.B. - Discharged under R.O. 1029( ) for
wef).

noted
gck

COMMENT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	NIL		
(ii) Courts-Martial:	NIL		
(iii) Summary Convictions:	AA Sec 15 AA Sec 41		

(b) After Conviction: Good.
Expected date of release 11 Mar 46.

(c) Date of ~~enrolment~~/enlistment: 6 Jan 43 Present Age: 29

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) Accused states that while A.W.L. he stayed in a cafe and was drunk all the time, one time he got so drunk that he fell and hit his head and became unconscious. Next morning he was still in the cafe and while looking for a shaving kit saw the watch in a [redacted] CUPBOARD He started drinking again with the proprietor and returned to the cover and took the watch. When he left the cafe he realized what a serious thing he had done so he sold the watch to get rid of it, however, he kept the money for fourteen days without spending it. Stated he intended to return it to the owner.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.).

Reviewing Officer: Accused has had long service in the line. Recommend release on return from United Kingdom.

Reviewed by A.B. O'Keefe
(A.B. O'KEEFE) Capt.

---

14. Recommendation of the Board:

No Remission Recommened.

Date: DEC 12 1945

H.A. Nicholls Major
Secretary
Courts-Martial Board of Review.

THIS COPY FOR:

H.Q. C. 55-B-1976
M.D. 10/Bechard H.L.

G.S.

FIELD GENERAL
MEMORANDUM - DISTRICT COURT-MARTIAL

No. A-117014 Name Herman Leo BECHARD

Rank Pte. Unit L.& W. Regt. C.A.O.

Charge AA 15 (1) WOAS AWL

(2) AA 41 WOAS Committing a civil offence....

(3) AA 15 (1) WOAS AWL

Date of Crime (1) 30-3-45 (2) 9-4-45 (3) 21-4-45

Date of Arrest (1) 10-4-45 (2) 24-4-45 Charge Signed 2-5-45

Orders for F.C.M. Lt./Col. Comd. 10 C.I.B.

Place and Date of Trial In the field. 12-5-45

Sentence Detention 15 mos.

Date of Confirmation 18-5-45

Date of Promulgation 20-5-45

Entered in Records of J.A.G. as No. 4496

Date 4-12-45

MEMO

Reviewed at C.M.H.Q.

H. Peter, Capt.
for Judge Advocate-General

10M-8-45(M-189)

HQC 55-B-1976 (JAG/D-6)

3 December 1945

Canadian Military Headquarters,
2 Cockspur Street,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
A-117014, Pte. H.L.Bechard.

1. Receipt is acknowledged of your 10/Bechard H.L./ 1 dated 26 November 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial.

EKM

KLM:EJ

for (R.J.Orde) Brigadier,
Judge Advocate-General.

43

AIR MAIL

CANADIAN MILITARY HEADQUARTERS.
London

10/Bechard, HL/1
10/Ceretti, HG/1
8/Engrs Repat/1
8/Engrs Repat/1
8/Enqs Repat/3
8/Enqs Repat/4
AG REV b

The Secretary,
Departement of National Defence,
OTTAWA,
Canada.

26 Nov 45
12711

DEC 3 1945
File
Object 6-5-B-1976
Referred to
admin

A-117014 Pte. Bechard, H.L.
H- 1302 5Spr. Ceretti, H.G.
G-22226 Pte. Coughlan, R.F.
A- 4036 Pte. Dechesne, M.P.
A- 32199 SPR. Palmer, J.C.
B-137323 Tpr. Weimer, H.

1. FGCM proceedings on the m/n soldiers are forwarded herewith as requested in your cable JAG 937.

(J.C. Murchie) Lieut-General
Chief of Staff
CANADIAN MILITARY HEADQUARTERS

Encl.6.

4496

42

RECORDED AT CMHQ IN AB 160 SJ-126

CPA96 (In lieu of AFA31) 40/P & S/1698 (4000) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col G.D. Wotherspoon Comd 10 Cdn Inf Bde dated 10 May 45

RECEIVED 5-JUN 1945 JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank see (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A117014	Pte		Herman Joo Bernhard	Limerwelld	Regt.

PROCEEDINGS REVIEWED J.A. Fitzpatrick Capt 13 June 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Burke Capt 31/157 21 Army Gp. JAG Branch C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 12 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1110 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N.O.S.T.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 741.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.H. Clarke	29 Cdn Armd Recce Regt
Member	Capt.	R.E. Grandbois	A/Tk Regt.
Member	Lieut.	H.J. Purdie	A/Tk Regt.
Judge-Advocate	Major	E.E. Wasson	DJA HQ Cdn Armd Div
Prosecutor	Capt	W.H. Gow	Lincr Welld Regt.
Defending Offr	Lieut.	E.B. Rudden	Lincr Welld Regt

Questions by President: Is the Prosecutor a lawyer? Ans. N.O. Is the Defending Offr a lawyer? Ans. N.O.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

31 May 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser,* etc, *offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

The J.A. made no hard line inquiries from accused to ascertain that he knew what he was doing

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making on appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

A117014

The Accused, Herman Leo BECHARD, Lincoln & Welland Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE (Sec 15(1)AA)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he in the field at 1000 hr 30 Mar 45 absented himself without leave from his Unit until apprehended at Eindhoven, Holland, at 2000 hr 10 Apr 45, absent 11 days 10 hours.

SECOND CHARGE (Sec 41 AA)

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, that is to say, stealing,

in that he at a time between 2230 hr 9 Apr 45 and 1630 hr 10 Apr 45 stole a packet of cigarettes and a wrist watch, value approximately 100 guilders, the property of Antonius Van der Broek, a civilian of Eindhoven, Holland.

THIRD CHARGE (Sec 15(1)AA)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he in the field at 1600 hr 21 Apr 45 when in arrest escaped the custody of B32235 Sjt Whitfield D T and absented himself without leave until apprehended at Zutphen, Holland, at 2130 hr 24 Apr 45, absent 3 days 5 hours 30 minutes.

Charges withdrawn pursuant to K.R.C.M. 540 Dec Assem Cpt ADJA

(R C COLEMAN) Lt Col
Comd-Linc & Welld R

Field, 2 May 45

To be tried by Field General Court Martial.

(G D Wotherspoon) Lt col
A/Comd 10 Cdn Inf Bde

In the Field
10 May 45

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FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A117014	Pte		Herman Leo	BECHARD	Linc & Welld R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, had ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~" and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ "

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~) and to consist of the Offrs appointed or detailed hereunder.

4. ~~" I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. "~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	H H CLARKE	29 Cdn Armd Recce Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G E GRANDBOIS	Alq R
Lt	H J HEARN	A & S H of C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	H J PURDIE	Alq R

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E E WASSON	4 Cdn Armd Div

On Active Service in the Fd

in GERMANY (Country.)

J D Watson (Signed personally. RP 105 fn 2.) — Lt col (Rank.)

Date 10 May 45 — Commanding 10 Cdn Inf Bde — Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

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MED OFFRS CERTIFICATE
KR (Can) para 551

I certify that I have this day examined No. A117014 Pte Bechard H L of Lincoln & Welland Regt and in my opinion he is fit ~~unfit~~ to undergo trial by court-martial.

R. Archer Capt
(RMO)

Sta Field

Date 12 May 45

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on the head and also the beer given to him by the café proprietor. Realizing his grave position he sold the watch to get it off his hands and saved the 100 guilders to give to the owner — Wherefore that the court take these circumstances into consideration in arriving at a decision.

In addition the accused served the Dutch and Allied Rgt in the various actions at the Reple Sprover — Later through the entire campaign from our entry into Germany ~~till~~ through the Hochwald and up to the Rhine shore.

Pvt Bechard The accused has never been guilty of any other act of stealing in his army career which is shown by his enclosed record.

F. V. Rudder

Mr President and members of the court —

The accused Herman Leo Bechard wishes this court to know the circumstances which surrounded his stealing a watch in the home of Antonius Van der Broek of Eindhoven on the morning of 10 April 1945.

He hopes that the court will take these conditions into consideration on awarding sentence to the charge of stealing. X

On Monday 9 April 1945 Private Bechard the accused entered the Van Der Broek café in an intoxicated condition the proprietor of the place noted this. After a few minutes he fell on the floor stealing his head on the floor. He became unconscious and does not remember anything until he

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awoke the next morning in a bed in the upstairs part of the Van Der Brock café at about 1200 hrs. He was dizzy weak and had a large bruise on his forehead as a result of his fall.

He got up and went downstairs to shave in the kitchen of the café - he opened a cupboard to see if he could find a razor - at this time he saw a gold watch but did not touch it - later Van Der Brock supplied him with a shaving set. The café owner also had some beer to drink with the accused in the kitchen of the café.

Pot Behalf the accused soon found himself quite intoxicated again at this time he took the articles from the cupboard.

Later he left the café. He became worried over the stolen articles - afraid of being caught with them in his possession.

In order to dispose of them he sold them to Cornelis Van de Loey of Eindhoven for 100 Guilders - this was about 1630 hrs - The accused did not sell the watch for purpose of procuring additional money to drink - When arrested at 2000 hrs on 24 Apr 45 by the Provost in Eindhoven he still had the 100 Guilders with him untouched. 14 days later.

The accused cooperated on arrest in every way with the authorities - he told them where they could find the watch ~~and the~~ at the café of Van de Loey. He had ~~also~~ saved the 100 guilders to settle with the owner of the watch for the trouble he had caused. 100 guilders was approx value of watch. The accused stole this watch when still suffering from the ill effects of a blow

The accused declined to call witnesses on his own behalf.

I certify that RP 4 (d) (e) (f) (g) have been complied with.

taken by me in the field in the presence and hearing of the accused this 29 apr 45.

[illegible] Capt.
Signature of officer taking summary

Exhibit "A"
[illegible] Maj. [illegible]

Summary of Evidence

in the case of A 117014 Pte Herman Leo Bechard, Lincoln & Welland Regt, a soldier of the Canadian Army Overseas charged with (1) Absenting himself without leave, (2) Theft, (3) Escaping custody, and (4) Absenting himself without leave.

The CO directs that evidence be taken on oath.

Certified true copy of Lincoln & Welland Regt Part II Order No 18, para 9(a), dated 8 Apr 45, showing date and time of absence of the accused is read over to the accused, marked Exhibit "D," signed by me, and attached hereto.

Certificate of Apprehension in accordance with Sec 163(i)(jj) of the Army Act is read over to the accused, marked Exhibit "E," signed by me, and attached hereto.

First Witness L/Cpl Smith A W, 59 Provost Company, Corps of Military Police.

Document purporting to be the signed statement of evidence of L/Cpl Smith A W, 59 Pro Coy, CMP, is read over to the accused, marked Exhibit "A," signed by me, and attached hereto.

I Certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the time of the taking of the Summary of Evidence cannot readily be procured.

[illegible] Capt.
Signature of Offr Taking Summary

I do not demand the presence of this witness at the taking of the summary of evidence.

H. L. Bechard
Signature of Accused.

Second Witness. Antonius Van Den Broek, 352 Hoogstraat, Eindhoven, a citizen of Holland.

Document purporting to be the signed statement of evidence of Antonius van den Broek, a civilian, was read over to the accused, marked Exhibit "B," signed by me, and attached hereto.

I Certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the time of the taking of the summary of evidence cannot readily be procured.

~~Attdn~~ Capt.
Signature of Offr Taking the Summary

I do not require the presence of this witness at the time of the taking of the summary of evidence.

H. J. Bechard
Signature of Accused

Third Witness. Cornelis van de Lovey, 270 Hoogstraat, Eindhoven, a citizen of Holland,

Document purporting to be the signed statement of evidence of Cornelis van de Lovey, a civilian, was read over to the accused, marked Exhibit "C", signed by me, and attached hereto.

I certify that in my opinion, owing to the exigencies of the service, including the time & expense involved, the attendance of this witness at the time of the taking of the summary of evidence cannot readily be procured.

~~Attdn~~ Capt.
Signature of Offr Taking the Summary

I do not demand the presence of this witness at the time of the taking of the summary of evidence.

H. J. Bechard
Signature of Accused.

Fourth Witness. B32235 Sgt Whitfield D.T., Lincoln & Welland Regiment, having been duly sworn states:

I, B32235 Sgt Whitfield D.T. was detailed to pick up two prisoners in Eindhoven. One of them was the accused, A117014 Pte Bechard H, whom I recognize. On the way back to "B" Echelon from Eindhoven, I was held up at Zutphen by a convoy. I was alone with the two prisoners because the man who had accompanied me as escort had gone AWL in Eindhoven. I let the prisoners out to urinate, and Bechard ran around the corner of the house. I put the other prisoner back on the FW and went to hunt for Bechard, but could not find him. It was at 1600 hr 21 Apr 45 that Pte Bechard broke from my custody.

D.T. Whitfield
Signature of Witness.

The accused declined to cross examine this witness

H. J. Bechard
signature of accused.

Certificate of apprehension in accordance with sec 163(1)(jj) of the Army Act is read over to the accused, marked Exhibit "F", signed by me, and attached hereto.

The accused was warned as follows.

Do you wish to make any statements or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so. But whatever you say or any evidence you give will be taken down in writing and may be given in evidence

The accused.

I do not wish to make a statement at this time.

H. J. Bechard
signature of accused

59 Cmp 45

Exhibit 7

CHARGE

Army Form B 252
(See King's Regulations)

The Lincoln and Wellard (Canadian Army). 'D'

Regiment
~~Battery~~
~~Squadron~~
~~Troop or~~
Company

CHARGE against No. A 117014 Rank Pte

Name Bechard D.

Place ? Date of Offence ?

OFFENCE W.O.A.S. (1) Absent from ? until apprehended by the Military Police in GROOTE BERG, EINDHOVEN, on the 10th April 1945 about 2000 hrs. (2) Stealing civilian property.

Names of Witnesses :—

L/Cpl Smith A.W. 59 Provost Company. C.M.Police.

L/Cpl Mason W. 59 Provost Company. C.M.Police.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

3267 Wt.W4969/464. 1,272,000. 2/44. K. & N., Ltd. G65/46

P.T.O.

Statement of **EVIDENCE** in the case of:-

No A 117014 Pte Bechard D.
D Company. Lincoln & Wellard Regt.
4th Canadian Div. C.A.O.S.

Sir,

At EINDHOVEN on the 10th April 1945 about 2000 hrs, I was on duty in GROOTE BERG, when I was approached by MRS. A.VAN DEN BROEK, 352, HOOGSTRAAT, EINDHOVEN, who said that a soldier had slept at her home for the night, and after he had left the following morning she missed a gold wrist watch, and she now knew where the soldier was.

I proceeded to CAFE DRIESPRONG, GROOTE BERG, EINDHOVEN, where she pointed out the above named soldier.

I questioned him and not being satisfied I conveyed him to PROVOST H.Q. for further questioning, where he admitted being absent from his unit and said a watch and three packets of cigarettes from the premises of MR.A.VAN DEN BROEK where he had slept the night of the 9th to 10th.

He stated that he had sold the watch to LOOY, CORNELIS, 270, HOOGSTRAAT, EINDHOVEN for one hundred (100) Guilders. I proceeded to these premises and recovered the watch which is now held by the Civilian Police Eindhoven.

I obtained his particulars verbally and verified same from his M.B.M.1.and told him he would be charged and conducted him to the TOWN GUARD ROOM and handed him over to the N.C.O. ~~i/c Guard~~ to be detained.

REMARKS

B.L.A. C.W. Smith L/Cpl
10th Apr 45 C.M.Police.

Sir,

I have read over and corroborate the above statement.

B.L.A. L/Cpl
10th Apr 45 C.M.Police.

Exhibit B

Copy-Statement (Translation).

Statement made by: VAN DEN BROEK, ANTONIUS, living 352 HOOGSTRAAT, EINDHOVEN.

Who says,

On Monday, 9th April 1945 about 2230 hrs, a soldier (Canadian) entered my cafe and ordered a glass of beer. I noticed that he was not sober, but in my opinion, he was not so drunk as he intended to look., but after a few minutes he fell on the floor.

I asked the soldiers, who were present in my cafe, if they knew him and if the would take him to his unit, but they did not, because nobody knew him. So I let him sleep that night in my cafe.

The next morning I tried to wake him, but he refused to rise.

Because it was impossible that he could stay longer in my cafe, I took him upstairs into one of my bedrooms. About 1200 hrs, I tried again to awake him, whereupon he came downstairs into the kitchen for a wash an shave.

A few customers came in, and after a few hours he left my cafe.

About 1630 hrs, I intended to get a packet of cigarettes, which was in an unlocked cupboard and discovered that they had gone, together with my wrist watch.

I suspected the soldier because nobody else has been in the kitchen at that time.

My wife informed the Police concerning that theft, and the watch which was shown to me by the Police, I recognize as my property.

Eindhoven, 11th April 1945. (Signed) A.v.d.Broek.

I certify that the above statement was taken by me on the 11th af April 1945.

Eindhoven, 11th April 1945. (Signed) A.W.v.d.Bosch
Civil Policeman.
Attd. 59 Provost Company.
C.M.Police.

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Exhibit "D"
[illegible] Capt

THE LINCOLN & WELLAND REGIMENT
Part II Orders issued by
CANADIAN SECTION 2ND ECHELON HEADQUARTERS
21 ARMY GROUP

Last Order No 17 6 APR 45 — No 18 8 APR 45

"A" OFFICERS

1 ATTACHMENTS

(a) Att from NO 6 COY CDC wef 15 MAR 45 to 26 MAR 45
Maj A E HOBDEN CDC

2 APPOINTMENTS & PROMOTIONS

(a) To be A/Capt: Lt W D TURNBULL, 21 MAR 45

"B" OTHER RANKS

3 STRENGTH INCREASE

(a) TOS from X-4 LIST (13 BN) LINC & WELLD R wef 2 7 MAR 45
Auth - ARS/472 d/25 MAR 45
B157409 Pte COSTELLO J S V B137589 Pte VAREY C W

(b) TOS from X-4 LIST (13 BN) INF GEN UNALL wef 27 MAR 45
Auth - ARS/472 d/25 MAR 45
B633066 Pte CAMPBELL L A J
B155032 Pte HOLT H M
C35545 Pte KEECH K B
B4806 Pte KNICELY D G
B118169 Pte PAISLEY C E
B126726 Pte RUNNING W A
C117565 Pte SEYMOUR F
B118258 Pte WAITE A E J
B147754 Pte DERWIN F
C39470 Pte JANNACK M
B162200 Pte KILLORAN D F
B162012 Pte LOWREY F R
Dvr Mech (MV) "C"
Inf Sig "C"
B163338 Pte SULLIVAN T V O

(c) AMENDMENT: Part II Order No 8 para 3(c) d/17 FEB 45 insofar as it refers to the u/m is amended to read "AA109236"
A109256 Pte GEIL S L

(d) AMENDMENT: Part II Order No 16 para 5(s) d/31 MAR 45 is cancelled

4 STRENGTH INCREASE RECLASSIFICATION AND TRADESMENS RATES OF PAY

(a) TOS from X-4 LIST (13 BN) INF GEN UNALL reclassified as general duty wef 27 MAR 45 and to continue in receipt of tradesmens rates of pay under Art 147(5)(b) FR&I (Can) for a period of 6 months from 27 MAR 45 to 26 SEP 45
Auth - ARS/472 d/25 MAR 45
B84749 Pte LORTIE M J Dvr Mech (MV) "C"

5 STRENGTH INCREASE AND TRADESMENS RATES OF PAY

(a) TOS from X-4 LIST (13 BN) INF GEN UNALL wef 27 MAR 45 and to continue in receipt of tradesmens rates of pay under Art 147(5)(b) FR&I (Can) for a period of 6 months from 27 MAR 45 to 26 SEP 45
Auth - ARS/472 d/25 MAR 45
B116792 Pte JAMES T G Dvr Mech (MV) "C"

RECEIVED
APR 19 1945
LINCOLN & WELLAND REGT.

Certified true copy
of Part II Order No 18/45
of the Lincoln & Welland
Regt. [illegible] Capt, Adjt.

6 ATTACHMENTS

(a) Att from NO 6 COY CDC wef 15 MAR 45 to 26 MAR 45
D105086 Sjt GLENDAY A G CDC
L25866 Pte HANSON D D CDC

(b) Att from NO 6 COY CDC wef 15 MAR 45 to 19 MAR 45
B5285 Sjt DAY J A CDC

(c) Att from 4 CDN ARMD DIV TPS COY RCASC wef 24 MAR 45
A23104 Pte BROWN K G F30694 Pte NORTON G A

7 COURSES

(a) Ret from NCO's COURSE NO 5 and cease att to 4 CDN ARMD DIV TRG SCHOOL wef 6 MAR 45
B40902 A/Cpl RAY C M F78223 L cpl MAIDMENT S G

8 LEAVE OF ABSENCE

(a) Granted 9 days PL to UK with allowance in lieu of rations
Proceeded on 25 MAR 45
B40825 L cpl BOOK H O
B70494 A/WO II (CSM) BURMASTER G A (MM)
B40674 WO II (CSM) CAMPBELL W F
B40658 Pte CLARK C
F86089 Cpl COMEAU B J
B142775 A/Cpl FIFER J
B41388 WO II (RQMS) MITCHELL M K M
B70384 Pte PHELPS D L
B41084 Sjt STABLER-SPENCE J E
RCASC
B40793 Pte CONLEY R G
B41536 Pte HOLGATE G H RCASC

(b) Ret from 21 days Compassionate Leave to UK wef 27 MAR 45
L61773 Pte HUNCHER N J

9 ABSENT WITHOUT LEAVE

(a) AWL from 1000 hrs 30 MAR 45
A117014 Pte BECHARD H

(b) AWL from 0800 hrs 29 MAR 45
K75492 Pte HAWVER J R

(c) AWL from 1800 hrs 28 MAR 45
B139122 Pte HEAD R E B52296 A/Cpl YATEMAN C E

(d) AWL from 2200 hrs 29 MAR 45
A21998 Pte NAPIER J V

(e) AWL from 0530 hrs 30 MAR 45
B52987 Pte SMELTZER J D

(f) AWL from 0500 hrs 30 MAR 45
B60628 Pte DUNBAR C W L106155 Pte KAUTZMAN A P

9 ABSENT WITHOUT LEAVE - CONT'D.

(g) AWL from 0900 hrs 4 MAR 45 Still absent 0900 hrs 12 MAR 45
(8th day)
B136969 Pte CHIKOWSKI D B137891 Pte ONICA D

(h) AWL from 0900 hrs 4 MAR 45 Still absent 0900 hrs 26 MAR 45
(22nd day)
B136969 Pte CHIKOWSKI D B137891 Pte ONICA D

(i) AWL from 0900 hrs 5 MAR 45 Still absent 0900 hrs 13 MAR 45
(8th day)
B143502 Pte CONLON M C

(j) AWL from 0900 hrs 5 MAR 45 Still absent 0900 hrs 27 MAR 45
(22nd day)
B143502 Pte CONLON M C

10 APPOINTMENTS AND PROMOTIONS

(a) To be Sjt wef 1 FEB 45
A57319 Cpl (A/Sjt) KIPP C D

(b) To be A/Sjt wef dates shown
B118463 Cpl (L sjt) COOKE R G 25 MAR 45
D86187 Pte (A/Cpl) STASZUK T S 27 MAR 45

(c) To be Cpl and appt L Sjt wef 15 JAN 45
B142888 Pte (A/Cpl) (A/L sjt) RUSSELL D A

(d) To be A/L sjt wef dates shown
L54710 Pte (A/Cpl) JORDAN G M 25 MAR 45
L8799 Pte (A/Cpl) RIFFEL F 27 MAR 45

(e) To be A/Cpl wef dates shown
B135364 Pte (L cpl) OTT I F 25 MAR 45
B40651 Pte RICHARDSON W 17 MAR 45
B71161 Pte (L cpl) SHREVE E 17 MAR 45

(f) To be A/Cpl wef 28 MAR 45 and to draw tradesmens rates of pay $2.20 per diem under Art 147(5)(b) FR&I (Can) to 28 JUL 45
A9609 Pte (L cpl) HUMPHREYS T B Coach Trimmer "B"

(g) To be L cpl wef 25 MAR 45 and to draw tradesmens rates of pay $1.85 per diem under Art 147(5)(b) FR&I (Can) to 28 JUL 45
A64386 Pte SWEET N E Coach Trimmer "C"

(h) To be L cpl wef dates shown
A110341 Pte CRAIG R E 28 MAR 45
B40513 Pte MYLCHREEST O H 25 MAR 45
M56060 Pte PARKER L E 27 MAR 45
B68402 Pte WEST L E 27 MAR 45

10 APPOINTMENTS & PROMOTIONS - CONT'D

(i) AMENDMENT: Part II Order No 13 para 6(c) d/16 MAR 45 insofar as it refers to the u/m is amended to read "6 MAR 45"
F25322 Pte (L cpl) McKAY M A 3 MAR 45

(j) AMENDMENT: Part II Order No 15 para 6(e) d/25 MAR 45 insofar as it refers to the u/m is cancelled
H43149 Pte (L cpl) GARDINER L D 14 MAR 45
H204135 Pte SKLEPOWICH J 14 MAR 45

11 REVERSIONS

(a) Reverted to A/Cpl (A/L sjt) wef 24 MAR 45
B142888 Pte (A/Sjt) RUSSELL D A

(b) Reverts to Pte at his own request wef 11 MAR 45
To draw tradesmens rates of pay of $1.75 per diem
A104526 Cpl STUMPF H F Stor T&D "C"

(c) AMENDMENT: Part II Order No 15 para 7(f) d/25 MAR 45 insofar as it refers to the u/m is amended to read "To draw regt rates of pay of $1.50 per diem"
A868845 Pte (L cpl) LITTLE T D
C120332 Pte (L cpl) McILMOYLE I E

(d) AMENDMENT: Part II Order No 15 para 7(f) d/25 MAR 45 insofar as it refers to the u/m is amended to read "To draw tradesmens rates of pay of $1.75 per diem Dvr Mech (MV) "C""
H102361 Pte (L cpl) MORE OF

12 TRADESMENS QUALIFICATIONS

(a) Reclassified from Dvr Mech to Dvr Mech (MV) wef 27 MAR 45 in accordance with Overseas RO 4778
B84749 Pte LORTIE M J B118169 Pte PAISLEY C E

13 TRADESMENS RATES OF PAY

(a) Vacates as Clerk "C" wef 19 MAR 45 Apptd L cpl (non-tradesman) wef 20 MAR 45 Continues $1.75 per diem under FR&I 147(3) wef 20 MAR 45
A117386 Pte BOGUE E P

(b) Vacates as Inf Sig "C" wef 13 MAR 45 Apptd A/Cpl (non-tradesman) wef 14 MAR 45 Continues $1.85 per diem under FR&I 147(3) wef 14 MAR 45
H43149 Pte (L cpl) GARDINER L D

(c) Vacates as Inf Sig "C" wef 13 MAR 45 Apptd A/Cpl (non-tradesman) wef 14 MAR 45 Continues $1.75 per diem under FR&I 147(3) wef 14 MAR 45
H204135 Pte SKLEPOWICH J

13 TRADESMENS RATES OF PAY - CONT'D

(d) AMENDMENT: Part II Order No 4 para 3(a) d/24 JAN 45 insofar as it refers to the u/m is cancelled
M100014 Pte WARD W L C Motorcycle Mech "B"

(e) AMENDMENT: Part II Order No 9 para 16(a) d/24 FEB 45 insofar as it refers to the u/m is cancelled
M100014 Pte WARD W L C Motorcycle Mech "B"

14 TRADESMENS RATES OF PAY AND RECLASSIFICATION

(a) AMENDMENT: Part II Order No 4 para 4(b) d/24 JAN 45 insofar as it refers to the u/m is cancelled
M100014 Pte WARD W L C Motorcycle Mech "B"

15 PUNISHMENTS

(a) On 27 MAR 45 awarded 7 days CB for an off under AA 15(1) AWL from 2300 hrs 26 MAR 45 to 0800 hrs 27 MAR 45 (absent 9 hrs) Forf 1 days pay FR&I 149(1)(a)
B41113 Pte DUNCAN A H

(b) On 22 MAR 45 awarded a forf of 21 days pay for an off under AA 15(1) AWL from 1900 hrs 9 MAR 45 to 1250 hrs 17 MAR 45 (absent 7 days 17 hrs 50 min) Forf 8 days pay FR&I 149(1)(a) Forf 21 days pay FR&I 149(2) Total forf 29 days pay
B160029 Pte ELSON H W

(c) On 28 MAR 45 awarded 3 days CB for an off under AA 15(1) AWL from 0900 hrs 27 MAR 45 to 0800 hrs 28 MAR 45 (absent 23 hrs) Forf 1 days pay FR&I 149(1)(a)
B118059 Pte FRASER R D

(d) On 26 MAR 45 admonished for an off under AA 15(1) AWL from 1400 hrs 24 MAR 45 to 1710 hrs 25 MAR 45 (absent 1 day 3 hrs 10 min) Forf 2 days pay FR&I 149(1)(a)
B110483 A/Sjt TAVERNER W A D143621 L cpl FORWARD E R

(e) On 23 MAR 45 awarded 3 days CB for an off under AA 15(1) AWL from 0 800 hrs 22 MAR 45 to 0800 hrs 23 MAR 45 (absent 1 day) Forf 1 days pay FR&I 149(1)(a)
B158150 Pte CHERRIERE N A E100480 Pte WALKER A

(f) On 26 MAR 45 awarded a forf of 21 days pay for an off under AA 15 (1) AWL from 1800 hrs 19 MAR 45 to 0015 hrs 26 MAR 45 (absent 6 days 6 hrs 15 min) Forf 7 days pay FR&I 149(1)(a) Forf 21 days pay FR&I 149(2) Total forf 28 days pay
B129663 Pte WILLS R

(g) On 26 MAR 45 awarded a forf of 28 days pay for an off under AA 15(1) AWL from 0900 hrs 9 MAR 45 to 1250 hrs 17 MAR 45 (absent 7 days 17 hrs 50 min) Forf 8 days pay FR&I 149(1)(a) Forf 28 days pay FR&I 149(2) Total forf 36 days pay
B70519 Pte RIVARD R

15 PUNISHMENTS - CONT'D

(h) Sentence of 2 years imprisonment with HL awarded by FGCM 22 SEP 44 and suspended wef 22 DEC 44 is remitted
Auth - GOC 4 CDN ARMD DIV 25 MAR 45
B40914 Pte SMITH W L

16 NEXT OF KIN

(a) The name and address of N-of-K is verified as shown:

B41568 Cpl FLEWELLING G R — ANNIE FLEWELLING (mother)
5731 BUFFALO AVENUE NIAGARA FALLS
NY USA

B41573 Pte POLOVICH A — ROSE LYNCH (sister)
717 PIERCE AVENUE NIAGARA FALLS
NY USA

17 HONOURS AND AWARDS

(a) Awarded THE MILITARY MEDAL — Auth - Overseas RO 1095
B41555 Pte ANTONELLI E

(b) Awarded FIRST Good Conduct Badge wef 21 JAN 45
Auth - Overseas RO 308
B139038 Pte LEDINGHAM G G

(c) Forf ONE Good Conduct Badge wef 16 MAR 45 (awarded a forf of 28 days pay on 16 MAR 45)
B41466 Pte VERDIN D

(d) Forf ONE Good Conduct Badge wef 19 MAR 45 (awarded a forf of 28 days pay on 19 MAR 45)
B40660 Pte HUNT T M — B41320 Pte SMITH E R

(e) Forf ONE Good Conduct Badge wef 21 MAR 45 (awarded a forf of 28 days pay on 21 MAR 45)
K53164 Pte CLETHEROE F V

(f) Forf ONE Good Conduct Badge wef 26 MAR 45 (awarded a forf of 21 days pay on 26 MAR 45)
B129663 Pte WILLS R

18 STRENGTH DECREASE

(a) SOS deceased wef 28 FEB 45 Killed in action
O32677 Pte RIVARD G

(b) SOS deceased wef 26 FEB 45 Died of wounds
U2074 Pte MacDONALD H E A

(c) SOS to X-4 LIST (13 BN) RCEME wef 23 MAR 45
Auth - EAR4/1210 d/23 MAR 45
D128742 Cfn CANNING L H — Fitter "B"

18 STRENGTH DECREASE - CONT'D

(d) SOS to X-3 LIST (LINC & WELLD R) wef dates shown

B41063	Pte	BUFFETT W		26 MAR 45
B633066	Pte	CAMPBELL L A J		27 MAR 45
C4170	Pte	CARTER W R A		24 MAR 45
H103759	Pte	CHARETTE G J		26 MAR 45
A110560	Pte	GORDON V L		26 MAR 45
A110380	Pte	KAHANEK F A	Shoemaker "C"	22 MAR 45
A116544	Pte	KASPICK M W		24 MAR 45
H42219	Pte	LILLEY G M		28 MAR 45
A608844	Pte	LOCHER W		26 MAR 45
F78223	Pte	(L cpl) MAIDMENT S G		28 MAR 45
C118511	Pte	MANLOW B M	Dvr Mech (MV) "C"	23 MAR 45
B41041	WO II	(CSM) MOSES K W		23 MAR 45
H10427	Pte	McMILLAN G C		23 MAR 45
H53370	Pte	O'CONNOR R O E		27 MAR 45
B143119	Pte	RALPH B M		26 MAR 45
B40914	Pte	SMITH W L		28 MAR 45
F56731	Pte	STONE C C		28 MAR 45

(e) SOS to CM-932-4 (TRG) INCR HQ 2 CBRG wef 24 MAR 45
Auth - FCA/102/Instrs/1 (AAG ORG) d/22 FEB 45
B100534 Sjt JONES A S B41198 Sjt WINTERFORD A L

(f) AMENDMENT: Part II Order No 11 para 12(d) d/8 MAR 45 insofar as it refers to the u/m is cancelled
A109529 Pte INKLEY W T

(g) AMENDMENT: Part II Order No 14 para 15(d) d/18 MAR 45 insofar as it refers to the u/m is cancelled
B160182 Pte YARROW E

(h) AMENDMENT: Part II Order No 14 para 15(e) d/18 MAR 45 insofar as it refers to the u/m is cancelled
U2074 Pte MacDONALD H E A

(i) AMENDMENT: Part II Order No 7 para 20(j) d/10 FEB 45 insofar as it refers to the u/m is cancelled
B115471 Pte STOKES S J 1 FEB 45

(j) AMENDMENT: Part II Order No 14 para 15(g) d/18 MAR 45 insofar as it refers to the u/m is amended to read "A109236"
A109256 Pte GEIL S L

19 STRENGTH DECREASE AND TRADESMENS RATES OF PAY

(a) SOS to X-3 LIST (LINC & WELLD R) wef dates shown and to continue in receipt of tradesmens rates of pay under Art 147(5)(b) FR&I (Can)

A86184	Pte	DARVILLE T J	Stor T&D "C"	23 MAR 45
C122328	Pte	STEENBURG A	Dvr Mech (MV) "C"	27 MAR 45

(J R FEMELON) Captain
for Officer ic
CANADIAN SECTION 2ND ECHELON HEADQUARTERS
21 Army Group

/mcs

Exhibit "6"

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT, SECTION 163 (1)

I certify that No. A.117914 Rank Pte Name Beckard. D.

of. D. Coy. Lincoln. & Wellard. Regt. 4th. Can. Div. C.A.O.S. (unit) was arrested at

Eindhoven (place) at 2000 hrs on

9. Apr. 45 (date) He was dressed in uniform / ~~xxxxxxxxxx~~.

Date. 10th. April. 1945.. Signature of Provost Marshal, APM, or other officer into whose custody the s/n person was taken on arrest.

Signature and rank J Glen Leffaen Capt.

Unit or appointment. 59. Provost. Company. C.M.Police.

1. This certificate must be signed personally by the officer concerned.
2. In no circumstances may it be signed by one officer for another, or by anyone not holding commissioned rank.
3. In no circumstances should the place of apprehension be described as 'In the Field'. The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

NO.11 CDN PROVOST COMPANY

THIS IS TO CERTIFY:

Exhibit "7"

REG NO A.117014 RANK PRIVATE NAME BECHARD, H.L.

UNIT "D" COY, LINCOLN & WELLAND REGT, 4 CDN ARMD DIVISION

WAS APPREHENDED AT 2130 HOURS 24 Apr 45 DATE

AT ZUTPHEN, HOLLAND PLACE. AT THE TIME OF APPREHENSION

WAS DRESSED IN MILITARY UNIFORM - XXXXXXXXXXXXXXXX

.....Capt.
XXXXXXXXXX (M.A. Fitz-Gibbon)
Officer Commanding,
No.11 Provost Company.

13

Exhibit "X"

Army Form B.299.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A117014	Pte	Bechard H L	Lincoln & Welland Regt.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL	two times	4 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~

~~The recommendations in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A beginning on the N/A day of N/A.

4. The accused has been in confinement, awaiting trial on the present charges, for ~~28~~ N/A days in civil custody, and 28 days in military custody, making a total of 28 days, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 29

6. The date of his ~~conversion~~ attestation specified in his ~~attestation paper~~ record of service is 8 Jan 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 4 mo

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 4 mo service.

9. The accused is entitled to reckon 2 yrs 4 mo service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

~~In the case of an officer, the accused has been recommended for the decoration of the Efficiency Medal.~~

~~In the case of an officer, the accused has been mentioned in despatches dated~~

(*25800) Wt.24898/1730 20,000 10/43 A.& E.W.Ltd. Gp.698
(26906) Wt.55924/1499 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A117014 Rank Pte Name Bechard H L of Lincoln & Welland Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		No previous trials or convictions by Court Martial,		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~2nd~~ 12th day of May 1945

Capt.
Adjt., Lincoln & Welland Regt.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

MPM 6
(A9B 123)
40/P&S/138 (3468)

No A117014 Name BECHARD Herman | Sqn, Battery, or Company | Corps CIC | Date of enlistment 6 Jan 43 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				-------First Sheet destroyed 30 Mar 44--------					
Ipperwash Ont.	1943 19 Jul	Pte		AWL from 1200 hrs 19 Jul 43 til apprehended in Widsor at 1530 hrs 17 Aug 43 (29 days 3 hrs 30 mins) AA 15 (1)	Winter, R. Cpl. Doc'y	28 days detention	20 Aug 43	B.McPherson Major	FOP 30 days FRI 149 (1a) Costs 9.15
Camp Ipperwash	1943 11 Oct	Pte		AWL from 1200 hrs 11 Oct 43 until apprehended at 0330 hrs 23 Dec 43 (72 dys 15 hrs 30 min) AA 15 (1) Close arrest.	L/cpl Meharry	28 days detention	26 Apr 44	A.Farmer Lt-Col	FOP 73 dys 149(1a)FR&I
Camp Ipperwash	1944 17 Jul	Pte		AA 15(1) A W L from 1330 hrs 17 Jul 44 until 0210 hrs 23 Jul 44 (Absence:- 5 dys 12 hrs 40 min)	Cpl Smithers H (doctry) Coat of	FOP 21 dys Sec 46(2)(d) AA apprehension 6.55	25 Jul 44	A.Garrod Lt-Col	FOP 6 dys 149(1a)FR&I

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Ipperwash	10 Aug 1944	Pte		A A 15(1) A W L from 1200 hrs 10 Aug 44 until 1100 hrs 20 Oct 44 (Absence:-70 dys 23 Hrs)	TO.Gilchrist (doctry)	28 dys Detention (Cost of apprehension 4.05)	20 Nov 44	A.Garrod Lt-Col	FOP 71 dys 149(1)(a) FR&I.

Ex 4 to 8 TS

CERTIFIED TRUE COPY AS TAKEN FROM ORIGINAL DOCUMENT IN MY CUSTODY

(R L ROGERS) Capt
Adjt Linc & Welld R
Offr having custody
of the original document.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans..... Do you intend to call witnesses on your behalf?
Ans..... Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. X and Ex. Y respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes, by my Defending Officer (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(4), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4496 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 4 day of Dec 19 45

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 15(1) AA	Guilty	Guilty	
2nd 47 AA	Guilty	Guilty	
3rd 15(1) AA	Guilty	Guilty	
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

to undergo detention for a period of fifteen (15) months

(Sgd) [signature] Maj. 12 May 45 (Sgd) [signature] Maj.
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1) [illegible]
(1. AA 57A. Delete if not used.)

Date 18 May 45 (Sgd) [signature] Brig
Commanding 10 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A117014 Pte Bechard L	20 May 45	[signature] Capt. Adjt. Lincoln & Welland Regt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

16 Nov 45

C.M.B.R.

Ref your Min. II two folios down. F.G.C.M. proceedings not forwarded by C.M.H.Q. See para 7 of 10/Bechard, H.L/1 dated 7 Sep 45.

E.L.M
for J.A.G.

JAG:- Your action noted.
As it appears that this case must be reviewed by CMBR it would be appreciated if Proceedings could be obtained, please. W. a. Stilwell, Maj
17/11/45 CMBR.

COPY OF ARMY MESSAGE
(Outgoing)

File HQC 55-W-442(JAG/D-6)

TO

CANMILITARY

UNCLASSIFIED

WEEKS FROM ORDE

JAG 937 PLEASE FORWARD BY BOMBER MAIL FGCM PROCEEDINGS RE FOLLOWING SOLDIERS (.) B 137323 TPR WEIMER H (.) G 22226 PTE COUGHLAN R F (.) H 13025 SPR CERETTI H G (.) A 32199 SPR PALMER J C (.) A 117014 PTE BECHARD H L (.) A 4036 PTE DECHESNE M P (.)

DEFENSOR

Copy on following files:-

HQC.55-C-1468
" 55-C-1485
" 55-P-1127
" 55-B-1976
" 55-D-1225

(R.J. Orde) Brigadier
Judge Advocate General

AIR MAIL Quote No. 10/Bechard, H.L/1

CANADIAN MILITARY HEADQUARTERS

LONDON

BOMBER 7 Sep 45

CONFIDENTIAL

The Secretary,
Department of National Defence (Army),
Ottawa Canada

A 117014 Pte Bechard, H.L.

1. The m/n soldier is now serving a sentence of 15 months detention awarded by FGCM 12 May 45 for an absence without leave from which he was apprehended after 11 days (AA Sec 15(1)), committing a civil offence, that is, stealing a packet of cigarettes and a wrist watch from a civilian (AA Sec 41), and an absence without leave, when under arrest, from which he was apprehended after 3 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released, if he continues to do so, is 11 Mar 46.

3. This soldier enlisted 6 Jan 43 at Windsor, Ont. and he is now 29 years of age. Since enlistment he has been found guilty of 7 offences under AA Sec 15(1) and of 1 offence under AA Sec 41. He has had no previous FGCM.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. The SPO who examined this soldier states that he is an immature French Canadian of restricted intelligence who openly admits that he had no intention of ever participating in front line action.

6. In view of the offences of which this soldier has been convicted and the many heavy summary awards for long periods of AWL of which he was previously convicted, as a result of which he has performed little useful service as well as the report outlined in para 5 above, it is considered that he should be required to serve his sentence in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier has misconducted himself in order to avoid rendering any effective service to the army and in all probability with a view to obtaining his discharge.

7. It has accordingly been directed pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original AF A3104 in respect of the FGCM held 12 May 45 on which this direction has been endorsed.

(E.G. Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters

Enc
Copy to: O i/c, Records

JAG- Please pass FGCM proceedings.
W.A. Stitsell, Maj
14/11/45 CMBR

1/39B CMHQ 1000/77 40/P & S/803 (6740)

H.Q.C. 55-B-1977

CONFIDENTIAL

M.F.B. 3470
5134—2-45 (6669)
H.Q. 261-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BERRY, ROMEO D.654296 BNR.

CONFIDENTIAL
H.Q.C. 55-B-1977

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 25 1945				JAG	NEW FILE	CR	20-9-45
OCT 9 - 1945				J.A.G.	With Papers C.A. OCT 6 - 1945		
NOV 9 - 1945	9 NOV 45	PA			With Papers C.R. NOV 8 1945		
	8 NOV 45	PA					
				J. A. G.	For Completion C.R. NOV 13 1945		
NOV 16 1945	16 NOV 45	PA					

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1977
(JAG/D-6)

OTTAWA, 15 November, 5

District Officer Commanding
Military District No 4
MONTREAL, Que

D-654296, Pte BERRY, R

Receipt is acknowledged of your M-1-B-17388 ADIS dated 8 Nov 45, M.1- B-17388 A/DIS dated 6th Nov 45, under cover of which you forwarded to this office for custody Form of Remission and MFM 288 respectively, in connection with the m/n soldier.

E.L.M.

for (R J Orde) Brigadier
Judge Advocate General

/jm

ar

FILE NO:
M-1-B-17388 ADIS

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

8081
NOV 9 1945
C.55-B-1177
Adjutant General

MONTREAL, Que
8 Nov 45.

The Secretary,
Department of National Defence,
OTTAWA, Ontario

D-654296 PTE BERRY R.

Ref

1 Att hereto form for remission in respect to the marginally named soldier.

(E J RENAUD) Maj Gen
DOC MD No 4

ENCL

noted
CMBR 4
16 NOV 45

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No.....
District File No. M.1-R-17388 A/DIS....

PART I

No...D654296....Rank....Pte.....Name.....BERRY, R.....
Unit.....No. 4 District Depot.....

PART II

Date of Trial....4th September, 1945.....
Charge(s)....ASSAULTING HUSBAND WITHOUT LEAVE.....
Sentence.....120 days detention.....
Date of Sentence..4th September, 1945.....
Confirmation -- (a) Authority: .....DOC 7.....
(b) Date : .....4 Nov 45.....

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~commutation~~ ~~mitigation~~ balance of term of detention

Signed at...MONTREAL.....this..23..day of..Oct 45
.....
(Appointment)(E.J. RENAUD) Major General, DOC)
To be signed by the Remitting Authority personally.

M.D. No.4

PART IV

PROMULGATION

Remission (~~commutation~~)(~~mitigation~~) promulgated and extracts taken at..Montreal South, Que.....this..3rd.....day of..November,..... 1945..

(1)

.....
Officer i/c Documents.
(L.R. HAMBLIN) Lieut.,
C.I.C.,C.A.,att'd to
No.4 District Depot,C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D-654296 Rank Pte..... Name BERRY, R. ..... Standing.....
The sentence of 120 days detention .....awarded by District Court Martial on the .4th September.....1945.....has been remitted .....on the 3rd November.....194..... by.....
UNIT Military District No.4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A.
No. 266.....Place Vacques Cartier Barracks.....Date 3rd November, 1945.
Montreal South, Que.
Adjutant

(J. [illegible]) Capt.-Adjt.
General List,C.A.,att'd to
No.4 District Depot,C.A.

~~Strike out and initial words not applicable.~~

FILE NO:

M-1-B-17388 ADIS

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

MONTREAL, Que

8 Nov 45.

The Secretary,
Department of National Defence,
OTTAWA, Ontario

D-654296 PTE BERRY R.

Ref

1 Att hereto form for remission in respect to the marginally named soldier.

(E J RENAUD) Maj Gen
DOC MD No 4

ENCL

File No. 4[illegible]-II-B-231 (Leg)

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

Jacques Cartier Barracks,
Montreal, Que.
Date: 7th November, 1945.

MILITARY DISTRICT NO. 4 CENTRAL REGISTRY NOV 7 1945 MONTREAL

Headquarters,
Military District No.4,
Sun Life Building,
Montreal, Que.

FORM OF REMISSION
D-[illegible]96 Pte. BERRY, R.

Reference your M.1-B-17388 A/DIS dated 23rd October, 1945.

1. Herewith returned Form of Remission in the case of the marginally-named duly completed as requested in your above-mentioned letter.

J. Carmichael
(J. CARMICHAEL) Colonel, A.A.G.
Commanding No.4 District Depot, A...

Enc.

M.I-B-17388 A/DIS

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

MONTREAL, Que. 6th Nov 45.

CENTRAL REGISTRY, ARMY
NOV 8 1945
c.53-B-1777
Referred to

Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM. CARO 5913
D-654296 - Gnr. BERRY, Romeo

Reference HQC 9039-1, Adm 3(b) 3, dated 8 Sep 45, pertaining to the marginally named soldier.

2. Attached hereto MFM 288 duly completed in respect to the marginally named soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(H.J. REMAUD) Major General,
D.O.C., M.D. No. 4.

Encl.

AR

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-654296 (Number) Gunner (Rank) BERRY, Romeo (Name in full)

R.C.A., C.A., attached to No.4 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 120 days detention

on 4th September, 1945. at Montreal South, Que.

being served at No.65 Military Detnetion Barracks, Montreal South, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19years and 2months - 10 July 1944

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be XXX) committed to undergo his sentence, which I recommend should (XX) be XXXXXXX (put into execution) XXXXXXXXX (date) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 3rd October 1945

(E.J. RENAUD) Major General,
D.O.C., M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date .....

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority

M.F.M. 268
(Army Form A-3104)
10M—5-45 (339)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
23 Oct 45	Sentence remitted wef 3 Nov 45 CARO 5913	(E.J. RENAUD) Major General, D.O.C. M.D. No.4	
3 Nov 45	RELEASED MARKS 488		(E. Belle) Capt. C.C. No. 88 Mil. Det. Bks.
6 Nov 45	Sentence remitted wef 3 Nov 45 CARO 5913	(E.J. RENAUD) Major General, D.O.C., M.D. No.4	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15 (1) A.A.	ABSENTING HIMSELF WITHOUT LEAVE, in hthat he at Montreal, South, Que. at 1200 hrs on the 29th of March 1945, absented himself without leave from his unit, No.4 District Depot, C.A., until he surrendered to the M.P. at Montreal South, Que. at 1000 hrs on the 22nd August, 45.	29Mar 45	4Sep 45

.....
Signature of officer making entry

(E.I. AUHENBACK) Capt.,
General List, C.A.,
Att'd to No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

.....
Signature of officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
28 Sep 45	I do not recommend any remisson of sentence in this soldier's case.	(J. BIBEAU) Lieut.-Colonel Acting Officer Commanding, No.4 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
3rd Oct 45	The sentence is considered fair and reasonable 1st review on 14 Oct 45.	(E.J. RENAUD) Major General, D.O.C. M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

H.Q.C. 55-B-1977 (JAG/D-5)

9th October, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

Standing
D-684208 Gnr. Romeo Perry,
RCA, CA., attached to No. 4 DD, CA.
.....Court-Martial

M.1-B-17388 (J)

4th Oct 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.L.M

for (R.J. Orde), Brigadier,

LCC:jb

Judge Advocate-General.

IN REPLY PLEASE QUOTE No. M.1-B-17388(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
6th October, 1945.

R-149

REGISTERED

CENTRAL REGISTRY Army
COMP. REC.
1568
OCT 6 1945
File 055-B-1977
Chgd. to
Referred to R-149

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
D-654296 Cpr. Romeo BERRY,
RCA, CA., attached to No. 4 DD,CA.

Reference your HQC.55-B-1977 (JAG/D-7) dated 25 Sep 45.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, please.

See the moreau Capt.
(E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

NAT. DEF. B. 680
(NDHQ 4 44 .022)
H.Q. 723-26-767

MEDICAL OFFICER'S REPORT

I certify that No. D-654296 Pte. BERRY, Romeo

of C.I.C., C.A. att. No. 4 D.D. CA is in a good state of health,

and fit to undergo Trial by Court martial.

W. Gray Lt.

W. GRAY, Lieut. Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 4th September 1945

M. F. B. 246

50M—9-43 (3541)
H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot, C.A., Montréal-sud, Que.

le 4ième jour de septembre 1945 à 1445 heures,

pour le procès de D-654296, Gunner Romeo BERRY, R.C.A., C.A.,
Matricule Grade Nom et prénoms

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers-généraux, District Militaire No. 4

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. J.R. Panet-Raymond, C.I.C., C.A.,
Grade Nom et prénoms

J.C.G. ~~XXXXXXXXXX~~

attached to No. 4 District Depot, C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-654296, Gunner Romeo BERRY, R.C.A., C.A., attached to No. 4 District Depot, C.A. coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-654296, Gunner Romeo BERRY, R.C.A., C.A., attached to No. 4 District Depot, C.A. à la détention pendant cent vingt (120) jours.

Signé à Montréal-sud, Que. ce 4ième jour de septembre 1945

J.A.G. Dubeau (J.A.G. DUBEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2298
K.P. 36100

Extracts entered as No. 39809 in the Record of Courts Martial kept in the office of the Judge Advocate-General this 21 day of Sept 1945.

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous à être interprète~~

D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det. CMSC,

Question à l'accusé. Vous opposez-vous à C.A., Quartiers-généraux, District Militaire No. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~est interprète (le cas échéant) sont~~ est dûment assermentés.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. C. G. Wilson Maj
President SCM

"B2"

CHARGE SHEET

The Accused, D-654296, Gunner Romeo BERRY, R.C.A., C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

At Montreal South, Quebec, at 1200 hours on the 29th of March 1945, absented himself without leave from his unit, No. 4 District Depot, C.A., until he surrendered to the Military Police at Montreal South, Quebec, at 1000 hours on the 22nd of August, 1945.

Signed at
Montreal South, Quebec.
24th August 1945.

(S. ECHENBERG) Colonel,
Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au .....
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~La déclaration de l'accusé doit être consignée sur une feuille séparée.~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (Voir CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Je me suis en allé de l'armée par rapport que maman avait besoin d'argent et il fallait ni plus ni moins que je gagne de l'argent et j'ai été travailler pour lui aider. Elle est seule avec mon petit frère. J'ai aussi travaillé pour lui obtenir la pension des mères nécessiteuses et quand j'ai vu qu'elle avait sa pension, je me suis rapporté moi-même.

Je suis entré dans l'armée le 10 juillet 1944 et j'ai passé par St-Jérôme, Petawawa et Prince Albert, Sask. Avant d'entrer dans l'armée, je travaillais à la Dominion Glass. J'ai 20 ans et je ne suis pas marié.

En entrant dans l'armée je n'ai pas assigné d'argent chez nous, j'envoyais cependant de $15.00 à $20.00 par mois; dans les premiers temps je ne pensais pas qu'elle aurait tant besoin que ça. Ma mère a 56 ans, elle demeure à 159 Charlevoix. Elle reste avec ma soeur mariée...elles paient moitié-moitié. J'ai un frère qui a 16 ans.

Je n'ai jamais fait de demande avant que je sois en dehors de l'armée pour une pension pour ma mère, parce que je n'y avais pas pensé et elle ne m'en avait jamais parlé. C'est seulement quand j'ai arrivé qu'elle m'a dit ça.

Durant mon absence sans permission, j'ai travaillé pour moi-même dans la peinture et j'ai demeuré sur la rue Duvernay en chambre. Je n'ai pas travaillé continuellement, j'ai été à peu près un mois sans travail. J'étais tanné, je ne pouvais pu trouver d'ouvrage. J'étais tanné de me faire rechercher et j'ai dit en moi-même: "Je vais aller me rapporter".

Durant mon absence, je donnais tout mon salaire à maman et elle me donnait un peu pour payer ma chambre (Je payais seulement $2.50 par semaine) et j'allais manger chez nous. Maintenant, elle reçoit la pension des mères nécessiteuses depuis un mois. Mon beau-frère travaille à la Canadian Car & Foundry à Ville St-Pierre. Il a 36 ans et il a deux enfants dont son petit gars a la paralysie infantile.

J. C.G.H.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur. (Par l'entremise de mon officier défenseur - Voir E-3).

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Monsieur le président,

Je demanderais la clémence de la cour pour le Gunner BERRY parce que lorsqu'il s'est absenté sans permission, il a travaillé à soutenir sa mère...et les quatre premiers mois qu'il a travaillé il se fait un salaire d'à peu près $25.00 par semaine.

Je ferai remarquer à la cour aussi que le Gunner BERRY a une feuille de conduite blanche et qu'il s'est rapporté lui-même aux autorités militaires.

gc 46
C

F 15

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT No. 4 District Depot CA

PART II ORDERS

Colonel S. Echenberg, OBE.ED.

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 79

STATION Montreal South, Que.

DATE 31 Mar 45

"Last Order Issued No. 78 dated 30 Mar 45

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN. COY. ETC.	CASUALTY & REMARKS	DATE
			SECTION "B" OTHER RANKS			
	ABSENCE WITHOUT LEAVE					
	15. (c)					
	AWL from 1200 hrs				.....29 Mar 45	
		D-654296	SGM BERRY R.	(RFT)		

RECEIVED
AUG 27 1945
CENTRAL REGISTRY
NO. 4 DISTRICT DEPOT

Compiled by
Verified by
Checked by

Certified True Extract
Signed
District Records Officer having custody of Regimental PART II ORDERS kept by District Headquarters M.D. 4
Date 24 Aug 45

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

(W.E.S. POWER)Capt., AAdjt.,
for (S. ECHENBERG) Colonel,
Commanding,
NO. 4 DISTRICT DEPOT, (C.A.)

M. F. D. 872A
1,000,000-10-42 (6791)
H.Q. 1773-39-254

J. C. E. Hutchison major
Quebec 50m

"G"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. S. ECHENBERG, Commanding No. 4. District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-654296. Pte. BERRY, Romeo.
(Number) (Rank) (Name in full)

of the RCA. C.A. (Attached No. 4. District Depot, C.A.)
(Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXX~~ (surrendered to) D-126460. SGT.
(Number) (Rank)

PATENAUDE, L. No. 4. District Depot, C.A.
(Name) (Unit or appointment)

at MONTREAL SOUTH QUE., at 1000 hours,
(Place) (Hour)

on the 22 day of August, 19 45.

Strike out words not applicable } ~~XXXXXXXXXX~~ absentee without leave), and that at the time of his ~~arrest~~ SURRENDER he was wearing military ~~XXXXX~~ uniform ~~XXXXXXXXXXXXXXXXXX~~

Dated at MONTREAL SOUTH QUE., this 22 day of August, 19 45.

(Signature, Number, Rank, Unit or appointment)
(S. ECHENBERG,) Colonel.
Commanding No. 4. District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

J. C. G. Kathen major
President SCM

"V"

M.F.R. 255
78M—5-43 (145)
H.Q. 1772-39-420
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-654296,	Gnr.	Romeo BERRY,	R.C.A.,C.A. att'd to No. 4 D.D. C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and Conduct sheets of Regiment and Squadron, Battery or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	~~times~~	~~times~~
For	~~times~~	~~times~~
For	~~times~~	~~times~~
For	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~ ~~nil~~

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~nil~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~nil~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 days in military ~~Air Force~~ custody, making a total of 13 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ enrolment ~~attestation paper~~ is 20 years, 3 months. (2 May 1925).

6. The date of his ~~acceptance~~ enrolment ~~attestation~~ specified in his ~~record of service is~~ enrolment ~~attestation paper~~ is 10th July 1944.

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration ~~or air force~~ military reward ~~(or is in possession of or entitled to). State any air force military decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....

Permanent Force
unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit
Regiment

Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

P.Paradis, Lieutenant
R. de Mais,,C.A. att'd to
No. 4 District Depot, C.A.,
Ass't Officer i/c Records,
No. 4 District Depot, C.A.

Signed this 4th SEPTEMBER 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

J. C. F. Wilson major
President

"Z" 21

Reg. No. D-654296 Name BERRY Romeo Corps R. C. A. Date of enlistment or enrolment 10 Jul 44 Date of Birth

Signature O.C. Company, etc. V. Tremblay Capt. Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks

Certified true Copy.....(Sgd)W.Baird Lieut.
Officer i/c Records (W.BAIRD) Lieut.
No. 4 District Depot, C.A.

CERTIFIED TRUE COPY

P.Paradis Lieut

.....
P.Paradis, Lieutenant,
R. de Mais.,C.A., att'd to
No. 4 District Depot, C.A.
Ass't Officer i/c Records,
No. 4 District Depot, C.A.

(P.T.O.)

U.S.M.A. 8005—8-44 (5398)

H.Q.C.55-B-1977 (JAG/D-7)
Your M. 1-B-17388

25 Sept 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D.654296 Gnr. Romeo Berry,
R.C.A., C.A.,att.No. 4 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

THIS COPY FOR: H.Q. C. 55-B-1977
M.D. No. 1-B-17588

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. D-654296 Name Romeo BERRY

Rank Gnr. Unit R.C.A. C.A. Att No. 4 D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 29-3-45 ~~XXXXXXXXXXXXXX~~ ~~XXXXXX~~

Date of Arrest 22-8-45 Charge Signed 24-8-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 4-9-45

Sentence Detention 120 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. ~~32789~~ 309

Date 21-9-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 4
ABSENT
4½ mos.

R.C.A. C.A. Att No. 4 D.D. C.A.
SENTENCE
Det. 120 days.

L. J. Ryan Lt

for Judge Advocate-General

10M-8-45(M-189)

JAGD/S

CANADA

In reply quote No. M. 1-B-17388 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
17th September, 1945.

C.55-B-1977

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT-MARTIAL
D-654296, Gunner Romeo BERRY,
R.C.A., C.A., attached to
No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 4th September, 1 9 4 5

2. Submitted for your information, consideration and approval, please.

J. A. G. Lureau

(J.A.G. LUREAU) Major,
Headquarters, Military District No. 4,
President - S.C.M.

ENC.

M.F.A. 1326
1,000M—5-43 (9955)
H.Q. 1772-39-2509

39789

H.Q.C. 55-B-1978 CONFIDENTIAL

M.F.D. 3178
2334—2-45 (E-W)
H.Q. 101-1-14

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BREDLAW, ROBERT WEICHENTHAL C.417452 RFN.

CONFIDENTIAL
H.Q.C. 55-B-1978

CENTRAL REGISTRY	DATE	P.A. OR D.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					Where all persons for which referred names be expressed on one line, add minute to file and cross refer. With Minister		
SEP 25 1945				JAG	NEW FILE	CR	20-9-45
OCT 19 1945	12-10-45		m	JAG	With Papers C.R. OCT 19 1945		
				Em	JAN 31 1946		
JAN 18 1946	9-3-46			Admin	Recommendation	was	JAN 16 1946
MAR 8 - 1946	16-3-46			Admin	PER B.F. MAR 9 1946		
MAR 22 1946	1-4-46			Admin	PER B.F. MAR 16 1946		
APR 1 - 1946	5-4-46			Admin	Per B. F. APR 1 - 1946		
APR 8 - 1946	6-4-46			Admin	Per B. F. APR 9 - 1946		
					With Papers C.R. APR 17 1946		
APR 18 1946 APR 24 1946	23/4/46			JAG	Jall to [illegible]		18/4/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to D.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. K.55-B-7902 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario. 16 April 46.

CENTRAL REGISTRY
CONF. SEC.
18293
APR 17 1946
File C35-B-1978
Chgd. to
Referred to admin

The Secretary,
Dept. of National Defence,
OTTAWA, Ontario.

REMISSION OF SENTENCE.
C.417452 Rfn. BREDLAW, R.W.

Enclosed herewith please find Remission of Sentence in respect of the marginally named, to-gether with M.F.M. 288.

for D Orion Capt
(G.A.McCarter) Brigadier.
District Officer Commanding,
Military District No. 3.

/EC.
Encls.

NAT. DEF. 8 440
(2500M-A 44 (4320)
H.Q. 1772-39-767

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C 417452 Rfn. Robert Weichenthal BREDLAW
Number Rank Name in full

No. 9 District Depot, C.A.
Unit Attachment (if any)

Sentenced to one years detn and stoppages of pay$9.75 cost of apprehension.

on 10th Sept., 1945 at Lansdowne Park, Ottawa, Ont.

being served at No. 63 Military Detention Barracks, Barriefield, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 24 years 7 mths - 8 Jan 43

Medical grade or category 18 - 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To ..... Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be ~~(suspended) (put into execution)~~ (reviewed on 10 March 46 date) for reasons given in paragraph X.

Place ..... Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (be suspended) (be put into execution) (of which I remit .....)

(and) be reviewed on .....

Place ..... Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... Superior Military Authority

For details of offences, see parts VIII. For C.O.'s remarks, see parts XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place ..... Confirming Authority

Date .....

M.F.M. 283
(Army Form A-2104)
15M—6-43 (461)
H.Q. 1772-99-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
25/3/46	Remit wef. 26th. Mar. /46.	(G.A. McCarter) D.O.C., M.D.#3	Brigadier,

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
DESERTION - 27 Dec 44 until 31 Aug 45	27 Dec 44	10 Sep 45

(W.A. Stewart)Capt
Legal Officer
No. 9 District Depot, CA
Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Oct 45	Conduct has been good. Has completed basic trg. Jun 42. and part of adv trg No. 44. Ability and usefulness as a soldier are poor. No recommendations.	(J.A.Pewtress)Major A/Officer Commanding No. 9 Dist. Depot, CA

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
10 October 1945	Pursuant to the suggestion contained in H.Q.S.9039-1-1 Adm. 3 - 15 Jun 45 I will review this sentence 10 Mar 46.	(F.L.Armstrong) Brigadier, DOC MD#3

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FORM FOR REMISSION, COMMUTATION
OR MITIGATION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-B-1978
District File No. K. 55/B-7902

PART 1

NO. C. 417452 RANK Rfn. NAME Robert Weichenthal BREDLAW

UNIT No. 9 District Depot, C.A.

PART 11

Date of Trial : 10th. Sept. 1945 (Standing Court-Martial)

Charge (s) : Desertion - (AA Sec 12 (1)(a) Guilty

Sentence : Detention - 1 year
Stoppages - $9.75

Date of Sentence: 10th. Sept. 1945

Confirmation - (a) Authority: N/A
(b) Date : N/A

PART 111

R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence of the marginally-named soldier after the 26th. day of March, 1946 and direct that the accused be relieved of all consequences thereof after the said 26th. day of March, 1946, and that all records be amended accordingly.

Signed at KINGSTON, Ontario, this 25th day of March 1946.

L.W.W. Slack

L.W.W. SLACK, Colonel
T/ District Officer Commanding,
Military District No. 3.

PART IV

PROMULGATION

Remission promulgated and extracts at Barriefield, Ontario.

this 29th day of March 1946

(J.A.M. Essery) Captain
Commandant
Military Detention Barracks No. 63

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

NO. C 417452 RANK Rfn NAME BREDLAW, R.W.

Granted a remission of the unexpired portion of the sentence of 1 year's Det awarded by S.C.M. on 10 Sep 45, after the 26th day of March, 1946.

Certified true extract of Daily Orders Part II of No.9 District Depot

No. 82 Place Lansdowne Park, Ottawa, Ontario Date 6 Apr 46

(P.F. Manion) Capt
Adjutant
No.9 District Depot CA

Adm

CSSB197F

Admin 3
Rec'd 1900 hrs
5 Apr 46
DW

APR 5 1946
3B2

VER V CIA NR 21
FROM CMDG 3 KINGSTON ONT 051630R
TO THE SECTY DND OTAWA ONT
GR 39 BT

KN KJ 112 UNCLASS RETEL RANKS 8983 UNCLASS DATED 4 APR 46
REF C 417452 RFN BREDLAW R W STOP SENTENCE REMITTED
WITH EFFECT 21 MAR 46

55126

BT 051642R IB B

2

ARMY SIGNAL OFFICE ADDRESS AS PER SELOCAL ARMY SIGNAL OFFICE

M.F.M. 236 (4 PARTS)
2006-2-48 (7689)
K.S. 1972-39/2092
K.F. 30759

ARMY MESSAGE

UNCLASSIFIED (OUTGOING) FILE HQC 55-B-1978 ADM 3(b)2

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 3
KINGSTON ONT

OTTAWA ONTARIO 4 APR 46

RAUKB 8983 UNCLAS

RELET HQC 55 -B-1978 ADM 3(b)3 D/ 21 MAR 46 REFERS C 417452 RFN

BARDLAW R W (.) EXPEDITE REPLY (.)

ADJUTANT GENERAL

KDM/MA

ORIGINATOR'S INSTRUCTIONS

SIGNATURE	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED Major-General Adjutant-General		1615

COPY 3

H.C 55-B-1978 Adm 3(b)3

OTTAWA, Ontario, 21 Mar 6

District Officer Commanding,
Military District No. 3,
KINGSTON, Ont.

C.417452 Rfn BREDLAW R W

Ref letter numbered as above dated 18 Jan 46.

2. Advise action taken.

(E. G. Weeks)
Major-General
Adjutant-General

KDM/MA

HQC 55-B-1978
ADM 3(b)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario, 18 Jan 46

District Officer Commanding,
Military District No 3,
Kingston, Ont.

C-417452 Rfn Bredlaw R W
CM Board of Review
63 MDB

Ref telegram AG 0267 d/18 Oct 45 Review.

2. The CM Board of Review has in the case of the a/m soldier made the following recommendation:

"Release on 9 Mar 1946"

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. ~~Enclosed herewith AF A310/MM 238 for this soldier.~~

7. Acknowledgment by telegram requested.

(E. G. Weeks)
Major-General
Adjutant-General

MDM/EMR

HQC 55- B-1978 (MBR-5)/ N
9 Jan 46
Case No. 1704

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: C-417452 Rfn BREDLAW R W

2. Unit at date of offence: Royal Rifles of Canada

3. Charge: AA Sec 12 (1) (a) AWL from 1000 hours 27 Dec 44 until surrendering at 0820 hours 31 Aug 45.
Length of absence: 8 mos.

Plea: Not guilty

4. Place and Date of Trial: Ottawa, Ontario - 10 Sep 45
~~XXXXXXXXXXXXXX~~ (SCM)

5. Finding: Guilty

6. (a) Sentence: 1 year detn.

(b) Date of Sentence: 10 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being Served at: 63 MDB in MD 3

(N.B. - Discharged under RO 1029( ) for
wef)

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	NIL		
(ii) Courts-Martial:	NIL		
(iii) Summary Convictions:	NIL		

(b) After Conviction:

Good. Expected date of release 9 May 46

(c) Date of enrolment/~~xxxxxxxxxx~~: 8 Jan 42 Present Age: 27

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Item 10 has been omitted.

In sworn evidence accused says he went home on embarkation leave and found his wife ill. Each time he made up his mind to return to the army his wife suffered a relapse. He hid in the woods a few miles from home in order to avoid the provosts, but be near his wife. His father has been dead many years and mother has been mental institution for some years. He was sole guardian of younger sister and he himself suffered a nervous ailment for some months in 1937.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

Reviewing Officer: Recommend this man serve 6 months of sentence. To be released 9 Mar 46.

Reviewed by A.M. Stephenson
A.M.Stephenson, Major

14. Recommendation of the Board: Release on 9 Mar 46

Date JAN 1 6 1946

M.A. Stilwell Major
Secretary
Courts-Martial Board of Review.

HQC 55-B-1978 (JAG/D)

12 October, 1945

District Officer Commanding
Military District No 3
KINGSTON, Ontario

Standing

C-417452, Rfn Robert Weichenthal BREDLAW
No 9 District Depot, CA
Court-Martial

K.55-B-7902(JAG)

11 Oct 5

Receipt is acknowledged of the Standing Court-Martial dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

E L M
for (R.J. Orde) Brigadier

/jm

Judge Advocate-General.

25

HQ IN REPLY PLEASE QUOTE No. K.55-B-7902(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 11 Oct 45.

CENTRAL REGISTRY Army
CONT SEC.
2435
OCT 12 1945
File C55-B-1978
Origin.
Referred to AAG

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C.417452 Rfn. Robert Weichenthal BREDLAW,
No. 9 District Depot, C.A.

Reference H.Q.C.55-B-1978 (JAG/D-3) dated 24 Sep 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

W. C. Arch
Capt
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

24

MEDICAL OFFICER'S REPORT

I certify that No. C 417452 Pte Bredlaw R
of #9 District Depotm CA is in a good state of health,
and fit to undergo Trial by Court martial.

Capt W L Marksfield
Medical Officer
(W L Marksfield) Capt, R C A M C
M O att No.9 District Depot CA

Station Lansdowne Park Ottawa Ont

Date 10 Sep 45

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-20-480

23

Rut

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at the Court-Martial Building, Lansdowne Park, Ottawa, Ont.,

on the 10th day of September, 1945, at 0945 hours,

for the trial of: C-417452 (Number) - Rfn. (Rank) ROBERT WEICHENTHAL BREDLAW, (Full Name)

C. I. C., No. 9 District Depot, C.A. (Unit) (Attachment, if any)

PRESIDENT: Major R. K. Laishley

PROSECUTOR: Capt. J.D.C. Boland (Rank), Headquarters, Military District No. 3, C.A. (Full Name) (Unit) (Attachment, if any)

COUNSEL OR DEFENDING OFFICER: Lieut. L. A. Jones (Rank), No. 9 District Depot, C.A. (Full Name) (Unit) (Attachment, if any)

FINDING: The Court find the accused, C-417452, Rfn. Robert Weichenthal Bredlaw, C. I. C., No. 9 District Depot, C.A., guilty of the charge.

SENTENCE: The Court sentence the accused, C-417452, Rfn. Robert Weichenthal Bredlaw, C. I. C., No. 9 District Depot, C.A., to undergo detention for one year and to be put under stoppages of pay until he has made good the sum of $9.75 in respect of the cost of his apprehension and return to his unit.

Signed at Ottawa, Ont., this 10th day of September, 1945.

(R. K. Laishley) Major, President, Standing Court-Martial, Military District No. 3.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2298

This is entered as No. 398 in the Register of Courts-Martial kept in the Office of the Judge Advocate-General this 24 day of Oct 1945

22

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to ..... as interpreter?

Answer: .....

Question to the accused. Do you object to B-4233 - S.M. (W.O.I) F. A. Luet, No. 3 Detachment, C. M. S. C., C.A., as shorthand writer?

Answer: No, sir.

The shorthand writer and interpreter (if any) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. .....

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer. .....

(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

21

CHARGE SHEET

The accused, No. C 417452 Rfn. Robert Weichenthal BREDLAW, C.I.C., No. 9 District Depot, C.A., a ~~Gnr.~~ R.M.A. soldier of the Canadian Army placed on Active Service is charged with:-

FIRST CHARGE
SEC.12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING
HIS MAJESTY'S SERVICE

in that he

at Debert, N.S., at 1000 hours on the 27th December 1944, absented himself from Royal Rifles of Canada, C.A., until surrendering himself to Civil Authorities at Pembroke, Ontario at 0820 hours 31 August 1945, the cost of his apprehension and return to his Unit being $9.75.

dressed in military uniform

Lansdowne Park,
Ottawa, Ontario
6th September 1945

(R. Taylor) Lt-Col.,
Officer Commanding,
No. 9 District Depot, CA

NOTIFICATION OF TRIAL

I propose to present the above-mentioned soldier for trial by the Standing Court-Martial at Lansdowne Park, Ottawa, Ontario, at 0930 hours, Monday, 10th September 1945.

Lansdowne Park,
Ottawa, Ontario
6th September 1945

(R. Taylor) Lt-Col.,
Officer Commanding,
No. 9 District Depot, C.A.

PRECIS OF EVIDENCE

In proof of the charge the following documents are available:-

(a) M.F.B. 375

(b) M.F.B. 1481

(c) M.F.B. 216

Lansdowne Park,
Ottawa, Ontario
6th September 1945

(W.A. Stewart) Captain
No. 9 District Depot, CA
Officer detailed to make
this Precis of Evidence

20

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

BY THE PROSECUTOR: I present M.F.B.375 dated 24th January, 1945, sir.

---M.F.B.375 is received, read, marked EXHIBIT "F", signed by the President and attached to the proceedings.

I present M.F.M.215 dated the 31st of August, 1945, sir.

---M.F.M.215 is received, read, marked EXHIBIT "G", signed by the President and attached to the proceedings.

I present M.F.B.1481 dated the 31st of August, 1945, sir.

---M.F.B.1481 is received, read, marked EXHIBIT "H", signed by the President and attached to the proceedings.

62/75

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. .....

FIRST WITNESS)
FOR)
DEFENCE)

The accused, C-417452 - Rfn. ROBERT WEICHENTHAL BREDLAW
C. I. C., No. 9 District Depot, C.A.,
being duly sworn, [redacted]

Well, sir, before I came home my wife was sick and the doctor ordered her to quit her work, she was working at the time. I was home on leave. She took worse and she was still under doctor's orders, sir. And I intended to come back and she took worse the day before I was supposed to go back, sir, and still I didn't know what to do, it was too late to send work to them, to wire to them. I figured I would go back after she got better and she took relapse after that again and I didn't get going back and then I got frightened, I went and hid in the bush then. I didn't work the time I was away, sir. And the unit had used me kind of mean, too, sir, the unit I was with. My wife has been better, she has been getting along nicely this while back so I surrendered myself to civilian authorities in uniform.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Bredlaw, you were on leave when you went absent?

A. Yes, sir; I was on leave when I went absent.

Q. And you were to report at Debert, Nova Scotia, at 1000 hours on the 27th December, 1944?

A. Yes, sir.

Q. And you didn't report?

A. No, sir.

Q. You remained absent until you surrendered yourself to civil authorities at Pembroke, Ontario, and that was at 0820 hours on the 31st of August, 1945?

A. Yes, sir.

Q. And at that time you were dressed in military

uniform; is that correct?

A. Yes, sir.

Q. What kind of a leave were you on, was it an embarkation leave?

A. Yes, sir.

Q. And where had you been given that embarkation leave?

A. From Vernon, B.C.

Q. Vernon, B.C.?

A. Yes, sir.

Q. And you were an infantry reinforcement?

A. Yes, sir.

Q. And at the end of your leave you were to report to Debert for going overseas; is that correct?

A. Yes, sir.

Q. How long a leave did you get?

A. I believe it was nine days, sir.

Q. Where was your home before you went into the Army?

A. Well, I was raised at Golden Lake and I was working around Hardwood Lake when I went into the Army.

Q. And at the time you were called up in the Army?

A. Hardwood Lake, Ontario.

Q. And was that your civilian address shown on your Army documents?

A. Yes, sir.

Q. Where did your wife live?

A. She is living with my brother-in-law at the present time.

Q. But where did she live at the time you went in the Army?

A. Hardwood Lake, Ontario.

Q. When you went on your leave from Vernon where did you go?

A. To Hardwood Lake, Ontario.

Q. How long did you stay there?

A. I stayed there all the while during my leave.

Q. And was your wife sick when you got home first?

A. Yes, sir.

Q. What was wrong with her?

A. She suffered from a sort of nervousness and low in blood.

Q. Was she under doctor's care at all?

A. Yes, sir.

Q. Who was attending her?

A. The doctor at Brighton, I don't know his name, sir, and he ordered her to quit working immediately. Where we are there is no doctor for a long while.

Q. Where is Brighton? It is quite a distance from Hardwood Lake?

A. Yes; but she was working there in a canning factory.

Q. Was that before you left?

A. Yes, sir

Q. You went to Hardwood Lake and she was sick?

A. Yes, sir.

Q. Did you tell her you were to go overseas?

A. Yes, sir.

Q. You discussed it with her, did you?

A. Yes, sir.

Q. So you went absent without leave then?

A. No, sir. I didn't have the intentions of going absent without leave.

Q. Well, you went absent without leave?

A. Yes, sir; I did.

Q. How can you not have the intention of not going absent?

A. Well, I didn't have the intention of going absent

until the last day.

Q. Where did you go then?

A. I stayed around there for a while.

Q. You stayed around Hardwood Lake?

A. Yes, sir.

Q. Weren't you afraid the Provosts would look for you?

A. I was, then I took the bush.

Q. Where did you go in the bush?

A. I stayed in a hunting camp in the bush.

Q. Where is this hunting camp?

A. It is a way back in the bush.

Q. How far is it from Hardwood Lake?

A. I can't be definite on the mileage. About seven miles anyway, sir.

Q. And the reason you went there was in order to hide from the military authoritiies?

A. To a certain extent, sir, and keep in touch with my wife, how she was getting along.

Q. If you wanted to get in touch with your wife your best position was back in Hardwood Lake; that is correct?

A. I did stay there for a while.

Q. Answere the question, Bredlaw, you heard me: If you wanted to keep in touch with your wife the best position for you to be in was Hardwood Lake, wasn't it?

A. Yes, sir.

Q. So the reason you hid yourself seven miles away was so you would be safe from the Provosts?

A. Yes, sir.

Q. What did you live in, in a tent?

A. In a hunting cabin until spring came and then I lived in a tent.

Q. Was there anyone lese around there?

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A. No, sir.

Q. How long did you live in a tent?

A. Until I surrendered myself to the civilian authorities.

Q. Did you see your wife during that time at all?

A. Yes, sir.

Q. How often?

A. Some times twice a week and some times I didn't see her at all.

Q. How often did the Provosts come up to Hardwood Lake for you?

A. I don't know, sir.

Q. You were talking to your wife?

A. About once a month, sir.

Q. They came up once a month. And your wife finally told you the war in Europe was over?

A. Yes, sir.

Q. And then she told you the war in the Pacific was over?

A. Yes, sir.

Q. So you figured it would be safe for you to surrender yourself; is that correct?

A. No, sir; not exactly.

Q. Well, what is the truth, you waited until the war in the Pacific was over and then you surrendered yourself, why did you do that?

A. I wanted to get this thing over with, that's why I surrendered myself.

Q. But the fact the war was over influenced your action?

A. No, sir; not exactly.

Q. But if the war was still going on and they were

still sending people overseas you wouldn't have surrendered yourself?

A. Yes, sir; I believe I would.

Q. But you are not sure?

A. Yes, sir; I would.

Q. Why didn't you surrender yourself last May or April when the winter was over?

A. Well, the wife wasn't as well as she should have been at times.

Q. She wasn't as well as she should have been and yet you were eight miles away; is that right? You wife wasn't very sick. You are not telling the Court your wife was sick from December up to the time you surrendered yourself?

A. No, sir; but I became afraid after and I figured it would be a pretty serious charge, sir.

Q. That had a lot more to do with your staying away than your wife's illenss? You are swearing to tell the truth, Bredlaw; did it or didn't it?

A. No, sir.

Q. When did your wife get better?

A. She got better and she took sick again and she got better again. She has been sick off and on.

Q. And there was nothing to keep you from surrendering yourself when she was all right?

A. I didn intend to surrender myself.

Q. Was there anybody that prevented you from surrendering yourself?

A. No, sir.

Q. Nobody held you back?

A. No, sir.

Q. Just yourself?

A. Yes, sir.

Q. How far did you get in school, Bredlaw?

A. Passed my entrance class.

Q. How old were you then?

A. Sixteen.

Q. What type of work did you do?

A. Work on the farm.

Q. Do much hunting?

A. Do some.

Q. You were pretty good with a rifle, weren't you?

A. Well, not very good, sir.

RE-EXAMINED BY THE DEFENDING OFFICER:

Q. Will you tell the President ~~what~~ of the Court when you went to hospital suffering from a nervous disorder?

A. I went to the hospital in 1937. It was for 24 or 28 days and I didn't work for about six months. First, after I went, he told me not ~~work~~ to work for a year after.

Q. And during that time was there anybody to take care of your home, your sisters and brothers?

A. Yes, sir; a guardian, sir.

Q. Where is your mother?

A. She is in the Rockwood Hospital at Kingston, Ontario, in the asylum.

Q. And your father?

A. My father has been killed a good many years working in the bush.

Q. And how old is your only sister?

A. She was 23 in August.

---The witness resumes his seat.

---The Prosecutor does not desire to make a closing address.

---The Defending Officer does not desire to make a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

---The Prosecutor presents to the Court M.F.B.355.

--This document is read to the Court by the President, marked "Y" signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir; through my Defending Officer.

BY THE DEFENDING OFFICER: The accused's mother has been a patient in Rockwood Asylum since 1930 and, as his father died many years ago, he has grown up without the care and guardianship of elders, which most young people are in great need of this present day.

In 1937 Pte. Bredlaw was a patient in a hospital suffering from a nervous disorder, in a large measure due to worry attributable to the fact that his younger sister was fast becoming of age and that, having no parents or person of responsibility near her, there was no one to look after her.

In January, 1942, while still a very nervous individual, he joined the Army with the intention of completing his training and carrying out his duties and being a good soldier. His M.F.M.6 proves that up until now his conduct has been excellent. On March 12, 1942, he was allocated to the R. H. C. and during his period of training with that regiment attempted on numerous occasions to transfer to the C. F. C. and go overseas but was refused by his company commander.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

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In December, 1944, he proceeded on embarkation leave and returned home to see his wife, who was at that time quite ill. At the termination of his leave, rather than having improved, her condition became even worse. The accused, in an endeavour to assist with these domestic duties, overstayed his leave. As time went on he, as any normal soldier would who had a good record, anticipated returning to his unit. But, on every occasion he mentioned the subject to his wife she would have a relapse. Eventually, as his wife did improve in health, he surrendered himself to the civil authorities in Pembroke.

Having reviewed a few very short chapters in this man's past life we can see that he has not had the proper care which would be given by a responsible parent and, as in many cases of its kind today, he has lead a very irresponsible life, combined with chronic nervousness.

In closing this address may I add that this man's wife is expecting a child and I would ask the Court to take this into consideration. In the interests of the accused, I beg of you, sir, to exercise leniency in this case.

F 103

RECORD of the Declaration of a Court of Inquiry assembled at No.6 District Depot, C.A. on the 24th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C-417452 Rfn. BREDLAW, R.W., No.6 District Depot, C.A.

DECLARATION

The Court declare that No. C-417452 Rfn. (Regtl No.) (Rank) BREDLAW, Robert Weichenthal, No.6 District Depot, C.A. (Full Name) (Unit) illegally absented himself without leave From R.R.C. at Debert, N.S. (place) at 1000 hours on the 27th day of December 1944 that he is still so absent, and that on the 28th December 1944 he was deficient, and that he is still deficient of the following articles:-

ARTICLES	VALUE		ARTICLES	VALUE	
No. M.F.C. 800 in Documents.					

P.M. Jessome, Lieut. No.6 D.D.C.A. President (Name) (Rank) (Unit)

R.O. 4633 Member (Name) (Rank) (Unit)

Signed at Halifax, Nova Scotia

R.O. 4633 Member (Name) (Rank) (Unit)

this 24th day of January 1945

Signature of Commanding Officer F.I. Andrew, Col. No.6 District Depot, CA. (Name) (Rank) (Unit)

Certified true copy (Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(L.H. Leblanc) Capt. Adj. No.6 D.D. C.A.

M.F.B.375
A.F.B.115
15CM--10-42 (6530)
H.Q. 1772-39-257

7

CERTIFICATE in accordance with Order in Council P.C.2797 dated April, 10th, 1942, as published in Routine Order 1677, and in General Order No.127, 1942.

(~~APPREHENSION BY~~ B.M. Hayes OR SURRENDER TO CIVIL AUTHORITIES)

Strike out words not applicable

I certify that the person whose description is given below was ~~arrested by~~ B.M.H. (surrendered to)

...Contable Hayes,B.
(Name of Peace Officer or Constable)

at..Pembroke ..... at ....0820 hrs.
(Place) (Hour)

on the ...31..... day of ..August....1945..... 19....

Strike out words not applicable

and at the time of ~~arrest~~ BMH (surrender) he was wearing military (~~air force~~ B.M.H) uniform (~~dressed in civilian clothes~~ B.M.H.).

Regimental particulars of officer or Soldier referred to above.

No...~~C-417453~~.....
Rank.....Rfn.....
Name..Bredlaw..Robert W.....
Unit.Royal Rifle of Canada.....

Description

Age..27 yrs.....
Height.....5'6".....
Complexion.....Fair.....
Hair.....Fair.....
Eyes.....Grey.....
Marks.....

Signature of peace officer or constable by whom arrest or to whom surrender was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

.....B. M. Hayes.....
~~(Peace Officer)~~ (Constable) ~~(or Officer in Charge of Police Station)~~

(Strike out words not applicable.)

Pembroke Town Police.

6

P.B. 1481
10-43 (2206)
H.Q. 1772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major (Rank) A. R. Read (Name) S.S. & T.O. (Unit) R.C.A.S.C.

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from Petawawa Ontario (Place) to Ottawa Ontario (Place) and return to Petawawa Ontario (Place) for the purpose of escorting

Full description of soldier being escorted — C-417452 Rfn. Bredlaw R.W. (Number) (Rank) (Name in full) Royal Canadian Rifles. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	ESCORTS.	
	C-101807 L/Cpl. Florent A. #47 Provost Coy. B-166768 L/Cpl. Torrell C.E. #47 Provost Coy.	
	P.M.C..Transport Warrant No.D-118563 dated 31-8-45 covering two (2) second class fares Petawawa Ont. to Ottawa Ontario (return).	$ 7.80
	ABSENTEE.	
	C-417452 Rfn. Bredlaw R.W. Royal Cdn. Rifles	
	P.M.C.Transport Warrant No.D-118564 dated 31-8-45 covering one (1) second class fare Petawawa Ont. to Ottawa Ont. (single).	$ 1.95
	TOTAL	$ $ 9.75

Dated at Petawawa Ontario this 31st day of August A.D. 1945

(A.R. Read) Major S.S. & T.O.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

M.F.B. 395
75M—5-43 (165)
H.Q. 1772-39-420
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 417452	Rfmn.	Robert Weichenthal BREDLAW,	No. 9 District Depot, C.W.

~~1. The following is a fair and true summary of the entries in the Service and General Conduct sheets or Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.~~

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~Number of instances of gallantry or distinguished conduct~~		~~times~~

~~or,~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~of:~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for a term beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ Enrolment Form ~~attestation paper~~ is 27 years 2 months

6. The date of his ~~enrolment~~ ~~attestation~~ specified in his ~~record of service~~ Enrolment Form ~~attestation paper~~ is 8 Jan 1942

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to). State any air force military decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force~~

4

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Air Force Unit Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge on which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of Sept 1945

Capt. Cameron } Captain
Officer i/c Records
No.9 District Depot, CA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

HQC 55-B-1978 (JAG/D-3)
Your File PCO: B-18

24 Sept 45

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

STANDING COURT-MARTIAL

C-417452 - Rfn. R.W. Bredlaw
C.I.C. No. 9 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

/ZT

3

8M-7-45(M-188)

THIS COPY FOR: H.Q. C. 55-B-1978
M.D. PCO: B-18

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. C-417452 Name Robert Weichenthal BRENLAW

Rank Rfn. Unit C.I.C. No. 9 D.D. C.A.

Charge AA 12 (1) (a) WOAS DESERTION.....

Date of Crime 27-12-44

Date of Arrest 31-8-45 Charge Signed 6-9-45

Orders for D.C.M.

Place and Date of Trial Court Martial Building. 10-9-45

Sentence Detention 1 year. Stoppages $9.75

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. ~~39790~~ 811

Date 21-9-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 3

ABSENT

8 mos.

C.I.C. No. 9 D.D. C.A.

SENTENCE

Det. 1 yr.

2

for Judge Advocate-General

10M-8-45(M-169)

IN REPLY PLEASE QUOTE

No. PCO: B-18

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Ottawa, Ontario, 15th Sept.,1945.

C.55-B-1178

Judge Advocate General,
Department of National Defence (Army),
Ottawa, Ontario.

Standing Court-Martial
C-417452 - Rfn. R. W. Bredlaw
C. I. C., No. 9 District Depot, C.A.

Herewith pecord of proceedings of the trial of the m/n by Standing Court-Martial, together with M.F.B.246.

R. K. Laishley

(R. K. Laishley) Major
President Courts-Martial,
Military District No. 3.

N.D. 23
-10-44 (5769)
.1.Q. 1772-101-23

39790

H.Q.C. 55-B-1979 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BAILER, EDGAR ALBERT M.601956 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1979

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 29 1945	28-10-45	Cancelled			JAG NEW FILE CR 21-9-45		
OCT 15 1945	13-10-45	P.A.	M.M.	JAG	With Papers C.R. OCT 11 1945		
				CMBR	For Resolution C.R. NOV 16 1945		
JAN 7 1946	15-2-46			Adm 3	Recommendation	was	DEC 19 1945
MAR 15 1946	15-3-46	P.A.		adm	PER B.F. MAR 15 1946		
				JAG	With Papers C.R. MAR 19 1946		
MAR 20 1946 MAR 21 1946	21-3-46	P.A.		Adm	To note Remission Rec	BB	19/3/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE

11/M.601956(JAG) No. 11/L.466625(JAG)
K.601566 L.607718

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

HQ, Military District No. XI
VANCOUVER, BC 11 Mar 1946

CENTRAL REGISTRY Army
CONF. SEC.
12646
MAR 18 1946
File CJS. B-1979
Chgd. to
Referred to UG

The Secretary
NDHQ
Ottawa, Ontario

M.601956 Pte. BAILER, E.A.
K.601566 Pte. BOOTH, R.J.
L.466625 Pte. MARSHALL, F.
L.607718 Pte. TROFANANKO, W.

1. Enclosed herewith copy of Form of Remission and MFM 288 in each of the m/n cases, for custody.

For Sydney Penny
(E.O. PLOW) Brigadier
D.O.C. M.D. No. XI

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE: 55-B-1979
OUR FILE: 22-B-7500

PART I

No. M.601956 Rank Private Name BAILER Edgar Albert

Unit No 11 District Depot CA

Part II

Date of Trial 15 Sep 45

Charge(s) Sec 12 (1)(a) A.A. Desertion

Sentence 1 yr detention Stoppages of pay $10.00

Date of Sentence 15 Sep 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit (~~XXXXXXXXXXXXXXXX~~ balance of sentence of detention effective 5 Mar 46, ~~XXXXXXXXXXXXXX~~

Signed at Vancouver, B.C. this 1st. day of Mar .46

(E.C. PLOW) Brigadier
D.O.C. M.D. No. XI

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission ~~XXXXXXXXXXXXXXXXXXXXXXXX~~ promulgated and extracts taken at No XI DD.CA.

Vancouver B.C. this 5th day of March 1946

Capt. Adjt.
Officer i/c Documents
(1) No. XI District Depot.

(1) Unit, attachment and appointment to be stated.

Part V
Certified True Extract of Daily Orders Part II

No. M-601956 Rank Pte. Name BAILER Edgar Albert.

The sentence of 1 year detention Stoppage of pay $10.00

awarded by (Field General)(District)(Standing) Court-Martial on the 15th day of September 1945 has been remitted the balance of the sentence on the 5th day of March 1946 by DOC MD XI

Certified true Extract of Daily Orders Part II of No XI District Depot.
No. 56 Place Vancouver B.C. Date 7 March 46

Capt. Adj.
No XI District Depot.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of M.601958 Private Edgar Albert BAILEY,
Number Rank Name in full

No. 13 District Depot, C.A.
Unit Attachment (if any)

Sentenced to One years Detention. Placed under stoppages of pay in the amount of $10.00 with respect to cost of apprehension and return to corps.

on 18th September 1945. at Calgary, Alberta.

being served at No. 81 Military, Detention Barracks, C.A.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years 9 months. 4th December 1941.

Medical grade or category 1111121

FIRST TRIAL—PART II

To The Adjutant-General
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be ~~(not)~~ committed to undergo his sentence, which I recommend should (not) be ~~suspended~~ (put into execution) ~~reviewed on XXXXXXXXXXXXXXXX~~ date ~~for reasons given in paragraph XXX.~~

Place Calgary Alberta,

(F.M.W. Harvey) Brigadier,
Confirming Authority
District Officer Commanding,
Military District No. 13.

Date 6 October, 1945.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority

M.F.M. 285
(Army Form A-3104)
30M—6-45 (1869)
H.Q. 1722-25-3019

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
30 Oct 45	No recommendation	(F M W Harvey) Brig.DOC MD #13	
5 Mar 46	Bal of sentence remitted wef 5 Mar 46	(E.C. PLOW) Brigadier D.O.C. M.D. No. XI	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge: Desertion. Sec.12(1)(a) Army Act. In that he at Debert, Nova Scotia, at 1400 hours on the 24th December 1944 absented himself from the Prince of Wales Rangers, C.A., until apprehended by Military Authorities at 21 miles west of Wetaskiwin, Alberta, at 1600 hours on the 5th of September 1945, dressed in plain clothes cost of apprehension and return to corps being $12.67. Lieut-Col., (J.W. Littleton), Commanding, No. 13 District Depot, C.A. Signature of Officer making entry	24th December 1944.	15th September. 1945.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
4th October 1945.	..Lieut-Col., (J.W. Littleton), Commanding, No. 13 District Depot, C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 October, 1945.	Suspension not recommended. (F.M.W. Harvey) Brigadier, District Officer Commanding, Military District No. 13.	

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

copy

VER V CTV NR 131

FM COMMANDING PACIFIC VANCOUVER 081605U

TO THE SECTY NDHQ OTTAWA

GR 105 BT

PCA 1997F UNCLASSIFIED HQC 55-M-955 ADM 3(a)3 REFERS K608298 PTE HAMELIN J E G STOP HQC 55-B-1979 REFERS M601956 PTE BAILER E A STOP HQC 55-B-2002 REFERS L608961 PTE BILAWCHUK M STOP HQC 55-L-1548 REFERS L464788 RFN LENIUS F S STOP ALL ACK

Put to file

BT 081605U

BE 081709U B

HQC 55-B-1979
Adm 3(a)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario, 4 Jan 46.

GOC-in-C,
Pacific Command,
VANCOUVER, B.C.

M.601956 Pte BAILER E A
CM Board of Review
92 MDB

Ref telegram AG 0267 d/18 Oct 45 Review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation:

"Release on 15 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommendol remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. ~~[illegible]~~

7. Acknowledgment by telegram requested.

(A. E. Walford)
Major-General
Adjutant-General

GDB/MA

PART I

G.R.O. 55 B-1979 (CMF 5 W N
19 Nov 45.
Case No. 14985

REVIEW OF SENTENCE
BY
COMPETENT MILITARY AUTHORITY OR REVIEW

1. Rank, No and Name: M-601956 Pte. BAILER, E A

2. Unit at date of offence: Prince of Wales Rangers

3. Charge: AA Sec 12 (1) (a) DESERTION
AWL from 1400 hours 24 Dec 44 until apprehended at 1600 hours 5 Sep 45, dressed in plain clothes.
Length of absence - 8½ mos.

Plea: Not guilty

4. Place and Date of Trial: Calgary Alberta - 14 Sep 45
(xxxxx (DSM) (xxx (SCM)

5. Finding: Guilty

6. (a) Sentence: 1 year detn.

(b) Date of Sentence: 16 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 92 MDB In MD Pac. Command

(N.B. - Discharged under RO 1029( ) for
wsf)

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CONDUCT

Case No----------

11. (a) Prior to conviction

	Offence	Date	Sentence
(1) Civil Convictions:	NIL		
(2) Courts/Martial:	NIL		
(3) Summary Convictions:	AWL	7 Jul 42	2 days pay

(b) After conviction Fair
Expected date of release 14 May 46.

(c) Date of enrolment xxxxxxxxxxx 4 Dec 41 Present Age: 25

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

(a) Item 10 has been omitted.
(b) In an unsworn statement accused says he went AWL because his wife was expecting a baby and his wife and father-in-law were alone on the farm. His father-in-law is 60 years old and in poor health. He worked on the farm whilst AWL and always went under his right name. He intended to return to army as soon as the work was finished in the fall.
(c) In 1944 he had been granted 60 days Farm Leave.
(d) In mitigation the defending Officer says this mans' medical category is M2.

Spec Leave to 21 Dec 44

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr., etc.)

Reviewing Officer:
This man has maintained good record of conduct although considerable service. I recommend release after 5 mos. 14 Feb 46.

Reviewed by. A. M. Stephenson
A.M.Stephenson, Major.

14. Recommendation of the Board: Release on 15 MAR 1946

Date DEC 19 1945

W. a. Stilwell. Maj D
Secretary
Courts Martial Board of Review

9875
NOV 17 1945
File
Chg. to 5.55.B-1979
Referred to C.MBRG2.

BR 6-1-45

DEPARTMENT OF NATIONAL DEFENCE
- ARMY - 22-B-10608

Headquarters, Pacific Command.
Vancouver, B.C.
13 Nov 1945

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks

M 601956 Pte. BAILER, E.A.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

29 H

Headquarters,
Pacific Command.
(Attention C.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.HKS.

The transfer of the w/m S.U.S. has been completed with effect date stated hereunder

No.	Rank	Name	Unit
M 601956	Pte.	BAILER, E.A.	No. 13 D.D.

Transferred from No. 81 M.D.Hks. at Calgary, Alberta

to No. 92 M.D.Hks. at Chilliwack, B.C.

with effect 9 Nov 45

(J.M.Johnston) Captain
for Commandant

Submitted in duplicate

No. 92 M.D.Hks.

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H.Q.C.55-B-1979 (JAG/D)

13 Oct 45

The District Officer Commanding,
Military District No. 13, Calgary, Alta.

.....STANDING.....Court-Martial

M.601956 Pte. Edgar Albert Bailer,
No. 13 District Depot, C.A.

Receipt is acknowledged of your C.36-B-5349 (JAS) dated 9 October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M

for (R.J.Orde) Brigadier
Judge Advocate-General.

MM

26

R50

File: 36-B-5349(JAS)

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

AIR MAIL
REGISTERED
CONFIDENTIAL

9 October, 1945.

The Secretary
Department of National Defence
OTTAWA, Canada

CENTRAL REGISTRY ARMY
2297
OCT 11 1945
55-B-1979
Referred to GHS

STANDING COURT-MARTIAL

M.601956 Pte. Edgar Albert BAILER,
No. 13 District Depot, C.A.
Reference 55-B-1979

1. Returned herewith are the Proceedings of the marginally noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his unit (5 September 45) and trial (14 September 45)

is 8 days.

The time between apprehension and trial is 8 days.

3. ~~Enclosed is A.F.M. 288 in the above case.~~

4. Upon review, no remission has been ordered by the District Officer Commanding, Military District No. 13.

(F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13.

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REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of M-601956 Pte Edgar Albert BAILER

#13 District Depot (CA)

Reviewed on 3rd day of October 1945

Decision Confirmed

(F M W Harvey) Brigadier

District Officer Commanding, M.D. 13.

24

MEDICAL OFFICER'S REPORT

I certify that No. M601956 Private Edgar Albert Bailer of No. 13 District Depot CA is in a good state of health, and fit to undergo Trial by Court martial.

Medical Officer
R.C.A.M.C. (C.A.) Attached to
No. 13 District Depot, C.A.

Station Calgary, Alberta

Date 14th September 1945

23

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-30-480

MEDICAL OFFICER'S REPORT

I certify that No. M601956 Private Edgar Albert Bailer of No. 13 District Depot C.A. is in a good state of health, and fit to undergo Trial by Court martial.

Medical Officer

Station Calgary, Alberta

R.C.A.M.C.(C.A.) Attached to No.13 District Depot, C.A.

Date 15th September 1945

M. F. B. 246
30M—9-44 (5437)
H.Q. 1772-39-480

22

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries - Calgary

on the 14th day of September 1945 at 16.15 hours,

for the trial of: MG01956 Pte Edgar Albert Bailey
Number Rank Full Name

Wo 13 District Depot C.A.
Unit Attachment, if any

PRESIDENT: Lieut-Col Walter Kingsley Jull M.C.-V.D. H.Q. MD. No 13.

PROSECUTOR: Captain Duncan Bingham 13. D.D.-CA.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut H. S. Kennedy 13 D.D.-CA
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused Guilty of the charge.

SENTENCE: The Court sentence the accused
To undergo detention for one year.
To be put under stoppages of pay until he has made good the sum of $10.00 in respect of cost of apprehension and return to his corps.

21

Signed at The Armouries Calgary this 15th day of September 1945.

President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (Reg.)
H.Q. 1772-3-2286

Records entered as No. 39824 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of Sep 1945.
P.A.A. Capt.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No. sir.

For minute of adjournment see page BB

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ as interpreter ?

Answer:

Question to the accused. Do you object to M41138 C.S.M. (W.O.II) LeRoy Parks, C.M.S.C. MQ MN13. as shorthand writer ?

Answer: No sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: The accused was remanded for trial by Standing Court Martial.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

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(The accused ~~having pleaded guilty to~~ charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

At 1620 hours on the 14th day of September, 1945 the Court adjourned.

At 1025 hours on the 15th day of September, 1945 the Court re-opened.

CHARGE SHEET

The accused, No. M.601956 Private Edgar Albert Bailer, No. 13 District Depot, C.A. a N.R.M.A. soldier of the Canadian Army placed on active service is charged with:

CHARGE
Sec. 121(1)(a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Debert, Nova Scotia, at 1400 hours on the 24th of December 1944, absented himself from the Prince of Wales Rangers, C.A. until apprehended by Military Authorities 21 miles west of Wetaskiwin, Alberta, at 1600 hours on the 5th of September 1945, dressed in plain clothes, cost of apprehension and return to his corps being $12.67.

.....Lieut.-Col.
(J.W.Littleton)
Officer Commanding
No. 13 District Depot, C.A.

CALGARY, ALBERTA
14th September 1945.

18

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Captain D. Bingham, Legal Officer, No. 13 District Depot, C.A.

being duly sworn, ~~is examined by the Prosecutor~~ states:-

Question. I am Captain D. Bingham, Legal Officer, No. 13 District Depot, C.A. and I am producing the following documents.

Certified true extract of the accused's M.F.M. 2.

(Certified true extract of the accused's M.F.M. 2 is read, marked Exhibit "F", signed by the President and attached to the Proceedings.)

M.F.B. 375.

(M.F.B. 375, is read, marked Exhibit "G", signed by the President and attached to the Proceedings.)

M.F.M. 216.

(M.F.M. 216, is read, marked Exhibit "H", signed by the President and attached to the Proceedings.)

M.F.B. 1481.

(M.F.B. 1481, is read, marked Exhibit "I", signed by the President and attached to the Proceedings.)

M.F.B. 1482.

(M.F.B. 1482, is read, marked Exhibit "J", signed by the President and attached to the Proceedings.)

I identify the accused, No. M.601956, Pte. Edgar Albert Bailer as the person to whom these documents relate.

The Defending Officer declines to cross-examine.

Questioned by the Court.

Q. Is there any authority that you can quote providing for the charge involving the use of D.N.D. vehicles for escorting accuseds.

A. I have checked for authority on that and I can't find it.

The witness resumes his seat.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement in writing

Question to the accused. Do you intend to call any witness in your defence?

Answer. No sir

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No sir.

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

13

(1) _____ 194

Sir:

I went A.W.O.L. because my wife & father-in-law are alone on the farm. My wife was expecting a baby at that time & my father-in-law is over sixty years old & in poor health.

I worked on the farm, all the time I was A.W.O.L. under my right name.

15

I had 60 days farm

"Keep in touch with the folks at home" 15

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

(2) _____ 194

leave from the army in 1944 to help on that farm because there was no other help available & its the same ~~—~~ this year.

I was intending to return to the Army as soon as harvest was finished this fall.

E. A. Bailey

The witness resumes his seat.
The Defending Officer makes a closing address.
The Prosecutor makes a closing address.

14

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes sir through my Defending Officer.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

Before sentence is passed Sir I would like the following taken into consideration. This man has only a grade eight education and further more his pulhems shows he has a 2 under the M. At the time he went absent his wife was in a critical period and the problems at home were rather difficult for him. He considered it his duty to remain at home rather than stay with the army and furthermore he could get no leave. The people on the farm were not very prosperous these days and his wife couldn't afford a nurse and that left her entirely alone with her father and 25 miles from the nearest town which means 25 miles from the nearest medical aid.

The accused has been enrolled since December, 1941 and the six only shows one previous charge and therefore his conduct has been rather good up until this time.

Schedule "J"
Do Sect.
Prendant

Regimental No. M.601956 Rank Private

Sheet No.

M P M 1 & 2 (a)
300M—5-43 (384)
H.Q. 177-[illegible]-1945

Name BAILER, Edgar Albert

Record of Promotions, Reductions, Transfers, Casualties, Reports, etc.	Rank Shown	Effective Date	Unit	Place	Authority D.O. Number	Authority Dated
AWL 1400 hrs 24 Dec 44 (1st time pub.)	Pte.	24 Dec 44	PWR	Debert, N.S	16	31 Dec 44
SOS to No. 6 District Depot	"	31 Dec 44	PWR	" "	16	31 Dec 44
TOS from PWR	"	1 Jan 45	6 DD	Halifax, NS	6	6 Jan 45
AWL 1400 hrs 24 Dec 44 (2 nd time pub)	"	24 Dec 44	"	"	12	13 Jan 45
AWL 1400 hrs 24 Dec 44 (3rd time pub)	"	24 Jan 45	"	" "	19	22 Jan 45
SOS as deserter forf 32 days pay Def of Kit $96.30	"	5 Sep 45	#13 DD	Calgary	25	29 Jan 45
TOS from #6 District Depot on app rn by Mil. Auth (at) Nisr Wetaskiwin, Alta at 1600 hrs					213	8 Sep 45

Certified to be a true extract of M.P.M. 2 of which it purports to be a copy

W.A. Blench Lieut.
(W.A. Blench) Ass't Adjutant
No. 13 District Depot, C.A.

ARTICLES		VALUE	
Anklets web	1		56
Cap W.M.C.	1		79
Glaves woollen	4	2	00
Greatcoat drab	1	11	66
Mits leather	1		70
Overall Comb	2	3	78
Blouses serge BD	2	9	76
Trousers serge	2	9	82
Boots ankle pr	2	8	74
Caps FS	1		53
Drawers cotton	2		64
Drawers woollen	2	2	10
Jacket sweater	1	1	03

ARTICLES		VALUE	
Shirts fln K.	2	2	46
Shirts under cotton	2		66
Shirts woollen	2	1	80
Shirts K. Cotton	1	1	16
Shoes canvas	1	1	73
Socks woollen	4	1	30
Trousers ED shorts	1		99
Shoes leather black	1	3	63
Bags kit	2		96
Boot Dressing tin	1		04
Braces	1		21
Brasses button	1		02
Brushes boot polishing	1		16

Exhibit "G"
G. Mc. C.
President.

#22

RECORD of the Declaration of a Court of Inquiry assembled at No. 6 District Depot C.A. on the 24 day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M 601956 Pte. Bailer E.A. No. 6 District Depot

DECLARATION

The Court declare that No. M 601956 (Regt'l No.) Bailer E.A. (Full Name) Pte. (Rank) No. 6 District Depot, C.A. ~~P.W.R.~~ (Unit) illegally absented himself without leave from Prince of Wales Rangers at Debe rt (Place) N.S. at 1400 hours on the 24 day of Dec 44 that he is still so absent, and that on the 25 Dec 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Brushes button	1	09	Razor safety	1	32
Brushes cloth	1	13	Towels hand	2	48
Brushes hair	1	30	Necktie black	1	15
Brushes shaving	1	32	Pins collar	1	05
Brushes tooth	1	07	Socks black	2	42
Cap Com.	1	31	Belts W.L.S.	1	27
Comb hair	1	03	Bags ration	1	03
Knive table	1	14	Belts waist	1	57
Fork table	1	06	Bottles water	1	47
Spoon table	1	06	Braces shoulder L.	1	27
Holdall	1	17	Braces shoulder R.	1	25
Housewife	1	27	Carriers water bottle	1	28
Knives clasp O?S.	1	75	Frogs bayonet	1	14

ARTICLES		VALUE		ARTICLES		VALUE	
Haversack	1	1.73		Sheets ground	1	1	85
Helmet steel	1	1.79		Blankets G.S.	1	3	06
Pack	1	1.70		Mugs Enamel	1		12
Straps shoulder Hav.	2	.48		Slings Rifle	1		18
Straps web supporting	2	.22		Outfit A/d	1		03
Tins Mess	1	.43		Dect.	2		21
Pouches Basic	2	1 .66			TOTAL	$96	30
Capes A/G	1	3 .32					
Respirator A/G & Haver.	1	4 .51					
Ointment A/G	2	.40					
Eyeshields	6	.78					
Nets Camp. Helmet	1	.20					

(I.B. Mac CULLUM) Lt. Co. President
No. 6 District Depot, C.A.

Signed at Halifax, N.S.

See R.O. 4633 Member
(Name) (Rank) (Unit)

this 24 day of January 19 45

See R.O. 4633 Member
(Name) (Rank) (Unit)

Signature of Commanding Officer (F.I. ANDREW) Col.,
No. 6 District Depot, C.A.

Certified true copy L.H. LeBlanc Capt.
(L.H. LE BLANC) Capt., A.A.G., No. 6 District Depot, C.A.
(Signature and Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-43 (8530)
H.Q. 1772-39-287

10

Exhibit "H" to affd of President

25

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR ~~SURRENDER~~ TO SERVICE AUTHORITIES)

I, M-31366. Sgt. Jesse HIND, 44/-Coy, Canadian Provost Corps C.A. (A)
(Number) (Rank) (Name) (Unit)

hereby certify that M-601956 Pte Edgar Albert Bailer.
(Number) (Rank) (Name in full)

of the Prince of Wales Rangers. Vernon British Columbia.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~(surrendered to)~~ M-31366, Sgt.
(Number) (Rank)

Jesse HIND 44/-Coy, Canadian Provost Corps C.A. (A)
(Name) (Unit or appointment)

at a Farm 21 miles west of Wetaskiwin Alta. 1600.
(Place) (Hour)

on the 5 day of September 1945.

Strike out words not applicable } as ~~a deserter~~ (or absentee without leave), and that at the time of his arrest he was wearing ~~soldier's uniform~~ (dressed in civilian clothes).

Dated at Wetaskiwin Alberta. this 5 day of September 1945.

A. N.R.M.A. Soldier.

J. Hind Sgt
(Signature, Number, Rank, Unit or appointment)
M-31366. Jesse HIND.
44/-COy, Canadian Provost Corps C.A. (A)

N.C.O. in charge Detachment

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6906)
H.Q. 1772-39-1936

A N.R.M.A. soldier of the Canadian Army placed on Active Service.

9

Exhibit I
[illegible] and C/
President

27

M.F.B. 1481
12[illegible]43 (2206)
H.Q.[illegible]-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description / Strike out word not applicable / Complete / Full description of soldier being escorted / Strike out phrase not applicable

I, CAPT. E.A. MORKEBERG, ACTING OFFICER COMMANDING, NO. 44 COMPANY-
(Rank) CANADIAN (Name) PROVOST CORPS, (Unit) CA (A).
hereby certify that I ([redacted] (authorized) the hereinafter itemized transportation for escort
to proceed from WETASKIWIN, Alberta (Place) to a farm 21 miles west of Wetaskiwin, Alta. (Place)
and return to WETASKIWIN, Alberta (Place) for the purpose of escorting
M601956 Pte. Edgar Albert BAILER, (Number) (Rank) (Name in full)
Prince of Wales Rangers, Vernon, B.C. (Unit) (Attachment, if any)
alleged to be [redacted] an absentee without leave, the facts, date and particulars of [redacted]) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
5th Sept. 45.	Transportation via D.N.D. Vehicle No. 68-174, for returning absentee M601956 Pte. Edgar Albert BAILER, Prince of Wales Rangers, Vernon, B.C., from a farm 21 miles west of Wetaskiwin, Alta., to Wetaskiwin, Alta.	
	Mileage: 42 miles @ .06¢ per mile.....	2.52
	TOTAL	$ 2.52 ~~12.67~~ 10.15

Dated at CALGARY, Alberta this 6th day of September A.D. 1945

E.A. Morkeberg Capt.
Signature, rank, unit, attachment (if any) and appointment of officer (authorizing transportation)
(E.A. Morkeberg)
A/O.C. No. 44 Coy., C. Pro. C. [redacted]
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.
This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

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Sgt. Bright J.
Pres. and
President.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-CUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieutenant (Rank) Ellen K. Edis (Name), RCASC CA, C.S. & T.O. Wetaskiwin (Unit) Alberta

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from Wetaskiwin, Alberta (Place) to Calgary, Alberta (Place)

and return to Wetaskiwin, Alberta (Place) for the purpose of escorting

Full description of soldier being escorted — M601956 (Number) Private (Rank) Elgar Albert Bailer (Name in full)

Prince of Wales Rangers (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
M.D.13 Transportation Warrant No.C982191,dated 6th September 1945, covering one single second class fare form WETASKIWIN,Alberta, to CALGARY, Alberta, for absentee, No M601956 Private Elgar Albert Bailer..	$2.55
Also one meal ticket @ 75¢.....	.75
M.D.13 Transportation Warrant No. C982191,dated 6 th September 1945,covering one second class fare from WETASKIWIN,Alberta to CALGARY, Alberta and Return, for escort M62287 L/Cpl. H.J. Horricks.....	5.10
Also one meal ticket @ 75¢.....	.75
And one meal ticket @$1.00.....	1.00
TOTAL.....	$10.15

Dated at Wetaskiwin,Alberta this 5 th. day of September A.D. 1945

Ellen K. Edis
(Ellen K.Edis) Lieut.

R.C.A.S.C. C.A.
C.S. & T.O. Wetaskiwin, Alberta

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorizing transportation)~~

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482

M.F.B. 1461
115m—10-43 (5460)
H.Q. 1772-99-1861

7

M.F.B. 355
75M—5-43 (165)
H.Q. 1772-39-620
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or unit)~~
M.601956	Private	Edgar Albert Bailer	No. 13 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ Conduct sheets ~~or Company Conduct sheets~~ ~~Regimental and Squadron, Battery~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	AWL 1	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~ ~~or,~~

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ ~~Air Force Act~~ ~~Section 47 of the Army Act~~ ~~or,~~ ~~and dispensations with trial under A.F.A. 73~~ ~~A.A. 73~~ ~~are set out in the Schedule~~ ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~or,~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and nil ~~Air Force~~ days in military custody, making a total of 7 days in custody, of which nil days were spent in hospital.

close arrest 7 days.
open arrest ~~nil~~ days

5. The present age of the accused according to his ~~record of service~~ ~~attestation~~ enrolment paper is 25 years 6 months.

6. The date of his ~~commission~~ specified in his ~~record of service~~ ~~attestation~~ enrolment ~~attestation~~ enrolment paper is 4 December 1941

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~for is in possession of or entitled to).~~ State any air force decoration or reward. ~~military~~

10. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held ~~Air Force~~ ~~the regimental rank of~~

6

32

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15th. day of September 1945 W.A. Blench Lieut.
(W.A. Blench) Ass't Adj.
No. 13 District Depot, R

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

M.F.M. 6

Reg. No. M.501956 Name Bailer, E.A. Corps Inf

Date of enlistment or enrolment Dec 41 Date of Birth

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Last sheet destroyed 13 Jul 44	Last Entry	29 Mar 42	I.L.Obergh	Capt.	
Colwood Camp	12-7	Pte.		AWL 1700 hrs 12-7-42 to 1615 hrs 14-7-42 AA Sec 15(1)	Documentary	fop 2 days FR&I 149(2)	15-7-42	J.P.Ferner Major	fop 2 days FR&I 149(1)(a)
				Certified to be a true copy of M.F.M. 6 of which it purports to be a copy.					
				W.A. Blench .....Lieut. (W.A. Blench) Ass't Adjutant No. 13 District Depot, C.A.					

(P.T.O.)

4

33

PRECIS OF EVIDENCE

in respect to the trial by Standing Court-Martial of

The accused, No. M.601956 Private Edgar Albert Bailer, No. 13 District Depot, C.A. a R.C.A. soldier of the Canadian Army, placed on active service, is charged with:

CHARGE: Desertion

To prove the charge the following evidence is available:

DOCUMENTARY:

F M.P.R. 2
G M.P.R. 375
H M.P.R. 816
I M.P.R. 1481
J M.P.R. 1481

Lieut.-Col.
(J.W.Littleton)
Officer Commanding
No. 13 District Depot, C.A.

CALGARY, ALBERTA
14th September 1945.

4

HQC.55-B-1979 (JAG/
Your File C.36-B-534

28 Sep 45

District Officer Commanding
Military District No. 13,
CALGARY, Alta.

STANDING COURT-MARTIAL
No. M.501956, Pte. Edgar Albert BAILER,
No. 13 D.D., C.A.

Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. In relation to the question whether the sentence of the Court may include stoppages in respect of the cost of using a D.N.D. vehicle for the purpose of apprehending or returning a soldier who is absent without leave, may the President and the Prosecutor in this case be referred to para. 6(a) of the Appendix to C.A.R.O. 3464 which quotes in part Order in Council P.C. 58/4015 of 5 Jun 41, which order in council refers to a certificate by the Officer who issued the requisite transport warrants or who authorized the requisite transportation. May the President and Prosecutor be advised that it is considered that, where a D.N.D. vehicle is properly used for the said purpose, the sentence may include such stoppages, just as it may in a proper case include stoppages in respect of the cost of returning the accused by railway; and that it is the practice to treat a rate of six cents per mile each way as a proper rate to charge to the absentee in respect of the use of the D.N.D. vehicle.

RCS May

(R.J. Orde), Brigadier,
Judge Advocate-General.

REA/AB

3

THIS COPY FOR: H.Q.C. 55-B-1979
M.D.C. 36-B-5349 (2)

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

NRMA

No. M-601956 Name BAILER, Edgar Albert

Rank Pte Unit No. 13 DD CA

Charge AA 12 (1)(a) WAS Deserting.....

Date of Crime 24-12-44

Date of Arrest 5-9-45 Charge Signed 14-9-45

Orders for D.C.M.

Place and Date of Trial Armouries, Calgary 14-9-45 & 15-9-45.

Sentence Det. 1 year Stoppages $10.00

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39824

Date 24-9-45

MEMO. Balance of sentence remitted by Conf. Auth.

MD 13	No. 13 DD CA
Absent	Sentence
Approx 8½ mos	Det. 1 year

2

R. Elmyhin Capt.
for Judge Advocate-General

OM-8-45(M-189)

No irregularities, and no comments except as contained in J. A. G's letter of 28 Sep 45.

Passed.

28 Sep 45 R.E.A. Capt.

R97

IN REPLY PLEASE QUOTE
No. C. 36-B-5349 (JAJ)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, M.D. No. 13,
Calgary, Alberta. 18th September, 1945.

C. 35-B-1979

CONFIDENTIAL
REGISTERED
AIRMAIL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
No. M.601956, Pte. Edgar Albert Bailer,
No. 13 District Depot, C.A.

1. Attached hereto are the Proceedings of the marginally noted standing court-martial.

(W.K. Jull) Lt. Col.
President,
Standing Court-Martial.

N.D. 23
3 Mil.—11-43 (2979)
H.Q. 1772-101-23

39824

H.Q.C. 55-B-1980 CONFIDENTIAL

M.F.B. 3[illegible]
HM—4-43 (3[illegible])
H.Q. 301-1-8[illegible]

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BARKER, WILSON HOLIDAY K.7968 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1980

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
SEP 27 1945	24.10.45			JAG	NEW FILE	CR	21-9-45
OCT 9 - 1945	9.10.45	PAS			With Papers C.R. OCT 9 1945		
					With Papers C.R. NOV 9 1945		
NOV 10 1945	13/11/45	PA			To note file		10-11-45
NOV 13 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. P.6-0-B-3014(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Petawawa Military Camp, 8 November, 1945

CENTRAL REGISTRY ARMY
CONF. SEC.
8077
NOV 9 1945
File CSS-B-1980
Chgd. to
Referred to JAG

Secretary,
Dept of National Defence,
OTTAWA - Canada.

STANDING COURT-MARTIAL - Remission of Sentence
K-7968, Pte. BARKER, W.H. - A-37 C.I.T.C. CA

Reference your file HQC 55-B-1980.

1. Pursuant to the provisions of CARO 5913, a form for remission with respect to the m/n soldier is enclosed herewith.

2. In view of the length of the sentence in this case and the fact that no special review was recommended by the Commanding Officer, no MFM 288 was prepared.

Noted.
CMBR-3
13/11/45

James S. Craig Major
for (W.C. Thackray) Brigadier,
Commander,
Petawawa Military Camp.

N.D. 8
3 Mil—11-43 (2979)
H.Q. 1772-101-23

JSC:jg
Encl.

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY COURTS MARTIAL

NDHQ File No.: HQC 55-B-1980(

District File No.: P.6-O-B-3014(JAG)

PART I

No. K-7968 Rank Pte Name BARKER Wilson Holiday

Unit A-37 C.I.T.C., C.A. - Petawawa Military Camp.

PART II

Date of Trial 20th day of September 1945

Charge ~~XXX~~ Desertion (AWL 28 May 45 - 5 Sep 45)

Sentence Ninety (90) days detention with stoppages of pay in the amount of $23.81.

Date of Sentence 20th day of September 1945

Confirmation - (a) Authority: ----------

(b) Date: ----------

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act ~~(suspension military authority under Section 57(2) of the Army Act)~~, do hereby remit ~~(commute) (mitigate) (suspend) (put into execution)~~ 42 days of the sentence of Ninety (90) days detention

Signed at Petawawa Military Camp, this 2nd day of November 1945.

(W.C. Thackray) Brigadier,
Commander,
Petawawa Military Camp.

TO BE RELEASED ON 6th NOVEMBER 1945

PART IV

PROMULGATION

Remission (~~commutation~~) (~~mitigation~~) (~~suspension~~) (~~putting into execution~~) promulgated and extracts taken at A.37, C.I.T.C. C.A.

this 6th day of November 19 45

(1) R. J. Moore Capt

Officer i/c Documents

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. K.7968 Rank Pte. Name BARKER, Wilson Holiday

The sentence of 90 days detention with stoppages of pay in the amount of $23.81

awarded by ~~District or~~ Standing Court-Martial on the

20Sep45 has been remitted 42 days

on the 6 Nov 45 by Commander, Pet.Mil.Camp

Unit

Certified true Extract of Daily Orders Part II of A.37, C.I.T.C. (No. 48)

Place Pet.Mil.Camp Date 6 Nov 45

H. D. Oates Lieut

Ass't. Adjutant

A.37, C.I.T.C.

H.Q.C. 55-3-1980 (JAG/D-5)

5 October, 1945.

Commander,
Petawawa Military Camp,
Petawawa, Ontario.
Standing
K.7968 Pte. Barker, W.H.
A-37, C.I.T.C.
.....Court-Martial

P.S-3-3-3014 (JAG)

4th October 5

Receipt is acknowledged of your signing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

(R.J. Orde), Brigadier,

LCC:jb

Judge Advocate-General.

IN REPLY PLEASE QUOTE
No. P.6-O-B-3014(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Petawawa Military Camp, 4 October 1945

CENTRAL REGISTRY Army
1200
OCT 5 1945
File C55-B-1980
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence,
OTTAWA - Canada.

STANDING COURT-MARTIAL
K.7968, Pte. BARKER, W.H.
A-37, C.I.T.C.

Reference your HQC 55-B-1980 (JAG/D-8) dated 27 Sep 45.

2. Now enclosed herewith are the proceedings of the marginally noted Standing Court-Martial which are returned to you for custody as instructed in your above reference.

James S. Craig, Major
for (W.C. Thackray) Brigadier,
Commander,
Petawawa Military Camp.

JSC:jg
Encl.

N.D. 28
600M—10-44 (5769)
H.Q. 1773-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Petawawa Military Camp,

on the 20th day of September 19 45 at 0900 hours,

for the trial of: K-7968 Private Wilson Holiday Barker
Number Rank Full Name

A-37, Canadian Infantry Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major G. Longman, Camp Headquarters, Petawawa Military Camp.

PROSECUTOR: Capt. J.R. McMullen, RCA, Camp Headquarters, Petawawa Military Camp
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ -
OR DEFENDING OFFICER: Lt. S. Furman, A-37, C.I.T.C.
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, K-7968, Private Wilson Holiday Barker, A-37, Canadian Infantry Training Centre, C.A., is not guilty of desertion but guilty of absence without leave from 0600 hours the 28th day of May 1945 to 2100 hours the 5th day of September, 1945.

SENTENCE: The Court sentence the accused, K-7968, Private Wilson Holiday Barker, A-37, Canadian Infantry Training Centre, C.A., to undergo detention for ninety (90) days and to be placed under stoppages of pay until he has made good the sum of $23.81 in respect of the costs of his apprehension and return to his unit.

Signed at Petawawa Mil Camp this 20th day of September 194 5.

G. Longman, Major.
President,
Standing Court-Martial.

Extracts entered as No. 39628 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 24 day of Sep 19 45

M.F.B. 148
25M-6-44 (
H.Q. 1772-39-1200

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to N/A as interpreter ?

Answer:

Question to the accused. Do you object to Mrs. Enid Jones, Civil Servant as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. N/A

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. N/A

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. N/A

~~(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

B2 [illegible] Pris SCM

CHARGE SHEET

The accused, K.7968 Private Wilson Holiday BARKER A.37, Canadian Infantry Training Centre, C.A., Petawawa Military Camp Ontario, a GS soldier of the Canadian Army placed on Active Service is charged with,

CHARGE
Sec. 12 (1)(a)
A.A.

When on Active Service deserting His Majesty's Service.

in that he

at Petawawa Military Camp, Ontario on the 28th day of May 1945 absented himself without leave from A.37 Canadian Infantry Training Centre, C.A. from 0600 hours on the said 28th day of May 1945 until apprehended by the Military authorities at Crow Lake, Ontario at 2100 hours on the 5th day of September 1945 dressed in civilian clothes, the cost of apprehension and return to his unit being $23.81.

17 September 1945
Petawawa Military Camp.

(E.J.Ketchum)Lt.Col.
T/Comd.
A.37, C.I.T.C.

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~The Prosecutor proceeds to call witnesses.~~

~~First Witness for prosecution.~~

Capt. J.R. McMullen, the prosecutor, presents the following documents in support of this case.

~~being duly sworn, is examined by the Prosecutor.~~

~~Question.~~

This is a certified true extract of Part 11 Daily Order No. 118 dated 30 May 45 A-37 CITC relating to the accused.

(Document produced is read, marked Exhibit "F", signed by the President and attached to the proceedings).

This is a certified true extract of Part 11 Daily Order No. 123 dated 5 Jun 45 A-37 CITC relating to the accused.

(Document produced is read, marked Exhibit "G", signed by the President and attached to the proceedings).

This is an M.F.B. 375 dated 2 Aug 45 relating to the accused.

(Document produced is read, marked Exhibit "H", signed by the President and attached to the proceedings).

This is an M.F.M. 216 dated 5 Sep 45 relating to the accused.

(Document produced is read, marked Exhibit "I", signed by the President and attached to the proceedings).

This is an M.F.B. 1481 dated 5 Sep 45 relating to the accused.

(Document produced is read, marked Exhibit "J", signed by the President and attached to the proceedings).

This is an M.F.B. 1481 dated 8 Sep 45 relating to the accused.

(Document produced is read, marked Exhibit "K", signed by the President and attached to the proceedings).

This is an M.F.B. 1482 dated 18 Sep 45 relating to the accused.

(Document produced is read, marked Exhibit "L", signed by the President and attached to the proceedings).

This is a certified true extract from Casualty Return No. 34 dated 17 Sep 45 A-37 CITC relating to the accused.

(Document produced is read, marked Exhibit "M", signed by the President and attached to the proceedings.

D

The Prosecutor has no ~~further~~ witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence myself as a witness, Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. N/A

First Witness for the Defence

The accused, K-7968, Pte. Wilson Holiday Barker of A-37, Canadian Infantry Training Centre, C.A., being duly sworn, is examined by the defending officer.

Q. When the Provost came to pick you up, Pte. Barker, what clothes were you wearing?

A. I was in my fatigue clothes.

Q. Will you describe what sort of clothes?

A. It was clothes I wore around town which kept my own clean.

Q. You were wearing fatigue clothes so that you could preserve your uniform?

A. Yes, Sir.

Q. Did you have your identification card?

A. Yes, Sir.

Q. Had you any intention of returning?

A. Yes, Sir. I was going to return in about a week's time.

Q. Why in a week's time?

A. I was just finishing up the harvest on the farm.

Q. Why did you go in the first place?

A. Well, I had to go because the farm was practically all alone.

Q. Did you make an application for a farm leave before you went?

A. I tried but could not get one.

Q. Whose farm was it in the first place?

A. It is Louis Bian's farm.

Q. And who is Louis Bian?

A. My sister-in-law's grandfather.

Q. How old is he?

A. He is 84.

Q. Why did you have to go to help on his farm?

A. Well, the farm is all run down and the cattle are running all over and there is no one to look after it.

Q. Did you have any special letter or something?

A. My sister-in-law wrote and asked me to come.

Q. What did you do during the time you were there?

A. I fixed fences and fixed buildings and took off the hay.

Q. Were you there all alone?

A. Most of the time.

Q. Who was there with you?

A. We got another fellow for a few days.

Q. Did you have much work to do when you were apprehended?

A. Yes, Sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q. When did you enlist in the Army, Pte. Barker?

A. October 16, 1944.

Q. What was your occupation prior to that?

A. I was a fisherman.

Q. Where?

A. On Victoria Island.

Q. When you received this letter from your sister-in-law, did you show it to anyone in your Company or to the Orderly Room?

A. No, Sir. I did not show the letter.

Q. Why?

A. Because I did not think it was worth while. I knew I had to fill out a form that was all there was to it.

Q. Since you joined the Army in October, 1944, have you had any leave to engage in civilian employment?

A. No, Sir.

Q. Do you know who put the crop in in this farm you mentioned?

A. My sister-in-law's father put it in.

Q. What about the rest?

A. Her brother put some in.

Q. What is her brother's occupation?

A. He is a farmer.

Q. Where does he live?

A. He lives at Crow Lake.

Q. Did you absent yourself without leave from A-37 from 0600 hours on 28 May, 1945, until 2100 hours on the 5th day of September, 1945?

A. Yes, Sir.

Q. And you were apprehended by the military police at Crow Lake on 5 September, 1945?

A. Yes, Sir.

Q. What clothes did you have on when you were apprehended? You have told us that you were dressed in fatigue clothes. What else did you have on?

A. I had my identification discs and Army Boots, a shirt and a pair of overalls.

Q. What kind of overalls?

A. Khaki overalls.

Q. Where did you get them?

A. I got them in a store.

Q. What kind of a shirt did you have on?

A. An Army shirt.

Q. Will you tell the Court why you left on the 28th day of May?

A. Well I got this letter from my sister-in-law and the cattle were running all over and she had no one to fix the fences and the people were kicking.

Q. Where was your sister-in-law's brother at the time?

A. He had to work on his own farm.

Q. Is your sister-in-law married?

A. Yes, Sir.

Q. Is her husband living?

A. Yes, Sir.

Q. Where does he reside?

A. He was in the army at the time.

Q. He was in the army in May, 1945?

EL A. Yes, Sir. He was overseas.

Q. You told the Court that you intended to return. When did you intend to come back? At what time?

A. About another week we would have been through.

Q. Did you have the crop all off?

A. Just about another week and we would have been finished.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q. What crop did you take off?

A. Mostly Hay and grain.

Q. How much grain?

A. About 15 to 20 acres. The rest is all hay. About 100 acres hay.

Q. Is your sister-in-law's grandfather, who is the age of 84, not able to do any work at all?

A. Absolutely none.

Q. How long has he not been able to work?

A. Not for the past 10 years.

Q. Who looked after this farm last year?

A. No one looked after it.

Q. But the crops got in last year?

A. There was no crops. Nothing.

Q. Who put in the 15 to 20 acres of grain and 100 acres of hay?

A. The hay was put in the year before and it keeps coming up all the time.

Q. Who sowed the 15 to 20 acres of grain?

A. My brother put some in and I helped put some in.

Q. Have you ever farmed before in your life?

A. Yes, Sir. When I was a kid.

Q. Where did you farm?

A. Out of Gananoque.

Q. On whose farm?

A. Atkinson.

Q. How old were you at the time and how long did you work on the farm?

A. On and off for 10 years, Sir.

The Witness resumes his seat.

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. Sir:- The accused since enlistment in the Army has had a very clean recort. It was my good fortune that he went through the same Company as I did at A-37, C.I.T.C., and as his Platoon Commander, I can vouch for his good behaviour. This is his first offence, his first Court-Martial and his first offence on a charge sheet in the Army.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Exhibit F.
Col Strum Maj
Pres S.C.M.

21

DAILY ORDERS PART II

BY

LIEUT.-COLONEL E.J.KETCHUM

A/COMMANDANT

A-37, C.I.T.C.

Order No. 118
30May45.
Petawawa, Ont.

PART II ORDER NO. 117 DATED 29May45.

HOLDING ESTABLISHMENT

"B" OTHER RANKS

20. ABSENT WITHOUT LEAVE

(d) AWL from times and dates shown.

K.7968 Pte. BARKER W 0600 hrs 28 May 45.

Sgd...
"W.E.White"
(W.E.White) Captain,
Adjutant,
A-37, C.I.T.C.

CERTIFIED TRUE EXTRACT FROM PARRT II D.O.
NO. 118 DATED 30May45.

W. D. Oates
(W.D.Oates) Lieut.,
Asst-Adjutant,
A-37, C.I.T.C.
Officer i-c Records.

117 (d)

Exhibit Q.
Extract from Mess
Pres. C.O.M.

DAILY ORDERS PART II

BY

LT/COL. E.J.KETCHUM

A/COMMANDANT

A-37, C.I.T.C.

Order No. 123
5Jun45
Petawawa, Ont.

LAST PART II ORDER NO. 122 DATED 4Jun45

HOLDING ESTABLISHMENT

"B" OTHER RANKS

17. ABSENT WITHOUT LEAVE
(d) AWL from 0600 hrs 28 May 45 Still absent 0600 hrs 4 Jun 45 (8th day)

K.7968 Pte. BARKER W

Sgd...
"W.E.White".
(W.E.White) Captain,
Adjutant,
A-37, C.I.T.C.

CERTIFIED TRUE EXTRACT FROM PARRT II D.O.
NO. 123 DATED 5Jun45

W. D. Oates
(W.D.Oates) Lieut.,
Asst-Adjutant,
A-37, C.I.T.C.
Officer i/c Records.

117 (d)

Exhibit H.
Exculpatory Mess Pers Secy

RECORD of the Declaration of a Court of Inquiry assembled at Petawawa Military Camp on the 2nd day of August, 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K-7968 Pte. Barker, W.H. of COY, A-37, C.I.T.C.

DECLARATION

The Court declare that No. K-7968 Pte. Barker, W.H. (Regt'l No.) (Full Name) (Rank) A.37, C.I.T.C. C.A. (Unit) illegally absented himself without leave A.37, C.I.T.C. C.A. (Place) at Pet.Mil.Camp at 0600 hours on the 28th day of May 1945, that he is still so absent, and that on the 2nd August 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Anklets, web, prs.	1		.74	Ointment A/G	2		.38
Blouses, B.D.	1	6	.50	Detectors, gas sleeve	2		.30
Boots, ankle, prs.	2	11	.64	Pins, collar, safety	1		.06
Caps, F.S.	1		.70	Shirts, undercotton	1		.43
Drawers, cotton shorts	1		.42				
Gloves, woollen, prs	1		.66		Total	$ 29	.43
Trousers, B.D.	1	6	.55				
Badges, cap	1		.07				
Braces, prs	1		.28				
Brasses, button	1		.04				
Brushes, shaving	1		.42				
Slings, rifle web	1		.25				

"W.D. Oates" Lieut. A.37, C.I.T.C. President
(W.D.Oates) (Name) (Rank) (Unit)

Signed at Pet.Mil.Camp. (Name) (Rank) (Unit) Member

this 2nd day of August 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer "H.T.Kempton" Lt.Col. A/Comd.A.37,CITC (Name) (Rank) (Unit)

Certified true copy W.D. Oates Lieut. A.37, C.I.T.C.
(W.D.Oates) (Name) (Rank) (Unit)
of original in MB 68 (Signature of Officer having custody of original record)
being MB 68.

M.F.B. 275
A.F.B. 115
200M—1-44 (3576)
H.Q. 1772-39-257

Exhibit 1 — E. Hoffman, Maj. Pro. C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127 1942.

(APPREHENSION BY ~~XXXXXXXXXX~~ SERVICE AUTHORITIES)

I, Major E. Watts, O.C. No.1 Detachment, No.33 Coy., C.Pro.C.
(Number) (Rank) (Name) (Unit)

hereby certify that K.7968 Pte. BARKER, W.H.
(Number) (Rank) (Name in full)

of the A.37 C.I.T.C. Petawawa, Ont.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~(surrendered xxx~~ C.4820 Cpl. Baker, E. / C.121318 L/Cpl. Wakely, S.
(Number) (Rank)

of No.1 Det. No.33 Coy., Canadian Provost Corps
(Name) (Unit or appointment)

at Crow Lake, Ontario at 2100
(Place) (Hour)

on the 5th day of September 19 45

Strike out words not applicable } as a deserter ~~xxxxxxxxxxxxxxx~~, and that at the time of his arrest he was ~~xxxxx~~ ~~xxxxxxxxxxxxxxx~~ (dressed in civilian clothes).

Dated at Kingston, Ont. this 5th day of September 19 45

E. Watts
(E. Watts), Major
O.C. No.1 Det. No.33 Coy. Canadian Provost Corps
(Signature, Number, Rank, Unit or appointment)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Exhibit J
Capt Pearson Maj Plus 5 Cdg.

29

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major (Rank) E. Watts (Name), O.C. No.1 Det.No.33 Coy. (Unit), Canadian Provost Corps

Strike out word not applicable — hereby certify that I ~~[illegible]~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Kingston, Ontario (Place) to Crow Lake (Place) Ont.

and return to Kingston, Ontario (Place) for the purpose of escorting

Full description of soldier being escorted — K.7968 (Number) Pte. (Rank) Barker, W.H. (Name in full)

A.37 C.IT.C. (Unit) Petawawa, Ont. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the ~~[illegible]~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
D.N.D. vehicle 70-042 proceeded from Kingston, Ont. to Crow Lake, Ont. & return to Kingston, Ont.	
Total number of miles travelled - 96	
Total costs - 96 miles @ 6¢ per mile.....	$5.76
TOTAL	$ 5.76

Dated at Kingston, Ont. this 5th day of September A.D. 19 45

E. Watts (E. Watts), Major

Signature, rank, unit, attachment (if any) and appointment of officer ~~[illegible]~~ (authorizing transportation)

Strike out description not applicable.

O.C. No.1 Det.No.33 Coy. Canadian Provost Corps

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(25m—10-42 (5438))
H.Q. 1773-99-1401

Exhibit K.
E. Lorne Thomson Major Pres. S.C.M.

31

M.F.B. 1481
125[redacted]-43 (2206)
H.Q. 1772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major (Rank) A. R. Read (Name) S.S. & T.O. (Unit) R.C.A.S.C.

Strike out word not applicable — hereby certify that I (issued) (~~XXXXXXXX~~) (the hereinafter itemized transportation for escort

Complete — to proceed from Petawawa Ontario (Place) to Kingston Ontario (Place)

and return to Petawawa Ontario (Place) for the purpose of escorting

Full description of soldier being escorted — K-7968 (Number) Pte, (Rank) Barker W.H. (Name in full)

A-37 C.I.T.C. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~XXXXXXXXXXXXXXXXXXXX~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	ESCORTS.	
	B-143935 Cpl. Duval L. A-37 C.I.T.C. B-58035 Pte. Corriveau J. A-37 C.I.T.C.	
	P.M.C. Transport Warrant No.D-118735 dated 8-9-45, covering two (2) second class fares Petawawa Ont. to Kingston Ontario (return).	$ 13.24
	ABSENTEE.	
	K-7968 Pte. Barker W.H. A-37 C.I.T.C.	
	P.M.C. Transport Warrant No.D-118736 dated 8-9-45, covering one (1) second class fare Kingston Ont. to Petawawa Ontario (single).	$ 3.31
	TOTAL	$ $ 16.55

Dated at Petawawa Ontario this 8th day of September A.D. 19 45

(A.R. Read) Major S.S. & T.O.
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~XXXXXXXXXXXXXXXXXXXX~~)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

Exhibit L. [illegible] Pen. rem.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1099, 1941

(INCIDENTAL EXPENSES)

Complete description — I, B.143935 (No.) Cpl. Duval, L (Rank) (Name) A.37, CITC (Unit),

Strike out words not applicable — as (~~OCCXXXX~~ (commander of escort) consisting of B.58035 Pte. Corriveau, J.

Members of escort — and myself

detailed to proceed from Petawawa, Ont. (Place) to Kingston, Ont. (Place)

Name and description of soldier escorted — to return K.7968 Pte. Barker, W.H.

alleged to be a deserter or absentee without leave, to Petawawa Military Camp, Ont. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement			Amount
8 Sept. 45.			
Meals for Escorts			
Travelling to Kingston, Ont.	2 dinners	.75	1.50
issued on T/W D-118735			
		Total	$ 1.50

Dated at Petawawa this 18th day of Sept. A.D. 19 45

L. Duval

B.143935 Cpl. Duval, L. — Signature and rank (of commander of escort)

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1483
50M—7-41 (1130)
H.Q. 1772-39-1890

Exhibit M.

35

~~APPENDIX "A" TO~~

CASUALTY RETURN NO. 34

A.37 CITC HOLDING ESTABLISHMENT 17 Sep 45

APPENDIX "A"

"B" OTHER RANKS

1. STRENGTH INCREASE

(b) Having been SOS A.37 CITC by a Court of Inquiry held 2 Aug 45 for AWL from 0600 hrs 28 May 45 TOS at Reg. rate of pay $1.50 on appreh from des by Service Authorities at Crow Lake, Ont. 2100 hrs 5 Sep 45..... 5 Sep 45

K.7968 Pte. BARKER, W.H.

(signed) "W.E. White" Capt.,
Adjutant,
A-37, C.I.T.C.
for (E.J. KETCHUM) Lt.-Col.,
T/Commandant,
A-37 C.I.T.C.

CERTIFIED TRUE EXTRACT OF CASUALTY RETURN NO. 34
DATED 17 SEP 45.

W.D. Oates
(W.D.Oates) Lieut.
Ass't Adjt.
A.37 CITC
Officer i/c Records.

Y. Elm Pmen-Hogg
Pres SCM

M.F.B. 255
75M—5-43 (165)
H.Q. 1772-59-630
A.F.B. 256

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K.7968	Private	BARKER, William Holiday	A.37 CITC

1. The following is a fair and true summary of the entries in the Field ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo Conduct sheet ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~[illegible]~~ Ndo of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	nil	times	nil	times
For		times		times
For		times		times
For		times		times

~~[illegible]~~ Ndo

2. The accused has not been previously convicted by court-martial or civil court ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo

3. The accused is not under sentence at the present time ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo day of .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 15 days in military custody, making a total of 15 days in custody, of which none days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ Ndo is 34 years of age
attestation paper

6. The date of his ~~[illegible]~~ Ndo specified in his ~~[illegible]~~ Ndo is 13 Oct 44
attestation attestation paper

~~[illegible]~~ Ndo

~~[illegible]~~ Ndo ~~[illegible]~~ Ndo

9. The accused is in possession of or entitled to no a~~[illegible]~~ Ndo military decoration, or ~~[illegible]~~ Ndo military reward (~~[illegible]~~ Ndo ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo

~~[illegible]~~ Ndo ~~[illegible]~~ Ndo ~~[illegible]~~ Ndo

[illegible] Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Air Force
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which Convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books.

Signed this 20 Sep 45 day of W.D.Oates
(W.D.Oates) Lieut.Ass't Adjt.A.37 CITC

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

MEDICAL OFFICER'S REPORT

I certify that No. K-7968 Pte BARKER W.H.
of A-37, C.I.T.C. is in a Good state of health,
and Fit to undergo Trial by Court martial.
(11) 1 1 1 1 1 1 1

for Robert Smudean Capt
A-37, Medical Officer C.I.T.C.
(P.S. IRONSTONE) Capt, RCAMC

Station Petawawa Military Camp, Ont.

Date 20th September 1945.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-30-489

E. W. Brown Major
Pres. SCM.
2nd Sgt of

Z. Elm Engr. Mon'
Pres. S.C.M.

R[redacted] No. K.7968 Name BARKER, Wilson Holiday Corps CIC Date of Birth 16 Feb 11 M.F.M. 6 24

Signature O.C. Company, etc. "J.Chouinard" Capt. Date of enlistment or enrolment 13 Oct 44

Sheet No. ..... of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY

W.D.Gates
(W.D.GATES) Lieut.
Ass't Adjt.
A.37 CITC

M.F.M. 6—500M—8-44 (5386)
H.Q. 1772-39-1032

HQC.55-B-1980 (JAG/D-8)
Your File P.6-0-B-3014

27 Sep 45

The Commander,
Petawawa Military Camp,
PETAWAWA, Ontario.

STANDING COURT-MARTIAL

K.7968, Pte. Wilson Holiday BAKKER
A-37 CITC.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

MO/AB

(R.J. Orde), Brigade
Judge Advocate-General.

THIS COPY FOR: H.Q.C. 55-B-1980
M.D.P.6-O-B-3014 (JAG)

MEMORANDUM - STANDING COURT-MARTIAL

GS

No. K-7968 Name BARKER, Wilson Holdiay

Rank Pte Unit A.37 CITC CA PMCO

Charge AA 2 (1)(a) WOAS Deserting.....

Date of Crime 28-5-45

Date of Arrest 5-9-45 Charge Signed 17-9-45

Orders for D.C.M.

Place and Date of Trial Petawawa Mil. Camp. 20-9-45

Sentence Det. 90 days Stoppages $23.81

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39828

Date 24-9-45

MEMO. 42 days of sentence remitted by Conf. Auth. Guilty AWL

XXX Petawawa Mil. Camp A.37 CITC CA PMCO

Absent	Sentence
Approx 4 mos	Det. 90 days

W. Patten, Capt
for Judge Advocate-General

10M-8-45(M-169)

IN REPLY PLEASE QUOTE
No. P.6-O-B-3014(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Petawawa Military Camp 20 September 1945.

Judge Advocate-General,
Department of National Defence,
OTTAWA - Canada.

C. 55-B-1980

STANDING COURT-MARTIAL
K-7968, Pte. Wilson Holliday Barker,
A-37, C.I.T.C.

The proceedings of Standing Court-Martial of the a/m soldier are forwarded herewith together with medical certificate in accordance with C.A.R.O. 4566.

2. For your approval, please.

(G. Longman) Major,
President,
Standing Court-Martial.

/EJ

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

39828

H.Q.C. 55-B-1981 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BEAUDET, JEAN-PAUL D.153193 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1981

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 27 1945	[illegible]	[illegible]	[illegible]	JAG	NEW FILE		CR 21-9-45
OCT 13 1945	[illegible]	[illegible]	[illegible]	[illegible]	With Papers OCT 16 1945		
					With Papers C.R. NOV 10 1945		
NOV 6 1945				OMBJ	To note file		14-11-45
NOV 20 1945	21/11/45	PA		OBJ	Adm Sec'y S.C. Sent to Reg		14/11/45
NOV 21 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1981
(JAG/D-6)

OTTAWA, 14 November, 5

District Officer Commanding
Military District No 5
QUEBEC, Que

D-153193, Pte Jean-Paul BEAUDET
R 22 R CA, Att A-13 CITC CA

Receipt is acknowledged of your Q.39-B-9250 (JA) dated 8 Nov 45, under cover of which you forwarded to this office for custody MFM 288, together with Form of Remission, in respect of the m/n soldier.

E.L.M.

for (R J Orde) Brigadier
Judge Advocate General

/jm

Noted.
Capt.
16/11/45. CMBR-3

Noted + Cl.
P. Ale. Capt
21/11/45

IN REPLY PLEASE QUOTE No. Q. 39-B-9250 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 8 Nov 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY Army
CONF. SEC.
8260
NOV 10 1945
File 55-B-1981
Class to
Referred to JAG

REMISSION OF SENTENCE

D-153193 Pte Jean-Paul BEAUDET
R 22 R CA Att A13 CITC CA

1. Ref HQC. 55-B-1981 (JAG).

2. A remission of sentence in this case has been granted w.e.f. 19 Oct 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
250M-4-44-(521)
H.Q. 1732-39-762

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-B-1981(JAG)
District File No. Q.39-B-9250(JA)

PART I

No. D-153193 Rank Private Name BEAUDET, Jean Paul
Unit R. 22. R. Att. A-13 CITC CA

PART II

Date of trial 27 Aug. 45.
Charges AA. Sec. 19 --Sec. 8(2) --Sec. 8(2)
Sentence 120 days detention
Date of Sentence 10 Sep. 45.
Confirmation - (a) Authority Standing Court-Martial M.D. No. 5.
(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to D-153193, Pte. Jean Paul BEAUDET, R.22 R. Att. A-13 CITC CA effective 19th. October 1945.

Signed at QUEBEC, P.Q., this 15th. day of October 1945.

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at A-13, C.I.T.C., C.A., Valcartier Camp, Que. this 20th day of October 1945.

Lt Gen. List CA
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated. A-13, C.I.T.C., C.A.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-153193 Rank Private Name BEAUDET, Jean Paul
The sentence of 120 days detention,
awarded by Court-Martial on the 10 Sep. 45 194
has been remitted (unexpired portion)
on the 15th October 1945 by Brigadier Edmond Blais,
D.O.C. M.D. 5.

Unit A-13, C.I.T.C., C.A.

Certified true Extract of Daily Orders Part II of
No. 264 Place Valcartier, P.Q. Date 2 Nov 45

Adjutant.
A-13, C.I.T.C., C.A.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-153193 (Number) Private (Rank) Jean-Paul BEAUDET (Name in full)

Royal 22e Régiment, C.A. (Unit) attached to A-13, C.I.T.C., C.A. (Attachment (if any))

Sentenced to 120 Days Detention

on 10 September 1945 at Valcartier Camp, P.Q.

being served at Military Detention Barracks, Valcartier Camp, P.Q. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment Enlisted on 21 Feb 45 aged 19 years 5 months

Medical grade or category 1 1 1 1 1 2 1

FIRST TRIAL—PART II

To The Adjutdant-General, (Superior Military Authority)

For details of offence, see Part VII.

I have directed that the above-named be (not) ~~committed~~ to undergo his sentence, which I recommend should (not) be (~~suspended~~) (~~put into execution~~) (reviewed on 10 Nov 45. (Date)) for reasons given in paragraph X.

Place QUEBEC QUE

Date 13 Oct 45.

(Edmond BLAIS) - Brigadier
D.O.C., MD No.5,
(Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-2104)
15M—6-43 (441)
H.Q. 1772-30-2013

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
8 Nov 45:	Remission of Sentence granted w.e.f. 19 Oct 45.	Edmond Blais (Edmond BLAIS) - Brig DOC MD No.5.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1- Drunkenness at Valc. Camp PQ, on 16 Aug 1945.	16 Aug 45	27 Aug 45
2- WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER at Valc. Camp, P.Q. on 16 Aug45 when invited by D-153048 Cpl Payette JH R.22R,CA, to follow him in the drying room of huts 335-336 in order to receive his complaints with regard to a theft, pointed a bayonet at the back of said Cpl. saying: C'est un ordre.	16 Aug45	

Signature of Officer making entry

Captain,
Legal Officer, A-13 C.I.T.C.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
	Character: good Ability and usefulness as a dolsier: good. I do not wish to recommend a remission of sentence at the present time.	D Macaulay

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-D-1981 (JAG/D-5)

17th October 1945

District Officer Commanding,
Military District No. 5,
Quebec, P.Q.

Standing Court-Martial
~~Dwisclos, Pte. J.P.Bouddet.~~

Receipt is acknowledged of your Q-39-B-9250(JA) dated 13th October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

EAM
for (R.J.Orde) Brigadier,
Judge Advocate-General.

ICC:EJ

IN REPLY PLEASE QUOTE No.

Q. 39-B-9250 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 13 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

3304
OCT 16 1945
File C55-B-1981
Chgd. to
Referred to RAS

STANDING COURT-MARTIAL

D-153193 Pte Jean-Paul BEAUDET
R. 22 R CA Att A-13 CITC CA.

1. Ref HQC. 55-B-1981 (JAG/D-7) dated 26 Sep 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. B. 440
2500M-4-44 (432)
H.Q. 1772-39 787

A -

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à "No.54. C.I.R.T.C., C.A.", Camp Valcartier, Que., le - - 27ème - - jour d'août - - - - - - - - - - 19 45, à - - - 1028 - - - heures,

pour le procès de D/153193. Soldat Jean-Paul BEAUDET, - - - - - - - - - - - - - - -
Matricule Grade Nom et prénoms

Royal 22e Régiment, A.C., attaché "A-13, C.I.T.C.", A.C. - - - - - - - - - - - - - -
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Quartiers-Généraux, R.M. No 5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent, Quartiers-Généraux, R.M. No.5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant P.E. DION,
Grade Nom et prénoms

A-13, C.I.T.C., A.C.
Unité Détachement, le cas échéant

" LA COUR DECLARE LE PREVENU:-"

D-153193 Soldat Jean-Paul BEAUDET, Royal 22ème Régiment, A.C., attaché à A-13, C.I.T.C., A.C., coupable sous le premier chef d'accusation, coupable sous le deuxième chef d'accusation et non coupable sous le troisième chef d'accusation. - - - - -

SENTENCE:

" LA COUR CONDAMNE LE PREVENU:-"

D-153193 Soldat Jean-Paul BEAUDET, Royal 22ème Régiment, A.C., attaché à A-13, C.I.T.C., A.C., à subir une peine de cent vingt (120) jours de détention. - - - - - - - - -

Signé à "No.54 C.I.R.T.C., C.A.", Camp Valcartier, P.Q., ce dixième jour de - septembre - 194 5.

Président de la cour martiale permanente. - Major.
Q.G., R.M. No.5.

M.F.B. 1486A
10M-1-45 (6440)
H.Q. 1772-30-2296
K.P. 26109

Extracts entered as No. 398 29 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of Sept 1945

Q. Vous opposez-vous à Mlle HELENE LAVOIE comme sténographe?
R. Non, monsieur.

La sténographe est dûment assermentée.

B

Question à l'accusé.

Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé.

Vous opposez-vous à - - - - - - - - - Mlle Rita Bégin - - - - - - - comme sténographe ?

Réponse: Non, monsieur.

La sténographe est dûment assermentée.

Question au procureur.

L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé.

Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

"L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR ". (Voir document marqué "F" ci-joint.)

Question à l'accusé.

Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé.

Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé.

Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé.

Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

"B-2"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

CHARGE SHEET

in the case of

The accused, No. D-153193, Private Jean-Paul BEAUDET, Royal 22e Regiment, C.A., attached to A-13 C.I.T.C., C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Sec.19 Army Act.

DRUNKENNESS,

in that he

at Valcartier Camp, P.Q., on the 16th of August 1945, was drunk.

SECOND CHARGE: Sec.8(2) Army Act.

WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER,

in that he

at Valcartier Camp, P.Q., on the 16th day of August 1945, when invited by No. D-153048 Cpl Payette J.H., R.22e R., C.A. to follow him in the drying room of huts 335-336 in order to receive his complaints with regard to a theft, pointed a bayonet at the back of said corporal saying: "C'est un ordre".

THIRD CHARGE: Sec.8(2) Army Act.

WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER,

in that he

at Valcartier Camp, P.Q., on the 16th day of August 1945, entered officers' sleeping quarters at hut 34 and pointing a bayonet at Major J.G. Leblanc, 36 Coy, Canadian Provost Corps, C.A., said: "Tu vas me faire un pansement ou je te tue".

Valcartier Camp, P.Q., this
22nd day of August 1945.

(D. MENARD) - Colonel,
O.C. A-13 C.I.T.C., C.A.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: .....Non, monsieur.....

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~Premier témoin assigné.~~

~~étant dûment assermenté, est interrogé par le procureur.~~

~~Question.~~

- PAR LE PROCUREUR:-

" M. le Président, la Défense avait, avant de plaider sur les trois chefs d'accusation, fait une objection préliminaire à l'effet que l'accusé n'était pas apte mentalement à subir son procès. L'accusé, depuis ce temps, a été examiné par un psychiatre, le Major Gendreau et je désirerais établir devant la Cour l'état mental de l'accusé et sa capacité de subir son procès, hors de tout doute".

-o-o-o-o-o-o-o-o-o-o-

(voir document marqué "H" ci-joint).

-o-o-o-o-o-o-o-o-o-o-

C-3

-LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS-

PREMIER TEMOIN POUR LA POURSUITE:-

D-153048- Cpl. PAYETTE, J.H., Royal 22ème Régiment, A.C., attaché à A-13, C.I.T.C., A.C.

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR:-

Q.- A quelle unité êtes-vous attaché?
R.- A la 3ème Infanterie, monsieur.

Q.- Quelle unité?
R.- 22ème Bataillon.

Q.- Où êtes-vous stationné?
R.- A Valcartier.

Q.- Est-ce que vous connaissez l'accusé dans cette cause-ci?
R.- Oui, monsieur.

Q.- Savez-vous son nom?
R.- Oui, soldat Beaudet.

Q.- Quelles fonctions exercez-vous dans l'armée?
R.- C.O.C., 3ème Infanterie, Caporal.

Q.- Le 16 août de cette année, voulez-vous dire à la Cour qu'est-ce que vous faisiez?
R.- J'étais C.O.C. de Compagnie.

Q.- Est-ce que ce jour-là vous avez eu l'occasion de voir l'accusé?
R.- J'ai vu l'accusé tard dans la soirée.

Q.- Dans quelles circonstances vous l'avez rencontré?
R.- Un nommé Emond est venu demander un pansement pour quelqu'un de malade chez-lui.

Q.- Où étiez-vous?
R.- Au bureau de compagnie. J'ai rentré. Lorsque j'ai passé à travers la hutte pour fermer les lumières. Dans la hutte 335, au milieu, Clément m'a donné sa place. On a rentré dans les ablutions pour voir. Tant qu'il m'a parlé le soldat Beaudet était au "stand at ease".

Q.- A quel temps?
R.- Quand tout a été fini il était 1130 heures.

C-5

Q.- Quand vous êtes entré dans la salle des ablutions quel temps était-il?
R.- Au juste, 1115 heures.

Q.- Vous dites que vous l'avez vu au "stand at ease"?
R.- Oui, monsieur.

Q.- Vous, vous êtes entré dans la salle des ablutions?
R.- Oui, monsieur. Beaudet est entré sur les entrefaites. Il a demandé du feu à Clément. Il a dit qu'il voulait nous parler. J'ai passé en avant.

Q.- Comment était-il habillé?
R.- En battle-dress, nu tête, grands pantalons. En venant pour entrer dans la porte des séchoirs j'ai dû hésiter, il m'a mis sa baionnette dans le dos, m'a dit que c'était un ordre, que j'étais pour l'écouter.

Q.- Comment avez-vous vu que c'était une baionnette?
R.- A la "sentance" dans le dos.

Q.- Est-ce qu'il vous a dit quelque chose avant de mettre la baionnette dans le dos?
R.- Non, il était très poli. Il a dit qu'il voulait me parler.

Q.- Est-ce que c'est immédiatement après cela qu'il a mis sa baionnette?
R.- Non, en entrant dans le séchoir j'ai peut-être hésité.

Q.- Est-ce qu'il a dit quelque chose?
R.- Il a dit "c'est un ordre, vous allez m'écouter".

Q.- Là, qu'est-ce qui s'est passé?
R.- J'ai entré dans le séchoir. Gauthier écrivait une lettre. Il s'est levé debout. Je me suis reviré de bord, j'ai demandé de baisser sa baionnette. Il doit l'avoir remis dans sa poche. Là il m'a dit qu'il s'était fait voler $45.00, qu'il connaissait le coupable, que personne ne s'en occupait. J'ai dit que je m'en occuperait. J'ai demandé des détails. J'ai dit que ce n'était pas une affaire à faire de se servir de sa baionnette. Je voyais qu'il était en boisson.

C-7

Q.- Comment voyiez-vous cela qu'il était en boisson?

R.- Il avait les yeux rouges, les lèvres bombées, pas solide sur ses jambes, il était en boisson.

Q.- Qu'est-ce que vous voulez dire qu'il n'était pas solide sur ses jambes?

R.- Quand on chambranle un peu, qu'on n'a pas le pas solide, c'est pas naturel.

Q.- De quelle manière parlait-il?

R.- Il parlait empâté,

Q.- Qu'est-ce qui s'est passé?

R.- Après je lui ai demandé de me raconter cela. Je l'ai ramené dans la hutte. En revenant dans la hutte j'ai allumé les lumières. Le Caporal Arpin s'est levé, il était en "shorts", il s'est mis à lui parler. J'ai demandé deux escortes.

Q.- Qui s'est mis à lui parler?

R.- Arpin.

Q.- Parler à qui?

R.- à Beaudet.

Q.- Qu'est-ce qu'il lui a dit?

R.- Il parlait,en même temps c'était pour le garder. J'ai demandé deux escortes, le temps que j'ai demandé deux escortes Arpin était en "shorts". C'était bien noir, je ne sais pas s'il tonnait, c'était bien sombre. Quand je suis revenu il était parti. Là, on l'a cherché, j'ai averti "l'orderly room" régimentaire. On est parti avec un officier, un station wagon, on a fait un tour pour voir s'il n'y aurait pas un soldat de parti. C'est seulement le lendemain matin qu'on en a entendu parler.

Q.- Ca c'était dans la hutte 336?

R.- 335.

Q.- Savez-vous où est située la hutte 34 par rapport à la hutte 335?

R.- Non, monsieur.

INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR:-

Q.- D'après vous, Caporal Payette, est-ce que le soldat Beaudet a eu quelque raison d'entretenir des rancunes contre vous?

C-9

PAR LE PROCUREUR:-

Objecté. C'est une question d'opinion; le témoin n'est pas ici pour donner une opinion.

OBJECTION MAINTENUE PAR LA COUR.

Q.- Est-ce que l'accusé vous a appelé par votre nom, votre rang, pendant ce temps?

R.- Oui, monsieur, il m'a appelé Caporal.Payette je crois qu'il ne le savais pas, s'il le savait il ne m'a pas appelé par mon nom.

Q.- Il vous a adressé comme?

R.- Comme Caporal.

Q.- Avez-vous dit au Soldat Beaudet que vous le mettiez sous arrêts?

R.- Non, monsieur.

Q.- Pourquoi ne l'avez-vous pas fait?

R.- Je lui ai dit d'arrêter, il était sous arrêts à la porte quand il est parti. Sur le coup je ne l'ai pas mis sous arrêts.

Q.- Aviez-vous une raison pourquoi vous ne l'aviez pas mis sous arrêts à l'instant même?

R.- Quand un homme n'a pas sa tête, quand même vous lui auriez dit que aujourd'hui c'était dimanche et le lendemain lundi, quand même j'aurais dit "vous êtes sous arrêts"....

Q.- Je suppose que c'était causé par son état?

R.- Son état.

Q.- Si réellement vous vous en seriez donné la peine n'auriez-vous pas pu, avec ceux qu'il y avait dans la hutte à votre disposition, le conduire à la détention, l'empêcher de faire une bêtise?

R.- Ca aurait été très malaisé.

Q.- Lorsque vous vous êtes fait menacer d'une baionnette, vous dites que c'était dans la salle d'ablutions, le séchoir. Vous vous êtes retourné et l'accusé a serré sa baionnette. N'avez-vous pas eu l'idée de lui enlever sa baionnette?

R.- Oui, je lui ai demandé deux, trois fois, de remettre sa baionnette. Il m'a dit qu'il ne l'avait plus. Ca se passait par crises. J'ai pensé que sa crise passée il retournerait mieux.

C-11

Q.- Lorsque vous êtes parti de la hutte 335 est-ce qu'il vous a menacé de nouveau avec sa baionnette?

R.- Non, monsieur.

Q.- Il n'avait pas de baionnette?

R.- Non, monsieur.

LE PROCUREUR NE DESIRE PAS INTERROGER DE NOUVEAU.

INTERROGE PAR LA COUR:-

Q.- Comment étiez-vous habillé ce soir-là?

R.- En "shorts" et en chemise.

Q.- Est-ce que vous aviez vos insignes sur votre manche?

R.- Oui, monsieur, et ma ceinture.

Q.- Est-ce que vous aviez vu l'accusé avant ce jour-là?

R.- Pour en être certain, non. Je l'ai vu mais je ne l'avais pas remarqué.

Q.- Est-ce qu'il était sur votre compagnie?

R.- Oui, monsieur.

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De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

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- LE TEMOIN SE RETIRE-

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DEUXIEME TEMOIN POUR LA POURSUITE:-

E-103090- Soldat CLEMENT, M. Royal 22ème Régiment, A.C., attaché à A-13, C.I.T.C.,A.C.

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR:-

Q.- Soldat Clément, à quelle unité êtes-vous attaché

R.- A la 3ème Infanterie, monsieur.

Q.- A quelle place?

R.- Ici, à A-13.

C-13

Q.- Le 16 août de cette année, est-ce que vous étiez stationné ici?

R.- Oui, monsieur.

Q.- Est-ce qu'il s'est passé quelque chose de spécial ce jour-là?

R.- Non, monsieur.

Q.- Est-ce que vous connaissez l'accusé dans cette cause?

R.- Je vais vous dire franchement, comme j'ai vu...

Q.- Voulez-vous regarder dans la salle et me dire si vous connaissez un soldat Beaudet?

R.- Oui, monsieur. (le témoin désigne l'accusé)

Q.- Le 16 août de cette année, avez-vous eu l'occation de voir le soldat Beaudet?

R.- A la porte du séchoir.

Q.- A quelle hutte?

R.- 335.

Q.- Qu'est-ce qui s'est passé?

R.- Beaudet était debout. Quand je suis arrivé, en passant, je ne sais pas s'il était chaud, il a demandé une allumette pour allumer sa cigarette.

Q.- Quelle partie du jour?

R.- C'était le soir.

Q.- Tard?

R.- Vers 1120 heures.

Q.- Il a demandé quoi? une cigarette?

R.- Une allumette.

Q.- A qui?

R.- Au Caporal Payette.

Q.- Puis?

R.- Le moment qu'il a allumé il a sorti sa baionnette. Il a dit "c'est un ordre que je vous donne d'entrer dans le séchoir".

Q.- A qui?

R.- Au Caporal Payette.

C-15

Q.- Qu'est-ce qu'il a fait?
R.- Il l'a mis dans le dos du Caporal Payette, est entré dans le séchoir et a dit "c'est un ordre".

Q.- Qui est entré dans le séchoir?
R.- Moi et Payette.

Q.- Ensuite il pointait sa baionnelle. Où étiez-vous?
R.- Près de lui. Il a dit "c'est un ordre que je vous donne d'entrer dans le séchoir". On a entré, on a vu un garçon qui écrivait une lettre. Il a dit à Payette qu'il s'était fait voler une somme de $45.oo, que s'il trouvait le gars il était pour le tuer. Il a dit "si je vois mon gars je vais le tuer". Payette a dit par trois fois: "donne-moi ta baionnette". Il a dit "non".

Q.- Où était sa baionnette quand Payette a demandé cela?
R.- Dans sa poche.

Q.- Quand l'avait-il mis dans sa poche?
R.- Peut-être quand il est entré il l'avait dans ses poches, j'ai vu sortir quelque chose dans ses poches. Payette l'a demandée par trois fois, il a dit "je vous la donne pas".

Q.- Jusqu'à quel moment il a porté sa baionnette pointée?
R.- A partir du moment qu'il était allé se laver, il avait sa baionnette. Là il a dit "c'est un ordre que je vous donne". Il a allumé les lumières, il n'a pas vu son gars. Il a dit "si je le vois je vais le tuer". Il était disparu. On L'a cherché jusque vers deux heures et quart, on ne l'a pas trouvé. Le lendemain matin on a su qu'il était renfermé.

Q.- Dans quel état était-il?
R.- Il était chaud et pas chaud. Quand il parlait il parlait comme vous et moi. On aurait dit qu'il était un peu dans l'ivrognerie, il sentait un peu la bière.

INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENDEUR.

Q.- Le Cpl. Arpin a demandé au soldat Beaudet de lui remettre sa baionnette?
R.- Oui, monsieur.

C-17

Q.- A ce moment-là saviez-vous que le soldat Beaudet avait une baionnette dans sa poche?

R.- Au moment que j'ai entré dans le séchoir je ne l'ai pas vu. Il a allumé sa cigarette, là il l'a sortie et l'a pointée.

Q.- Après que vous êtes sorti du séchoir vous êtes parti de la hutte335. A ce moment-là vous avez constaté que le soldat Beaudet avait sa baionnette dans sa poche?

R.- Oui, monsieur. Payette a demandé par trois fois sa baionnette. Il a dit "je ne l'ai pas". Là, il est parti, pas de"field cap" sur sa tête.

Q.- Vous n'avez pas eu idée de dire au Cpl. Arpin que Beaudet avait sa baionnette dans ses poches?

R.- Je ne l'ai pas vue dans ses poches. J'en avais vu une sur le bord du lit. Je crois qu'il l'avait mis sur le lit.

Q.- Vous l'avez pas vu mettre et vous dites qu'elle était dans ses poches.

R.- Au moment de sortir il l'avait dans ses poches.

Q.- A ce moment, est-ce que vous avez entendu Beaudet appelet Payette par son rang?

R.- Je sais que Payette a dit de donner sa baionnette; il a dit non.

Q.- En aucun temps il a mentionné le nom ni le rang du Caporal Payette?

R.- Non, monsieur, il a dit "c'est un ordre que je vous donne d'entrer dans le séchoir". Il y avait un homme qui écrivait une lettre. Il a dit "lève-toi debout toi aussi". Il s'est levé, là il a dit qu'il avait été volé de $45.oo.

Q.- Le Cpl. Payette vous a détaillé comme escorte?

R.- Oui, monsieur. Il était disparu. On l'a cherché.

Q.- Lorsque vous vous avanciez pour lui servir d'escorte où était Beaudet à ce moment?

R.- Il y avait seulement le Capl. Payette et Arpin.

C-19

INTERROGE DE NOUVEAU PAR LE PROCUREUR:-

Q.- De quelle manière Payette était-il habillé?
R.- Il avait sa blouse, sa ceinture, pas de bretelles.

Q.- Savez-vous qu'est-ce que ça veut dire lorsqu'un soldat porte sa ceinture de web?
R.- Des fois, c'est comme escorte, des fois c'est sur le travail.

Q.- Il avait sa blouse, quelle blouse?
R.- Comme ça, monsieur. (le témoin désigne sa blouse de battle-dress).

Q.- Battledress?
R.- Oui, monsieur.

Q.- Est-ce qu'il avait des insignes sur sa blouse?
R.- Oui, des insignes du 22e, puis ses barres.

INTERROGE PAR LA COUR:-

Q.- Etes-vous dans la même compagnie que Beaudet?
R.- Oui, monsieur.

Q.- Dans le même peloton?
R.- Je crois que oui, monsieur. J'étais dans le peloton I.

Q.- Le Cpl. Payette, qu'est-ce qu'il fait?
R.- S.O.S. je crois, un nom comme cela.

Q.- Est-ce qu'il était avec le peloton I?
R.- Non, monsieur.

Q.- Avec la compagnie?
R.- Oui, monsieur.

Q.- Vous le voyez assez souvent le Cpl. Payette?
R.- Oui, monsieur, je travaille avec lui au quartier-maître.

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De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

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- LE TEMOIN SE RETIRE-

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TROISIEME TEMOIN POUR LA POURSUITE:-

E-604053- Soldat GAUTHIER, A. N.R.M.A., A.C., attaché à A-13, C.I.T.C., A.C.

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR:-

C-21

Q.- A quelle unité êtes-vous attaché?
R.- (le témoin ne répond pas).

Q.- A quel camp êtes-vous?
R.- Au camp de Valcartier.

Q.- Est-ce que vous connaissez l'accusé?
R.- Je ne le connaissais pas avant que cette chose-là arrive.

Q.- Le 16 août est-ce que vous l'avez vu?
R.- Oui, monsieur.

Q. Qu'est-ce qui s'est passé le 16 août? qu'est-ce que vous faisiez le 16 août?
R.- J'étais ici sur l'entraînement.

Q.- Le soir du 16 août, qu'est-ce que vous avez fait?
R.- J'étais à ma chambrée en train d'écrire.

Q.- Dans quelle hutte c'est?
R.- 335, 336.

Q.- Qu'est-ce qui s'est passé?
R.- Je n'ai pas vu grand chose, j'étais dans le séchoir, la porte était fermée. La porte s'est ouverte, j'ai vu le soldat Beaudet pointer la baionnette dans le dos du Cpl. Payette.

Q.- Le soldat Beaudet, qu'est-ce que c'est?
R.- C'est l'accusé.

Q.- Est-ce qu'il disait quelque chose?
R.- Pour le moment il n'a pas parlé. Une secousse après il a dit au Cpl. "entrez dans le séchoir, c'est un ordre que je vous donne".

Q.- Alors, qu'est-ce qui s'est passé?
R.- Là il est entré dans le séchoir. Il a été question d'une certaine somme d'argent. Ils sont sortis du séchoir et ont fermé la porte.

Q.- Quelle somme d'argent?
R.- Il avait dit qu'un gars lui avait volé$45.00, que s'il trouvait ce gars-là il le tuerait. Là ils sont sortis du séchoir et j'ai fermé la porte. Quand j'ai vu cela j'ai été me coucher.

Q.- Dans quel état était-il?
R.- En boisson.

C-23

Q.- Sur quoi vous basez-vous pour dire qu'il était en boisson?

R.- Il branlait pas mal et il sentait.

Q.- Sentait quoi?

R.- Sentait la boisson.

INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR:-

Q.- Soldat Gauthier, vous dites que lorsque vous étiez dans le séchoir, en train d'écrire, la porte du séchoir était fermée?

R.- Oui, monsieur.

Q.- Maintenant, vous avez entendu l'accusé dire"entre dans le séchoir, c'est un ordre".

R.- Oui, lorsque la porte a été ouverte.

Q.- Est-ce qu'il se trouvait dans le séchoir à ce moment-là?

R.- Dans la porte du séchoir.

Q.- Une fois la porte ouverte vous avez entendu l'accusé?

R.- Oui, monsieur.

Q.- Maintenant, les avez-vous vus sortir du séchoir?

R.- Ils sont sortis du séchoir, mais j'ai fermé la porte aussitôt.

Q.- Dans quel état étaient-ils? qui était le premier? le second?

R.- Pour dire, je ne me souviens pas au juste exactement qui était le premier. Le soldat Beaudet se trouvait en arrière.

Q.- Avez-vous vu la baionnette dans les mains de Beaudet?

R.- Oui, monsieur.

Q.- Avez-vous vu où il l'a mise ensuite?

R.- Je ne puis pas dire où il l'a mise. J'ai fermé la porte.

Q.- Et il pointait la baionnette tout le temps qu'il était dans le séchoir?

R.- Non, monsieur.

Q.- Donc, un moment il a pointé la baionnette?

R.- Oui, monsieur.

C-25

Q.- Savez-vous où il l'a mise?
R.- Il l'a gardée dans ses mains, ils sont sortis du séchoir.

LE PROCUREUR NE DESIRE PAS INTERROGER DE NOUVEAU

De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

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- LE TEMOIN SE RETIRE-

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QUATRIEME TEMOIN POUR LA POURSUITE:-

D-148560- L/Cpl. A. LAMBERT, No. 46 Coy, Can. Provost Corps, A.C.

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR:-

Q.- A quelle unité appartenez-vous?
R.- à la 46ème Compagnie, Can Pro Corps.

Q.- Le 16 août de cette année où étiez-vous stationné?
R.- A Valcartier. J'étais dans le mess avec le Major Leblanc.

Q.- Comme quoi?
R.- Comme "batman" dans le mess des officiers

Q.- Est-ce que c'est une hutte qui porte un numéro?
R.- Non, monsieur, elle ne porte pas de numéro.

Q.- Où est-elle située?
R.- En arrière de l'hôpital de l'Isolation.

Q.- A Valcartier?
R.- Oui, monsieur.

C-27

Q.- A cette date-là, le 16 août, est-ce qu'il s'est passé quelque chose de spécial ce soit-là?

R.- Oui, monsieur. Le soldat Beaudet est entré à 2355 heures dans le mess.

Q.- Qui c'est le soldat Beaudet? est-ce qu'il est ici dans la salle?

R.- Oui, monsieur, au milieu.

Q.- Il est entré dans le mess vers quelle heure?

R.- 2355 heures.

Q.- Qu'est-ce qui s'est passé quand il est entré dans le mess?

R.- Je l'ai entendu entrer, je pensais que c'était le Lieut. Michaud. Il s'est rendu vis-à-vis de ma chambre, il cherchait de la lumière pour allumer. Il ne l'a pas trouvée. Je l'ai aperçu dans la porte avec une baionnette dans la main. Il est sorti pour entrer dans une autre pièce à côté. Je me suis levé, j'ai barré ma porte et je me suis habillé avec l'intention de sauter sur lui, de l'arrêter en sortant. Le Major Leblanc s'est réveillé et a demandé qui était là.

Q.- Avez-vous entendu des conversations?

R.- Non, monsieur.

Q.- Alors, racontez ce que vous avez entendu?

R.- Il y a eu des menaces dans la chambre du Major Leblanc.

Q.- Avez-vous entendu quelque chose?

R.- Non, monsieur.

Q.- Alors, dites seulement ce que vous avez entendu?

R.- Les menaces qu'il y avait c'était "fais-moi un pansement et tout de suite".

Q.- Où?

R.- Sur le genou.

Q.- Qui disait cela?

R.- Beaudet.

Q.- A qui?

R.- Au Major Leblanc.

Q.- C'était à quel endroit?

R.- Dans le corridor, vis-a-vis ma porte de chambre. Là j'ai sorti de ma chambre, j'ai sauté sur le soldat Beaudet.

C-29

Q.- Quand vous êtes sorti de votre chambre, qu'est-ce que vous avez vu?

R.- J'ai vu le Major Leblanc dans le coin, il était menacé par le soldat Beaudet.

Q.- Menacé, dans quel sens?

R.- Dans le sens "fais-moi un pansement, et tout de suite". Il ménaçait avec sa baionnette. Il avait sa baionnette de même, pointée. J'ai sauté dessus, j'ai enlevé sa baionnette.

Q.- Est-ce que c'est tout ce qui s'est dit: "fais-moi un pansement", ou s'il y a eu autre chose de dit?

R.- "Fais-moi un pansement et tout de suite" en le manaçant avec sa baionnette, "sinon...

Q.- Sinon?

R.- Sinon. Il finissait là.

Q.- Est-ce que cette baionnette était dans le fourreau ou sortie?

R.- Baionnette sans fourreau.

Q.- Dans quel état le soldat Beaudet était-il?

R.- Dans un état de boisson.

Q.- Pourquoi dites-vous cela?

R.- Bien, parce-qu'on lui a demandé quelle boisson il avait pris.

Q.- Dites, est-ce que vous avez constaté qu'il était en boisson?

R.- Oui, par la senteur, les gestes.

Q.- Qu'est-ce qu'il y avait par la senteur?

R.- Il sentait la boisson.

Q.- Les gestes?

R.- Les gestes d'un homme qui était en boisson.

Q.- Comment avez-vous vu qu'il était en boisson?

R.- Par son marcher, sa façon de parler.

Q.- Comment marchait-il?

R.- Il marchait en s'appuyant un peu.

INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR:-

Q.- Cpl. Lambert, vous dites avoir vu l'accusé dans l'encadrement de la porte, avec une baionnette?

R.- Oui, monsieur.

C-31

Q.- A ce moment-là étiez-vous couché?
R.- Oui, monsieur.

Q.- Vous vous êtes levé quand vous avez été barrer votre porte?
R.- Oui, monsieur.

Q.- Dans le dessein de vous habiller?
R.- Je me suis habillé.

Q.- Vous vous êtes levé pour barrer la porte, vous n'auriez pas pu interdir l'entrée au soldat Beaudet dans la hutte puisque vous vous êtes levé pour barrer la porte?
R.- En entendant entrer dans la maison j'ai pensé que c'était le Lieutenant Michaud parce-que c'éteit le seul qui n'était pas entré.

Q.- Vous dites avoir vu le soldat Beaudet dans l'encadrement?
R.- Le soldat Beaudet a une certaine ressemblance avec le Lieut. Michaud.

Q.- Si ça avait été le Lieut. Michaud, est-ce que vous auriez barré votre porte?
R.- Il ne trouvait pas la lumière.

Q.- C'est la peur qui vous a fait barrer votre porte?
R.- Ce que je voulais c'était sauter sur lui, pour aller dans l'autre pièce.

Q.- Lorsqu'on voit une personne avec une baionnette, est-ce qu'on doit prendre le temps de s'habiller avant d'agir?
R.- Je ne réveillais. Quand on se réveille on ne pense pas à d'autre chose. J'ai vu que j'étais menacé.

Q.- Vous avez entendu les paroles prononcées par l'accusé?
R.- Il a dit seulement "fais-moi un pansement, et fait vite".

Q.- Il n'a pas dit autre chose?
R.- "sinon". Il a fait une menace avec sa baionnette.

Q.- Vous avez vu une menace faite?
R.- Oui. C'est à ce moment que j'ai sauté sur lui.

C-33

Q.- Est-ce que les lumières étaient allumées ou éteintes?

R.- étaintes. Celles du corridor étaient allumées.

Q.- Comment le Major Leblanc était-il habillé?

R.- En pyjamas.

INTERROGE DE NOUVEAU PAR LE PROCUREUR:-

Q.- Est-ce qu'il y a une enseigne spéciale à la porte?

R.- Peut-être qu'il y a une enseigne, je n'ai jamais remarqué; il faudrait que j'irais le voir pour le savoir.

Q.- Est-ce que ce sont des chambres qui sont dans une maison ou un dortoir?

R.- Une ancienne maison de famille ordinaire; on s'en sert comme chambres seulement.

Q.- Y a-t-il d'autres huttes dans ce bout-là?

R.- On est seuls qui habitent cette maison-là. Il y a l'hôpital de l'Isolation en face. Il y en a de plus éloignées.

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De l'avis de la Cour il n'est pas nécessaire de se conformer à la R;ègle de Procédure 83(b)

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- LE TEMOIN SE RETIRE -

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- PAR LE PROCUREUR:-

Il reste trois témoins au Sommaire de Preuve: le Sgt. Laliberté, le Cpl. Arpin et le Major Leblanc. Je n'ai pas l'intention d'appeler le Sgt. Laliberté et le Cpl. Arpin, mais je dois avertir la Défense que, en vertu de la loi de Procédure 76 elle a droit de les interroger. Ils sont disponibles si elle veut le faire. Quant au Major Leblanc, il a été licencié depuis la prise du Sommaire; il a été avisé que la Cour siégerait aujourd'hui, mais probablement dû à une mésentente il n'a pas pu se rapporter en temps. Ma preuve est close à ce stage-ci."

C-35

PAR L'OFFICIER DEFENSEUR:-

Si j'entends bien, la Poursuite n'a pas l'intention de faire paraître le Major Leblanc dans la cause.

PAR LE PROCUREUR:-

Non, afin d'éviter des délais et ne pas préjudicier à l'accusé qui a été sous arrêts depuis déjà un bout de temps, je ne demanderai pas d'ajournement.

PAR L'OFFICIER DEFENSEUR:-

Alors, le témoignage du Major Leblanc sur le Sommaire d'Evidence n'est pas pris en considération.

PAR LE PROCUREUR:-

Le témoignage des deux autres témoins que j'ai mentionnés n'est pas pris en considération non plus à moins que la Défense veuille les questionner. La Poursuite ne désire pas le faire.

PAR L'OFFICIER DEFENSEUR:-

Vous considérez le témoignage du L/Cpl Lambert comme preuve de votre troisième charge qui est la menace portée contre le Major Leblanc?

PAR LE PROCUREUR:-

C'est absolument cela.

PAR L'OFFICIER DEFENSEUR:-

Je n'ai pas d'objection.

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LE PROCUREUR N'A PLUS DE TEMOINS A APPELER.
LA POURSUITE EST CLOSE.

-o-o-o-o-o-o-o-o-o-o-o-

D

~~Le procureur n'a plus de témoins à appeler.~~
~~La poursuite est close.~~

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sous serment. (voir page D-3 et suivantes)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

~~*Question à l'accusé.* Est-ce uniquement un témoin à l'appui de votre réputation?~~

~~*Réponse:*~~

D-3

TEMOIN POUR LA DEFENSE:- L'accusé:- Mat. D-153193 Soldat Jean-Paul BEAUDET, Royal 22ème Régiment, A.C., attaché à A-13, C.I.T.C., A.C.

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR:-

Q.- Soldat Beaudet, où étiez-vous dans la soirée du 16 août?

R.- Je me rappelle que j'ai parti vers 6¼, 6½ heures.

Q.- Je demande seulement où vous étiez à ce moment?

R.- A la cantine du 54 et à la cantine du A-13.

Q.- Vous dites avoir été à la cantine?

R.- Oui, monsieur

Q.- Est-ce qu'il est votre habitude d'aller à la cantine?

R.- Non, ça arrive très rarement.

Q.- Aviez-vous un motif quelconque ce soir-là pour aller à la cantine?

R.- J'allais me chercher des cigarettes, c'était ma fête, j'ai rencontré des "chums".

Q.- C'était votre fête?

R.- Oui, monsieur.

Q.- Vous souvenez-vous ce que vous avez fait à la cantine du 54?

R.- A la cantine du 54, je me rappelle qu'on est parti de là avec un nommé Arsenault. Là j'ai payé de la bière à des gars.

Q.- Vous souvenez-vous vous être rendu à la hutte 335?

R.- Non, monsieur.

Q.- Vous ne vous souvenez pas dans la soirée du 16 août avoir entré dans la hutte 335?

R.- Non, monsieur.

Q.- Maintenant, d'après les témoignages rendus, vous vous êtes fait voler une somme d'argent, est-ce que vous vous êtes aperçu par après que vous vous aviez fait voler de l'argent?

R.- Non, monsieur, j'avais à peu près $7.oo ou $8.oo; je les avais le lendemain.

D-5

Q.- Vous ne vous êtes pas fait voler aucun argent?
R.- Non, monsieur.

Q.- Connaissez-vous le Caporal Payette?
R.- Je le connais de même; je l'ai rencontré une fois à la cantine.

Q.- Connaissez-vous le Major Leblanc?
R.- Du tout. Je l'ai vu la première fois à la Cour d'enquête il y a quinze jours.

Q.- Savez-vous où se trouve la hutte 34?
R.- Non, monsieur.

Q.- Du moment où vous êtes entré à la cantine du A-13, vous ne vous souvenez plus de rien jusqu'à quel moment?
R.- On est rentré à la cantine du A-13, j'ai rencontré des amis.

Q.- Jusqu'à quel moment?
R.- Je ne sais pas.

Q.- Quand vous vous êtes souvenu?
R.- Le lendemain matin, j'étais dans le "cling".

Q.- Dans la détention?
R.- Dans le "cling" du 54.

Q.- Du moment que vous êtes entré à la cantine du A-13, vous ne vous souvenez de rien jusqu'au moment que vous êtes entré à la détention?
R.- Non, monsieur.

Q.- Avez-vous idée de la quantité de boisson que vous avez pris?
R.- Je ne peux pas vous dire; dix, quinze, vingt, je ne sais pas.

Q.- Vous n'avez pas l'habitude d'aller à la cantine?
R.- Très rarement.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:-

Q.- Ca fait longtemps que vous êtes ici, Beaudet?
R.- Depuis mars.

Q.- Dans quelle hutte est-ce que vous couchez d'habitude?
R.- J'ai été à la Compagnie A, compagnie B, compagnie C.

D-7

Q.- Avant de vous réveiller dans le "cling", avant ce jour-là?

R.- 336.

Q.- Vous couchiez dans la hutte 336?

R.- 336 ou 35, je ne peux pas dire.

Q.- Cpl. Payette couchait-il dans cette hutte-là?

R.- Je sais qu'il ne couchait pas dans notre hutte. Dans la hutte il y avait seulement le Cpl. Arpin et un autre Caporal.

Q.- Quel âge avez-vous?

R.- J'ai dix-neuf ans, monsieur.

Q.- Vous connaissez les soldats Gauthier et Clément?

R.- Gauthier, c'est la première fois que je l'ai vu; Clément, je le connaissais.

Q.- Ils couchaient dans la hutte?

R.- Oui, monsieur.

Q.- Vous avez une baionnette dans votre équipement?

R.- Oui, la baionnette qu'on se sert ordinairement sur l'entraînement.

Q.- Quand l'avez-vous vu pour la dernière fois cette baionnette-là?

R.- La journée même.

Q.- Avez-vous été sur l'entraînement la journée?

R.- Oui, monsieur.

Q.- Vous vous en êtes servi?

R.- Non, monsieur.

Q.- Vous vous en êtes servi ce soir-là?

R.- Je ne me souviens pas m'en être servi.

Q.- Vous vous étiez blessé ce jour-là?

R.- J'ai regardé cela le lendemain; j'avais de la teinture d'iode dessus le genou.

Q.- Aviez-vous une blessure?

R.- C'était"éripé" un peu.

Q.- Vous ne vous êtes jamais fait voler d'argent?

R.- Non, monsieur.

D-9

Q.- Comment ça vous prend de verres de bière pour vous mettre saoul?

R.- Ca, je ne le sais pas.

Q.- A quel temps êtes-vous arrivé à la cantine ce soir-là?

R.- Je suis arrivé à la cantine à 6.30 heures.

Q.- A la cantine du 54?

R.- Oui, monsieur.

Q.- Vous êtes resté là jusqu'à quel temps?

R.- Huit heures, huit heures moins quart.

Q.- Vous êtes resté une heure et quelque chose?

R.- Peut-être.

Q.- Vous êtes allé à la cantine du A-13?

R.- Oui, monsieur

Q.- Combien de verres vous avez pris au 54?

R.- Au 54, c'est bien difficile à dire.

Q.- A A-13, combien de temps vous êtes resté?

R.- Au A-13, je ne peux pas dire combien j'ai resté de temps je suis resté.

Q.- Quand vous êtes allé à la Cantine du 54, est-ce que vous aviez de l'argent?

R.- Oui, $5.00 et un bon de $4.00.

Q.- L'avez-vous changé le bon?

R.- Le bon, non.

Q.- Avez-vous payé des traites au 54?

R.- Oui, monsieur.

Q.- Combien?

R.- J'en ai donné au sergent.

Q.- A A-13?

R.- Je sais que j'en ai payé peut-être plus.

Q.- Est-ce que quelqu'un vous a payé des traites?

R.- Je sais qu'il y avait beaucoup de bouteilles, je ne peux pas dire combien.

Q.- Etiez-vous plusieurs à la table?

R.- Quatre, cinq.

D-11

Q.- Le lendemain, vous vous souvenez que vous vous êtes réveillé dans le "cling", aviez-vous de l'argent?

R.- Non, pas un sou.

Q.- Vous êtes-vous informé s'il y avait de l'argent à la détention?

R.- Je sais qu'ils nous l'enlèvent.

Q.- Est-ce qu'il y en avait?

R.- Oui, $8.oo, je crois.

Q.- Vous êtes parti avec $5.oo ce soir-là?

R.- Je sais que j'avais $5.oo, peut-être plus.

Q.- Le bon de poste est resté au "cling"?

R.- Oui, monsieur.

Q.- Quand vous êtes parti pour la cantine vous aviez $5.oo ou $10.oo?

R.- Je ne sais pas.

Q.- Le plus que vous avez dépensé c'est $2.oo?

R.- J'ai dépensé plus que cela certain, je ne suis pas certain. Je ne sais pas si c'est un $10.oo ou un $5.oo, je ne me souviens pas.

Q.- Ce soir-là vous avez perdu la boule?

R.- Pour avoir fait cela il faut que je l'aie perdue complètement.

Q.- Vous étiez ivre?

R.- Oui, monsieur.

Q.- Est-ce que ça vous est déjà arrivé de perdre la boule?

R.- Non, monsieur.

Q.- Jamais?

R.- Non, monsieur.

Q.- Le Cpl. Payette savez-vous ce qu'il faisait dans votre compagnie?

R.- Je sais que c'est lui qui faisait le "roll call" le matin.

Q.- Vous l'avez vu sur la parade?

R.- Oui, monsieur.

Q.- Savez-vous où est située l'hôpital?

R.- Au bout ici (le témoin désigne avec son doigt) Je sais qu'il y a un hôpital en face de la détention.

Q.- Avez-vous déjà été dans des huttes d'officiers?

R.- Jamais.

D-13

Q.- Avez-vous déjà vu des huttes avec des chambrées?

R.- Il y en avait avec des compartiments.

Q.- Est-ce que c'étaient des soldats?

R.- Des sergents.

Q.- Est-ce que vous vous rendez compte que une hutte avec des chambrées c'est pas une hutte où couchent des soldats?

R.- Evidemment.

Q.- C'est supposé être des sergents?

R.- Oui, monsieur.

Q.- Est-ce que vous connaissez le Caporal Lambert?

R.- Du tout.

Q.- Est-ce que vous l'avez vu ce soir-là?

R.- Je l'ai vu la première fois à la Cour d'enquête avec le Major Leblanc.

Q.- Vous ne vous souvenez pas avoir été frappé par lui?

R.- Non, monsieur.

Q.- Avez-vous revu votre baionnette depuis ce temps-là?

R.- Non, monsieur.

Q.- Vous ne savez pas où elle est?

R.- Non, monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

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- LE TEMOIN REPREND SON SIEGE -

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Le Procureur et L'Officier Défenseur prononcent une plaidoirie.

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E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur. (L'accusé par son Officier-Défenseur, dit :)

" M. le Président, vu que c'est la première offense du soldat Beaudet qui s'est rendu coupable d'irresse, en plus de cela quelque chose qui n'a pas été amené à la déclaration du Major Gendreau, le psychiatre. Après m'être informé, je sais que le soldat Beaudet a beaucoup de responsabilités à la maison. Ces choses-là ont train à agir quelque fois sur le système du côté stabilité. Sa feuille de conduite contient seulement quatre jours d'absence. En ces circonstances, c'était justement pour régler des choses de famille qu'il s'était absenté.

Vu ces choses-là, je demande la clémence de la Cour".

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

" L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR ".

Monsieur le président, je demanderais un ajournement parce que l'accusé n'est pas sain mentalement.

LA COUR:-

Dans quel but voulez-vous demander un ajournement?

L'OFFICIER DEFENSEUR:-

Dans le but d'obtenir des documents.

LA COUR:-

Si je comprends bien, vous voulez faire un plaidoyer de folie?

L'OFFICIER DEFENSEUR:-

Oui, monsieur.

LE PROCUREUR:-

Je n'ai pas d'objection. La Défense n'est pas prête à faire cette preuve-là immédiatement, si je comprends bien.

L'OFFICIER DEFENSEUR:-

C'est bien çà; je demanderais un ajournement à lundi prochain.

" LA POURSUITE N'AYANT PAS D'OBJECTION, LA COUR ACCORDE L'AJOURNEMENT ".

" POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE", voir le document marqué "G" ci-joint.

"G"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

" MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE"

" A 1035 heures, le vingt-septième jour d'août, 1945, la Cour s'est ajournée".

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" A 1025 heures, le dixième jour de septembre, 1945, la Cour se rassemble".

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- LE PROCES SE POURSUIT -

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

" H "

STATEMENT OF MAJOR L.P.GENDREAU

Major L.P.GENDREAU, No. 5 Det,
R.C.A.M.C., A.C.

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR:-

Q.- Major Gendreau, quelles fonctions exercez-vous dans l'armée?

R.- Je suis aviseur pour la région militaire No. 5, aviseur psychiatre.

Q.- Voulez-vous dire quelles sont vos qualifications en psychiatrie?

R.- Depuis quinze ans je m'occupe de faire de la psychiatrie. J'ai travaillé à Montréal, au Manitoba deux ans. J'ai fait de la psychiatrie à Montréal et à Québec et au Manitoba.

Q.- Est-ce que vous connaissez l'accusé dans cette cause?

R.- J'ai connu l'accusé à l'hôpital.

(2)

Q.- Savez-vous son nom?
R.- Soldat Beaudet.

Q.- Est-ce que vous avez eu l'occasion de l'examiner?
R.- J'ai eu l'occasion de l'examiner alors qu'il était à l'hôpital sous observation pendant deux semaines.

Q.- Vers quelle date?
R.- Les deux dernières semaines.

Q.- Dans quel but avez-vous examiné le soldat Beaudet?
R.- Au point de vue psychiatrique, considérant son état mental.

Q.- Voulez-vous dire quelles constatations vous avez faites?
R.- D'après les observations que j'ai faites je le considère apte à subir son procès.

Q.- Est-ce que vous pouvez donner un peu plus de détails, les raisons sur lesquelles vous vous basez pour dire qu'il est apte à subir son procès?
R.- Il est bien sur tous les points de vue, il n'a donné aucune raison de croire qu'il souffrait de maladie mentale. Dans son examen je n'ai trouvé aucun symptome qu'il souffrait de maladie mentale.

Q.- Avez-vous constaté s'il y avait un désiquilibre quelconque chez-lui?
R.- Je n'ai constaté aucun désiquilibre.

Q.- Quand avez-vous examiné l'accusé pour la dernière fois?
R.- Je l'ai vu le matin de sa libération de l'hôpital, je ne me rappelle pas au juste quelle date. Je crois que c'est vendredi matin ou jeudi.

Q.- Dernier?
R.- Oui.

INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR:-

Q.- Major Gendreau, vous dites n'avoir constaté aucune maladie mentale chez l'accusé lors de l'examen. Au point de vue stabilité avez-vous constaté quelque chose?
R.- D'après l'histoire de sa vie passée, il m'a raconté que dans sa famille il y a de l'instabilité, qu'il avait déjà été à l'école de Réforme au Mont St-Antoine.

(3)

Q.- Etes-vous en position de donner sa catégorie médicale telle qu'elle est maintenant?

R.- Il a un Pulhem I; M-2.

Q.- Sur la stabilité?

R.- 1.

Q.- C'est sa catégorie médicale actuelle?

R.- Oui, monsieur.

LE PROCUREUR NE DESIRE PAS INTERROGER DE NOUVEAU.

INTERROGE PAR LA COUR:-

Q.- Catégorie, Pulhem M-2 est-ce que ça peut affecter la condition mentale de l'accusé?

R.- La catégorie M-2 est donnée aux individus capables de se développer dans certaines lignes, assez d'intelligence pour faire de l'entraînement militaire. La catégorie M-4 veut dire qu'ils ne sont pas brillants.

Q.- D'après vos constatations, Major Gendreau, l'accusé a conscience de ses actes, sait ce qu'il fait et est en état de subir son procès?

R.- Oui, monsieur.

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De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

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- LE TEMOIN SE RETIRE-

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PAR LE PROCUREUR:-

Etant donné le témoignage rendu par le Major Gendreau, je demanderais à ce que l'objection de la Défense soit renvoyée et à ce que la Poursuite puisse faire l'appel des témoins.

PAR L'OFFICIER DEFENSEUR:-

Aucune objection.

LA COUR REJETTE LA MOTION DE LA DEFENSE:-

Pierre Decary

M.F.B. 355

"Y"

(PIERRE DECARY) (MAJOR) H.Q. 1173-M-100 69

PRÉSIDENT, S. C. M. M.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-153193	Private	Jean-Paul BEAUDET	Royal 22e Regiment, attached to A-13 C.I.T.C., C.A., Field

1. The following is a fair and true summary of the entries in the Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL	1	times	AWL 1	times
For		times		times
For		times		times
For		times		times

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 24 days in military custody, making a total of 24 days in custody, of which 10 days were spent in hospital.

5. The present age of the accused according to his attestation paper 19 years

6. The date of his attestation specified in his attestation paper 21 February 1945

9. The accused is in possession of or entitled to no military decoration, or military reward

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of Sep 45

J. L. Remeault
Officer i/c Records
A-13 CITC, CA.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. D-153193 Name BEAUDET Jean Paul

Sqn., Battery, or Company | Corps CIC

No. and date of last drunk | Period not reckoning towards freedom from extra fine

Date of enlistment 21Feb45 | G.C. Badges | Tradesmen's Rates of Pay

Date of Birth: 16 Aug. 1926

Sheet No. ONE | Signature O.C. Company, etc. W.E.Dynes, Lt. | Character

B.F.M. 6 (A.F.B. 122) 500M—11-41 (2496) H.Q. 1773-39-1692

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier P.Q.	5Jun 45	Pte		AA Sec.15(1) AWL 0700hrs 18 Jun 45 to 0700hrs 22 Jun 45 (4 days)	CSM R.R. Boulanger	4 days C.B.	22Jun45	Lieut.H. Levasseur (H.L.)	Forf.4 days pay FR&I 149(1)

CERTIFIED TRUE COPY

J.L. Rameau Lieut.& Off.i/c Records,
General List, C.A., att.A-13 CITC, CA.

PIERRE DECARY
MAJOR
PRESIDENT

(P.T.O.)

73

CERTIFICAT DU MÉDECIN MILITAIRE

Je certifie que le matricule D 153183 Beaumont J.P.
de L.A.T.C. G-13 est dans un Good état de santé
et est fit à subir son procès devant une cour martiale.

G. Wolcott Capt (R.C.A.M.C.) Ar
Médecin militaire
A-13 VALCARTIER

Poste Camp Valcartier

Date 27 Aug. 1945

M. F. B. 246A
5M—11-43 (2558)
Q.G. 1772-39-480

MEDICAL OFFICER'S REPORT

765

I certify that No. D153193 Beaulieu J. P.
of A.I.T.C. A 13 is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer
(R.C.A.M.C.) AF.
M.O. A.I.T.C. A-13 VALCARTIER

Station Valcartier

Date 10-9-45

M. F. B. 246
50M—9-44 (5427)
H.Q. 1773-39-480

LIST OF WITNESSES

in the case of

No. D-153193, Private Jean-Paul BEAUDET, Royal 22e Regiment, C.A., attached to A-13 C.I.T.C., C.A.

FOR PROSECUTION: D-153193, Cpl Payette J.H., Royal 22e Regiment, C.A., attached to A-13 C.I.T.C., C.A.

E-103090, Private Clément M., Royal 22e Regiment, C.A., attached to A-13 C.I.T.C., C.A.

E-604053, Private Gauthier A., N.R.M.A., C.A., attached to A-13 C.I.T.C., C.A.

D-137527, Sgt Laliberté E.C., No. 46 Coy, Can. Provost Corps, C.A.

D-148560, L/Cpl Lambert A., No. 46 Coy, Can. Provost Corps, C.A.

Major J.G. Leblanc, O.C. 36 Coy, Can. Provost Corps, C.A.

D-638299, Cpl Arpin T., N.R.M.A., C.A., attached to A-13 C.I.T.C., C.A.

FOR DEFENCE: N I L .

Signed at Valcartier Camp, P.Q.,
this 22nd day of August 1945.

D. Menard

(D. MENARD) - Colonel,
O.C. A-13 C.I.T.C., C.A.

STATEMENT OF ACCUSED AS TO HIS REPRESENTATION
BY AN OFFICER AT HIS TRIAL

I, No. D-153193, Private Jean-Paul BEAUDET of Royal 22e Regiment, C.A., attached to A-13 C.I. T.C., C.A., desire to have an officer assigned to represent me at my trial by Court-Martial.

(I desire the services of Lieut. B. Dufour, F.M.R., CA. att. A-13 C.I.T.C., CA., if he is available).

Signed at Valcartier Camp, P.Q.,
this 21st day of August 1945.

Jean Paul Beaudet

SUMMARY OF EVIDENCE

in the case of

No. D-153193, Private Jean-Paul BEAUDET, Royal 22e Régiment, C.A., attached to A-13 C.I.T.C., C.A., a G.S. soldier of the Canadian Army placed on Active Service.

CHARGES:

1. DRUNKENNESS.

2. WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER.

3. WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER.

The O.C. directs that the evidence be taken on oath.

FIRST WITNESS: D-153048, Cpl PAYETTE J.H., Royal 22e Régiment, C.A., attached to A-13 C.I.T.C., C.A., having been duly sworn, states

Le 16 août 1945, j'étais C.O.C. de la 31ème Cie d'Infanterie du Centre d'Instruction A-13 à laquelle j'appartiens.

Vers 2330 hres, je venais de faire une passe pour un soldat, un nommé Emond qui avait reçu un télégramme au sujet de maladie dans sa famille. Je crois que c'est le Major Poulin qui l'avait endossé au mess des officiers où je m'étais rendu.

En revenant, je me suis rendu dans les huttes 335, 336. Dans 335, j'ai rencontré le soldat Clément qui me remit ses passe. Avant d'entrer dans la salle d'ablution attenante aux hutte 335-336, j'ai vu un soldat qui était au "stand at ease". J'ai vérifié la passe de Clément dans la salle d'ablution. Le soldat en question entra dans la salle d'ablution. Il a demandé du feu pour allumer sa cigarette. Le soldat Clément n'en ayant pas, je l'ai allumé moi-même. Il m'a alors demandé pour me parler. Je me suis dirigé vers le séchoir (drying room 335-336). Dans la porte, je ne sais pas si j'ai hésité, mais j'ai senti une baionnette dans le dos; j'étais en chemise, elle ne m'a pas piqué; je me suis retourné. Dans le séchoir, j'ai vu la baionnette. Je lui ai demandé s'il savait ce qu'il faisait. Il m'a dit que c'était un ordre. J'ai continué à marcher dans le séchoir. Il y avait un soldat Gauthier en train d'écrire une lettre. Gauthier s'est levé. J'ai demandé à ce soldat que j'ai reconnu par la suite comme étant le No. D-153193 Sdt Beaudet J.P., de baisser sa baionnette, il l'a baissée. Alors il m'a dit qu'il s'était fait voler $45.00 et que personne ne voulait s'en occuper. Je lui ai dit que je m'en occuperais et que ce n'était pas des affaires à faire, en parlant de sa baionnette. Quand je l'ai vu la première fois pour me parler, il chambranlait. D'après sa figure, il était assez chaud pour dire qu'il était "saoul" pour ne pas savoir ce qu'il faisait. Quand il me parlait, il parlait comme on dit "empâté". Par la suite, je suis sorti de la salle d'ablution pour la hutte 335 avec le soldat Beaudet. J'ai allumé les lumières. Le Cpl Arpin s'est levé. J'ai dit à Clément de se réhabiller pour mettre sa ceinture, et à un autre, je ne me rappelle pas de son nom, afin de les détailler comme escorte. A ce moment, j'étais près de la porte du centre de la hutte et pendant que les escortes s'habillaient, je me suis aperçu que l'accusé Beaudet était parti.

Je suis parti derrière lui, il faisait noir, je ne pouvais rien voir. Alors ne voyant rien, je suis venu faire un rapport à l'"orderly room". Je suis parti avec un officier de la 3ième que l'orderly room a été cherché et nous sommes embarqués dans un "utility car" pour le chercher. Nous ne l'avons pas trouvé.

The accused declined to cross-examine.

Payette J.H. Cpl.,
(D-123048 PAYETTE J.H.)
Royal 22e Régiment, CA., att.
au A-13 C.I.T.C., C.A.

SECOND WITNESS: E-103090, Private CLEMENT M., Royal 22e Régiment, C.A., attached to A-13 C.I.T.C., C.A., having been duly sworn, states:

Le 16 août 1945, je suis revenu de passe à 2315 hres. En entrant dans la hutte 335, j'ai vu le Caporal Payette et je suis parti pour lui remettre ma passe. Il m'a dit d'aller avec lui dans la salle d'ablution. A la porte de 335, j'ai vu le soldat Beaudet qui était au "stand at ease". Il n'a pas parlé un mot. Une fois entré dans l'ablution, il est entré et m'a demandé du feu. Le Cpl Payette l'a allumé. Une fois sa cigarette allumée, sa baionnette est tombée à terre, il l'avait dans sa poche. Il l'a ramassée. A ce moment, le Cpl Payette est venu pour initialer ma passe sur l'évier; le soldat Beaudet s'est approché et avec sa baionnette il a dit: "C'est un ordre que je vous donne d'entrer dans le séchoir tous les deux". On est entré dans le séchoir, le Cpl Payette et moi. Je voyais labaionnette dans le dos du caporal. Une fois dans le séchoir, il retira sa baionnette et commença à lui expliquer qu'il s'était fait voler la somme de $45.00. Le Cpl Payette lui a dit: "Fais pas le fou, donne-moi ta baionnette". Il lui a demandé poliment trois fois. Il n'a pas voulu. Il a dit "venez avec moi" et une fois dans 335, le Sdt Beaudet a dit: "Allumez les lumières, c'est un ordre que je vous donne". Le Cpl Payette a réveillé le Cpl Arpin et lui expliqua toute l'histoire; ce dernier s'est aperçu que la baionnette n'était pas dans son fourreau. Il a demandé au Soldat Beaudet de lui donner sa baionnette. Beaudet lui a dit qu'il nel'avait pas. Je l'avais vu mettre dans ses poches J'ai été détaillé comme escorte avec un autre soldat dont je ne me rappelle pas le nom, il arrivait de passe. Pendant que je m'habillais, le soldat Beaudet a disparu par la porte des ablutions. Je suis allé à l'orderly room; un officier est venu et nous avons cherché sans résultat.

The accused declined to cross-examine.

Clément M. Pte,
(E-103090, CLEMENT M.) Royal
22e Regiment, A.C., att. au
A-13 C.I.T.C., A.C.

THIRD WITNESS: E-604053, Private GAUTHIER A., N.R.M.A., C.A., attached to A-13 C.I.T.C., C.A., having been duly sworn, states:

Le 16 août 1945, vers 2330 hres, j'étais à écrire dans le séchoir entre les huttes 335-336. La porte était fermée. A un moment donné, la porte s'est ouverte. J'ai vu le

Cpl Payette entrer suivi du Sdt Beaudet. Je voyais le Sdt Beaudet tenir une baionnette dans le dos du Cpl Payette. Je ne sais pas s'il lui touchait. J'ai entendu le Sdt Beaudet dire: "Entrez dans le séchoir, c'est un ordre". Le Sdt Clément les suivait. Le Sdt Beaudet a baissé sa baionnette et a dit au Cpl Payette qu'il s'était fait voler $45.00 et qu'il tuerait le gars qui l'avait volé. Le Cpl Payette lui a dit qu'il ne pouvait pas faire grand chose là-dedans. Ils sont sortis du séchoir, moi je suis allé me coucher dans la hutte 336. Le Sdt Beaudet était en boisson, mais je ne sais pas jusqu'à quel point.

Q.- Ce soir-là, est-ce que vous auriez donné un devoir quelconque à remplir au Sdt Beaudet, en supposant que vous auriez été son supérieur?

R.- Je l'aurais envoyé se coucher, il avait l'air pas mal chaud.

The accused declined to cross-examine.

Gauthier A. Pte.
(E-604053, GAUTHIER A.) NRMA,
A.C., att. au A-13 CITC, AC.

FOURTH WITNESS: D-137527, Sgt LALIBERTE E.C., No. 46 Coy, Can. Provost Corps, C.A., having been duly sworn, states:

Le 16 août 1945, j'étais en devoir au bureau de ma compagnie au Camp Valcartier. Vers 0040 hres, le 17 août, le Major Leblanc m'a détaillé avec le L/Cpl Lambert pour aller conduire le Soldat D-153193, Beaudet J.P. à la chambre de garde du Centre d'Instruction 54. Le Major Leblanc nous a accompagnés. Avant de partir, nous avons pansé Beaudet pour une blessure à un genou.

À mon opinion, le Sdt Beaudet était pas mal chaud, au point qu'il aurait été impossible de le détailler sur un devoir quelconque.

The accused declined to cross-examine.

Laliberte E.C. Sgt.,
(D-137527, LALIBERTE E.C.)
No.46 Coy, Can. Provost Corps

FIFTH WITNESS: D-148560 L/Cpl LAMBERT A., No. 46 Coy, Can. Provost Corps, C.A., having been duly sworn, states:

Le 16 août 1945, vers 2400 hres, j'ai vu quelqu'un entrer dans ma chambre, hutte 34, Camp Valcartier, et chercher à allumer ma lumière. Il est sorti immédiatement et est allé dans une "dépense" un peu plus loin. Je me suis levé, ai fermé ma porte et allumé la lumière. Je me suis habillé et, pendant ce temps, j'ai remarqué que cette personne se dirigeait vers la chambre du Major Leblanc et entra. J'ai entendu le Major dire: "Qui est là"? et quelqu'un répondre: "Faites-moi un pansement". Je suis sorti de ma chambre, j'ai vu le Major Leblanc avec un soldat qui tenait une baionnette dans sa main. J'ai sauté dessus et l'ai tenu pendant que le Major Leblanc lui enlevait la baionnette.

Nous l'avons conduit d'abord au "guard room" du Corps des Provost et ensuite au "guard room" du Centre 54.

Le Soldat Beaudet était en état de boisson et n'était pas en état de remplir aucun devoir.

The accused declined to cross-examine.

Lambert A. L/Cpl.
(D-148560, LAMBERT A.) No. 46 Coy., Can. Provost Corps, C.A.

SIXTH WITNESS: Major J.G. LEBLANC, O.C. 36 Coy. Can. Provost Corps, C.A., Valcartier Camp, P.Q., having been duly sworn, states:

A 2355 hres, le 16 août 1945, alors que je dormais dans le quartier des officiers à la hutte 34, Valcartier, je fus éveillé par quelqu'un qui frappait à la porte avec un instrument. Quelques instants après, quelqu'un entra et marcha dans le corridor de la hutte. Je m'informai qui était là. Alors un soldat pénétra dans ma chambre ayant à la main une baionnette d'exercice en disant: "Tu vas me faire un pansement ou je te tue".

Comme il était au-dessus de moi avec sa baionnette dans la main d'une manière menaçante, je lui conseillai de se rendre à l'hôpital qui était tout près. Pour toute réponse il répétait: "Panse-moi ou je te tue". Après quelques instants, je réussis à me lever de mon lit lui disant que j'allais chercher un pansement. Il me suivit dans le passage; alors à l'occasion je saisis la main qui contenait la baionnette, quand le D-148560 L/Cpl Lambert A. vint à ma rescousse pour m'aider à le désarmer et le maîtriser.

Nous lui attachâmes les mains et le conduisirent aux cellules pour le placer sous arrêt fermé. Nous avons alors identifié l'accusé comme étant D-153193 Pte Beaudet J.P. La baionnette portait le No. 0074- No. 4 MK II et fut remise au C.S.M. N. Roy, 31ème Inf. A-13 C.I.T.C., à 1020 hres, le 17 août 1945.

A mon opinion, l'accusé était sous l'influence de la boisson.

The accused declined to cross-examine.

J.G. Leblanc Major,
(J.G. LEBLANC) O.C. 36 Coy, Can. Provost Corps, C.A.

SEVENTH WITNESS: D-638299, Cpl ARPIN, T., N.R.M.A., C.A., attached to A-13 C.I.T.C., C.A., having been duly sworn, states:

Le 16 août 1945, le soldat Clément est venu m'éveiller dans le courant dela soirée. Le Cpl Payette s'informa si le Sdt Beaudet était de mon peloton. Je lui dit oui. Je me suis levé. Pendant que je m'habillais, le Sdt Beaudet sortit de la hutte.

Q;- Dans quel état était le Sdt Beaudet?
R:- Il était chaud. J'ai constaté cela par ses paroles.

The accused declined to cross-examine.

Arpin T. Cpl.
(T. ARPIN) N.R.M.A., CA. att. au A-13 C.I.T.C., C.A.

QUESTION TO THE ACCUSED:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY THE ACCUSED:

Le 16 août 1945, je suis parti de la cantine du 54 pour aller à la cantine du A-13. J'étais assis à une table, j'ai payé une traite et après cela, je ne me rappelle de rien.

Jean Paul Beaudet

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE CONSISTING OF 5 PAGES WAS TAKEN DOWN BY ME IN THE PRESENCE OF THE ACCUSED AT VALCARTIER CAMP, P.Q., THIS 21ST DAY OF AUGUST 1945 AND THAT RULES OF PROCEDURE 4 (C),(D),(E) AND (F) WERE COMPLIED WITH.

M. Lepage, Capt.
(M. LEPAGE) Captain,
Royal 22e Regiment, CA,
att. A-13 CITC, C.A.

H.Q.C.55-B-1981 (JAG/D-7)
Your Q. 39-B- 9250

26 Sep 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

D.153193 Pte. Jean-Paul Beaudet,
R.22e Regt., C.A., att.A-13 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orsel) Brigadier
Judge Advocate General.

LJR/MM

THIS COPY FOR: H.Q. C. 55-B-1981
M.D. Q:32-R-9250

MEMORANDUM - STANDING COURT-MARTIAL

G S

No. D-153193 Name BEAUDET, Jean-Paul

Rank Pte Unit R 22e Regt CA Att A-13 CITC CA

Charge (1) AA 19 Drunkenness

(2) AA 8 (2) WOAS Offering violence .....

(3) AA 8 (2) WOAS Offering violence.....

Date of Crime (1) 16-8-45 (2) 16-8-45 (3) 16-8-45

Date of Arrest Charge Signed 22-8-45

Orders for D.C.M.

Place and Date of Trial No. 54 CITC CA 27-8-45

Sentence Det. 120 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39829

Date 24-9-45

MEMO Not Guilty of (3)

MD 5 Att A-13 CITC CA

Balance of sentence remitted by Conf. Auth. 19-10-45

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-B-9250

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Quebec, P.Q., Sept. 18th. 1945.

C.55-B-1981

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

D/153193, Pte. Jean-Paul BEAUDET,
Royal 22e Regiment, C.A.,
(Att.to A-13, CITC.C.A.)

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major
Permanent President S.C.M.

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1772-39-787

39829

CONFIDENTIAL

H.Q.C. 55-B-1982

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BEAULIEU, PHILIBERT D.647128 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")	INITIALS	DATE
				JAG	NEW FILE	CR	21-9-45
6 1945					With Papers C.R. OCT 11 1945		
						m m	15-10-45
OCT 10 1945							
OCT 15 1945	16/10/45	P.a.	MR	Admin	To note & ret. ab.		
					PER B.F. OCT 25 1945		
OCT 24 1945	24-10-45	PA	m	JAG			

CONFIDENTIAL
H.Q.C. 55-B-1982

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1982 (JAG/D-7)

15 Oct 45

District Officer Commanding,
Military District No. 4,
Montreal, Que.

Standing Court-Martial
D-647128 Pte. Philibert BEAULIEU
Le Regiment de Chateauguay, CA,
attached to No. 4 D.D., C.A.

Receipt is acknowledged of your M.1-B-14026 (J) dated 9 October, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

Your explanation of the delay in this case has been noted.

E.L.M.

/ET

for (R.J.Orde) Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE
No. M.1-B-14026(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

R46

Montreal, P.Q., 9th October, 1945.

REGISTERED

CENTRAL REGISTRY Army
CORRESPONDENCE
2306
OCT 11 1945
File C55-B-1982
Clkgd. to
Referred to R46

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
D-647128 Pte. Philibert BEAULIEU,
Le Regiment de Chateauguay, CA,
attached to No. 4 D.D., C.A.

Reference your HQC.55-B-1982 (JAG/D-7) dated 25 Sep 45.

2. Hereunder, for your information, an explanation as to why the accused spent 28 days in custody awaiting trial:

14 Aug 45	Surrendered at D.D.4.
16 Aug 45	Request for documents and Part II's.
18 Aug 45	Remanded for Standing Court-Martial.
27 Aug 45	Documents requested.
30 Aug 45	Tracer for Part II's.
6 Sep 45	Part II's received.
7 Sep 45	Proceedings forwarded.
8 Sep 45	Application for the marginally-noted Standing Court-Martial received at this Headquarters and trial of the accused scheduled to take place on 11 Sep 45.
11 Sep 45	Trial of the accused.

3. Returned herewith, proceedings of the marginally-noted Standing Court-Martial.

4. For your custody, please.

J.A. Simonneau Capt.
(E.J.Renaud), Major-General,
For D.O.C., M.D. No. 4.

Enc.

M.F.B. 239
1000M—6-42 (5552)
H.Q. 1772-39-194

MEDICAL OFFICER'S REPORT

I certify that No. D-647128 Pte. BEAULIEU. P.
of Le Regiment de Chateauguay, C. A., att. No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

Lieut. H. Hazell Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, C.A.

Station J.C.Bks., Montreal South, Que.,

Date 11th September 1945

M. F. B. 246
50M—5-43 (254)
H.Q. 1772-30-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot,C.A.,Montréal Sud,P.Q.

le llième jour de septembre 19 45 à 14.00 heures,

pour le procès de D-647128 Private Philibert BEAULIEU
Matricule Grade Nom et prénoms

Le Regiment de Chateauguay,C.A., attached to No.4 District Depot,C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. Belleau,Quartiers Généraux, District Militaire No.4

PROCUREUR: Capitaine H. Primeau
Grade Nom et prénoms
Quartiers Généraux, District Militaire No. 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant R.J.L. Monast
OU AVOCAT
Grade Nom et prénoms
C.I.C.,C.A., attached to No. 4 District Depot,C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-647128 Private Philibert BEAULIEU, Le Regiment de Chateauguay,C.A., attached to No. 4 District Depot,C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-647128 Private Philibert BEAULIEU, Le Regiment de Chateauguay,C.A., attached to No.4 District Depot,C.A., à la détention pendant quarante jours.

Signé à Montréal-Sud,P.Q. ce llième jour de septembre 1945

L.J.E. Belleau
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 2610

Extracts entered as No. 34822 (L.J.E. Belleau) Major in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of Sept 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.* Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à D-625377 Cpl. H. Turcot, No.4 District Depot, C.A.O., attached to Headquarters, N.D. No. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté~~s~~.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ---------- chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J.E. Belleau, Major.
Pres. CM.

"B2"

CHARGE SHEET

The Accused, D-647128, Private Philibert BEAULIEU, Le Regiment de Chateauguay, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Sorel, Quebec, at 2359 hours on the 28th of December, 1944, absented himself without leave from his unit, Le Regiment de Chateauguay, C.A., until he surrendered to the Military Authorities at Montreal South, Quebec, at 1440 hours on the 14th of August, 1945.

Signed at
Montreal South, Quebec,
20th August, 1945.

(S. Eonenberg) Colonel
Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Dans la dernière semaine d'octobre ou la première semaine de novembre 1944, j'étais ici au dépôt de Longueuil. J'ai fait une requête pour avoir une "allouance" de famille militaire. J'ai paradé devant celui qui s'occupait de la chose, il m'a dit qu'il prendrait mon cas en considération. J'ai dit que si par hasard ils me mettaient sur une "draft" pour aller loin du M.D.4 que je pourrais pas partir à cause de la santé de mon père. J'ai été appelé pour aller sur une "draft" pour aller outre-mer le 28 décembre. Ils sont venus faire enquête et ils ont dit que mon père était pas malade. Mon père est mort le 28 juin 1945 à la suite d'un cancer. Il était malade quand ils sont venus chez moi. Ils ne voulaient rien accorder. De plus j'ai une soeur de trente-et-un ans qui a eu la paralysie infantile à l'âge de six mois. Je ne pouvais pas les laisser dans la misère. A la fin de juillet, ma mère a écrit au major-général Renaud pour lui expliquer mon cas. Le major-général Renaud a dit que si je me rapportais immédiatement à Longueuil mon cas serait pris en considération. Durant mon absence, j'ai travaillé, j'ai eu de la misère à travailler dans le bois. C'était la seule chose que je pouvais faire. A l'appui de ma déclaration je produis un certificat du curé de Mont-Laurier relativement au décès de mon père.

"Certificat signé par monsieur l'abbé A.P. Neveu, en date du 1er juillet 1945, est lu, marqué CC-5, signé par le Président et versé au dossier".

Avant de m'absenter j'avais été dans l'armée trois ans. Ils m'ont appelé le 12 mai 1942. Je me suis rapporté ici à Longueuil. J'ai fait mon "basic" et mon "advanced training". Quand ils m'ont appelé j'étais pompier pour la ville de Montréal depuis dix mois. Je suis entré au salaire de $760.00 par année. Il fallait que j'attende pour mes augmentations pour aller chez moi.

406

CC-5

Extrait du Registre des Baptêmes, Mariages et Sépultures de la paroisse de NOTRE-DAME DE FOURVIÈRES DE MONT-LAURIER, pour l'année mil neuf cent quarante

Le vingt-huit juin mil neuf cent quarante-cinq, nous, prêtre soussigné, avons inhumé le cimetière de cette paroisse, le corps de Willie Beaulieu, époux de Marie-Louise Raymond décédé le vingt-cinq de ce mois, muni des sacrements de l'Eglise, à l'âge de cinquante-six ans, neuf mois et vingt-sept jours. Ont présents ses fils Philibert et Marc-Aurèle Beaulieu soussigné lecture faite.

Philibert Beaulieu
Marc-Aurèle Beaulieu
A. P. Meven ptre

Lequel extrait, nous soussigné, prêtre curé de la paroisse de Notre-Dame de Fourvières de Mont-Laurier, certifions être conforme au registre original déposé dans les archives de ladite paroisse.

Mont-Laurier, comté de Labelle, P. Q., le 1 juillet 1945

Rosaire Beaudette Prêtre-Curé

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

(Voir page E-3)

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

E-3

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Monsieur le Président,

Je voudrais simplement attirer l'attention sur quelques faits. D'abord, l'accusé ici présent a été trois ans dans l'armée. Il faut croire que c'était un homme de confiance puisqu'il a été même instructeur à Sorel en 1944, il était caporal. Après trois ans d'armée sa feuille est restée complètement blanche. Il a eu une bonne conduite durant son service, il s'est rapporté lui-même. Quand on considère les besoins de sa famille: sa mère n'est pas en bonne santé, sa soeur infirme, il est le plus vieux de la famille, il doit avoir soin de la famille. Son père est mort d'un cancer. Je considère... je demanderais qu'on donne le bénéfice du doute à l'accusé et je demande la clémence de la cour pour qu'il puisse venir en aide à sa famille le plus tôt possible.

RECORD of the Declaration of a Court of Inquiry assembled at Jacques Cartier Barracks Montreal, South, Quebec. on the 14th day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-647128 Private BEAULIEU, P., Le Regiment de Chateauguay, C.A. att'd to No. 4 Dist Depot, C.A.

DECLARATION

The Court declare that No. D-647128 (Regt'l No.) Pte (Rank) BEAULIEU, P., (Full Name) le Regt de Chateauguay, C.A. (Unit) attached to No. 4 District Depot, C.A. illegally absented himself without leave from le Regiment de Chateauguay, C.A. at Sorel, Que (Place) at 2359 hours on the 28th day of December, 1944, that he is still so absent, and that on the 14th day of February, 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
NIL		NIL	

Signed at Montreal South, Que this 14th day of February 1945

K.G. AUBUT, Capt., (Name) (Rank) President
Gen List Att'd to 4 D.D.
G.R. GAUTHIER, Capt., (Name) (Rank) Le Regt de Chateauguay, C.A. (Unit) Att'd to 4 D.D. C.A. Member
W. POWER, Lieut 15th Arm Regt (6th DCRCH) (Name) (Rank) (Unit) Att'd to 4 D.D., C.A. Member
(S. Eichenberg) Colonel, (Name) (Rank) No. 4 Dist Depot, C.A. (Unit) Member

Signature of Commanding Officer

Certified true copy (Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(P. PARADIS) Lieut.,
Regt de Maisonneuve, C.A.
Att'd to No. 4 District Depot, C.A.
Ass't Officer i/c Records,
No. 4 District Depot, C.A.

M.F.R. 375
A.F.R. 115
20635—1—44 (5476)
H.Q. 1772-39-257

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG Commanding No. 4 District Depot C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-647128 Pte BEAULIEU.Philibert.
(Number) (Rank) (Name in full)

of the Rede Chat., C.A
(Unit and attachment, if any)

Strike out words not applicable } ~~apprehended~~ (surrendered to) D-126460 SGT.
(Number) (Rank)

Patenaude.L. Att'd No. 4 District Depot CA
(Name) (Unit or appointment)

at Montreal South, Que. at 1440hrs.
(Place) (Hour)

on the 14th day of August 19 45

Strike out words not applicable } as ~~a deserter~~ (absentee without leave) and that at the time of his ~~arrest~~ surrender military ~~(civilian clothes)~~ uniform (~~civilian clothes~~) he was wearing.

Dated at Mtl South, Que. this 14th day of August 19 45

(Signature, Number, Rank, Unit or appointment)
(S. ECHENBERG) Colonel
Commanding No. 4 District Depot C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.P.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Lt/Col Bellman, Major,
P.M.S. C.W.

M.F.B. 265
75M—5-43 (143)
H.Q. 1772-39-520
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

"Y"

Number	Rank	Name	Regiment (or unit)
D 647128	Pte.	Philibert BEAULIEU,	Le Regiment de Chateauguay, C.A., attached to No 4 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service~~ ~~General~~ ~~Regimental and Squadron Battery~~ ~~Conduct Sheets~~ ~~or Conduct~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Section 47 of the ~~Air Force Act~~ Army Act ~~and dispensations with trial~~ under A.F.A. 73 A.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement ~~awaiting~~ trial on the present charges, for nil days in civil custody, and 28 days in military custody, making a total of 28 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ enrolment ~~attestation paper~~ 29 yrs 8 mos. (19 Jan 1916)

6. The date of his ~~commission~~ enrolment specified in his ~~record of service is~~ enrolment ~~attestation paper~~ 12-May 1943

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to). State any air force decoration or reward.~~

10. (~~If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~ .....

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps) the rank of .....dated.....

Permanent Force
unit

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit / Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 Sep 45 ~~day of~~

(P. PARADIS) Lieut,
Regt de Maisonneuve, C.A.,
Att'd to No 4 District Depot, C.A.
Ass't Officer i/c Records,
No 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

-23-

Date of Birth 19 Jan 19[illegible]

Date of enlistment or enrolment 12-5-43

Reg. No. D 647328 Name BEAULIEU, Philibert Corps

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				ORIGINAL DESTROYED BY FIRE					
				CERTIFIED TRUE COPY					
				(P. PARADIS) Lieut, Re gt de Maisonneuve, C.A., Att'd to No 4 District Depot, C.A., Ass't Officer i/c Records, No 4 District Depot, C.A.					

(P.T.O.)

M.F.M. 6—500M—5-44 (5398)

Pte Beaulieu Philibert
Pace 6 Mn.

H.Q.C.55-B-1982 (JAG/D-7)
Your M. 1-B-14026

25 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 647128 Pte. Philibert Beaulieu,
Le Regt de Chat., C.A.,att. No. 4
District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused was 28 days in custody awaiting trial. May an explanation of this delay be furnished, please.

(R.J. Orde) Brigadier
Judge Advocate-General.

LJR/MM

THIS COPY FOR: H.Q.C. 55-B-1982
M.D. ~~M.~~ 1-B-14026

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA

No. D-647128 Name BEAULIEU, Philibert

Rank Pte Unit Le Regt de Chat. CA Att to No. 4 DD CA

Charge AA 15 (1) ~~XXX~~ AWL

Date of Crime 28-12-44

Date of Arrest 14-8-45 Charge Signed 20-8-45

Orders for D.C.M.

Place and Date of Trial No. 4 DD CA 11-9-45

Sentence Det. ~~30~~ "40" days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39822

Date 24-9-45

MEMO

mD 4 Att No. 4 DD CA

m Absent Sentence "40"

Approx 8 mos Detent on ~~30~~ days

L. J. Ryan Lt

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-14026

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 18th September 1945.

CONFIDENTIAL.

C.55-B-1982

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL.
D-647128 Private Philibert BEAULIEU,
Le Regiment de Chateauguay, C.A.,
attached to No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/ 11 Sept. 45.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. Belleau) Major
Headquarters, Military District No.4
President of Standing Court-Martial

39822

H.Q.C. 55-B-1983 CONFIDENTIAL

M.F.R. 207B
15M—4-43 (9639)
H.Q. 201-1-48

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BODNER, WILLIAM H.605596 RFMN.

CONFIDENTIAL
H.Q.C. 55-B-1983

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 27 1945				JAG	NEW FILE	CR	21-9-45
OCT 7 - 1945	5-10-45	PA		JA	With Papers OCT 4 1945		
				PMBR	Per Requisition C.R. NOV 21 1945		
JAN 2 1946	31/12/45	PA		Adm 3	Recommendation Fol 24	MS	DEC 20 1945
					With Papers C.R. JAN 24 1946		
					To note pls		25/1/46
JAN 29 1946	28-1-46	PA		Adm 3	To note remove on pls		26 Jan. 46.

If purpose for which referred cannot be expressed on one line, add minute to file and [illegible] With Minute

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba,
19th January 1946.

CENTRAL REGISTRY Army
3666
JAN 23 1946
File C 55 - B - 1983
Chgd. to
Referred to JAS.

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE

H-605596 Rfmn BODNER, W.,
No. 10 District Depot, C.A.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally-named, duly completed in accordance with C.A.R.O. 3974. MFM 288 is also enclosed.

(R.O.F. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

/r

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CSM

NDHQ File No HQ55-B-1983
District File No. DHQ10-H-605596

PART 1

No. H-605596 Rank Rifleman Name William BODNER

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 14 September, 1945
Charge(s) 1. Desertion.
Sentence Detention for one (1) year.
Date of Sentence 14th September, 1945
Confirmation - (a) Authority
(b) Date n/a S.C.M.

PART 111

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit ~~xxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of H-605 596 (Number) Rifleman William B O D N E R (Rank, Name in full)

No. 10 District Depot, C.A. (Unit, Attachment (if any))

Sentenced to undergo detention for one year

on 14th September, 1945 at Winnipeg, Manitoba.

being served at No. 73 Military Detention Barracks, (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 years 2 months 25 June, 1942

YOB P U L H E M S

Medical grade or category 19 1 1 1 1 1 2 1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... (Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 268
(Army Form A-2104)
2236—6-43 (1500)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
OCT 13 1945	B. F. FOR REVIEW TO JAN 8 1946	A. J. A. G., ~~M. D. No. 10.~~	
JAN 8 1946	Sentence Remitted Eff. 13 Jan. 1946 (CMBR)	(R.O.G.Morton) Brigadier District Officer Commanding Military District No.10.	

Part VII—First Trial

CHARGE:
Sec. 12(1)(a) Army Act.

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE: in that he at London, Ontario, at 0600 hrs on the 28th December 1944, absented himself from the 1st Battalion, Oxford Rifles, C.A., until he surrendered to Military Authorities, in Winnipeg, Man, at 1030 hours on the 5th September, 1945, wearing Military Uniform.	28 Dec 44	14 Sep 45

(A. Thomson) Lieut.Colonel
Signature of Officer making entry
Commanding Officer,
No. 10 District Depot, C.A

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
15th September, 1945	There has been no opportunity to assess this man's ability, character, or usefulness as a soldier. (A. Thomson) Lieut.Colonel Commanding Officer, No. 10 District Depot, C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

D Adm

VER V VEL NR 30

FROM COMD TEN WPG MAN DEC 211840S

TO SECTY DND OTTAWA ONT

GR 60 BT

340W UNCLASSIFIED RETEL RANKS 1574 DEC 21

REFERS H605583 RFMN OLSON A G AND H605596

RFMN BODNER W E AND RANKS 1572 DEC 21

REFERS L610681 PTE BARLOW G W STOP ACKNOWLEDGED

BT 211849S HG B

ROYAL CANADIAN SIGNALS
DEC 22 1945

3A

66486

ARMY MESSAGE ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE

HQC 55-B-1983
Adm 3(b)2

CONFIDENTIAL

OTTAWA Ont 24 Dec 5

District Officer Commanding
Military District No 10
WINNIPEG Man

H.605596 Rfmn BODNER W

Ref DHQ 10-H 605596(J) and Ranks 1574 dated 21 Dec 45:

2. Returned herewith MFM 288 for this soldier.

(A.E. Walford)
Major-General
Adjutant-General

Encl

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

HQC 55-C-276
FQC 55-B-1983
Adm 3(a)

PLACE	DATE
OTTAWA ONT	21 Dec 45

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 10
WINNIPEG MAN

RANKS: 1574 RESTD

REVIEW REF AG 0267 D/18 OCT 45 (.) CMBR RECOMMENDS REMISSION OF SENTENCE OF H.605583 RFMN OLSON A G WEF 13 JAN 46 AND H.605596 RFMN BODNER W WEF 13 JAN 46 (.) AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm copies to: CMBR
JAG

SVL/JH

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
Major-General Adjutant-General SIGNED		IMMEDIATE	

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

CANADA

IN REPLY PLEASE QUOTE
No. DHQ10-H605596 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba. 28 Nov. 1945

Secretary,
Dept. of National Defence (Army),
OTTAWA, Ontario.

12337
NOV 30 1945
File 155-B-1983
Sig. to CMBR-1-11
Reference

H-605596 Pte. BODNER, Wm.

Reference HQC55-B-1983 CMBR-6 dated 22nd November, 1945.

2. Herewith MFM 288 and report on conduct relative to the m/n as requested.

vep
enc.

(H.P. Rocke) Lt.-Col.,
T/Commanding, M.D. No.10.

N.D. 23
600M—10-44 (5769)
H.Q. 1772-101-23

REPORT ON CONDUCT

To: A.J.A.G.
MD 10

File

26 Nov 194 5

1. Soldier under sentence	N-605596 Rfn. BOMMER, W.
2. PLEASE SAID:-	
(i) Date of sentence.	14 Sep 1945
(ii) Sentence	1 year
(iii) Date you received soldier	15 Sep 1945
(iv) (a) Can soldier read and write?	Yes
(b) Religion	R.C.
(c) Married, widower, single.	Single
(d) What Army trade has soldier?	Nil
(v) (a) Conduct of soldier	Good
(b) Industry of soldier	Good
(c) Remission earned:-	
(i) Number of days actually earned.	24 days
(ii) Number of days obtainable to date.	24 days
(vi) Medical officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:-	
(a) Whether imprisonment or detention will seriously aggravate soldier's condition.	
(b) Whether further confinement is likely to prove fatal.	No.
(vii) (a) Whether in your opinion conduct of soldier warrants	
(i) Remission	
(ii) Suspension #	Suspension
(b) Moral effect punishment has had?	Slow, but tries hard at all times
(viii) Date from which expiration of all remission earned will be lost.	13 May 1946

Do NOT recommend suspension for persons not discharged from Canadian Army

Officers
Commanding
Depot Company
R.C.A.

Date of Report

26 November, 1945

HQC 55-B-1983 (CMBR-6)/evj
Case No

24 Nov 45.

1(60)

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW.

1. No, Rank and Name: H.605596 Rfmn BODNER, W.

2. Unit at date of offence: Oxford Rifles CA.

3. Charge: AA Sec 12(1)(a) DESERTION: At London, Ont absented himself from 28 Dec 44 until ~~xxxxxxxxxx~~ he surrendered 5 Sep 45 wearing military uniform. (Absent: 8 mos, 1wk.)

No record of any leave.

Plea: Not guilty

4. Place and Date of Trial: Ft Osborne Bks. - 14 Sep 45. (SCM)

5. Finding: Guilty

6. (a) Sentence: 1 year detention.

(b) Date of Sentence: 14 Sep 45.

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 73 M.D.B. in M.D. 10

(N.B. - Discharged under R.O. 1029 ( ) for
wef).

25

Page 3

CONTINUED

	Offence	Date	Sentence
11 (a) Prior to conviction:			
(i) Civil Convictions:	Nil		2½ years previous service.
(ii) Courts-Martial:	Nil		
(iii) Summary Convictions:	Nil		

(b) After convictions: Good. Earliest date of release: 13 Mar 46.

(c) Date of enrolment/ --------- 25 Jun 42 Present Age: 26

12. Remarks: (Here note any Petition of Representation other than in Item 10 but if Item 10 has been omitted, so state and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) Unsworn statement by accused: "Well, Sir, just before I left Naniamo I had a sore on my side here, Sir, and I went to the M.O. and asked him about seein my side. He just felt the side and said nothing was wrong with me. I think something is wrong with me but he didn't bother looking at it after. That is why I didn't come back, Sir. Now you can see I gave myself up in my military uniform. I didn't have any intentions to desert. I only stayed AWL, Sir. That is all, Sir.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Offr., etc.)

Rev Offr: Release 14 Mar 46 at which time 6 months or one half of sentence will have been served.

Reviewed by: W.A. Moss
W.A. MOSS, Major.

14. Recommendation of the Board: Release on 13 Jan 46

24

Date DEC 20 1945

N.A. Stewart Maj
Secretary
Courts-Martial Board of Review

IN REPLY PLEASE QUOTE

No. W.44-B-6709 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba. 2nd October, 1945

Judge Advocate General's Branch
Army
904
OCT 4 1945
File 55-B-1983
Chgd. to
Referred to

Judge Advocate-General,
Dept. of National Defence (Army),
Ottawa, Ontario.

STANDING COURT-MARTIAL
H-605596, Pte. BODNER, Wm.

Reference H..Q.C. 55-B-1983 (JAG/D-8) dated 26th Sept. 1945.

2. The proceedings of the marginally-noted Court-Martial, having been reviewed, are returned herewith for custody.

(E.A. Fletcher) Major,
A.J.A.G.,M.D. No. 10.

vep
enc.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

20

HQC 65-B-1983 (JAG/D-5)

5th October 1945

District Officer Commanding,
Military District No. 10,
Winnipeg, Manitoba.

Standing Court-Martial
~~M-600896, Pte. Wm. Eodner.~~

W.44-B-6709(J)

Receipt is acknowledged of your dated 2nd October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:EJ

21

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Fort Osborne Barracks, Winnipeg, Manitoba,

on the 14th day of September 19 45 at 1110 hours,

for the trial of: No. H.605596, Private William BODNER,
Number Rank Full Name

No. 10 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major F.J.Killeen, District Headquarters, M.D. 10

PROSECUTOR: Captain F.W.Christie, District Headquarters, MD. 10
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ FOR DEFENDING OFFICER: Lieutenant R.J. Faid, No. 10 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, No. H.605596, Rifleman William BODNER, No. 10 District Depot, C.A., guilty of the charge.

SENTENCE: The Court sentence the accused, No. H.605596, Rifleman William BODNER, No. 10 District Depot, C.A., to undergo detention for one (1) year.

Signed at Winnipeg, Manitoba, this 14th day of September 194 5.

F.J.Killeen
(F.J.Killeen) Major
President, Standing Court-Martial.

Extracts entered as No. 39825 in the Register of Courts-Martial kept in the Judge Advocate-General's Office this 24 day of Sep 19 45

M.F.R. 1486
25M-F-41 (4826)
H.Q. 1072-39-1296

19

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~Question to the accused.~~ Do ~~you object to~~ ~~as interpreter~~

Question to the accused. Do you object to No. H.194904, SM(A/WO1) H.R. Maltby, District Headquarters, M.D. 10, as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~Court-Martial~~ ?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the charge against you, which you have heard read ?

Answer: Not guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2" F. A. Killeen Major
President. S.C.M.

5.

CHARGE SHEET

The accused, No. H-605 596 Rifleman William BODNER, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE:
Sec. 12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

- in that he -

at London, Ontario, at 0600 hours on the 28th day of December, 1944, absented himself from the 1st Battalion, Oxford Rifles, C.A., until he surrendered to Military Authorities, in Winnipeg, Manitoba, at 1030 hours on the 5th day of September, 1945, wearing Military Uniform.

Winnipeg, Manitoba,
12th September, 1945

FWChristie

(F.W. Christie) Captain,
Prosecutor, Courts-Martial,
Military District No. 10.

7-93

17

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~The Prosecutor proceeds to call witnesses.~~

~~First Witness for the Prosecution.~~

~~being duly sworn, is examined by the Prosecutor.~~

~~Question~~

By the Prosecutor:

Sir, the evidence for the Prosecution in this case is documentary and under the provisions of Routine Order 5126 I will file with the Court M.F.B 375 and M.F.M. 216 relating to the accused.

M.F.B. 375 is read, and is marked "F", signed by the President and attached to the proceedings.

M.F.M. 216 is read, and is marked "G", signed by the President and attached to the proceedings.

That is the case for the Prosecution, Sir.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement, Sir.

(See document marked "H" attached).

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

The Defending Officer makes a Closing Address.

The Prosecutor makes a Closing Address.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(The Defending Officer speaks on behalf of the accused. See document marked "I" attached).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

F ~~[illegible]~~ President. S.C.M. 13

RECORD of the Declaration of a Court of Inquiry assembled at Wolseley Barracks London Ontario on the 5th day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.605596 Rfm BODNER, William

DECLARATION

The Court declare that No. H.605596 (Regt'l No.) Rfm (Rank) BODNER, William (Full Name) No 1 District Depot CA (Unit) London Ontario illegally absented himself without leave from 1 Bn Oxford Rifles, Queens Park at London Ontario (Place) at 0800 hours on the 28th day of December 1944, that he is still so absent, and that on the 5th February 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	
CLOTHING DIVISION "A"			
Anklets web prs	2	1	11
Dressings first field	1		22
Gloves woollen khaki pr	1		50
Greatcoats drab	1	11	66
Overalls combination pr	1	1	89
CLOTHING DIVISION "B"			
Blouses battle dress	2	9	75
Boots ankle prs	2	8	73
Caps F.S.	2	1	05
Drawers cotton prs	2		63
Drawers woollen prs	2	2	10
Jerseys pullover	1	1	24

ARTICLES		VALUE	
CLOTHING DIVISION "C" (Cont'd)			
Shirts khaki cotton	2	2	31
Shirts flannel khaki	2	2	45
Shirts undercotton	2		65
Shirts woollen	2	1	80
Shoes canvas prs	1	1	72
Socks woollen prs	4	1	38
Trousers B.D. prs	2	9	83
Trousers K.D. short prs	1		99
CLOTHING DIVISION "G"			
Bags kit Mk111	1	1	26
Belts waist web 1½"	1		19
Braces prs	1		21
Total carried fwd.		$61	67

W.L. Kress, Capt (Name) (Rank) No 1 DD CA (Unit) President

Signed at London Ontario (Name) (Rank) (Unit) Member

this 5th day of February 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer H.L. Petrie, Lt.Col, (Name) (Rank) C.O. No 1 DD CA (Unit)

Certified true copy W.L. Kress (Name) (Rank) (Unit)
(W.L. Kress) Capt (Signature of Officer having custody of original record)
O.C. Legal Section

M.F.B. 375
A.F.B. 115
1503M—10-42 (5530)
H.Q. 1772-39-257

(see reverse side)

13

G [illegible] President, S.C.M.

18

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major E.K. Carter, (Number) (Rank) Officer Commanding, No. 40 Coy. Cdn. Provost Corps. (Name) (Unit)

hereby certify that H-605596 (Number) Rfn. (Rank) BODNAR, William (Name in full)

of the Oxford Rifles, CA (Unit and attachment, if any) London, Ont.

Strike out words not applicable } [illegible] (surrendered to) H-63006 (Number) L/Cpl. (Rank)

BARON, H.A. (Name) No. 40 Coy. Cdn. Provost Corps. (Unit or appointment)

at The C.P.R. Station, Winnipeg, Man. (Place) at 1030 (Hour)

on the 5th day of September 1945

Strike out words not applicable } as a deserter [illegible] (surrender) and that at the time of his [illegible] he was wearing military ([illegible]) uniform ([illegible]).

Dated at Winnipeg, Manitoba this 5th day of September 19 45

Major
(Signature, Number, Rank, Unit or appointment)
(E.K. Carter) Officer Commanding,
No. 40 Coy. Cdn. Provost Corps.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

11

" H " S. J. Sullivan Major
President, S. C. M.

17

STATEMENT OF THE ACCUSED

Well, Sir, just before I left Nanaimo I had a sore on my side here, Sir, and I went to the M.O. and asked him about seeing my side. He just felt the side and said nothing was wrong with me. I think something is wrong with me but he didn't bother looking at it after. That is why I didn't come back, Sir. Now you can see I gave myself up in my military uniform. I didn't have any intentions to desert. I only stayed AWL, Sir. That is all, Sir.

7845

10

"Y" J. Bolden
President. S. C. M.

M.F.B. 333
2M—8-40 (6435-6)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-605 596	Rifleman	William BODNER	No. 10 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ Regimental and Squadron, Battery ~~Conduct Sheets~~ or Company ~~Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act ~~of summary awards under Section 47 of the Army Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	nil	times	nil	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ or

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted or

~~Previous convictions of the accused by a court-martial or a civil court, or summary awards under~~ Air Force Act ~~Section 47 of the Army Act, and dispensations with trial under~~ A.F.A. 73 ~~A.A. 73~~ are set out in the Schedule ~~annexed to this statement~~.

3. The accused is not under sentence at the present time or

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... .~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service in~~ enrolment ~~attestation paper~~ is 26 years 4 months

6. The date of his ~~commission specified in his record of service~~ enrolment ~~attestation~~ is enrolment ~~attestation paper~~ 25th June, 1942

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to ~~no air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~). State any ~~air force~~ military decoration or reward. nil

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

9

20

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of September, 1945 (A.F. Fryers) Lt. & A/Adj.
No. 10 District Depot, CA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y signed by the president, and annexed to the proceedings.

President, S.C.M.

Sheet 4 one destroyed 15-1-43.

THE OXFORD RIFLES

M.F.M. 6

(NRMA) Date of Birth

Reg. No. M-605596 Name BODNER, William Corps "A" Date of enlistment or enrolment 25-6-42

Signature O.C. Company, etc. Illegible

Sheet No. Two of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
LONDON, ONT	Feb 45	Rfn.		SOS deserter having been declard illegally absent from 0600 hrs 28 Dec 44 by a Ct. of Inq. Held 5 Feb 45 Def of kit to the value of $86.62			5 Feb 45		WEK

CERTIFIED TRUE COPY

Lieut. & A/Adj.

(A.F. Fryers)
Officer i/c Records,
No. 10 District Depot, C.A.

(P.T.O.)

M.F.M. 6 - 500M - 5.44 (8868)

" I " G. J. Killen Major
President, S.C.M.

DEFENDING OFFICER'S STATEMENT IN MITIGATION

Sir, in view of Private Bodner's record, his first crime, he has no crime sheet, it is perfectly clean. He has given himself up in military uniform and throws himself on the mercy of the Court, Sir.

PRECIS OF EVIDENCE

H-605 596 Rifleman William BODNER, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service.

CHARGE: DESERTION

TO PROVE THE CHARGE: the following evidence is available.

Documentary: M.F.B. 375

M.F.M. 216

NOTICE

TAKE NOTICE: that I propose to present H-605 596 Rifleman William BODNER, No.10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, the accused, for trial by Standing Court-Martial, at 1015 hours, Friday, the 14th day of September, 1945, in Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

Winnipeg, Manitoba,
12th September, 1945

(A. Thomson) Lieut. Colonel
Commanding Officer,
No. 10 District Depot, C.A.

6

TRIAL OF:

H-605 596 Rifleman William BODNER
No.10 District Depot, C.A.

I, H-605 596 Rifleman William BODNER

No.10 District Depot, C.A., desire ~~do not desire~~ W. B.

an Officer assigned to defend me at my trial by Court-Martial.

W. Bodner.

Winnipeg, Manitoba,
12th September 1945

5

MEDICAL OFFICER'S REPORT

I certify that No. H-605 596 Rfm. BODNER, William

of #10 D.D. CA is in a good state of health,

and fit to undergo Trial by Court martial.

E Lawrence
Medical Officer R.C.A.M.C.
No. 10 District Depot, C.A.

Station Winnipeg, Manitoba.

Date 14th September, 1945

A Thrasher
President, S.C.M.

M. F. B. 246
25M—9-40 (7120-1)
H.Q. 1773-39 480

4

HQC.55-B-1983 (JAG/D-8)
Your File W.44-B-6709 (J)

26 Sep 45

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

STANDING COURT-MARTIAL

H.605596, Rfmn. BODNER, W.
No. 10 D.D.,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

MO/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

3

THIS COPY FOR: H.Q.C. 55-B-1983
M.D. ~~W.44-R-6709 (E)~~

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA
No. H-605596 Name BODNER, William

Rank Rfmn Unit No10 DD CA

Charge AA 12 ¶1)(a) WOAS Deserting.....

Date of Crime 28-12-44

Date of Arrest 5-9-45 Charge Signed 12-9-45

Orders for D.C.M.

Place and Date of Trial Fort Osborne Barracks, Winnipeg, 14-9-45

Sentence Det. 1 year

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39825

Date 24-9-45

MEMO. Balance of sentence remitted by Conf. Auth. 1 Jan 46

MD 10 No. 10 DD CA

Absent Sentence

9 mos Detention 1 year

W. Bren Capt
for Judge Advocate-General

10M-8-45(M-180)

W.44-B-6709 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba.
15th September, 1945.

Judge Advocate-General,
Department of National Defence (Army),
OTTAWA, Ontario.

C. 55-B-1983

STANDING COURT-MARTIAL

No. H.605596, Rfmn. BODNER, W.,
No. 10 District Depot, C.A.

Herewith, for review, are the proceedings of the marginally-noted Standing Court-Martial.

F. J. Killeen Major,
President, (F.J. Killeen)
Standing Court-Martial.

39825

H.Q.C. 55-B-1984 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOND, JOSEPH E.615593 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1984

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 27 1945					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG	NEW FILE	CR	21-9-45
				Admin	Per Disposition C.R. SEP 28 1945		
				S.E.(AG)	SE		1.10.45
				M.S.			2.10.45
				S.E.(AG)		MBB	10.10.45
OCT 12 1945	12.10.45	PA		Admin	returned		11.10.45
OCT 20 1945	19.10.45	PA		JAG	Per Disposition C.R. OCT 19 1945		
OCT 26 1945	26.10.45	PA		J.A.G.	PER B.F. OCT 27 1945		
NOV 6 - 1945	5 NOV 45	PA		CSR	L.M.P.R. Papers C.R. NOV 5 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M-1-B-19805 ADIS

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

MONTREAL, Que

3 Nov 45.

CENTRAL REGISTRY Army
7059
NOV 4 1945
File C55-B-1984
Urgent
Referred to CmBR

The Secretary,
Department of National Defence,
OTTAWA, Ontario

E-615593 A BOND J.

Ref HQC 55-B-1984

1 Att hereto form for remission in respect to the marginally named soldier.

(E J RENAUD) Maj Gen
DOC MD No 4

ENCL

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-A-1984
District File No. W.1-B-18339.A/DIS

PART I

No. B615593 Rank Pte. Name BOND, Joseph
Unit Longue Pointe Ordnance Depot

PART II

Date of Trial 27th August, 1945
Charge(s) ABSENTING HIMSELF WITHOUT LEAVE and losing by neglect his equipment and regimental necessa
Sentence 90 days detention and stoppages of $1.83
Date of Sentence 27th August, 1945
Confirmation -- (a) Authority: DOC 4
(b) Date : 31 Aug 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~(commutation)(mitigation)~~ -

Balance of term of detention

Signed at MONTREAL this 13 day of Sep 45.
(Appointment) (R.J. RENAUD) Major General, DOC
To be signed by the Remitting Authority personally.

M.D. No. 4

PART IV

PROMULGATION

Remission ~~(commutation)(mitigation)~~ promulgated and extracts taken at Montreal South, Que. this 31st day of October 1945 (1)

(L.R.HAMELIN) Lieut., C.I.C., C.A., att'd to No 4 District Depot, C.A.
Ass- Officer i/c Documents.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. B-615593 Rank Pte. Name BOND, J. Standing
The sentence of 90 days detention awarded by District Court Martial on the 27th August 1945 has been remitted on the 15th October 1945 by D.O.C.
UNIT Military District No. 4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A.
No. 253 Place Jacques Cartier Barracks, Date 31st October 1945
Montreal South, Que.
Adjutant

(J. McL. HAMILTON) Capt. - Adjt.
General List, C.A., att'd to
No. 4 District Depot, C.A.

XStrike out and initial words not applicable.

HQC 55-B-1984 (JAG/B-5)

12th October 1945

District Officer Commanding,
Military District No. 4,
Montreal, P.Q.

Standing
~~E-518593, Pte. J. Doal.~~

Receipt is acknowledged of your M.1-B-18539(J)
dated 4th October 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

EJM

LCC:EJ

for (R.J.Orde) Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE No. M.1-B-18339(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
4th October, 1945.

REGISTERED

R-147

CENTRAL REGISTRY Army
CONFIDENTIAL
1566
OCT 6 1945
File C-55-B-1984
Chgd. Sec (Leg) 1-10-45
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
E-615593 Pte. BOND, Joseph
L.P.O.D., RCOC, CA.

Reference your HQC 55-B-1984 (JAG/D-7) dated 27 Sep 45.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, please.

J.E.R. Simoneau Capt.
(E.J.Renaud), Major-General,
For District Officer Commanding,
Military District No. 4.

Enc.

NAT. DEF. B. 440
2500M-4-44-4321
M-G. 1732-19-157

MEDICAL OFFICER'S REPORT

I certify that No. E-615593 Pte. Bond, J.

of LPOD.RCOC.CA. is in a good state of health,

and fit to undergo Trial by Court martial.

J W Lachance Capt
Medical Officer
(J.W. Lachance) Capt.,
(No.4 District Coy., R.C.A.M.C.)
Att'd L.P.O.D., R.C.O.C., C.A.

Station Longue Pointe, Que.

Date 27 August 1945.

J. C. G. Nelson major
President SCM

M. F. B. 246

25M—2-43 (8525)
H Q 1773-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Longue Pointe Ordnance Depot, R.C.O.C., C.A., Longue Pointe, Que.

le 27e jour de août, 1945 à 1345 heures,

pour le procès de E-615593 Pte. BOND, Joseph,
Matricule Grade Nom et prénoms

Longue Pointe Ordnance Depot, R.C.O.C., C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. DUBEAU, ED, Quartiers-Généraux, District Militaire 4

PROCUREUR: Capitaine J.E.R. LABELLE,
Grade Nom et prénoms

Quartiers-Généraux, District Militaire 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. A.J. BELLIVEAU,
J.C.S.J. ~~AVOCAT~~ Grade Nom et prénoms

RCOC, CA, attaché à Longue Pointe Ordnance Depot, RCOC, CA.
Unité Détachement, le cas échéant

La Cour déclare l'accusé, E-615593, Pte. BOND, Joseph, Longue Pointe Ordnance Depot, R.C.O.C., C.A., coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La Cour condamne l'accusé, E-615593, Pte. BOND, Joseph, Longue Pointe Ordnance Depot, RCOC, CA., à la détention pendant quatre-vingt-dix (90) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $1.83, coût des articles perdus.

Signé à Longue Pointe, Que. ce 27e jour de août, 1945.

J.A.G. Dubeau
(J.A.G. DUBEAU) Major Président de la cour martiale permanente

M.F.B. 1486A
10M-1-45 (6449)
H.O. 1772 39-2296
K.P. 26109

Extracts entered as No. 39826 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of Sept 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à comme interprète ?~~

Réponse:

Question à l'accusé. Vous opposez-vous à D-136118 CSM (WO II) DeKONINCK, P., comme sténographe ? CMSC, CA,

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermentés.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur les deux chefs d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

	ARTICLES	100% VALUE	75% VALUE		ARTICLES	VALUE	
1	Belt, Waist	$ .67	$	50			
1	Braces, Right	.33		25			
1	Haversack	2.29	1	71			
1	Tin, Mess	.60		45			
1	Sheet, Ground	2.38	1	78			
	TOTALS	$137.63	$103	26			

----------CERTIFIED TRUE COPY----------

Wm. E. Lynes

(Wm. E. Lynes) Lieut.,
Officer i/c Records,
L.P.O.D., R.C.O.C., C.A.

	ARTICLES	100%	75% VALUE	
1	Trousers, Serge Drab	$4.33	$ 3	25
1	Bag, Kit	1.27		95
1	Belt, Waist	.35		26
1	Blacking Tin	.05		04
1	Bootdressing Tin	.05		04
1	Bootlaces, Black	.03		02
1	Braces	.28		21
1	Brasses, Button	.04		03
1	Brush, Boot Polishing	.21		16
1	Brush, Button	.11		08
1	Brush, Cloth	.17		13
1	Brush, Hair	.39		29
1	Brush, Shaving	.42		32
1	Brush, Tooth	.09		07
1	Cap, Comforter	.41		31

	ARTICLES	100%	75% VALUE	
1	Comb, Hair	$ .04	$	03
1	Fork, Table	.08q		06
1	Holdall	.22		16
1	Housewife	.35		26
1	Knife, Clasp &Lanyard	1.01		75
1	Knife, Table	.18		14
1	Necktie, Black	.19		14
1	Pin, Collar Safety	.06		05
1	Razor Safety Set	.42		32
1	Spoon, Table	.08		06
2	Socks, Black	.56		42
2	Towels, Hand	.62		47
1	Badge, Cap, RCOC	.05		04
1	Buckle, Brass	.06		05
8	Buttons, G.S.	.08		06

--------CERTIFIED TRUE COPY---- ---

Wm. E. Lynes

(Wm. E. Lynes) Lieut.,
Officer i/c Records,
L.P.O.D., R.C.O.C., C.A.

J. C. G. Lubran, major
President SGM

B

CHARGE SHEET

The accused, No. E-615593 Pte. Joseph BOND, Longue Pointe Ordnance Depot, R.C.O.C., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Section 15(1) Army Act.

"ABSENTING HIMSELF WITHOUT LEAVE"

in that he,

at Longue Pointe, Montreal, Quebec, on the 10th day of February 1945, absented himself without leave from 0830 hours on the said 10th day of February 1945 from the Longue Pointe Ordnance Depot, R.C.O.C., C.A., until he surrendered to the military authorities at Longue Pointe, Quebec, at 0945 hours on the 20th day of August 1945, dressed in military uniform.

SECOND CHARGE: Section 24(2) Army Act.

"LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT & REGIMENTAL NECESSARIES"

in that he,

at Longue Pointe Ordnance Depot, R.C.O.C., C.A., Longue Pointe, Montreal, Quebec, on the 22nd day of August 1945, was deficient of the following articles of his clothing, equipment and regimental necessaries:

ARTICLES	ARTICLES DEFICIENT	TOTAL AMOUNT ARTICLE	AMOUNT CHARGED 75%
Catalogue Section "A"			
Socks, Woollen, prs.	1	$ .46	$ .35
Catalogue Section "C"			
Knife, Clasp & Lanyard	1	1.01	.75
Pins, Collar Safety	1	.06	.05
Towels, Hand	1	.31	.23
Catalogue Section "1-A"			
Tins, Mess Rectangular	1	.60	.45
TOTALS		$ 2.44	$ 1.83

(H.K. McLean) Colonel, R.C.O.C., C.A.,
Acting Officer Commanding,
Longue Pointe Ordnance Depot, RCOC.CA.

Longue Pointe,
this 23rd day of August 1945.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au x premier et deuxième chef~~s~~ d'accusation, il est déclaré coupable de ~~la~~ ~~ladite~~ ~~accusations~~ desdites.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à~~l'~~ accusation~~s~~ dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(Voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

M. le Président,

Quand j'ai laissé l'armée, je travaillais au "Tank Group". Ils m'ont demandé, vers onze heures et quart, de rapporter mon butin au manège le lendemain matin. Je couchais en chambre avec ma femme, ça fait que j'ai parti pour aller chez-nous, j'avais ma passe pour aller coucher chez-nous, mon linge se trouvait là. Ca fait que là je me suis "en retourné" chez-nous pour chercher mon linge; j'étais supposé rentrer ici vers huit heures, huit heures et demi le lendemain. Je suis arrivé chez-nous - ma femme est prise de maladie de coeur et était enceinte et elle avait fait une fausse couche à l'hôpital St-Luc; le docteur lui a dit qu'elle n'avait pas fait de fausse-couche et qu'elle continuait quand même. Au bout d'un mois elle a appelé son docteur et elle lui a dit: "Je ne suis plus enceinte, je ne suis plus malade". Il lui a dit: "Ca ne veut rien dire ça, vous continuez quand même". Les autres femmes lui disaient qu'elle avait fait une fausse-couche mais le docteur disait qu'elle continuait quand même.

Comme j'étais sous l'impression, d'après le docteur, qu'elle était enceinte, quand j'ai laissé l'armée, je suis arrivé chez-nous et j'avais aucune intention de laisser l'armée. Je me suis "en retourné" chez-nous et j'ai dit à ma femme qu'il fallait que j'amène mon linge le matin. Elle a fait une crise, vous comprenez, elle avait la maladie du coeur. Elle avait fait une fausse-couche, les voisines disaient ça mais le docteur disait qu'elle ne l'avait pas fait. Elle ne voulait pas que je parte. Elle pleurait car elle se trouvait seule et étrangère ici. Elle n'a ni père ni mère et elle ne voulait pas que j'aille. Je craignais pour elle, je voulais lui empêcher la mort. Je lui ai dit:"Je vais rester cette journée là". Je n'avais pas l'intention de rester, je voulais m'en retourner dans l'armée. Elle n'a pas voulu que je parte. Je ne voulais pas lui causer la mort. Après ça, elle a consenti à ce que je revienne, mais seulement après que la paix a été signée. Comme de raison, après que la paix a été signée, j'avais de bonnes raisons pour qu'elle consentisse. Je l'ai encouragé et lui ai dit: "Je n'aurai pas une grosse punition si je me rapporte".

Je suis dans l'armée depuis le 2 octobre, 1941. J'ai passé par les camps de Montmagny, ici, à Valcartier et à Farnham. J'ai eu une exemption à Valcartier pour travailler sur les terres. J'avais de l'expérience, j'avais travaillé sur les terres quand j'étais jeunesse. Là, ils m'ont amené ... J'avais eu une exemption pour travailler sur la terre. Ensuite je me suis "en retourné" dans l'armée. J'ai été avisé de me rapporter à Coverfield, le dépôt était là. J'appartenais au district No. 5, ensuite j'ai été transféré à Debert, N.S., ensuite à Terre-Neuve et j'ai été envoyé ici.

Avant d'entrer dans l'armée, je faisais la pêche et cultivais à Gaspé. J'ai 25 ans et je me suis marié le 27 septembre, 1943. Je n'ai pas d'enfants mais j'en attend un le 10 octobre. J'en aurai un au mois d'octobre, ma femme va entrer à l'hôpital. Ma femme va avoir 24 ans le 18 septembre.

Pendant mon absence sans permission j'ai demeuré à 1587 rue St-Hubert, en chambre. Ma femme était avec moi. J'ai travaillé un peu, je travaillais en dedans des maisons, à faire le ménage; j'ai travaillé à Westmount pour des juifs. Je faisais le ménage pour les femmes

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE
(Suite)

et leur disais que j'étais en congé et que j'avais besoin d'argent; c'est la seule manière que je pouvais travailler. En plus de ça, j'avais un peu d'argent.

Aussitôt que j'ai pu faire consentir ma femme pour m'en revenir je me suis rapporté. Franchement, si j'avais su que ma femme m'aurait fait une crise comme ça, j'aurais expliqué mon cas au Capitaine du Tank Group; je lui aurais certainement expliqué mon cas avant.

J.G.R.W.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR AU NOM DE L'ACCUSE

M. le Président,

I have only a few words to say here, because it is quite evident from the accused's story that he was torn between being faithful to his wife or to his country and his wife, his wife probably being nearer to him, he went to her. It is quite evident that he was quite sincere when he spoke about that fact, saying that he left the army because he was influenced to do so by his wife and not on his own accord. As you have heard, his wife is alone, 700 miles away from home, she was pregnant and therefore the accused was at a loss to know what to do.

Therefore I ask the court, when declaring sentence on this matter, to be as lenient as possible.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

J. C. E. Rutherford major
Granted 50%

E. Phelet

"F"

DAILY ORDERS PART II

BY

BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

Order No. 38
14 Feb 45
Montreal, Que.

(Last Order Issued No.37 d/13 Feb 45)

8. ABSENT WITHOUT LEAVE

(b) A.W.L. from 0830 hrs 10 Feb 45

E-615593 Pte. BOND, J.

(Signed) A.H. Frame, Major,
for (L. Patrick) Brigadier,
Officer Commanding,
Longue Pointe Ordnance Depot.

----------CERTIFIED TRUE EXTRACT----- ----------

W. E. Lynes

(Wm. E. Lynes) Lieut.
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

J. C. G. Nutkem, major
President SCM

Exhibit "G"

DAILY ORDERS PART II

BY

BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

Order No.41
17 Feb 45.
Montreal, Que.

(Last Order Issued No.40 d/16 Feb 45)

7. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0830 hrs 10 Feb. Still absent 0830 hrs (8th day)

E-615593 Pte. BOND, J. 17 Feb 45.

(Signed) M. Jack, Major
for (L. Patrick) Brigadier,
Officer Commanding,
Longue Pointe Ordnance Depot.

----------CERTIFIED TRUE EXTRACT----------

Wm. E. Lynes

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

A. C. F. Newham major
President SCM

Exhibit E

"H

DAILY ORDERS PART II

BY

BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

Order No.54
3 Mar 45.
Montreal, Que.

(Last Order Issued No.53 d/2 Mar 45)

6. ABSENT WITHOUT LEAVE

(b) A.W.L. from 0830 hrs 10 Feb 45. Still absent 0830 hrs (22nd day)

E-615593 Pte. BOND, J. 3 Mar 45.

(Signed) M. Jack, Major
for (L. Patrick) Brigadier,
Officer Commanding,
Longue Pointe Ordnance Depot.

----------CERTIFIED TRUE EXTRACT----------

Wm. E. Lynes

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

E. C. E. Dickson major
President SCA

Exhibit 8

RECORD of the Declaration of a Court of Inquiry assembled at L.P.O.D., Montreal, Que. on the 4th day of March 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-615593 Pte. BOND, J., L.P.O.D., R.C.O.C., C.A.

DECLARATION

The Court declare that No. E-615593 (Reg'l No.) Pte. (Rank) Joseph BOND, (Full Name) L.P.O.D., R.C.O.C., C.A. (Unit) illegally absented himself without leave from L.P.O.D., R.C.O.C., C.A. at Montreal, Que. (Place) at 0830 hours on the 10th day of February 1945, that he is still so absent, and that on the 4th March 1945 he was deficient, and that he is still deficient of the following articles:—

	ARTICLES	100%	75% VALUE			ARTICLES	100%	75% VALUE	
1	Anklets, Web prs.	$ .74	$	56	1	Jacket, Sge. Drab O/c	$10.80	8	10
1	Cap, Winter Melton Cloth	1.05		79	1	Jersey Pullover	1.65	1	24
1	Coat, Waterproof Army	6.91	5	18	1	Muffler, Khaki	.93		70
1	Dressing, First Field	.21		16	1	Puttees, Drab	.97		73
1	Gloves, Woollen Khaki	.66		50	4	Shirts, Cotton Khaki	6.16	4	62
1	Greatcoat, Drab	15.54	11	66	2	Shirts, Flannel "	3.26	2	46
1	Mitts, Pullover Leather	.93		70	1	Shirts, Service	.84		62
1	Overalls, Combination	2.52	1	89	2	Shirts, Undercotton	.86		65
1	Overshoes, 4-Buckle	2.04	1	53	2	Shirts, Woollen	2.40	1	80
2	Battledress Blouses Sge.	13.00	9	75	1	Shoes, Canvas	2.29	1	72
2	Boots, Ankle Army	11.64	8	73	1	Shoes, Leather Black	4.84	3	63
1	Cap, Field Service, NP	.70		53	4	Socks, Army	1.84	1	38
2	Drawers, Cotton Short	.84		62	2	Trousers, B.D. Sge.	13.10	9	82
2	Drawers, Woollen	2.80	2	10	2	Trousers, K.D. Long	3.60	2	70
1	Jacket, K.D. O/C	3.42	2	57	2	Trousers, K.D. Short	2.62	1	96

Capt. P.V. Salvaneschi, LPOD.RCOC.CA. President
(Name) (Rank) (Unit)

Signed at Montreal, Que.

Lt. R.E.A. Kerr, LPOD.RCOC.CA. Member
(Name) (Rank) (Unit)

this 4th day of March 1945

Lt. A.M. Fraser, LPOD.RCOC.CA. Member
(Name) (Rank) (Unit)

Signature of Commanding Officer Brig. L. Patrick, O.C., LPOD.RCOC.CA.
(Name) (Rank) (Unit)

Certified true copy
(Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(Wm. E. Lynes) Lieut.,
Officer i/c Records,
L.P.O.D., R.C.O.C., C.A.

M.F.H. 375
A.F.B. 115
200M—1-44 (3578)
H.Q. 1772-38-257

J. C. E. Wilson major
President SCM

Exhibit "J"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel H.K. McLean, (Number) (Rank) Acting Officer Commanding, LPOD.RCOC. (Name) (Unit)

hereby certify that E-615593 (Number) Pte. (Rank) BOND, Joseph (Name in full)

of the Longue Pointe Ordnance Depot, R.C.O.C., C.A. (Unit and attachment, if any)

Strike out words not applicable } ~~apprehended~~ Hkm (surrendered to) D-129114 (Number) Cpl. (Rank)

JETTE, L. (Name) L.P.O.D., R.C.O.C., C.A. (Unit or appointment)

at Longue Pointe, Quebec (Place) at 0945 hours (Hour)

on the 20th day of August 19 45

Strike out words not applicable } ~~apprehended~~ Hkm (or absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military (~~[illegible]~~ Hkm uniform ~~[illegible]~~ Hkm.

Dated at Longue Pointe, Que this 20th day of August 19 45.

Herbert K. McLean
(Signature, Number, Rank, Unit or appointment)
(H.K. McLean) Colonel,
A/Officer Commanding, LPOD.RCOC.CA.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6900)
H.Q. 1772-39-1936

CERTIFICATE TO BE SIGNED BY COMMANDING OFFICER ON TRANSFER OR ATTACHMENT OF SOLDIER

Certified that the record detailed on this statement has been checked with the articles in possession of the soldier and found correct.		Certified that the record detailed on this statement has been checked with the articles in possession of the soldier and found correct.		Transferred	Attached
On transfer or attachment **from** the undermentioned Unit.	Date	On transfer or attachment **to** the undermentioned Unit.	Date		
5 District Depot Name of Unit. R. Bellen Major Signature of Commanding Officer.		Longue Pointe Ordnance Depot Name of Unit. Signature of Commanding Officer.	Aug 22		
Regiment de St Hyacinthe Name of Unit. Signature of Commanding Officer.		Name of Unit. Signature of Commanding Officer.			
Name of Unit. Signature of Commanding Officer.		Name of Unit. Signature of Commanding Officer.			
Name of Unit. Signature of Commanding Officer.		Name of Unit. Signature of Commanding Officer.			
Name of Unit. Signature of Commanding Officer.		Name of Unit. Signature of Commanding Officer.			

Mark X in appropriate column.

Regtl. No. E-615593

Name Bond Joseph

Exhibit "K"

CERTIFIED TRUE COPY:

R. Lavigne

(R. LAVIGNE) S/SGT A/SCBR.
A/QUARTERMASTER
LONGUE POINTE ORDNANCE DEPOT.

22. 8. 45

G. C. E. Dubeau major
Quartermaster

CANADIAN ARMY

CLOTHING AND EQUIPMENT STATEMENT

M.F.C. 800

Regtl. No. E-615593 Name Bond Joseph

Rank Pte. Date of Attestation 2-10-41

Original Unit Station

Home address (Reserve Units only):—

MFC 800
350M—11-42 (7123)
H.Q. 1772-39-1843

M.F.C. 800

INSTRUCTIONS

1. This statement will be used to record free issues to all ranks of the Canadian Army, Active, Reserve and C.W.A.C., as well as all ranks at Training Centres and Army Trade Schools, etc.

2. A continuous vertical line in ink will be drawn through all blank spaces left in a column after an issue has been entered before an individual signs for articles issued to him.

3. On return of any article a line in ink will be drawn through the entry concerned and same will be initialled by the representative of the Quartermaster.

4. Entries in connection with issues should be placed as far to the left of each column as possible to leave room for initials in the event of articles being returned to Quartermaster Stores.

5. Entries will not be made on this form when articles of clothing and equipment are exchanged or replaced.

6. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

7. Quote Unit consecutive number of bayonet and serial number of rifle in the space provided in the appropriate "Quantity" column.

8. On transfer of an officer or soldier the certificate on the back of this statement will be properly filled in and signed.

9. This statement must accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

SIZE CARD

Article	Size	Article	Size
Cap		Greatcoat	
Boots		Gloves	
Battle Dress Blouse		Soldier's Measurements	
Battle Dress Trousers		Height	
Khaki Drill Jacket		Weight	
Khaki Drill Trousers		Neck	
Shirt		Chest	
Drawers		Waist	
Shirt (under)		Inseam	

Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Respirator A.G.—								
Cloths, disinfecting, facepiece	BK		BK					
Container ✓	BK							
Facepiece ✓	BK							
Haversack ✓	BK							
Outfit anti-dimming ✓	BK							
Eyeshields, A.G.	BK							
Cases, A.G.	BK							
Curtains, helmet								
Detectors, ~~tippet pattern~~ Fan Sleeve		BK	BK					
Ointment, A.G.								
Wallets, A.G.	BK							
Detector Powder								
Bayonet 303 Cal P.P.								
Cartridge .4 Ball 303 Mark								
Date of Issue	1/14/43	1-3-44	1-7-44	1-2-45				
Signature	1	2	3	4	5	6	7	8

Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Winter Issues—								
Boots, lumbermans, rubber ... prs.								
" ankle, felt ... prs.								
" insoles ... prs.								
Caps, winter, melton cloth			1		1			
Drawers, woollen ... prs	2							
Mitts, pullover, leather ... prs.			1					
Mufflers, khaki			1					
Overshoes, 4 B ... prs			1		1			
Rubbers ... prs								
Shirts, woollen	2							
Rifle Brush		1						
Steel Ramrod		1						
Summer Issues—								
Belts, waist, leather, brown		1						
Buttons, G.S., large		4						
" " small		4						
Helmets, sun		1						
Jackets, khaki drill		1						
Puttees ... prs		1						
Shirts, khaki, cotton W/S S		2						
Trousers, khaki drill ... prs		1		1				
" " " short ... prs		2						
Badges, Cap Drill Pr		1						
Walking Out Dress—								
Jackets, serge, drab, open collar	1							
Neckties, black	1							
Pins, collar safety	1							
Shoes, leather, black ... prs	1							
Socks, black ... prs	2							
Trousers, serge, drab, N.P ... prs	1							
Coats, waterproof			1					
Date of Issue	May 5 43	May 28 40	4 4 43	7 8 44	5 11 44			
Signature	Bond	Bond	Bond	Bond	Bond			

Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Badges, cap	1							
Bags, kit	1							
Blacking ... tins	1							
Boot dressing ... tins	1							
Boot laces ... prs.	1							
Braces ... prs.	1							
Brasses, button	1							
Brushes—								
Boot, polishing	1							
Button	1							
Cloth	1							
Hair	1							
Shaving	1							
Tooth	1							
Caps, comforter	1							
Combs, hair	1							
Forks, table	1							
Holdalls	1							
Housewives	1							
Knives, clasp, and lanyard	1			1				
" table	1							
Razors	1							
Sponges, pipeclay	1			1				
Spoons	1							
Towels, hand	2							
Arms—								
Rifle, Sh or 19		1	74 5/38		74			
Bayonet and scabbard		1	1					
Pistol								
Bottles, oil		1						
Pullthroughs		1						
Date of Issue	May 5 43	30 3 43	4 8 44	11 9 43	2 2 44			
Signature	Bond	Bond	Bond	Bond	Bond			

Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Attachments, brace								
Bags, ration	BK							
Belts, waist	BK							
Bottles, water	BK							
Braces	BK							
Carriers, cartridge	3 BK							
" water bottle								
Cases, binocular								
" pistol								
Frogs, bayonet 1C4 M/A	BK							
Haversacks	1							
Helmets, steel, complete USA Tracer	BK							
Lanyards, pistol								
Pockets, compass								
Pouches, ammunition, pistol								
" base		3		BK				
" utility								
Slings, rifle		1		BK				
Straps, shoulder, haversack	BK							
" web, supporting	BK							
Tins, mess, rectangular	BK							
Packs								
Yokes								
Tool Holder Cover Canvas			BK					
Identification Disc					BK			
Date of Issue	1-4-41	2-7-41		3-4-41	4-7-41	4-9-41	10-4-41	
Signature	Bond	Bond	Bond	Bond	Bond	Bond		

Description of Articles	Quantity 1	Quantity 2	Quantity 3	Quantity 4	Quantity 5	Quantity 6	Quantity 7	Quantity 8
Anklets, web ... prs.	1							
Badges arm Tank Bn.								
" " worsted, "CANADA" ... prs.	3							
" embroidered, unit title ... prs								
" shoulder, worsted ... prs.								
Battle Dress, serge, trousers ... prs	2							
" " blouses	2							
Bonnets, Tam O'Shanter								
Boots, ankle ... prs.	2							
Caps, field service								
" forage, drab								
" tank battalion								
Drawers, cotton, short ... prs.	1	2						
Dressings, 1st field	1							
Gloves, woollen, khaki ... prs.	1							
Greatcoats, drab	1							
Jackets, serge, drab								
" ~~sweater~~ or jersey pullover	1							
Overalls, combination	1							
Protectors, ear ... prs								
Shirts, under, cotton		2						
Shirts, flannel, khaki			2					
Shoes, canvas ... prs.	4							
Socks ... prs.								
Trousers serge, drab ... prs.								
Shirts Dy Sgt W/S	2							
" Service	1							
Sheets, ground MK								
Date of Issue	1-4-41	2-28-41	4-4-41					
Signature	Bond	Bond	Bond					

J. G. G. Dubeau major
President SCM

M.F.B. 355
30M—11-41 (2273)
H.Q. 1772-39-620
A.F.B. 296

"Y"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-615593	Pte.	BOND, J.	LPOD.RCOC.CA.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 7 days in ~~Air Force~~ military custody, making a total of 7 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ ~~attestation~~ enrollment paper is 25 years 6 months

6. The date of his ~~commission~~ ~~attestation~~ enrollment specified in his ~~record of service~~ ~~attestation~~ enrollment paper is 2 October 1941

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward. military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of August 1945. (Wm. E. Lynes) Lieut.,
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "4" signed by the president, and annexed to the proceedings.

J. A. E. Wilson major
President SCM

-55

N

LONGUE POINTE ORDNANCE DEPOT MONTREAL

Corps R.C.O.C. Date of enlistment or enrolment 2nd October 1941 Date of Birth

Reg. No. E-615593 Name BOND Joseph Sheet No. One of *1, 2, 3, 4, 5

Signature O.C. Company, etc. *Place check mark against number of sheets in use.

Date of last entry in Company Conduct Sheet 4 July 1943

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Debert N.S. Valcartier	15 Juin 42			The original sheet has been destroyed on 16th July 45. Auth: K.R. & O. 1524 (C) (1) Granted furlough & Tr. Warrant part II (D.O.) #27 (21)42 11 Juin 42			J.Y. Godreau	Capt.	

CERTIFIED TRUE COPY

(Wm. E. Lynes) Lieut.
Ass't-Adjutant,
L.P.O.D., R.C.O.C., C.A.

(P.T.O.)

Ottawa, October 10, 1945.

Roland Beaudry, Esq., M.P.,
House of Commons,
O t t a w a.

Dear Mr. Beaudry:

Re: E-615593, Private J. Bond

Further to my letter of 27th September regarding the Court-Martial sentence of the above named soldier, a report has now been received.

The responsible officers of the Department have advised me that Private Bond was found guilty of absence without leave for a period of approximately six months and that a sentence of ninety days in such a case is considered very lenient.

Further, a sentence of this length would not normally be subject to review. However, there is automatic remission for good conduct and in the event that Private Bond has earned all remission possible he would be released in the latter part of this month.

I am advised that the compassionate circumstances disclosed are not such as to warrant a special review of his case.

Yours very sincerely,

AGC-aj

MEMORANDUM

TO:
MS

Department of National Defence,
HQC 55-B-1984, Adm 3(b)2,
Ottawa, Ont, 1 Oct 45.

E-615593 - Pte BOND J S.E. 5814B d/28 Sep 45

1. This SUS was tried by SCM 23 Aug 45 on a charge of absenting himself without leave from 10 Feb 45 until arrested 20 Aug 45.

2. He was found guilty of the offence and sentenced to undergo detention for a period of 90 days. This sentence would not normally be subject to review.

3. The sentence is considered very lenient having regard to the long period of this soldier's absence. If he earns all remission for good conduct he will be released on completion of sentence, 21 Oct 45.

4. It is not considered that such compassionate circumstances are disclosed as to warrant special review.

5. Correspondence is herewith returned.

for (A E Walford)
Major-General,
Adjutant-General.

FINAL

WOP:6293:mw

10 b-100 fr
OCT 3 1945
RECEIVED

MINISTERS OFFICE
OCT 3 1945
DEPT. N.D. OTTAWA.

SPECIAL ENQUIRY 6.505 B 1984

Date SEP 28 1945

To: D Admin

No. 5814 B

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY H D at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

A.G. Co-ord.3) Min. File 1026-100

Passed for consideration and report for the Minister's information, please.

The attached letter.

Colonel,
M.S.

OTTAWA, 27th September, 1945.

Roland Beaudry, Esq., M.P.,
House of Commons,
OTTAWA.

Dear Mr. Beaudry:

Re: E-613593 - Joseph Bond

I have received your letter of 18th September regarding the wife of the above mentioned soldier, and your desire that he be released from detention in view of the physical condition of his wife.

This is a matter where it is advisable that a decision be made by the responsible officers of the Department, and I prefer not to intervene.

Your letter has, however, been referred to the appropriate officers for their consideration, and I will let you know as soon as possible what action is taken.

Yours very truly,

RECEIVED
SEP 28 1945
ADMIN.
367

DGA
BC/hh

DEPARTMENT OF NATIONAL DEFENCE

OFFICE OF THE MINISTER

FOR NAVAL SERVICES

Memorandum · Major Clippingdale

For attention please

E.S.

1919/45

1M pads of 100—11-41 (2402)
H.Q. 1772-45-5

HOUSE OF COMMONS CANADA

Ottawa, Sep 18th, 1945.

Personal

Honourable Douglas Abbott,
Minister of National Defence,
for Naval Services,
Ottawa.

re Mrs Joseph Bond
1 587 St Hubert St, Montreal

Dear Doug:-

May I bring to your attention a very sad case in which justice might be tempered with a great deal of leniency.

A Mrs Joseph Bond, 1587 St Hubert, Montreal, came to see me yesterday. Her husband (E-615593) was condemned to 90 days' confinement for desertion and has now served a little over three weeks. Mrs Bond is pregnant, expects to be confined about the 10th of October, and is living alone in a room in Montreal where she has no relatives and no friends, since she apparently moved to our city to follow her soldier husband. She is obviously of very poor means and seems to be in a most pitiful state.

Is it possible that her husband be liberated - even if temporarily - from the 1st of October until some days after the confinement.

Under the circumstances you will appreciate that an immediate decision, favorable or adverse, be given on this case, since I must get in touch with this woman and give her what help I can.

Yours very truly,

"Roland Beaudry, MP,
Montreal, St James.

HQC 55-B-1984 (JAG/D-7)
Your File - M. 1-B-18339 (J)

27 Sept. 45

District Officer Commanding,
Military District No. 4,
Montreal, Que.

STANDING COURT-MARTIAL

E-615593 Pte. BOND, Joseph
Longue Pointe Ordnance Depot,
R.C.O.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LJR/ET

(R. J. Orde) Brigadier,
Judge Advocate-General.

8M-7-45(M-188)

✓ This Copy For ✓

H.Q. C. 55-B-1984
M.D. M. 1-B-18339 (1)

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

NRMA

No. E-615593 Name BOND, Joseph

Rank Pte Unit Longue Pointe OD, R.C.O.C. CA

Charge (1) AA 15 (1) AWL

(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 10-2-45 (2) 22-8-45

Date of Arrest 20-8-45 Charge Signed 23-8-45

Orders for D.C.M

Place and Date of Trial LPOD R.C.O.C. CA 27-8-45

Sentence Det. 90 days Stoppages $1.83

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39826

Date 24-9-45

MEMO

MD 4	LPOD R.C.O.C. CA
Absent	Sentence
6mos 10 days	Det. 90 days

E. J. Ryan Lt

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-18339 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, Que.,
17 Sep 45

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

C. 55-B-1984

STANDING COURT-MARTIAL
E-615593 Pte. BOND, Joseph
Longue Pointe Ordnance Depot,
R.C.O.C., C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report, dated 27 Aug 45.

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. DUBEAU) Major
Headquarters, Military District No. 4,
President, Standing Court-Martial

encl.

NAT. DEF. R. 440
(3000M-4-44 (4321)
H-G. 1772-39-767

3782

H.Q.C. 55-B-1985 CONFIDENTIAL

N.F.B. 3978
ISM—4-43 (9028)
H.Q. 205-1-88

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOUCHARD, ROGER E.603667 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1985

CENTRAL REGISTRY	DATE	R.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
SEP 26 1945				JAG	NEW FILE	CR	21-9-45
OCT 3 - 1945					With Papers C.R. OCT 2		
NOV 20 1945	20-11-45				With Papers C.R. NOV 19 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. Q. 39-B-8665 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 16 Nov 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

9942
NOV 19 1945
File 655-B-1985
Clegd. to
Referred to

REMISSION OF SENTENCE - SCM.
E-603667 Pte Roger BOUCHARD
GL CA Att A13 CITC CA

1. Ref HQC. 55-B-1985 (JAG).

2. A remission of sentence in this case was granted w.e.f. 20 Oct 45.

3. The form for Remission of Sentence, duly completed, is att hereto.

4. There is no MFM 288 in this case.

JAC/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding
Military District No.5.

NAT. DEF. B. 140
(30036-4-44 (4321)
H.Q. 1732-28-147

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-B-1985(JAG)
District File No. 9.39-B-8665(JA)

PART I

No. E-603667 Rank Private Name BOUCHARD, Roger

Unit General List CA. Att. A-13 CITC CA

PART II

Date of trial 13 Sept. 45.

Charges AA. Sec. 12(1)(a)

Sentence 50 days detention

Date of Sentence 13 Sept. 45.

Confirmation - (a) Authority Standing Court-Martial MD No. 5.

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E-603667 Pte. Roger BOUCHARD, GL CA. Attached A-13 CITC CA. effective 20th. October 1945

Signed at QUEBEC, P.Q., this 16th. day of October 1945.

Edmond Blais

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at A-13, C.I.T.C., C.A. Valcartier Camp, P.Q. this 20th day of October, 1945.

J. C. Allard Lt.Gen.List,C.A.
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated. A-13, CITC, C.A.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-603667. Rank Private Name BOUCHARD, Roger.

The sentence of fifty (50) days' detention

awarded by Court-Martial on the 13 September, 1945.

has been remitted (unexpired portion) effective

on the 20th day of October, 1945. by Brigadier Edmond BLAIS, D.O.C.

M.D. No. 5.

Unit A-13, C.I.T.C., C.A.,

Certified true Extract of Daily Orders Part II of

No. 273 Place Valcartier Camp, P.Q. Date 13 Nov., 1945.

Capt.
Adjutant. A-13, C.I.T.C., C.A.

HQC 55-B-1985, (JAG/D-5)

3rd October 1945

District Officer Commanding,
Military District No. 5,
Quebec, P.Q.

Standing
E-603667, Cpl. J. Bouchard.

Q. 39-B-8665(JA)

Receipt is hereby acknowledged of your dated 5 September 194 , under cover of which you returned to this office for Standing the proceedings of the marginally noted Court-Martial.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:KJ

IN REPLY PLEASE QUOTE No. Q. 39-B-8665 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 29 Sep 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY (JAG)
483
OCT 2 1945
File C55-B-1985
Chgd. to
Referred to 245

STANDING COURT-MARTIAL
E. 603667 Pte Roger BOUCHARD
GL CA Att A-13 CITC CA.

1. Ref HQC. 55-B-1985 (JAG/D-7) dated 26 Sep 45.

2. The proceedings of the mn SCM have been duly noted and are returned herewith for custody.

PT/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
250694-4-44 (4321)
H.Q. 1772-29-767

-A-

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à C. I. B. T. C. No. 54, Valcartier, P.Q.

le treiziema jour de septembre 19 45 à 1330 heures,

pour le procès de E - 603667, Soldat Roger BOUCHARD, Liste Générale, A.C.,
Matricule Grade Nom et prénoms

Attaché a A-13 C.I.T.C., A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY
President Permanent, C.M.P., Q.G., R.M.No. 5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent, Q.G., R.M.No.5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant J. P. CALVE,
Grade Nom et prénoms

A-13, C.I.T.C., A.C.
Unité Détachement, le cas échéant

LA COUR DECLARE LE PREVENU INNOCENT DE L'ACCUSATION DE DESERTION MAIS COUPABLE D'ABSENCE SANS PERMISSION SOUS LE CHEF D'ACCUSATION SAUF QUE LE DEBUT DE L'ABSENCE DATE DU 18 JUILLET 1945 AU LIEU DU 16 JUILLET 1945.

SENTENCE: "LA COUR CONDAMNE LE PREVENU A SUBIR UNE PEINE DE CINQUANTE (50) JOURS DE DETENTION."

Signé à VALCARTIER P. QUE. ce 13ième jour de septembre 194 5.

(PIERRE DECARY) - Major,
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39823 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of [illegible] 1945

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à Mlle Lorraine Chandonnet comme sténographe ?

Réponse: Non monsieur.-

Le sténographe est dûment assermentée

"IL Y A MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE" Voir document marqué "F" ci-joint.-

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non monsieur.-

L'accusé est mis en accusation sur le chef mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui monsieur.

Question à l'accusé. Etes-vous coupable ou non du chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

~~*Question à l'accusé.* Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le chef ~~d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.~~

Pierre Decary

"B-2"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

CHARGE SHEET

in the case of

The accused, No. E-603667, Private Roger BOUCHARD, General List, C.A., attached to A-13 C.I.T.C., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

CHARGE: Sec.12(1)(a) Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Valcartier Camp, P.Q., at 0100 hours, on the 16th of July 1945, absented himself without leave from A-13 C.I.T.C., C.A., until he surrendered himself to Military Authorities, at Valcartier Camp, P.Q., on the 6th day of September 1945, at 1545 hours, wearing military uniform.

Valcartier Camp, P.Q., this
10th day of September, 1945.

D. Menard

(D. MENARD) Colonel,
O.C. A-13 C.I.T.C., C.A.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse:

Non monsieur.-

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins~~

~~Aucun témoin n'est présent sur message par le procureur.~~

LE PROCUREUR REMET AU PRESIDENT
LES DOCUMENTS SUIVANTS SE RAPPORTANT
A L'ACCUSE: -

1 - Extrait Certifié des Ordres du Jour Partie 11 - portant le No. 171 - en date du 18 Juillet 1945, de Valcartier, P.Q.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2 - M.F.M. 216 - signé à Valcartier, P.Q., le 6 septembre 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

LE PROCUREUR N'A PAS DE TEMOINS A APPELER

LA POURSUITE EST CLOSE

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Je désire rendre témoignage sous serment monsieur.
(Voir pages D-3 et suivantes).-

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non.

~~Question à l'accusé.~~ Entendez-vous citer des témoins à l'appui de votre réputation?

Réponse:

TEMOIN DE LA DEFENSE — L'ACCUSE MATRICULE E-603667 Soldat R. BOUCHARD, Liste Générale, A.C., Att. A-13, C.I.T.C., A.C.,

étant dûment assermenté est interrogé par l'officier défenseur:-

Q. Bouchard, quel âge avez-vous?

R. 22 ans monsieur.

Q. Marié?

R. Célibataire monsieur.

Q. Depuisquand êtes-vous dans l'armée?

R. le 12 février 1945 monsieur.

Q. Pourquoi n'êtes-vous pas revenu de congé?

R. Parce que j'étais malade monsieur.

Q. Quand avez-vous été malade?

R. Le dimanche après-midi monsieur.

Q. Quand votre passe se terminait-elle?

R. Lundi matin monsieur.

Q. Lorsque vous vous êtes senti malade, qu'est ce que vous avez fait?

R. Chez nous ont appelé au camp de Lauzon pour avoir un médecin.

Q. Qui a appelé?

R. Ma mère a appelé monsieur.

Q. Et quelle réponse a-telle eue?

R. Aucune réponse monsieur.

Q. Quand vous avez vu ça, qu'est ce que vous avez fait?

R. J'ai été voir un docteur civil.

Q. Son nom?

R. Docteur Charles Laflamme.

Q. Est-ce que vous connaissez ce médecin là, avant?

R. Oui.

Q. A-t-il toujours habité Québec? Qu'est ce qu'il faisait avant?

R. Il étaitdocteur de l'armée monsieur.

Q. Savez-vous combien de temps il a pratiqué dans l'armée?

R. Je ne sais pas.

Q. Depuis combien de temps le connaissez vous comme médecin civil?

R. Assez longtemps monsieur.

Q. Vous n'avez pas d'idées approximatives?

R. Ca doit faire un an, deux ans au plus.

Q. Qu'est ce qu'il a conseillé ce médecin là?

R. Ilm'a enseigé des remèdes pour mon estomac.

Q. Et après?

R. Il m'a dit de prendre un repos complet pour mes jmabes.

Q. De quelle maladie souffrez-vous?

R. Des ulcères d'estomac.

Q. Etait-ce la première fois que vous vous apercevies de ça?

R. J'avais déjà été à l'Hôpital militaire pour ça.

Q. Est-ce tout ce que vous avez?

R. J'ai mal aux jambes, j'ai des ulcères surles jambes.

Q. Avez-vous déjà rapporté ça aux autorités militaires?

R. Oui ils m'ont déjà soigné pour ça.

Q. Souffrez-vous encore?

R. Oui.

Q. Mainteantn, lorsque vous êtes revenu ici, vous vous êtes rapporté à l'assistant-adjudant, est-ce que vous aviez un document quelconque entre vos main, aviez vous des papiers?

R. J'avais uncertificat du docteur Laflamme monsieur.

Q. Est-ce que vous reconnaissez ce document ci, l'avez-vous déjà vu?

R. C'est le certificat que le docteur Laflamme m'a re--mis.

Q. Voulez-vous produire ce certificat à la Cour comme exhibit?

R. Oui monsieur.

(Ce document est lu par la Cour, marqué "I", signé par le Président et versé au dossier.)

Q. Quelles étaient vos idées soldat Bouchard lorsque vous étiez malade?

R. C'était de venir me rapporter au camp.

Q. Est-ce que vous avez travaillé?

R. Non monsieur.

Q. Avez-vous gagné de l'argent?

R. Non monsieur. Je suis resté à la maison chez nous.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:-

Q. Quelle sorte de congé aviez-vous eu?

R. Un 48 heures monsieur.

Q. Ou demeurez-vous?

R. Je demeure à Lévis monsieur.

Q. Dans quel état étiez-vous quand vous êtes parti d'ici?

R. J'avais mal à l'estomac. J'avais été malade dans la semaine monsieur.

Q. C'est la journée ou vous deviez vous rapporter de votre "48 heures" que vous vous êtes senti malade?

R. J'avais des ulcères d'estomac monsieur.

Q. Quand votre mère a-t-elle appelé?

R. Elle n'a pas appelé chez nous, on a pas le téléphone nous autres.

Q. Et elle n'a epas eu de succes?

R. Non.

Q. Quand avez-vous vu le docteur Laflamme?

R. Ma mère a été le voir et elle a eu les remèdes.

Q. Vous, quand l'avez-vous vu?

R. Avant de venir ici.

Q. Au commencement de septembre?

R. Avant de rentrer ici.

Q. C'est la seule fois que vous l'aviez vu le docteur Laflamme.

R. Depuis que je suis parti du camp, oui.

Q. Chez-vous qu'est ce que vous faisiez?

R. Rien du tout.

Q. Quelle sorte dd remède aviez-vous?

R. D es pastilles.

Q. Etiez-vous couché chez-vous?

R. Pas toujours.

Q. Combien de te mps?

R. A peu près deux ou trois jours.

Q. Quand ça?

R. A partir du dimmnche après-midi. Le docteur m'a conseillé un repos pour mes jambes.

Q. Quand vous a-t-il conseillé ce repos?

R. Quandma mère est allé le voir.

Q. Vous avez été deux ou trois jours au lit?

R. Oui.

Q. Après ça?

R. Je suis resté chez nous, je ne mangeais ni pain ni viande.

Q. Est-ce que vous avez écrit ici au camp?

R. Non.

Q. Vous n'avez pas comminiqué avec personne?

R. Je croyais que le docteur s'en occuperait.

Q. Comment ça?

R. Il savait que j'étais dans l'armée.

Q. Est-ce que vous lui aviez fait dire de s'en occuper?

R. Non monsieur.

Q. Vous vous rendiez compte Bouchard que tant que

vous ne donniez pas de nouvelles que vous seriez considéré comme absent sans permission.

R. Je croyais que le docteur était pour s'en occuper.

Q. Est-ce que c'est vous qui aviez conseillé votre mère d'aappeler au camp de Lauzon?

R. Parce que c'était plus proche pour avoir un docteur.

Q. Avez-vous eu connaissance si votre mere a appelé?

R. Elle est sortie et elle est alléappeler.

Q. Vous n'avez pas eu connaissande du téléphone?

R. Non monsieur.

Q. Vous avez déjà été hospitalisé pour votre maladie?

R. Oui monsieur.

Q. Dans l'armee?

R. Oui monsieur.

"L'OFFICIER DEFENSEUR NE DESIRE PASINTERROGER DE NOUVEAU"

"INTERROGE PAR LA COUR "

Q. Comment cela fait-il de temps que vous êtes dans l'armée?

R. Depuis le 12 février 1945.

Q. A l'expiration de votre congé vous auriez pu revenir au camp?

R. J' étais malade dans l'après midi.

Q. Etiez-vous tropmalade pour revenir?

R. Oui monsieur,

Q. Le lendemain?

R. Non plus. J'ai été de deux à trois jours au lit.

Q. Le 18, est-ce que vous auriez été capable de revenir

R. C'est la journée que je me suislevée.

Q. Mercredi étiez-vous capable?

Q. Dans le courant de la semainej'aurais étécapable de revenir. Je me suislevé le mercredi mais je ne m angeais pas encore. J'aurais été capable de revenir dans le courant de la semaine.

DE L'AVIS DE LA COUR IL N'EST PASNECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

L'ACCUSE REPREND SON SIEGE

"LE PROCUREUR SOUMET LA CASE TELLE QUE PROUVEE
ET L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE."

D

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

" F "

MINUTE D'AJOURNEMENT ET DE REPRISE
D'AUDIENCE.

A 1330 heures le treizième jour de septembre 1945, la cour s'est ajournée.

- - - - - - -

A 1600 heures le treizième jour de septembre 1945, la cour se rassemble.

LE PROCES SE POURSUIT:

"G"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

CERTIFICATE IN ACCORDANCE WITH
ORDER IN COUNCIL P.C. 2797, DATED APRIL 10TH 1942
AS PUBLISHED IN GENERAL ORDER 127, 1942

xxxxxxxxxxxxxxxxxxxx are hereby to service authorities.)

I, ... Colonel D. MENARD, O.C., A-13 C.I.T.C., C.A. .....
(rank) (name) (unit)

hereby certify that.. E-603667 Pte BOUCHARD, Roger .....
(number) (rank) (name in full)

of the.. 6th Inf. Coy., A-13 C.I.T.C., C.A. .....
(Unit and attachment (if any)

xxxxxxxxxxxxxxxxxx (surrendered to).. Capt. M. Thivierge ...
(number) (rank) (Name)

Gen. List, C.A., att'd to A-13 C.I.T.C., C.A. .....
(Unit or appointment.)

at.. Valcartier Camp, P.Q. .....at... 1545 hrs .....
(Place) (Hour)

on the..... 6th .....day of... September .....1945.

as a deserter xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and that at the time of his arrest he was wearing military xxxxxxxxxxx uniform xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

DATED at .... Valcartier Camp P.Q. this.. 6th ....day of Sept. 1945.

D. Menard
..... Colonel,
Officer Commanding.
A-13 C.I.T.C., C.A.

(Strike out words
not applicable.)
M.F.M. 216

"B"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

DAILY ORDERS PART II
by
COLONEL DOLLARD MENARD, D.S.O.,
commanding

A-13 CANADIAN INFANTRY TRAINING CENTRE

Order No. 171
18 Jul. 45.
Valcartier, P.

(Last Orders issued No. 170 d/17 Jul. 45).

20. ABSENCE WITHOUT LEAVE.

1) A.W.L. as shown.

E-603667 Pte. BOUCHARD, R.
0100hrs 16 Jul. 45.

(SIGNED) (R. LAPOINTE) Capt.,
for (R. PLANTE) CAPT. & ADJUDANT,
A-13 CANADIAN INFANTRY TRAINING CENTRE
VALCARTIER, P.Q.

Certified true extract of Daily Orders
Part II, No. 171 d/18 July 45.

J.L. Rameau Lieut. & Off. i/c of Records,
General List C.A., att'd to A-13 CITC, C.A.

DR CHARLES LAFLAMME
171, Grande-Allée QUEBEC Tél.: 2-8069

6-2-B-2913

A: Officier Commandant, A-13, Valcartier,	RE: E-603667, Pte Bouchard, R
DATE: le 5 septembre 1945	AGE: Rue St-Joseph, Lauzon, P.Q.
	ADD:

1.- Pour faire suite à mon téléphone de ce matin, je désire vous informer que le soldat ci-dessus mentionné s'est absenté sans permission depuis le 16 juillet dernier à la suite d'un congé dont il n'est pas rentré. A cette date, le soldat Bouchard fit des troubles d'estomac à la suite d'une intoxication alimentaire. Il essaya de se mettre en communication avec des medecins de l'armée, mais sans resultat. Sa mère refusa de le laisser partir. Il se remit de ces troubles. Mais au moment de revenir au camp, il fut prit de douleurs aux jambes et avait peine à marcher. Il vint me consulter à cette date et je lui conseillai de se mettre immediatement en communication avec le departement medical de l'armée.

2.- Comme il avait deja eu ces douleurs et qu'il avait inutilement attiré l'attention des autorités medicales dans le passé, la famille s'objecta à son retour malgré le désir du jeune homme de mettre un terme à son absence sans permission. Aujourd'hui je vous le retourne alors qu'il vient de nouveau me demander conseil. Je lui ai promis qu'on prendrait note des circonstances et qu'à tout le moins on ne le considererait pas comme un deserteur. Je l'ai prevenu qu'il ne pourrait pas echapper à la punition. Mais je me permets de vous recommander d'être aussi indulgent dans son cas qu'il sera possible de l'être.

3.- De nouveau je me permets de vous demander de le faire examiner par vos medecins relativement à des cicatrices aux jambes consecutives à une lesion qui fut classée conne tuberculeuse il y a quelques années.

Charles Laflamme M.D.

(PIERRE DECARY) M.D.

"Y"

PRESIDE DECAMPBELL JR

A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment (or unit)

E-603667, Private Roger BOUCHARD, General List C.A., att. to A-13 CITC CA

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL	1	times	A.W.L.	1 times
For		times		times
For		times		times
For		times		times

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 6 days in military custody, making a total of 6 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper 22 years & 11 mos.

6. The date of his attestation specified in his attestation paper 12 February 1945.

9. The accused is in possession of or entitled to no military decoration, or military reward

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— ..... Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Unit Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of September, 1945. J. L. Ramsay Lt.
Officer i/c Records
A-13 C.I.T.C., C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

Date of birth: 22 Sept. 1922

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	G.C. Badges	Tradesmen's Rates of Pay	(A.F.B. 122) 5003M—11-41 C&MS H.Q. 1772-36-1202
E-603667	BOUCHARD, R.		C.I.C.	12Feb45			

No. and date of last drunk	Period not reckoning towards freedom from extra fine	Sheet No.	Signature O.C. Company, etc.	Character
		one		

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier	19May45	Pte.		Sheet destroyed 13 Aug. 45. A.A.Sec.15(1)A.W.L.from 1330hrs 19May45 to 0730hrs 21 May 45.	Sgt. Paquet L/Cpl Delorme	7 days C.B.	21May45	Lieut. M. Dion.	2 days pay FR&I 149(1a
				CERTIFIED TRUE COPY. J.L.Ramsay Lieut & Off i/c Records, General List C.A., att'd to A-13 CITC CA					

(P.T.O.)

PIERRE DECARY MAJOR
PRESIDENT, S.C.M.

MEDICAL OFFICER'S REPORT

I certify that No. E603667 Lourhand K.

of ..... is in a Good state of health,

and fit to undergo Trial by Court martial.

Medical Officer

(R.C.A.M.C.) AF

M.O. A.L.T.C. A-13 VALCARTIER

Station A/13 Valcartier - Que

Date 13 September 45

M. F. B. 246

50M—5-43 (254)
H.Q. 1773-39-440

PRECIS OF EVIDENCE

in the case of

No. E-603667, Private Roger BOUCHARD, General List, C.A., attached to A-13 C.I.T.C., C.A.

CHARGE: - WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

To prove the charge, the following evidence is available:

Documentary: - M.F.B. 375
M.F.M. 216
Extract from Part II Order of A-13 C.I.T.C., No. 171 dated 18 July 1945, respecting the absence of the accused.

H.Q.C.55-B-1985 (JAG/D-7)
Your Q. 39-B-8665

26 Sep 45

The Di trict Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 503667 Pte. Roger Bouchard,
Gen.List,,C.A.,att.A-13 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

Judge Advocate General.
(R.J.Orde) Brigadier

LJR/MM

THIS COPY FOR: H.Q. 55-B-1985
M.D.Q. 32-B-8665

MEMORANDUM - STANDING COURT-MARTIAL

NRMA

No. E-603667 Name BOUCHARD, Roger

Rank Pte Unit Gen List CA Att to A-13 CITC CA

Charge AA 12 (1)(a) WOAS Deserting

Date of Crime 16-7-45

Date of Arrest 6-9-45 Charge Signed 10-9-45

Orders for D.C.M.

Place and Date of Trial C.I.B.T.C. No. 54 Valcartier 13-9-45

Sentence Det. 50 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39823

Date 24-9-45

MEMO Guilty AWL, from 18-7-45

MD 5 Att. to A-13 CITC CA

Absent Approx 7 weeks

Sentence Det. 50 days

Balance of sentence remitted by Conf. Auth.

10M-8-45(M-189)

R. J. Ryan Lt.
for Judge Advocate-General

IN REPLY [redacted] QUOTE No. Q:39-B-8665

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Quebec, P.Q., Sept. 17th. 1945.

THE JUDGE ADVOCATE GENERAL,
Dept. of National Defence,
Ottawa, Ont.

C.55-B-1985

STANDING COURT MARTIAL
E/603667, Pte. Roger BOUCHARD,
General List, C.A.,
(Att.to A-13, CITC.C.A.)

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

(PIERRE DECARY) - Major
Permanent President S.C.M.

39523

H.Q.C. 55-B-1986

CONFIDENTIAL

M.F.B. 5070
35M—4-43 (9520)
H.Q. 301-1-48

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BRAZEAU, LAURENT D.625201 FUS.

CONFIDENTIAL
H.Q.C. 55-B-1986

CENTRAL REGISTRY	DATE	P.A. OR S.P.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					All purpose for which referred cannot be expressed on one line, add minute to file and [illegible] with Minute		
SEP 27 1945				JAG	NEW FILE	CR	21-9-45
OCT 9 - 1945					[illegible] C.J. OCT 6 - 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

1

H.Q.C. 55-B-1986 (JAG/D_5)

9th October, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

Standing Court-Martial
D-325201, Fus. Laurent Brazeau,
Les. Fusiliers de Sherbrooke, C.A.,
attached to No. 4 District Depot, CA

Receipt is acknowledged of your
dated 194 , under cover of which you
returned 5th October 1945 for custody the proceedings
of the marginally noted Court-Martial.

Standing

M. 1-8012986 (J)

(Judge Advocate General).

LCC:jb

ak

IN REPLY PLEASE QUOTE No. M. 1-B- 12766 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
October 5th, 1945.

REGISTERED

R-161

The Secretary
Department of National Defence
O T T A W A, Ontario

CENTRAL REGISTRY ROOM
CONFIDENTIAL
1579
OCT 6 1945
File CRS-B-1946
Chgd. to
Referred to JAG.

STANDING COURT MARTIAL
D-525201, Fus. Laurent BRAZEAU,
Les Fusiliers de Sherbrooke, C.A.,
attached to No. 4 District Depot, CA

Reference your H.Q.C. 55-B-1986 (JAG/D-7), dated 27th September, 1945, enclosing the proceedings of the marginally-noted Standing Court-Martial.

2. Same are returned, herewith, for custody, as requested in paragraph 2 of your above-mentioned letter.

J. E. Desmoreau Capt
for (E.J. Renaud), Major-General,
District Officer Commanding,
~~for~~ Military District No. 4.

enc.

MEDICAL OFFICER'S REPORT

I certify that No. D-625201 Pte. BRAZEAU. L.
Les Fusiliers de Sherbrooke, C. A.,
of att. No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

H. Hazell

H. Hazell Lieut., Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 11th September 1945

M. F. B. 246

50M—3-43 (204)
H.Q. 1773-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot, C.A., Montréal-Sud, P.Q.

le 11ième jour de septembre 1945 à 13.45 heures,

pour le procès de D-625201 (Matricule) Fusilier (Grade) Laurent BRAZEAU (Nom et prénoms)

Les Fusiliers de Sherbrooke, C.A., (Unité) attached to No.4 District Depot, C.A. (Détachement, le cas échéant)

PRÉSIDENT: Major L.J.E. Belleau, Quartiers Généraux, District Militaire No.4

PROCUREUR: Capitaine (Grade) H. Primeau (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité) (Détachement, le cas échéant)

OFFICIER DÉFENSEUR OU AVOCAT: Lieutenant (Grade) J.R. Panet-Raymond (Nom et prénoms)

C.I.C., C.A., (Unité) attached to No.4 District Depot, C.A. (Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-625201 Fusilier Laurent BRAZEAU Les Fusiliers de Sherbrooke, C.A., attached to No.4 District Depot, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-625201 Fusilier Laurent BRAZEAU, Les Fusiliers de Sherbrooke, C.A., attached to No.4 District Depot, C.A., à la détention pendant quatre-vingt-dix jours.

Signé à Montréal-Sud, P.Q. ce 11ième jour de septembre 1945

H E Belleau
Président de la cour martiale permanente
(L.J.E. Belleau) Major

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39827 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of Sept 1945

- B -

Question à l'accusé: Vous opposez-vous à être jugé par moi, en qualité de président de la cour?

Réponse: Non, monsieur.

Question à l'accusé: Vous opposez-vous à D-625377 Cpl. H. Turcot, No. 4 District Depot, C.A., attached to Headquarters, Military District No. 4 comme sténographe?

Réponse: Non, monsieur.

Le sténographe est dûment assermenté.

Question au procureur: L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé: Sont-ce là votre matricule, votre grade, votre nom et votre unité?

Réponse: Oui, monsieur, sauf que mon prénom est Laurent.

La cour amende la désignation de l'accusé en changeant l'épellation de son nom de baptême qui se lira "Laurent" au lieu de "Laurin".

Question à l'accusé: Êtes-vous coupable ou non du chef d'accusation porté contre vous et dont vous venez d'entendre lecture?

Réponse: Coupable, monsieur.

L'accusé s'étant avoué coupable sur le chef d'accusation, les prescriptions de la règle de procédure 35 (B) sont observées.

J.E. Bellman Major
Pres. C.M.

"B2"

CHARGE SHEET

The Accused, D-625201, Fusilier Laurin BRAZEAU, Les Fusiliers de Sherbrooke, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1),
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Joliette, Quebec, at 2359 hours on the 26th of December, 1944, absented himself without leave from his unit, Les Fusiliers de Sherbrooke, C.A., until he surrendered to the Military Police at Montreal South, Quebec, at 1005 hours on the 7th of August, 1945.

Signed at
Montreal South, Quebec,
14th August, 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

J'avais quelque chose à dire en ce qui concerne ma famille. Je suis le plus vieux chez nous. Dans le moment l'autre est marié. Mon père est malade, il ne peut pas travailler. C'est moi qu'il fallait qui survienne aux besoins de la famille. Ce que je donnais dans l'armée ça suffisait pas. J'ai pris une chance d'aller travailler pour essayer de monter le revenu de la famille. Avant de m'absenter j'ai été trois ans et demi dans l'armée. Avant d'être dans l'armée je travaillais dans un plan de munitions. Avant la guerre je travaillais dans un magasin de marchandises sèches comme commis. A l'appui de ma déclaration je produis un certificat médical concernant la santé de mon père.

"Un certificat médical signé par le Dr L.P. Beaudoin, en date du 1er septembre 1945, est lu, marqué CC-5, signé par le Président et versé au dossier".

CC-5

Hawkesbury. Ier septembre 1945

A qui de droit.-

Deci est pour certifier que M. Ernest Brazeau de Hawkesbury, que j'ai opéré pour perforation d'estomac, il y a deux ans souffre encore d'ulcères d'estomac, qui est actuellement sous mes soins, practiquement incapable de travailler.

L.P. Beaudoin

Dr.L.P.Beaudoin

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

Monsieur le Président,

Le soldat Brazeau s'est absenté sans permission parce que son père était malade et qu'il était le seul soutien de sa famille. Alors, pendant son absence il a travaillé dans le bois, il faisait une moyenne de $17.00 par semaine et quand il a vu que les affaires allaient mieux, c'est-à-dire que son jeune frère commença à travailler, il décida de se rapporter aux autorités militaires. Je demanderais la clémence pour le soldat Brazeau.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Serial issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT Les Fusiliers de Sherbrooke C.A.

PART II ORDERS

by

Lt-Col. Paul Trudeau E.D.

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 20

STATION Joliette, Que.

DATE 28 Dec 44.

"Last Order Issued No. 19 dated 27 Dec 44.

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
		SECTION "B" OTHER RANKS				
	ABSENT WITHOUT LEAVE					
9.(d)		D-625201	Fus. BRAZEAU, L.		AWL fr 2359 hrs 26 Dec 44. "A" Coy.	

RECEIVED AUG 24 1945

Certified True Extract

Signed

District Records Officer having custody of Regimental PART II ORDERS kept by District Headquarters M.D. 4.

Date 23 8 44

Compilded by:
Checked by:
Verified by:

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

(J.G.P.Brosseau) Capt & A/Adjt.,
Les Fusiliers de Sherbrooke, C.A.

Officer Commanding or Adjutant

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-39-254

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG, Commanding No. 4 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-625201 Fus. BRAZEAU, Laurin
(Number) (Rank) (Name in full)

of the Fus. de Sherbrooke, C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~APPREHENDED~~ (surrendered to) D-136460 Sgt.
(Number) (Rank)

PATENAUDE, L. No. 4 District Depot, C.A.
(Name) (Unit or appointment)

at Montreal South, Que., at 1005
(Place) (Hour)

on the 7th day of August 1945

Strike out words not applicable } ~~AS A DEFAULTER~~ (or absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military ~~CIVILIAN~~ uniform (~~CIVILIAN CLOTHES~~).

Dated at Montreal South this 7th day of August 1945

(S. ECHENBERG) Colonel
Commanding No. 4 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

H. E. Belleau - major.
Pres. GCM.

M.F.R. 355
75M—6-43 (345)
H.Q. 1772-99-620
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

"Y"

Number	Rank	Name	Regiment (or unit)
D 625201	Fus.	Laurent BRAZEAU	Les Fusiliers de Sherbrooke, C.A., attached to No 4 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service or General Regimental and Squadron Battery Conduct Sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
~~Bor~~	times	AWL	1 times
~~For~~	times	Disobeying a lawful comm	2 times
~~For~~	times	Leaving his guard	1 times
~~Ab~~	times	Conduct to the prej	1 times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act ~~A.F.A. 73~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 35 days in military ~~Air Force~~ custody, making a total of 35 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service in attestation paper~~ enrolment is 24 yrs 10 mos (3 Nov 1920)

6. The date of his ~~commission~~ enrolment specified in his ~~record of service in attestation paper~~ enrolment 20 May 41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(specify possession of or entitled to). State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

P. Paradis Lieut.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(P. PARADIS) Lieut,
Regt de Maisonneuve, C.A.,
Att'd to No 4 District Depot, C.A.
Ass't Officer i/c Records,
No 4 District Depot, C.A.

Signed this 11 Sept 45 ~~day of~~

The above statement (with the schedule of convictions and dispensations with trial) has been read, marked.....signed by the president, and annexed to the proceedings.

-21-

Date of Birth 3 Nov 1920

Date of enlistment or enrolment 20 May 41

Sheet No. ..... of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Reg. No. D625201 Name BRAZEAU, Laurent Corps CIC

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				ORIGINAL DESTROYED BY FIRE					
Valleyfield	30 Jun 41	Pte.		AWL 30 Jun 41 to 2 Jul 41	Documentary	14 days C.B. 2 days pay.	2 Jul 41	OC	
Sherbrooke	8 Dec 42	ACpl		Disobeying a lawful command given by his superior officer.	Documentary	Reduced to rank of Pte.	8 Dec 42	OC	
Sherbrooke	20 Feb 43	Pte.		Leaving his guard without orders from his superior officer.	Documentary	96 hrs det & forf 4 days pay	20 Feb 43	OC	

(P.T.O.)

M.F.M. 6—500M—8-44 (5586)
H.Q. 1779-39-1853

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
CAPO #1 CAO	26 May 43	Pte.		Conduct to the prej. of good order and mil disc.	Documentary	Summ forf 1 days pay.	26 May 43	OC	
"	9 Jun 43	Pte.		Disobeying a lawful command given by his superior officer.	"	Summ forf 7 days pay.	9 Jun 43	OC	

CERTIFIED TRUE COPY

(P. PARADIS) Lieut,
Regt de Maisonneuve, C.A.,
Att'd to No 4 District Depot, C.A.
Ass't Officer i/c Records,
No 4 District Depot, C.A.

HQC 55-B-1986 (JAG/D-7)
Your File - M. 1-B-12766

27 Sept. 45

District Officer Commanding,
Military District No. 4,
Montreal, Que.

STANDING COURT-MARTIAL

D-625201 Fus. Laurent BRAZEAU
Les Fusiliers de Sherbrooke, C.A.,
attached to No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/ET

8M-7-45(M-188)

THIS COPY FOR: H.Q. C. 55-B-1986
M.D. M. 1-R-12766

STANDING

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA

No. D-625201 Name BRAZEAU, Laurin (LAURENT)

Rank Fus Unit ~~Kxxxxx~~ Les Fus de Sher CA Att No. 4 DD CA

Charge AA 15 (1) AWL

Date of Crime 26-12-44

Date of Arrest 7-8-45 Charge Signed 14-8-45

Orders for D.C.M.

Place and Date of Trial No. 4 DD CA 11-9-45

Sentence Det. 90 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39827

Date 24-9-45

MEMO

MD 4 No. 4 DD CA

Absent Sentence

8 mos approx Det 90 days

10M-8-45(M-189)

for Judge Advocate-General

CANADA

IN REPLY PLEASE QUOTE No. M. 1-B-12766

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 17th September 1945.

CONFIDENTIAL.

C.55-B-1986

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL
D-625201 Fusilier Laurent BRAZEAU,
Les Fusiliers de Sherbrooke, C.A.,
attached to No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/11 Sept. 45.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. Belleau) Major
Headquarters, Military District No.4
President of Standing Court-Martial

NAT. DEF. B. 440
(300M-4-44 (4321)
M.G. 1772-39-767

39327

H.Q.C. 55-B-1987

CONFIDENTIAL

M.F.D. 24798
JAM—2-45 (60M)
H.Q. 301-1-16

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BELANGER, DENIS D.147418 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1987

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and note here "With Minute")		
SEP 26 1945	25/9			JAG	NEW FILE	CR	22-9-45
OCT 9 - 1945				JAG	With Papers C.R. OCT 6 - 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-1987 (JAG/D_5)

9th October, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

~~Standing~~ Court-Martial
D-147418 Pte. Denis Belanger
Inf (R) CA, attached to CITC A-12, CA

Receipt is acknowledged of your M.1.Bnl7872 (J)
dated 194 , under cover of which you
returned to 5th October for custody the proceedings
of the marginally noted Court-Martial.
Standing

EAM

for (R.J. Orde) Brigadier,
Judge Advocate General.

LGC:jb

AR

H.Q.C. 55-B-1987 (JAG/D_5)

9th October, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

Standing Court-Martial
D-147418 Pte. Denis Balanger
Inf (R) CA, attached to CITC A-12, CA

Receipt is acknowledged of your M.L.R.-17972 (J)
dated 9th October 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

E.L.M.

for (R.J. Orde), Brigadier,
Judge Advocate General.

LCS:jb

COUNTER NUMBER 76184

HOUR 10.45

OPERATOR'S INITIALS GG

RELIEVING OPERATOR AW

IN REPLY PLEASE QUOTE No. M.1-B-17972(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
5th October, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

NATIONAL DEFENCE Army
1580
OCT 6 1945
File C55-B-1987
Charge to
Referred to JAG

STANDING COURT-MARTIAL
D-147418 Pte. Denis BELANGER,
Inf (R) CA, attached to CITC A-12, CA.

Reference your HQC.55-B-1987(JAG/D-7) dated 25 Sep 45.

2. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

3. It will be noted that the proceedings, which have been inadvertently omitted to be signed, were duly signed by the President and our file number, which originally was 1-D-17972, has been amended to read 1-B-17972.

Gustimonsau Capt.
(E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

NAT. DEF. 8. 445
250M 4-44 (3371)
H.Q. 1772-19-797

MEDICAL OFFICER'S REPORT

I certify that No. D-147418 ~~XXXXXXXXX~~ PTE. BELANGER D. INF. CA.

~~XXXX~~ ATTACHED TO ~~A 12 C.I.T.C.~~ is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

N Nadeau Capt
Medical Officer
(N. NADEAU) CAPT. MCAMC CHO
A 12 C.I.T.C.

Station FARNHAM QUE.

Date 19-9-45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à A-12 C.I.T.C., CA

le dix-neuvième jour de septembre 1945 à 1115 heures,

pour le procès de D-147418, Private Denis BELANGER
Matricule Grade Nom et prénoms

Infantry (R) C.A., attached to A-12 C.I.T.C., CA
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.-J.-E. BELLEAU, Quartiers-Généraux, District Militaire No. 4

PROCUREUR: Capitaine H. PRIMEAU
Grade Nom et prénoms

Quartiers-Généraux, District Militaire No. 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant Louis CHAMPAGNE
Grade Nom et prénoms

C.I.C., CA att'd to A-12 C.I.T.C., CA
Unité Détachement, le cas échéant

VERDICT

La cour déclare l'accusé, D-147418, Private Denis BELANGER, Infantry (R) C.A., attached to A-12 C.I.T.C., CA, coupable à l'égard du chef d'accusation.

SENTENCE:

La cour condamne l'accusé, D-147418, Private Denis BELANGER, Infantry (R) C.A., attached to A-12 C.I.T.C., CA, à la détention pendant cent vingt jours et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $0.55, en ce qui concerne le coût de transport et de retour à l'Unité.

Signé à Farnham, P.Q. ce dix-neuvième jour de septembre 1945.

(L.-J.-E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6448)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 29830 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of Sept 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. [redacted]

Réponse: [redacted]

Question à l'accusé. Vous opposez-vous à D-126762, S/M (WOI) Joseph La Rivière, No. 4 Det., C.M.S.C., CA, comme sténographe ?

Réponse: Non, monsieur.

Le sténographe [redacted] est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur [redacted] le chef mentionné dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du [redacted] chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

L.E. Belleau, Major
Res. ens

B2

CHARGE SHEET

The accused D-147418 Private Denis BELANGER, Infantry (R) C.A., attached to C.I.T.C. A-12, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:

CHARGE
Sec. 15(I)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE.

in that he

At C.I.T.C. A-12, C.A., Farnham, Que., absented himself without leave from C.I.T.C. A-12, C.A., from 0100 hours on 15th January 1945, until apprehended by the Military Authorities at St-Denis sur Richelieu, Que., at 0130 hours on 10th September 1945, wearing military uniform. Cost of transportation and return to Unit $0.65.

Dated at
Farnham, Que.
17th September 1945

(M.Archambault) Lieut.-Colonel
A/Commanding Officer
C.I.T.C. A-12, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

(voir la page CC-3 ci-jointe)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

Monsieur le président,

Mon père est cultivateur et il est trop vieux pour cultiver sa terre tout seul. Il a soixante-et-cinq ans. J'ai voulu essayer de me placer sur la terre afin de pouvoir en avoir soin de lui sur ses vieux jours.

Ma mère est bien malade; elle a élevé seize enfants dont 8 sont morts et les autres sont mariés. Il n'y a pas de garçon chez nous. Mon père reste à St-Denis sur une terre.

Quand je suis parti, j'avais été dans l'armée depuis quatre ou cinq mois; j'ai fait mon 'basic' et mon 'advanced'.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'officier défenseur s'adresse à la cour:

Ce type-là a été influencé par ses parents. Comme il est arrivé dans bien des cas, ses parents, son père et sa mère, lui ont dit que c'était mieux pour lui de travailler et d'aider ses parents sur la terre que de rester dans l'armée. Lui, il a cru bon que c'était mieux d'aider ses parents. Il ignorait qu'en demandant un congé de l'armée, il aurait pu avoir un congé pour aller travailler sur la ferme. C'est de l'ignorance de sa part et c'est pour ça que je crois qu'il n'est pas responsable de ça.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT A-12 C.I.T.C.
Farnham, Que,

PART II ORDERS

By
Col. A.T.Howard, V.D.,
Commandant, A-12 C.I.T.C.

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 12

STATION A-12 C.I.T.C.

DATE 15 Jan 1945

"Last Order Issued No. 11 dated 13 Jan 45.

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
		HOLDING ESTABLISHMENT				
Para. 11(a) Sheet No. 9.						
	ABSENT WITHOUT LEAVE.					
		D-147418	Pte BELANGER, D.	"B"	AWL from 0100 hrs.- (1st pub)	15 Jan 1945
		Signed by (M.A.HOEY) Lieut. for (R.K.PUTTEE) Capt. Adjt. for Col. A.T.HOWARD, V.D., Commandant A-12 CANADIAN INFANTRY TRAINING CENTRE.				
	CERTIFIED TRUE EXTRACT. J. E. Major Lieut. (J.E.Major) Lieut. Asst. Adjt. I/C Records. A-12 C.I.T.C. Farnham, Que.					

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-39-254

Officer Commanding or Adjutant

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W.POULIOTTE, O.C.Composite Provost Companies, M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-147418 Private BELANGER, Denis
(Number) (Rank) (Name in full)

of the Inf.(R) C.A. A-12 C.I.T.C. Farnham,Que.,
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by [redacted] D-136586 Sergeant
(Number) (Rank)

GODMER, J.D. Composite Provost Companies, M.D.4
(Name) (Unit or appointment)

at St-Denis sur Richelieu, Que., at 0230
(Place) (Hour)

on the 10th. day of September 1945

Strike out words not applicable } as a [redacted] absentee without leave), and that at the time of his arrest he was wearing military ([redacted] uniform [redacted]

Dated at Montreal,Que., this 10th. day of September 1945

MB.

(R.W.POULIOTTE) Major R.W. Pouliotte
(Signature, Number, Rank, Unit or appointment)

O.C.Composite Provost Companies, M.D.4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Soldier of the ACTIVE ARMY

M.F.B. 1481
[illegible]-10-43 (2106)
[illegible] 1772-39-1651

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut C.A. Lafrance, C.S. & T.O. A-12 C.I.T.C. Farnham, Que.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from Farnham, Que (Place) to Montreal, Que. (Place)
and return to Farnham, Que. (Place) for the purpose of escorting

Full description of soldier being escorted — D-147418 Pte BELANGER, D.
(Number) (Rank) (Name in full)
Att'd A-12 C.I.T.C. Farnham, Que.
(Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
11 Sep 45	Prisoner: T.W. D 24200 Montreal, Que to Farnham, Que	
	39 miles at 1 2/3¢ per mile	0.65
	No tax.	
	No charge for escorts.	
	TOTAL	$0.65

Dated at Farnham, Que this 11th day of September A.D. 1945

(C.A. Lafrance) Lieut C.S. & T.O. A-12 C.I.T.C. Farnham, Que.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorizing transportation)~~
Strike out description not applicable

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

H.E. Bellman, Major
Pres. CM

M.F.B. 355
75M—5-43 (140)
H.Q. 1773-39-420
A.F.H. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-147418	Private	BELANGER, Denis	INF(R)CA att'd A-12 C.I.T.C.

1. The following is a fair and true summary of the entries in the J.E.M. ~~Field~~ Conduct sheet J.E.M. of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force or~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	2 times	AWL 2 times
For	times	times
For	times	times
For	times	times

J.E.M. ~~Habitually gallant and good soldier~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted J.E.M. ~~Military service~~ J.E.M. J.E.M. ~~Dates of convictions with the offences~~

3. The accused is not under sentence at the present time. J.E.M. ~~Date of expiration of sentence beginning~~ J.E.M.

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which NIL days were spent in hospital. J.E.M.

5. The present age of the accused according to his ~~attestation~~ attestation paper 22 years J.E.M.

6. The date of his ~~attestation~~ attestation specified in his ~~attestation~~ attestation paper 7 Oct. 23 J.E.M.

7. ~~The accused is under the charge~~

8. ~~The accused is entitled to reckon~~

9. The accused is in possession of or entitled to no ~~military~~ military decoration, or ~~military~~ military reward (or ~~possession of such medal to~~ ~~State the date of decoration or award~~ J.E.M.

10. ~~If the accused has been~~ J.E.M.

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

J.E.M.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of Sept. 45. J. E. Major Lieut. (J.E.Major)Lieut. Asst. Adjt. I/C Records Gen List att'd A-12 C.I.T.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

D-147418 No. Name BELANGER Denis

Sqn., Battery, or Company | Corps C.I.C.(R)CA | Date of enlistment 4Oct44 | G.C. Badges | Tradesmen's Rates of Pay | Character

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. one | Signature O.C. Company, etc.

R.C.A.F. 6 (A.F.B. 122) 500M—11-41 (2498) H.Q. 1772-39-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sherbrooke, Que	4 Dec 44	Pte		A.A.Sec. 15(1) AWL de 0700 hrs 4 Dec.44 a2150 hrs 4 Dec 44 Abs: 14 hrs. 50 mins.	Evidences Documentaires	14 dys. C.B. 1 days pay	5 Dec44	E.J.Nantel Lt.Col.	Auto Forf. 1 day pay Art.149FR&I
Farnham, Que.	3 Jan 45	Pte		A.A.Sec. 15(I) AWL from 0001 hr 3 Jan 45 till 1000 hrs 3 Jan 45. Abs: 1day, 9 hrs. 59 mins.	Documentary Evidence	Admonished	4 Jan45	Major R.J. Picard	Aut. Forf. 2 dys' Pay FR&I 149

CERTIFIED TRUE COPY

J.E. Major Lieut.

(J.E.Major) Lieut.
Asst. Adjt. I/C Records
A-12 C.I.T.C. Farnham, Que.

(P.T.O.)

H.Q.C.55-B-1987 (JAG/D-7)
Your M.1-D-17972

25 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D.147418 Pte. Denis Belanger,
Inf (R) C.A.,att. A-12 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. May the proceedings be signed by the President, please.

(R.J.Orde) Brigadier
Judge Advocate General.

LJR/MM

OK

THIS COPY FOR: H.Q.C. 55-B-1987
M.D.M.1-D-17972

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. GS D-147418 Name BELANGER, Denis

Rank Pte Unit (R) C.A. Att to CITC A-12 CA

Charge AA 15 (1) AWL

Date of Crime 15-1-45

Date of Arrest 10-9-45 Charge Signed 17-9-45

Orders for D.C.M.

Place and Date of Trial A-12 CITC CA 19-9-45

Sentence Det./20 days Stoppages $0.65

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39830

Date 24-9-45

MEMO

MD 4	A-12 CITC CA
Absent	Sentence
8 mos approx	Det./20 dyas

for Judge Advocate-General

10M-3-45(M-189)

IN REPLY PLEASE QUOTE No. M.1-D-17972

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, P.Q.
September 21, 1945

C.S.M.-B-1987

Judge-Advocate General
National Defence Headquarters
OTTAWA, Ont.

STANDING COURT-MARTIAL
D-147418, Private Denis BELANGER
Inf. (R) CA, att'd to A-12 C.I.T.C., CA

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court

b) Medical Officer's Report, dated September 19, 1945.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. BELLEAU) Major,
Headquarters, Military District No. 4
President, Standing Court-Martial

encl.

NAT. DEF. B. 440
(500M-4-44 (4321)
H.Q. 1772-39-767

39830

H.Q.C. 55-B-1988 CONFIDENTIAL

W.F.B. 2072
2334—2-45 (60067)
H.Q. 301-1-98

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOLDUC, ROLLAND E.15122 PTE.

CONFIDENTIAL
H.Q.C.55-B-1988

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
6 1945					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here, "With Minute")		
				JAG	NEW FILE	CR	22-9-45
OCT 9 - 1945	9-10-45	PRY		JAG	Chairman C.R OCT 6 - 1945		
DEC 7 - 1945	17 DEC 45	BF	ASE	CMBR	For Requisition C.R DEC 4 1945		
				CMBR	PER D.C. DEC 17 1945		
DEC 17 1945	4-2-46	BF	LDL	Adm	Look pls	ASE	17 DEC 45
					With Papers C.R FEB 1 1946		
FEB 2 - 1946				CMBR	—	B.J.	2-2-46.
FEB 4 - 1946	4-2-46	PD	Z	Adm	Look pls	ASE	4 Feb 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M.1-B-17539 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ A R M Y /

Montreal, Que.,
31 Jan 46

The Secretary,
Department of National Defence,
Ottawa, Ontario.

NATIONAL REGISTRY Army
SEC.
5100
FEB 1 1946

E-15122 Pte BOLDUC R

Reference HQC 55- B-1988 (JAG/D-7).

2. Attached hereto, form for remission with respect to the marginally named soldier, duly completed.

(E.J.RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURE

District File No. 4h-1-B-17539 (A/DIS)

PART I

No. E-15122 Rank Pte. Name BOLDUC, R.

Unit A.12 C.I.T.C.

PART II

Date of Trial 19th Sept.1945 (EQUIPMENT AND REG NECESSARIES
Charge(s) ABSENTING HIMSELF WITHOUT LEAVE LOSING BY NEGLECT HIS CLOTHING
Sentence 120.days.detention..Stoppage.$16.20
Date of sentence 19th.Sept.1945
Confirmation - (a) Authority: DOC MD 4
(b) Date : 20 Sep 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Sec. 57 (2) of the Army Act, do hereby remit (xxxxxxxxxxxxxxxxxxxxxxxx)

Signed at Montreal this 29 th day of Nov 45
(Appointment) (E.J. Renaud), Maj Gen, DOC MD 4.
to be signed by the Remitting Authority personally.

sentence wef
19 Nov 45

PART IV

PROMULGATION

Remission (xxxxxxxxxxxxxxxxxxxxxxxx) X promulgated and extracts taken at Farnham, Que. this 13 Nov day of 1945 194
(1)

Officer i/c Documents. (J.R.A. Cloutier) Lieut
A-12 C.I.T.C. FARNHAM, Que.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-15122 Rank Pte. Name BOLDUC, R.
The sentence of 120.days.detention
awarded by District Court-Martial on the 19th.Sept 194..5 has been Remitted
on the 19.Nov.1945 194 by R.K. Puttee Capt. Adjt
UNIT A-12.C.I.T.C.
Certified true Extract of Daily Orders Part II of
No. 275 Place Farnham, Que. Date 19th.Nov.1945

Adjutant R.K. Puttee Capt. Adjt
A-12 C.I.T.C. Farnham, Que.

X Strike out and initial words not applicable.

E-15122 Pte Boldue E

1) Dsc. has remitted wef 19 NOV 45
2) vide M-8-1-20 ADIS d/12 DEC 45

WSE
CMBG 4
17 DEC 45

H.Q.C. 55-R-1988 (JAG/D-5)

9th October, 1945.

District Officer Commanding,
Military District No. 4,
Montreal, Quebec.

Standing
E-15182 Pte. Rolland Dolbec,
Inf (R) C.A., attached to
CITC No. A-1 Court Martial

4th October 5

M.1-R-17539 (J)

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

LCC:jb

for (R.J. Orde), Brigadier,

Judge Advocate-General.

aR

R167

IN REPLY PLEASE QUOTE No. M.1-B-17539(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
4th October, 1945.

REGISTERED

CENTRAL REGISTRY Army
CONFIDENTIAL
1557
OCT 6 1945
File C55-B.1988
Cmpd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
E-15122 Pte. Rolland BOLDUC,
Inf(R) C.A., attached to
CITC No. A-12, C.A.

Reference your HQC.55-B-1988 (JAG/D-7) dated 25 Sep 45.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, please.

J.E.Renaud Capt.
(E.J.Renaud), Major-General,
District Officer Commanding,
for Military District No. 4.

Enc.

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1773-16-767

MEDICAL OFFICER'S REPORT

I certify that No. E-15X122 PTE. BOLING R. ULF. CA.

ATTACHED TO

XXXX A 12 C.I.T.C. is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

Medical Officer

(R. [illegible]) CAPT. [illegible]

A 12 C.I.T.C.

Station FARNHAM QUE.

Date 19-9-45

M. F. B. 246

50M—12-43 (3222)

H.Q. 1772-30-460

A.

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à A-12 C.I.T.C., CA

le dix-neuvième jour de septembre 1945 à 1100 heures,

pour le procès de E-15122 (Matricule) Private (Grade) Rolland BOLDUC (Nom et prénoms)

Infantry (R) C.A., attached to A-12 C.I.T.C., CA (Unité / Détachement, le cas échéant)

PRÉSIDENT: Major L.-J.-E. BELLEAU, Quartiers-Généraux, District Militaire No.4

PROCUREUR: Capitaine (Grade) H. PRIMEAU (Nom et prénoms)

Quartiers-Généraux, District Militaire No. 4 (Unité / Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) J.L.-B. BRISEBOIS (Nom et prénoms)

C.I.C., CA, att'd to A-12 C.I.T.C., CA (Unité / Détachement, le cas échéant)

VERDICT

La cour déclare l'accusé, E-15122, Private Rolland BOLDUC, Infantry (R) C.A., attached to A-12 C.I.T.C., CA, coupable à l'égard des deux chefs d'accusation.

SENTENCE:

La cour condamne l'accusé, E-15122, Private Rolland BOLDUC, Infantry (R) C.A., attached to A-12 C.I.T.C., CA, à la détention pendant cent vingt jours et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $0.65 en ce qui concerne le coût de transport et de retour à l'Unité, et jusqu'à ce qu'il ait remboursé la somme de $1.55, le coût des articles perdus.

Signé à Farnham, P.Q. ce dix-neuvième jour de septembre 1945.

(L.-J.-E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39831 in the Record of Courts Martial kept in the office of the Judge Advocate-General this 24 day of Sept 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à comme interprète?~~

Réponse: ~~N/A~~

Question à l'accusé. Vous opposez-vous à D-126762, S/M (WOI) Joseph La Rivière, No. 4 Det., C.M.S.C., CA, comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ ~~sont~~ est dûment assermenté~~s~~.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

~~N/A~~

(L'accusé s'étant avoué coupable sur les deux chefs d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

W. E. Ellis Major
Pres. CM

B2

CHARGE SHEET

The accused E-15122 Private Rolland BOLDUC, Infantry (R) C.A., attached to C.I.T.C. A-12, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:

1st Charge
Sec. 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE.

in that he

At C.I.T.C. A-12, C.A., Farnham, Que., absented himself without leave from C.I.T.C. A-12, C.A., from 0615 hours on 6th January 1945, until he surrendered himself to the Military Authorities at Montreal South, Que., at 1200 hours on 11th September 1945, wearing military uniform. Cost of transportation and return to Unit $ 0.65.

2nd Charge
Sec. (24-2)

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES.

in that he

At C.I.T.C. A-12, C.A., Farnham, Que., on 14th September 1945, was deficient of the following articles of his clothing, equipment and regimental necessaries viz:
Clothing, Equipment and Regimental necessaries at 75% of Vocabulary rates C.A.R.O. 2972.

		100%	75%
Clothing Division "A"			
Greatcoat, Drab	1	15.54	11.66
Clothing Division "B"			
Shoes leather black prs	1	4.84	3.63
Clothing Division "C"			
Fork, table	1	.08	.06
Knife, table	1	.18	.14
Spoons, table	1	.08	.06
TOTAL		20.72	15.55

Dated at
Farnham, Que.
17th September 1945.

(M. Archambault) Lieut.-Colonel
A/Commanding Officer
C.I.T.C. A-12, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au premier et au deuxième chef d'accusation, il est déclaré coupable ~~ladite~~ desdites accusations.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

(voir la page CC-3 ci-jointe et seq.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

Monsieur le président,

L'automne dernier, quand j'ai entré dans l'armée, je voulais avoir un congé agricol parce que je suis fils de cultivateur; quand j'ai entré à Longueuil, j'ai demandé un congé agricol et ils m'ont dit d'aller faire mon "basic training" en attendant. Alors, j'ai fait mon application pour mon congé agricol et de temps en temps, pendant que j'étais à Sherbrooke, j'allais chez nous en passe, et eux autres, ils voulaient que je rester chez nous. On est seulement deux garçons, à part de ça, je n'ai ni frère ni soeur. Au jour de l'an, mes parents voulaient que je reste chez nous vu que mon père était malade. Il a eu un accident et il a une jambe cassée. Je suis revenu au camp le 2 janvier et là j'ai su que mon congé avait été refusé. Alors, le 5 janvier, j'ai décidé de partir pour aller travailler pour mon père. J'ai travaillé tout l'été et ensuite j'ai décidé de venir me rapporter une fois que les récoltes étaient finies. Du mois de janvier au mois d'avril, j'ai travaillé sur la ferme de mon père. L'hiver, je lui ai aidé à faire "le train" et faire le bois de chauffage. On a aussi une sucrerie et il faut faire du bois pour ça aussi.

Je produis les documents suivants pour appuyer ma déclaration:

a) une lettre en date du 4 septembre 1945, signée par William Proulx, maire,

b) une lettre en date du 8 septembre 1945, signée par Emile Grégoire, cultivateur, de Kingsley Falls,

c) une lettre en date du 10 septembre 1945, signée par le docteur Léonard Béchard, de Warwick,

d) une lettre en date du 10 septembre 1945, signée par Adélard Bolduc, de Kingsey Falls,

e) une lettre en date du 10 septembre 1945, signée par J. Vincent Lanouette, agronome propagandiste, de Victoriaville.

Les documents précités sont lus, marqués pièces CC-5, CC-7, CC-9, CC-11 et CC-13 respectivement, signés par le président et versés au dossier.

CC-5

Je soussigné par la présente que Mons. Rolland Boldue est de grande utilité sur la ferme de son père. Sans l'aide de son fils Mr Boldue aurait obligé de négliger beaucoup de travaux utiles à sa ferme.

William Francis Maire
4 Sept. 1945

Assermenté devant moi à Warwick
le 10 Sept 7-1945
J. Henry Tolans

Kingsey Falls 8 Sept 1945

Je soussigné Emile Grégoire
instituteur et cultivateur de Kingsey Falls
Certifie que Rolland Baldus a travaillé et travaille
encore pour son père Mr Adolard Baldus
Cultivateur très pratique, qui ne peut se passer de
son fils

Sincèrement a vous Emile Grégoire

Assermenté devant moi
ce 8 Sept 1945
[illegible]

Dr. LÉONARD BÉCHARD
Médecin-Chirurgien
WARWICK, - P. Q.

10/9/45

A qui de droit.

Je, soussigné, certifie avoir examiné chez M. Adélard Boisclair, de Kingsey Falls, Co. Drummond, et déclare qu'il souffre présentement de lumbago, ce qui l'oblige à réduire de beaucoup ses activités. M. Adélard Boisclair est le père de Roland Boisclair G-15122. Je crois donc que la prime de ce dernier sur la prime de son père est inutile.

Bien à vous,

Léonard Béchard M.D.

Assermenté devant moi à Warwick ce 10 Sept. 1945

J. D. Henry Bolduc

Kingsey-Falls

Monsieur Commendant.

Je soussigné que j'ai en possession une ferme de 160 acres de terre donc 120 est en culture, et un troupeau vaches a lait, porcs, veaux, poules, ainsi qu'une sureuse. Je suis âgé de 46 ans et atteint de rhumatisme qui me font faire beaucoup de perte de temps étant seul sur cette terre je ne peux pas arriver a tout faire

L'automne dernier quand mon fils Rolland est entré dans l'armée j'ai fait une demande, et elle m'a été refusée Alors j'ai dit a mon garçon restant m'aider je ne suis plus capable de travailler toute seul.

C'est pour la raison aujourd'hui il est désertur, pour ma part j'ai jamais constaté que ces serviceurs étaient plus utile sur la terre que dans les forces armées. Mon fils étant fatigué de cette vie d'inquiétude préfère aller se rapporter pour y trouver une liberation final.

Veuillez me croire, en foi de quoi je signe ce dixième jour de septembre 1945

Assermenté devant moi
a Warwick a 10 sept 1945

J. Harvey Notaire

Adelard Bolduc

MINISTÈRE DE L'AGRICULTURE

PROVINCE DE QUÉBEC

DISTRICT AGRONOMIQUE No 5

Victoriaville, le 10 septembre 1945.

A QUI DE DROIT.

RE: BOLDUC Rolland, E-15122,
Kingsey Falls.

Cher monsieur,

Rolland Bolduc de la paroisse de Kingsey Falls est passé à mon bureau, dans le but d'avoir une recommandation pour un congé militaire.

Le jeune homme est un déserteur de l'armée depuis le 5 janvier dernier. Depuis son absence de l'armée, il a continuellement travaillé sur la ferme de son père, lequel est malade et ne peut voir à tous les travaux, il compte surtout sur les services de son fils Rolland.

Le requérant, de bonne foi, et sans aucune pression, se rend volontairement aux autorités militaires et compte bien que les autorités voudront donner une attention particulière à son cas et espère obtenir le congé sollicité.

Veuillez me croire,

Votre tout dévoué,

J.Vincent Lanouette,
Agronome propagandiste.

JVL/MH

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: La fois que j'ai été absent avant c'est parce que j'ai manqué mon train parce que j'avais été voir l'agronome au sujet de mon congé agricol.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'officier défenseur s'adresse à la cour:

J'implore respectueusement votre clémence au sujet du soldat Bolduc, en attirant votre attention sur les faits qu'il a lui-même mentionnés et les documents qu'il a soumis à la cour, lesquels indiquent qu'il est parti dans le but de venir en aide au foyer paternel. Une fois le travail sur la ferme fini, il est revenu, et je puis vous assurer de ses meilleures intentions.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT A-12 C.I.T.C. Farnham, Que.

PART II ORDERS

by

Col. A.T.HOWARD, V.D.,
Commandant, A-12 C.I.T.C.

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 6

STATION A-12 C.I.T.C.

DATE 8 Jan 1945

"Last Order Issued No. 5 dated 6 Jan 45".

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
		HOLDING ESTABLISHMENT				
Para.	21(b) sheet No. 6					
	ABSENT WITHOUT LEAVE.					
		E-15122	Pte BOLDUC, R.	"B"	Awl from 0615 hrs.- (1st pub.)	6 Jan45
		Signed by	(M.A.HOEY)Lieut. for (R.K.PUTTEE) Capt.-Adjt. for Col. A.T.HOWARD, V.D., Commandant A-12 C.I.T.C., Farnham, Que.			
	CERTIFIED TRUE EXTRACT. J. E. Major Lieut. (J.E.Major) Lieut. Asst. Adjt. I/C Records. A-12 C.I.T.C. Farnham, Que.					

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

M. F. D. 873A
,000,000-10-42 (6791)
H.Q. 1772-39-254

Officer Commanding or Adjutant

Amount brought forward		55	31
Brushes hair	1		29
Brusheshshaving	1		32
Brushes shoe polishing	1		16
Combs hair	1		03
Forks table	1		06
Holdalls	1		17
Housewives	1		20
Knives table	1		14
Razor-safety set	1		32
Spoons table	1		06
Towels hand	3		46
Belts waist web 1½"	1		19
Necktie Black	1		14
Sub-total carried forward		57	91

Amount Brought forward		57	91
Pin collar safety	1		05
Socks black prs	2		42
Badges Cap	1		07
Bags ration	1		03
Sheet ground	1	1	79
TOTAL		60	27

J. E. M.

RECORD of the Declaration of a Court of Inquiry assembled at Farnham, Que.

on the 30th day of January 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-15122 Pte BOLDUC, R. INF(R)CA att'd A-12 C.I.T.C. Farnham, Que.

DECLARATION

The Court declare that No. E-15122 (Regt'l No.) Pte (Rank) BOLDUC, R. (Full Name) INF(R)CA att'd A-12 C.I.T.C. Farnham, Que. (Unit) illegally absented himself without leave from A-12 C.I.T.C.

at Farnham, Que (Place) at 0615 hours on the 6th day of January 1945, that he is still so absent, and that on the 30th January 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Clothing, Equipment & Reg. necessaries at 75% voc rates C.A.R.O. 2972					
Anklets web prs	1	56	Amount brought forward		31.39
Gloves knitted drab prs	1	50	Shoes canvas prs	1	1 72
Greatcoat drab	1	11 66	Socks prs	4	1 40
Overalls combination	1	1 89	Battle dress serge trousers (8)		9 82
Caps winter melton cloth	1	79	Shirts woollen	2	1 80
Mitts pullover leather prs	1	70	Shirts khaki cotton	3	3 48
Overshoes prs 4 bkls	1	1 53	Shirts under cotton	2	64
Battle dress serge blouses	1	4 88	Shoes leather, black prs	1	3 63
Boots ankle prs	1	4 37	Trousers khaki drill sht	1	98
Caps F.S.	1	53	Braces prs	1	21
Drawers cotton short prs	2	64	Brass cleaning	1	03
Drawers wollen prs	2	2 10	Brushes button	1	08
Jersey pullover	1	1 24	Brushes cloth	1	13
Sub-total carried forward		31.39	Sub-total carried forward		55 31

G. Lortie Lieut. Gen List CA (Name) (Rank) (Unit) President

D.L.Hart Lieut. Gen List CA (Name) (Rank) (Unit) Member

Signed at Farnham, Que.

this 30 th day of January 1945 T.F.Moad Lieut. Gen List CA (Name) (Rank) (Unit) Member

Signature of Commanding Officer A.T.HOWARD Col. O.C. A-12 C.I.T.C. (Name) (Rank) (Unit)

Certified true copy J. E. Major Lieut. (Name) (Rank) (Unit) (Signature of Officer having custody of original record)

(J. E. Major) Lieut.
Asst. Adjt. i/c Records
A-12 C.I.T.C. Farnham, Que

M.F.B. 375
A.F.B. 118
200M—1-44 (3576)
H.Q. 1772-59-267

M.F.B. 1481
-10-43 (2206)
1772-39/1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut C.A.Lafrance, C.S.& T.O. A-12 C.I.T.C. Farnham, Que.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Farnham, Que (Place) to Montreal, Que (Place)
and return to Farnham, Que. (Place) for the purpose of escorting

Full description of soldier being escorted — E-15122 Pte BOLDUC, R.
(Number) (Rank) (Name in full)
Att'd A-12 C.I.T.C. Farnham, Que.
(Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
11 Sep 45	Prisoner: T.W. D 24200 Montreal, Que to Farnham, Que.	
	39 miles at 1 2/3¢ per mile	0.65
	No tax	
	No charge for escorts.	
	TOTAL	$ 0.65

Dated at Farnham, Que this 11th day of September A.D. 19 45

(C.A.Lafrance) Lieut C.S.& T.O. Farnham, Que
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (authorizing transportation)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.
This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG, Commanding No. 4 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that E-15122 Pte. BOLDUC. Roland
(Number) (Rank) (Name in full)

of the Inf. att. T.C. A-12 Farnham, C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) D-121570 Cpl.
(Number) (Rank)

LAFOND. E. No. 4 District Depot, C.A.
(Name) (Unit or appointment)

at Montreal South, Que., at 1200
(Place) (Hour)

on the 11th day of September 19 45

Strike out words not applicable } ~~[illegible]~~ (or absentee without leave), and that at the time of his arrest he was wearing military ~~[illegible]~~ uniform (~~[illegible]~~)

Dated at Montreal South this 11th day of September 19 45

(S. ECHENBERG) Colonel
(Number) (Rank) (Unit or appointment)
Commanding No. 4 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

J. E. Sullivan Major
Pres. CM.

M.F.B. 355
75M—5-43 (145)
H.Q. 1773-99-620
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-15122	Pte	BOLDUC, Rolland,	INF(R)CA att'd A-12 C. I. T. C.

1. The following is a fair and true summary of the entries in the ~~Regimental Conduct Sheet~~ Field Conduct sheet of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For AWL	1 times	AWL	1 times
For	times		times
For	times		times
For	times		times

~~None~~ J. E. M.

~~The accused has no entries in his Conduct Sheet~~ J. E. M.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted. J. E. M.

~~The accused has been convicted as follows:~~ J. E. M. ~~Air Force Act~~ ~~Army Act~~ ~~Offence~~ ~~Sentence~~ J. E. M.

3. The accused is not under sentence at the present time. J. E. M.

~~The accused is under sentence as follows:~~ ~~beginning on the~~ J. E. M.

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which Nil days were spent in hospital. J. E. M.

5. The present age of the accused according to his ~~record of service~~ attestation paper 23 years 9 Months J. E. M.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 9 Oct. 44 J. E. M.

7. ~~The service which the accused is allowed to reckon towards discharge~~ J. E. M.

8. ~~The accused is entitled to no service for pension purposes in determining his rank~~ J. E. M.

9. The accused is in possession of or entitled to no ~~military~~ decoration, or ~~military~~ reward (~~military~~ military) J. E. M.

10. ~~The accused has not been~~ ~~made a warrant officer last~~ ~~Air Force~~ ~~Army~~ J. E. M.

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of Sept.45. (J.E.Major)Lieut.Asst. Adjt. I/C Records Gen ListAtt'd A-12 C.I.T.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

W.F.M. 6
(A.F.R. 122)
500M—11-41 (3408)
H.Q. 1772-38-1652

15122 No. Pte Name BOLDUC, Rolland Sqn., Battery, or Company } Corps C.I.C.(R)CA Date of enlistment } 9 Oct 44 G.C. Badges } Tradesmen's Rates of Pay } Character

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. one Signature O.C. Company, etc. }

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sherbrooke, Que.	10Dec 44	Pte		A.A.Sec. 15(1)AwL de 0001 hr le 10 Dec. 44 a 1825 hrs 11 Dec 44. Abs: 1 jr. 18 hrs. 24 mins.	Evidences Documentaires	2 dys' Pay	12 Dec44	E.J.Nantel Lt.Col.	1 Aut.Forf. 2 Dys' Pay Art.149FR&I
				CERTIFIED TRUE COPY J. E. Major Nantel (J.E.Major) Lieut. Asst. Adjt. I/C Records A-12 C.I.T.C. Farnham, Que.					

(P.T.O.)

H.Q.C.55-B-1988 (JAG/D-7)
Your M. 1-B-17539

25 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

E-15122 Pte. Rolland Bolduc,
Inf(R) C.A.,att. A-12 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.I.Orsie) Brigadier
Judge Advocate General.

LJR/MM

AR

THIS COPY FOR: H.Q.C. 55-B-1988
M.D. M.1-B-17539

MEMORANDUM ~~DISTRICT~~ STANDING COURT-MARTIAL

GS

No. E-15122 Name BOLDUC, Rolland

Rank Pte Unit (R) C.A. Att to CITC A-12 CA

Charge (1) AA 15 (1) AWL

(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 8-1-45 (2) 14-9-45

Date of Arrest 11-9-45 Charge Signed 17-9-45

Orders for D.C.M.

Place and Date of Trial A-12 CITC CA 19-9-45

Sentence Det/20 days Stoppages $16.10

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39831

Date 24-9-45

MEMO Balance of sentence remitted by Conf. Auth. 19.11.45

MD 4 A-12 CITC CA

Absent Sentence
8 mos approx Det./20 days

10M-8-45(M-189)

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. M.1-B-17539

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, P.Q.
September 21, 1945

C.55-B-1988

Judge-Advocate General
National Defence Headquarters
OTTAWA, Ont.

STANDING COURT-MARTIAL
B-15122, Private Rolland BOLDUC,
Inf.(R)CA, att'd to A-12 C.I.T.C.,CA

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court

b) Medical Officer's Report, dated September 19, 1945.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E.BELLEAU)Major
Headquarters, Military District No.4
President, Standing Court-Martial

encl.

39881

NAT. DEF. B. 449
250DM-4-44 (4321)
H.Q. 1772-39-747

H.Q.C. 55-B-1989 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BREZDEN, DMETRO H.613018 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1989

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 26 1945	22.10.45			JAG	NEW FILE	CR	22-9-45
OCT 3 - 1945	2.10.45	PA		JAG			
				OMBR	DEC 10 1946		
JAN 7 1946					3 Recommendation		DEC 18 1945
MAR 18 1946	18.3.46			Admin	PER B.F. MAR 16 1946		
				JAG	With Papers C.R. MAR 25 1946		
MAR 28 1946	1/4/46			Admin	To note & Remission Rec		Sep 3/46
AUG 30 1946	31/8/46	PA		PAB	AUG 10 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

10/H-613018 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba.
20th March, 1946

CENTRAL REGISTRY Army
CONF. SEC.
14029
MAR 25 1946
File 6.55-B-1987
Chgd. to
Referred to

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE

No. H-613018, Pte. BREZDEN,
No. 10 District Depot, C.A.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally-named, duly completed in accordance with C.A.R.O. 3974. M.F.M. 288 is also enclosed herewith.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

APPENDIX 'C' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC55-B-1989
District File No 10/H613018 (J)

PART 1

No. H-613018 Rank Private Name BREZDEN Dmetro

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 17th September 1945
Charge(s) (1) Desertion (2) Losing by Neglect
Sentence 1 year imprisonment with hard labour. Stoppages $14.98 A&R
Date of Sentence 17th September 1945 $87.47 Loss of Kit.
Confirmation - (a) Authority N/A SCM
(b) Date

PART 111

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit (xxxxxxxxxxxxxxxx) (xxxxxxxxxxxxxxxxxxxxxxxxxxxx) the balance of the sentence of imprisonment with hard labour effective the 16th day of March 1946.

Signed at Winnipeg, Man this 12th day of March 1946

R O Morton

(R.O.G. Morton) Brigadier, D.O.C. M.D. 10.
(Appointment)
To be signed by the Competent Authority or Superior Military Authority personally.

PART 1V

PROMULGATION

Remission (xxxxxxxxxxxxxxxxxxxx

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put in.....tion)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
SEP 17 1945	B. F. FOR REVIEW TO APR 15 1946	A. J. A. G., M. D. No. 10.	
12 Mar 46	Sentence remitted effective 16 Mar 46	R.O.G. Morton (R.O.G. Morton) Brigadier, District Officer Commanding, Military District No. 10.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
FIRST CHARGE: Sec. 12(1)(a) Army Act. WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE: in that he at Winnipeg, Man. at 1400 hrs on the 25th December, 1944, absented himself from Winnipeg Light Infantry CA until he was apprehended by Civil Power, in Rural Municipality of Mossey River, Man. at 2100 hrs on 10th September, 1945, dressed in civilian clothes. Cost of apprehension and return to Unit $14.98. SECOND CHARGE: Sec. 24(2) Army Act. LOSING BY NEGLECT HIS CLOTHING EQUIPMENT AND REGIMENTAL NECESSARIES: in that he at Winnipeg, Man. on 14th September, 1945, was deficient of clothing, equipment, and regimental necessaries to the value of $87.47.	25 Dec 44	17 Sep 45

Signature of Officer making entry

(A. Thomson) Lieut.Colonel
Commanding Officer, No. 10 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
18th September, 1945	There has been no opportunity to assess this man's ability, character, or usefulness as a soldier. A. Thomson Lieut.Colonel (A. Thomson) Commanding Officer, No. 10 District Depot, C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

28

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of H-613 018 (Number) Private (Rank) Dmetro BREZDEN (Name in full)

No. 10 District Depot, C.A.

to be imprisoned with hard labour for 1 year and to be discharged with ignominy from His Majesty's Service and to be put under stoppages of pay until he has Sentenced to make good the sum of $14.98 in respect to cost of apprehension and return to Unit and until he has made good the sum of $87.47 in respect to his deficiencies of kit.

on 17th September, 1945 at Winnipeg, Manitoba.

being served at Headingly Gaol, Headingly, Manitoba. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years 4 months 15 June, 1942

Medical grade or category "A"

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Confirming Authority

Date .....

29

M.F.M. 288
(Army Form A-2104)
25M—4-45 (1968)
H.Q. 1772-25-2053

ADDRESS CORRESPONDENCE IN CARE OF
P.O. BOX 2935
WINNIPEG, MANITOBA

C.M.B.R.
10-12-45

C.55 B. 1989

Dec 6th 1945

Secretary National Defence Headquarters
Ottawa Canada.

Sir. RE. Remission of Sentence for September 17th 1945. I was tried by a Military Court Martial at Winnipeg Manitoba. And sentenced to serve a term of one year in the provincial Gaol at Headingly, Manitoba on a charge of AWOL.

May I further advise, my wife Mrs Nellie Bregden, residing at Oak Bluff Manitoba is confined to ~~bed~~ sick bed owing to operations performed upon her last summer. Also she is not receiving any allowance to keep her.

Prior to my enlistment I was reconized in our community as a law abiding citizen having earned the respect of my fellowman. My wife is alone with her many troubles, and in drastic need of my support. This can be confirmed by communicating with Mr Dicks at Dauphin Manitoba

I beg to remain Sir
Yours very resp.
H-613018 Pte Metro Bregden

Write on lines — Use this side of sheet only.

M.F.M. 336 (4 PARTS)
300M-8-45 (74489)
M.C. 1772-39-2092
E.F. 26758

ARMY MESSAGE

UNCLASSIFIED (OUTGOING) FILE DEQ-10-H-613018

WINNIPEG MAN 12TH JAN 46

P. admin

THE SECRETARY
DEPT OF NATIONAL DEFENCE ARMY
OTTAWA ONTARIO

~~3352A~~ UNCLASSIFIED RELET HQ C55-1989ADM 3(b) DATED 7 JAN 46 RE H-613018 PTE BREZDEN D STOP RECOMMENDATION RE RELEASE HEREBY ACKNOWLEDGED

COMMANDING TEM

RECEIVED JAN 18 1946 A.D.M.I.N. 3B

Pl on file 18-1-46

ORIGINATOR'S INSTRUCTIONS

SIGNATURE	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED (A.J.A.G.)		

COPY 2

CLEAR

ARMY MESSAGE

(INCOMING)

PLACE FROM | DATE & TIME

22 VEL JT 42

WINNIPEG 14 1105

Dadson

ROYAL CANADIAN SIGNALS
Woods Bldg.
OTTAWA
JAN 14 1946
Phone
L.
Army Signal Office

SECRETARY DND

OTTAWA ONT

3342 A UNCLASS RELET HQ C 55-1989 ADM 3 (B) DATED 7 JAN 46

RE H 613018 PTE BREZDEN D STOP RECOMMENDATION RE RELEASE HERBY

ACKNOWLDEGED

Pa on file
14 15-1-46

CMDG TEN

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED COMPLETE
BELOW AND RETURN TO A.S.O.

BRANCH	TIME	SIGNATURE

14 1343RRY

RECEIVED
JAN 14 1946
A.M.L.S.
38

61816

M.F.M. 344 300M-10-44 (5869)
H.Q. 1772-39-2100 K.P. 30293

COPY 1

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HQC 55-B-1989
AHM 3(b)3

DEPARTMENT OF NATIONAL
DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario, 7 Jan 46.

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

H.613018 Pte BREZDEN D
CM Board of Review
Headingly Gaol

Ref telegram AG 0267 D/18 Oct 45 Review.

2. The CM Board of Review has in the case of the a/m soldier made the following recommendation:

"
Release on 16 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. ~~XXXX

HQC 55- B-1989 (CMHR - 6)/E
11 Dec 45.

Case No ----------1610

SYNOPSIS OF SENTENCE

BY

COURT-MARTIAL [illegible]

1. No. Rank and Name: H-613018 Pte BREZDEN, D.

2. Unit at date of offence: Winnipeg Light Infantry, C.A.

3. Charge: (1) AA Sec 12 (1)(a) Desertion:- At Winnipeg, Man. 25 Dec 44 absented himself until he was apprehended 10 Sep 45 dressed in civilian clothes. (Absent 8½ months).

(2) AA Sec 24 (2) Losing by neglect etc to the value of $87.47.

Plea: NOT GUILTY.

4. Place and Date of Trial: Ft. Osborne Bks., Winnipeg. 17 Sep 45.
~~(REGULAR)~~ ~~(GENERAL)~~ (SCM)

5. Finding: GUILTY both charges.

6. (a) Sentence: 1 year Imprisonment W.H.L. Discharge with ignominy
(b) Date of Sentence: 17 Sep 45(Stoppages $102.45.

7. Date of Confirmation: N/A

8. Date of Promulgation: N/A

9. Being served at: Headingly in M.D. 10

(N.B. - Discharged under H.O. 1029 ( ) for
wef).

CONDUCT

11. (a) Prior to conviction: Offence Date Sentence

(i) Civil Convictions: N/A

(ii) Courts-Martial: N/A

(iii)1 Summary Convictions: Conduct to the prej. 12 Aug 43.
7 days C.B.
5 days Pay.

- 2½ years previous service -

(b) After Conviction: Good.
Date of release with normal remission 17 May 46.
(c) Date of enrolment/~~xxxxxxxxxx~~ 15 Jun 42 Present Age: 23

12. Remarks: (Here note any Petition or Representation other than in Item 10, but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) Accused went home on embarkation leave and found his wife just out of Hospital after an operation and not able to work. Also did most of the work on father's farm of 240 acres. Mother has had five operations, father suffering from rheumatism. Doctor advised accused his wife's health would be much improved if they had a child so he made arrangements for this during his absence as well as tending the farm.

(c) Had only 11 days of basic training and thereafter worked in MT section where he held the rank of A/Cpl for 8 months. Wife expecting a baby this month.

13. Recommendations: (State by whom made, e.g., CMHQ, DOJ, Reviewing Officer, etc.).

Reviewing Officer: Recommend release on 16 Mar 46 on completion of 6 months of sentence.

Reviewed by W.A. Moss
(W.A. Moss) Major.

14. Recommendation of the Board: Release on 16 Mar 46

Date: DEC 18 1945

R.A. Stikell Major
Secretary
Courts-Martial Board of Review.

HQC 55-P-1989 (JAG/D-5)

2nd October 1945

District Officer Commanding,
Military District No. 10,
Winnipeg, Manitoba.

Standing
~~Regional~~, Pte. J. Marsden.

Receipt is acknowledged of your W.44-P-4518(J)
dated 24th September 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

E.K.M.
for (R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:EJ

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IN REPLY PLEASE QUOTE
No. W.44-B-4518 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba, 29th Sept. 1945

CONFIDENTIAL
189
OCT 1 1945
File C55-B-1989
Chgd. to
Referred to

Judge Advocate-General,
Dept. of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT MARTIAL
H-613018, Fte. BREZDEN, D.

Reference H.Q.C.55-B-1989 (JAG/D-8) dated 25th September, 1945.

2. The proceedings of the marginally-noted Court-Martial, having been reviewed, are returned herewith for custody.

(E.A. Fletcher) Major,
Assistant Judge Advocate-General,
M.D. No. 10.

vep
enc.

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N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

on the 17th day of SEPTEMBER 1945 at 1015 hours,

for the trial of: No. H-613018 Private Dmetro BREZDEN
Number Rank Full Name

No. 10 District Depot, C.A.,
Unit Attachment, if any

PRESIDENT: Major W. H. August, District Headquarters, M.D. No. 10.

PROSECUTOR: Captain F. W. Christie, District Headquarters, M.D. No. 10.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieutenant W. M. RENNELS
No. 10 District Depot, C.A.,
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, No. H-613018 Private Dmetro BREZDEN, No. 10 District Depot, C.A., is Guilty of all the charges.

WMR

SENTENCE: The Court sentence the accused, No. H-613018 Private Dmetro BREZDEN, No. 10 District Depot, C.A., to be imprisoned with hard labour for one (1) year and to be discharged with ignominy from His Majesty's service, and to be put under stoppages of pay until he has made good the sum of $14.98 in respect of the cost of apprehension and return to his Unit, and until he has made good the sum of $87.47 in respect of the value of the deficiencies of kit.

WMR

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Signed at Winnipeg, Manitoba, this 17th day of September 1945.

W H August Major
(W. H. August) Major
President,
Standing Court-Martial.

M.F.B. 1488
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 39832 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of Sep 1945

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~Question to the accused~~ ~~Do you object to as interpreter~~

~~Answer~~

Question to the accused. Do you object to No. H-35618 S.M.(A/W.O.I) A. C. Bryant, District Headquarters, M.D. No. 10, acting as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter (if any)~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial? ~~or other Court-Martial?~~

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not Guilty.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. By Defending Officer: Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

CHARGE SHEET

W. Draugent Major
President, S C M.

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The accused, No. H-613 018 Private Dmetro BREZDEN, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, is charged with:-

FIRST CHARGE:
Sec. 12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

- in that he -

at Winnipeg, Manitoba, at 1400 hours on the 25th day of December, 1944, absented himself from the Winnipeg Light Infantry, C.A., until he was apprehended by the Civil Power, in Rural Municipality of Mossey River, Manitoba, at 2100 hours, on the 10th day of September, 1945, dressed in civilian clothes. Cost of apprehension and return to Unit $14.98.

SECOND CHARGE:
Sec. 24(2)
Army Act.

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT, AND REGIMENTAL NECESSARIES

- in that he -

at Winnipeg, Manitoba, on the 14th day of September, 1945, was deficient of clothing, equipment, and regimental necessaries as follows:-

Anklets, web prs	2	1.48	Towels, hand	2	.62
Blouses, Battle Dress	2	13.00	Blacking, tins	1	.05
Boots, ankle prs	1	5.82	Bootdressing, tins	1	.05
Caps, field service	2	1.40	Bootlaces prs	1	.03
Drawers, cotton short	1	.42	Cleanser, khaki	1	.08
Drawers, woollen	2	2.80	Blankets, G.S.	2	8.14
Gloves, woollen prs	1	.66	Trousers, service	1	1.37
Greatcoat, drab	1	15.54	Bags, ration	1	.04
Jersey, pullover	1	1.65	Belts, waist W.E. '37	1	.67
Overalls, combination	1	2.52	Bottles, water	1	.62
Shoes, canvas prs	1	2.29	Braces, W.E. R. & L.	2	.68
Socks, prs	4	1.84	Carriers, waterbottle	1	.37
Trousers, Battle Dress	2	13.10	Covers, messtin	1	.08
Shirts, woollen	2	2.40	Haversack	1	2.29
Badges, cap	1	.09	Helmet, steel	1	2.39
Bags, kit	1	1.27	Packs	1	2.26
Braces, prs	1	.28	Pouches, basic	2	2.06
Brasses, cleaning	1	.04	Straps, shoulder haversack	2	.62
Brushes, button	1	.11	Straps, web supporting	2	.28
Brushes, clothes	1	.17	Tins, mess	1	.57
Brushes, hair	1	.39	Capes, anti-gas	1	4.70
Brushes, shaving	1	.42	Respirator A.G. c/w Haversack	1	5.97
Brushes, shoe polishing	1	.21	Outfits, anti-dimming	1	.03
Brushes, tooth	1	.09	Eyeshields A.G. pkg of 6	1	.68
Cap, comforter	1	.41	Sheets, ground	1	2.38
Combs, hair	1	.04	Mitts, pullover leather prs	1	.93
Dressing, field Mk II	1	.21	Shirts, khaki cotton	1	1.54
Fork, table	1	.08	Shirts, under cotton	1	.43
Holdall	1	.22	Shoes, leather black prs	1	4.84
Housewife, complete	1	.35	Socks, black prs	2	.56
Knife, table	1	.18	Trousers, khaki drill	1	1.31
Razor, safety	1	.42	100% Vocabulary Rate		$116.62
Spoons	1	.08	75% Vocabulary Rate		87.47

Winnipeg, Manitoba,
14th September, 1945

(F.W. Christie) Captain,
Prosecutor, Courts-Martial,
Military District No. 10.

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C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

By Defending Officer: No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

By the Prosecutor: Sir, a portion of the evidence for the Prosecution is documentary, and under the provisions of Routine Order 5126 I will file with the Court, M.F.B. 375, M.F.M. 215, M.F.B. 1481 and M.F.B. 1482, all relating to the accused.

M.F.B. 375 is read, marked "F", signed by the President, and attached to the proceedings.

M.F.M. 215 is read, marked "G", signed by the President, and attached to the proceedings.

M.F.B. 1481 is read, marked "H", signed by the President, and attached to the proceedings.

M.F.B. 1482 is read, marked "I", signed by the President, and attached to the proceedings.

First Witness for the Prosecution) No. H-7156 Company Quartermaster Sergeant O. L. OLSON, No. 10 District Depot, C.A., having been first duly sworn, is examined by the Prosecutor:

Q Are you No. H-7156 C.Q.M.S. Olson, O.L., of No. 10 District Depot?

A Yes, Sir.

Q And that Depot is at Fort Osborne Barracks, Winnipeg, Manitoba, is it?

A Yes, Sir.

Q And how are you employed there?

A I am employed as W.C.O. in charge Quartermaster's records, Sir.

Q Do you know No. H-613018 Private Dmetro Brezden?

A Yes, Sir; that is the man, Sir (indicating the accused).

Q Have you checked his kit recently?

A Yes, Sir.

Q When did you do that?

A On the 14th day of September, 1945.

Q And where did you check it?

A At the Quartermaster Stores, No. 10 District Depot.

Q Against what did you check it?

A The M.F.B. 375, Sir.

Q I show you Exhibit "F" in these proceedings. What is that document?

A That is the document against which I checked the accused's kit.

Q And what did you find?

A I found that on that day he was deficient the following articles of clothing, equipment, and Regimental necessaries:-

Anklets, web, prs.	2	$ 1.48	Towels, hand	2	.62
Blouses, Battle Dress	2	13.00	Blacking, tins	1	.05
Boots, ankle, prs.	1	5.82	Bootdressing, tins	1	.05
Caps, field service	2	1.40	Bootlaces, prs.	1	.03
Drawers, cotton short	1	.42	Cleanser, khaki	1	.08
Drawers, woollen	2	2.80	Blankets, G.S.	2	8.14
Gloves, woollen prs.	1	.66	Trousers, service	1	1.37
Greatcoat, drab	1	15.54	Bags, ration	1	.04
Jersey, pullover	1	1.65	Belts, waist W.E.'37	1	.67
Overals, combination	1	2.52	Bottles, water	1	.62
Shoes, canvas, prs.	1	2.29	Braces, W.E.R. & L.	2	.68
Socks, prs.	4	1.84	Carriers, waterbottle	1	.37
Trousers, Battle Dress	2	13.10	Covers, messtin	1	.08
Shirts, woollen	2	2.40	Haversack	1	2.29
Badges, cap	1	.09	Helmet, steel	1	2.39
Bags, kit	1	1.27	Packs,	1	2.26
Braces, prs.	1	.28	Pouches, basic	2	2.06
Brasses, cleaning	1	.04	Straps, shoulder haversack-	2	.62
Brushes, button	1	.11			
Brushes, clothes	1	.17	Straps, web supporting	2	.28
Brushes, hair	1	.39	Tins, mess	1	.57
Brushes, shaving	1	.42	Capes, anti-gas	1	4.70
Brushes, shoe polishing	1	.21	Respirator A.G. c/w Haversack	1	5.97
Brushes, tooth	1	.09			
Cap, comforter	1	.41	Outfits, anti-dimming	1	.03
Combs, hair	1	.04	Eyeshields, A.G. pkg of 6	1	.68
Dressing, field Mk II	1	.21			
Fork, table	1	.08	Sheets, ground	1	2.38
Holdall	1	.22	Mitts, pullover leather, prs.	1	.93
Housewife, complete	1	.35			
Knife, table	1	.18	Shirts, khaki cotton	1	1.54
Razor, safety	1	.42	Shirts, under cotton	1	.43
Spoons	1	.08	Shoes leather black prs.	1	4.84
			Socks, black, prs.	2	.56
			Trousers, khaki drill	1	1.31
			100% Vocabulary Rate		$116.62
			75% Vocabulary Rate		$ 87.47

Cross-examined by the Defending Officer:

Q What is the policy with men going on leave? What about their kit? What happens to their kit?

A With this particular Unit, Sir, when personnel went on Embarkation leave they carried their kits with them.

Q Everything with them?

A Yes, Sir.

Q What is the policy if the man has not got the kit while he is in detention but can obtain it, or knows where it is?

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A If the kit is at a later date produced there is a credit voucher attached on the man's papers, Sir.

Q If a man says he had his kit does the man have any difficulty to get it, or anything like that?

A No, Sir; it is reported to the Provost.

The Prosecutor declines to re-examine this Witness.

The Witness withdraws.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No

First Witness for the Defence:) No. H-613018 Private Dmetro BREZDEN, No. 10 District Depot, C.A., having been first duly sworn, is examined by the Defending Officer:

Q Brezden, when were you enrolled into the Army?

A 15th June, 1943.

Q How much training did you take?

A I only had eleven days Basic training.

Q What job did you hold in the Army before you left?

A I was a Transport Driver.

Q What rank did you hold?

A I held Private until the 5th March, 1944, and then I was promoted back to Corporal.

Q You were an Acting Corporal until you left?

A Yes.

Q Whereabouts is your home, Brezden?

A My home is at Fork River, Manitoba.

Q What type of home is it, a farm?

A Yes, it is a farm.

Q Is it your own farm?

A It belongs to my mother and dad.

Q How big is the farm?

A 240 acres.

Q How many members are in your family?

A There was twelve of us altogether in the family, but now three sisters are married, and the oldest is sixteen and he is going to School.

Q What is the general health of your parents?

A My mother has been under five operations, and Dad, he has been suffering with Rheumatism.

Q What is the age of your parents?

A My Dad is 60, and my Mother is 43.

Q Are you married or single?

A I am married.

Q Have you any children?

A No, Sir, but I expect one in about three months' time.

Q In regard to your kit, did you take your kit with you while on leave?

A Yes, Sir, I did.

Q Where is your kit now?

A It is all at my Mother's place.

Q Have you made any arrangements to bring it back with you?

A Yes.

Q What arrangements did you make?

A The R.C.M.P. at Dauphin phoned from where I was, at the Town Hall-- he phoned my sister to send it, and my sister said she would send it

Q To the best of your knowledge is the kit all complete?

A The kit is all complete, Sir.

Cross-examined by the Prosecutor:

Q You mentioned that you had eleven days' Basic training?

A Yes, Sir.

Q And you served with the Winnipeg Light Infantry, did you not?

A Yes, Sir.

Q And you served with them continuously up until the time you went absent?

A Yes, Sir.

Q That is, from the time you were enrolled on the 15th June, 1942, until the 25th day of December, 1944?

A Yes, Sir.

Q And after you went absent you remained absent until you were apprehended by the R.C.M.P.?

A Yes, Sir.

Q Where were you apprehended?

A I can't understand your question, Sir.

Q Where were you when you were apprehended?

A I was at my Mother's place, on the farm.

Q That is at Fork River, is it?

A Yes, Sir.

Q That is in the Rural Municipality of Mossey River?

A Mossey River, Yes.

Q What were you doing there?

A I was working on the farm.

Q What were you doing at the time you were apprehended?

A I was coming home from work -- I was sitting down in the house, just come in.

Q What had you been working at?

A I just finished cutting grain, Sir.

Q How long had you been in the house?

A About ten minutes, Sir.

Q And how far away is the house from the field that you were working in?

A About half a mile.

Q It would take you, maybe, about fifteen minutes to come in from the field, would it?

A Yes, about that, Sir, by the time I got through with the tractor.

Q Did you work in the dark?

A Yes, Sir.

Q And when you quit that evening it was dark?

A It was dark, Sir.

Q Where does your wife live?

A At the present time she is with my parents in Fork River.

Q Where was she when you were apprehended?

A She was there with me, Sir.

Q And how long had she been there?

A She had been there for about three months.

Q Where was she before that?

A She was staying with her Mother at Oakbrae, Manitoba.

Q How far is that away?

A That is ten miles away, Sir.

Q And when your wife was with her Mother were you staying in Oakbrae?

A No, Sir; I was down there a little while, about two weeks.

Q How about the beginning of your absence?

A I was home.

Q Was your wife with you?

A Yes, Sir, for a little amount of time, about three days; and then I took her back home to her Mother's. I used to go out there sometimes at night to see how she was getting along.

Q You mentioned something about your wife expecting a child in December?

A Yes, Sir.

Q That child would be conceived in March this year?

A Yes, Sir.

Q Where were you then?

A I was home, Sir; I was at her parents, Sir.

Q When did your wife come back from Wainwright, Alberta?

A She came back last July.

Q And she has been home since July?

A That is right.

Q Now, when this absence commenced you were home on leave, were you not?

A That is right.

Q And that leave was what kind of leave?

A I was told, Sir, that it was supposed to be Embarkation leave for me.

Q Were you getting more leave, or just purely Embarkation leave?

A I got ten days leave with it, Sir.

Q Ten days plus your Embarkation leave? Did you get any Christmas leave?

A Yes.

Q And you were supposed to be back in Winnipeg at 1400 hours on Christmas Day, 1944?

A That is right.

Q Now, why didn't you come back?

A Sir, when I come home my wife, she had just come out of the Hospital. She had a bad operation -- she had a big cut across her stomach -- she had eight stitches. She wasn't able to work for a long time, so I left her with her Mother to take care of her because I couldn't stay with her folks. I used to go there every night to see how she was getting along.

Q Ten miles every day?

A Yes, every day, with the car. In the meantime, about a few months ago my Mother went for an operation.

Q What was wrong with your wife?

A She had appendicitis and another operation on her womb.

Q Did the Doctor say anything about her having a child after that?

A Yes, he did.

Q What did he say?

A He said she would be feeling a lot better if she had a child.

Q Did he say when she should have it?

A No, Sir; he never told her.

Q So you went ahead and arranged to have a child?

A Yes, Sir.

Q How does your wife feel now?

A Not very good; she has backaches all the time, Sir.

Q Why didn't you report back to the Military Authorities? You knew it was imperative that you report back on time?

A Yes, Sir.

Q And still you didn't do it?

A I couldn't help it, Sir. I had no intention of staying away and being classed as a deserter.

Q But you did, didn't you?

A Yes.

Q Why didn't you report in after V-E Day?

A I was very busy all the Summer, Sir.

Q But you mentioned there were twelve in the family. Surely there was one who could help on the farm?

A He was going to School all the time, except after 21st June when he quit School for vacation.

Q How old is he?

A Sixteen, Sir.

Q Well, he could surely help on the farm?

A Yes, he could, but not very much.

Q Who is the next to him, older than he?

A There is no other brother older, Sir; I am the next one.

Q You are the oldest brother?

A Yes, Sir.

Q Why didn't you come back after V-J Day?

A I was still busy, Sir.

Q And that is all that you have in the way of an excuse, that you were still busy on the farm?

A Yes, Sir.

Q How big is the farm? How big did you say it was?

A 240 acres.

Q How much is under cultivation?

A 230 acres, and the rest is in pasture.

Q What crops do you have in?

A Wheat, Oats and Barley.

Q How much have you in Wheat?

A 65 acres.

Q How much in Barley?

A Barley, 30 acres.

Q How much in Oats?

A 28 acres.

Q That is the whole crop, is it?

A Yes, Sir.

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Q And did you thresh the Oats, Wheat and Barley?

A That is all out in stooks yet, Sir.

Q Any cattle?

A Yes, Sir.

Q How many?

A Six head of my own, four horses; and Dad has thirteen head and three horses.

Q How many milking?

A Seven head, Sir.

Re-examined by the Defending Officer:

Q Your wife, I believe she lived at Wainwright, Alberta?

A Yes, Sir.

Q When did she go to her home address?

A The last of July, Sir.

Q How about the change of address?

A I let them know, Sir, and the Sergeant said he would put it in the sheet. He was going to put it in Orders; whether he did or not, I don't know.

Q As far as you know, your home address on your documents is Fork River?

A Yes, Sir.

The Witness resumes his seat.

The Prosecutor makes a closing address.

The Defending Officer makes a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

W.T.B.

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(Defending Officer speaks on behalf of the accused -- See Page "J" attached.)

W.T.B.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Anklets, web, prs	2	1.48	Attach[illegible]	0	
Blouses, Battle Dress	2	13.00	Bags, r[illegible] Pat '37	1	
Boots, ankle, prs	2	11.64	Belts, wa[illegible]	1	
Boots, leather high prs	0		Bottles, water	1	
Caps, field service	2	1.40	Braces, W.E. right & left	2	.68
Caps, mechanic	0		Carriers, cartridge	0	
Drawers, cotton short prs	2	.84	Carriers, waterbottle	1	.37
Drawers, woollen, prs	2	2.80	Covers, messtin	1	.08
Gloves, woollen, prs	1	.66	Frogs, web, bayonet	0	
Greatcoats, drab	1	15.54	Haversack	1	2.29
Jersey, pullover	1	1.65	Helmet, steel	1	2.39
Overalls, combination	1	2.52	Net camouflage helmet	0	
Overalls, blouses denim	0		Packs	1	2.26
Overalls, trousers denim	0		Pouches, basic	2	2.06
Shirts, flannel khaki	0		Slings, rifle	0	
Shoes, canvas, prs	1	2.29	Straps, shoulder haversack	2	.62
Socks, prs	4	1.84	Straps, web supporting	2	.28
Trousers, Battle Dress	2	13.10	Tins, mess	1	.57
Shirts, woollen	2	2.40	Capes, anti-gas	1	4.70
Badges, cap	1	.09	Respirators A.G. c/w Hvsk	1	5.97
Bags, kit	1	127	Outfits, anti-dimming	1	.03
Braces, prs	1	.28	Ointment, A.G.	0	
Brasses, cleaning	1	.04	Eyeshields A.G. pkg of 6	1	.68
Brushes, button	1	.11	Detectors, individual prs	0	
Brushes, clothes	1	.17	Vallet, anti-gas	0	
Brushes, hair	1	.39	Mug, drinking	0	
Brushes, shaving	1	.42	Sheets, ground	1	2.38
Brushes, shoe polishing	1	.21	Covers, breech	0	
Brushes, tooth	1	.09	Belts, waist L.B./~~xxxxx~~"	1	.35
Cap, comforter	1	.41	Buttons, G.S.	0	
Combs, hair	1	.04	Buckles, brass	0	
Dressing, field Mk.II	1	.21	Caps, winter melton	0	
Fork, table	1	.08	Coats, waterproof army	0	
Holdall	1	.22	Jackets, khaki drill	0	
Housewife, complete	1	.35	Jackets, serge drab O.C.	0	
Knife, clasp	0		Mitts, pullover leather prs	1	.93
Knife, table	1	.18	Muffler, khaki	0	
Razor, safety	1	.42	Neckties, black	0	
Spoons	1	.08	Pins, collar safety	0	
Towels, hand	2	.62	Puttees, prs	0	
Blacking, tins	1	.05	Rubbers, prs	0	
Bootd ressing, tins	1	.05	Overshoes, prs	0	
Bootlaces, prs	1	.03	Shirts, khaki cotton	2	3.08
Cleanser, khaki, tins	1	.08	Shirts, under cotton	2	.86
Cleanser, W.E., tins	0		Shoes, leather black, prs	1	4.84
Implements, Entrenching	0		Socks, black, prs	2	.56
Slips, Pillow	0		Trousers, khaki drill prs	0	
Blankets, G.S.	2	8.14	Trousers, K.D. Short	1	1.31
Trousers, service, prs.	1	1.37	Trousers, serge drab N.P.	0	
					125.18
			At 75% Vocabulary Rate		$ 93.89

17

"F. Donaldson" Major
President, S.C.M.
Fort Osborne Barracks,
Winnipeg, Manitoba.

RECORD of the Declaration of a Court of Inquiry assembled at Winnipeg, Manitoba, on the 12th day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H-613018 Private Dmetro BREZDEN, No. 10 District Depot, C.A.

DECLARATION

The Court declare that No. H-613018 (Regt'l No.) Private (Rank) Dmetro BREZDEN (Full Name) No. 10 District Depot, C.A. (Unit) illegally absented himself without leave from Winnipeg Light Infantry, C.A. at Winnipeg, Manitoba, (Place) at 1400 hours on the 25th day of December, 1944, that he is still so absent, and that on the 25th December, 1944, he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE

A.R. Dahlstrom, Captain (Name) (Rank) No. 10 District Depot, C.A. (Unit) President

Signed at Winnipeg, Manitoba, (Name) (Rank) (Unit) Member

this 12th day of February 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer C.M. Ackland Lieut. Colonel
(C.M. Ackland) No. 10 District Depot, C.A.

Certified true copy W. Throp Captain & Adjutant
(W. Throp) (Signature of Officer having custody of original record)
No. 10 District Depot, C.A.

M.F.B. 375
A.F.B. 113
200M—1-44 (3576)
H.Q. 1772-29-257

"G" [illegible] Major 31

President, S.C.M.

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension by [redacted] to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by ([redacted])

Strike out words not applicable

Cst. H. McCALLUM ? R.C.M.P. Winnipegosis Detachment.
(Name of [redacted] Constable)

at R.M. Mossey River (Place) Manitoba at 9.00 P.M. (Hour)

on the 10 th day of September 19 45

Strike out words not applicable

and at the time of arrest [redacted] he was [redacted] dressed in civilian clothes).

Regimental particulars [redacted] or soldier referred to above.

No. H-613012
Rank Cpl.
Name Metro BREZDEN
Unit Winnipeg Light Infantry

Description

Age 24 yrs.
Height 5'8"
Complexion Ruddy
Hair Dark Brown.
Eyes Hazel
Marks

Signature of p[redacted] constable by whom arrest, [redacted] r, was made, [redacted] at which officer or soldier was [redacted] upon such [redacted]

[redacted] (Peace Officer) (Constable) H. McCallum [redacted]

Strike out words not applicable

M.F.M. 115
75M—12-43 (3178)
H.Q. 1772-39-1935

11

M.F.B. 1481
15M—10-43 (7206)
Q. 1771-39-1851

"H." President, S C M — Major

3

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. John Dey WALKER (Rank) (Name) Transport Officer, #10 Dist. Coy. (Unit) R.C.A.S.C.

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Winnipeg, Man. (Place) to Dauphin, Man. (Place)

and return to Winnipeg, Man. (Place) for the purpose of escorting

Full description of soldier being escorted — H-613018 A/Cpl. Brezden, Dmetro. (Number) (Rank) No. 10 Dist. Depot (Name in full)

No. 10 Dist. Depot. (Unit) Winnipeg, Man. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
11 Sept 45	Issued to cover the cost of the undermentioned transport warrants.	
	Transport Warrant D-11152:	
	FOR ESCORT:	
	One single second class bus fare, Winnipeg to Dauphin, Man. 214 miles @ 1 2/3¢ per mile plus 15% tax	$4.12
	Transport Warrant D-11153:	
	FOR ESCORT:	
	One single second class fare, Dauphin to Winnipeg, Man. 178 miles @ 1 2/3¢ per mile plus 15% tax	$3.42
	FOR ABSENTEE:	
	One single second class fare, Dauphin to Winnipeg, Man. 178 miles @ 1 2/3¢ per mile plus 15% tax	$3.42
	TOTAL	$ 10.86

Dated at Winnipeg, Man. this 11th day of September A.D. 19 45.

(J.D. Walker) Lieut. Transport Officer
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)
Strike out description not applicable.

#10 Dist. Coy. RCASC.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.
This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

10

"I" [illegible] Major
President, S. C. M.

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ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941.

(INCIDENTAL EXPENSES)

Complete description — I, H-59146 (No.) L/Cpl. (Rank) HOGUE, I.H. (Name) No. 40 Company, Cdn. Provost Corps. (Unit),

Strike out words not applicable — as (escort) ~~commander of a guard~~ consisting of

Members of escort — Myself

detailed to proceed from Winnipeg, Man. (Place) to Dauphin, Man. (Place),

Name and description of soldier escorted — to return H-613018 A/Cpl. BREZDEN, Dmetro, (WLI - #10 D.D.)

alleged to be a deserter or absentee without leave, to Winnipeg, Man. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement		Amount
R.C.M.P. EXPENSES INCURRED EFFECTING ARREST:		
10 Sep. 45		
Mileage, R.M. of Mossey River to Dauphin, 25 miles one way at .15¢ per mile	$ 3.75	
Telegram to O.C., RCMP Winnipeg, Man.....	.37	
TOTAL	$ 4.12	$ 4.12
Total		$ 4.12

Dated at Winnipeg, Man. this 12th day of Sep. A.D. 1945

I Hogue
(I.H. Hogue)
H-59146

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1492
7254—4-44 (6M)
H.Q. 1772-35-1650

9

37

"Yorrancourt"
President, S. C. M.

M.F.B. 355
12M—4-40 (6435-6)
H.Q. 1771-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-613 018	Private	Dmetro BREZDEN	No. 10 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field Service and General Regimental and ~~Squadron~~, Battery Conduct Sheets ~~or Company Conduct sheet~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	nil	times	Conduct to the Prej.	1 times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

nil

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

nil

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement

nil

3. The accused is not under sentence at the present time

nil

The accused at the present time is under sentence for ..... beginning on the nil day of nil

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 7 days in military custody, making a total of 7 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment ~~attestation~~ paper is 23 years

6. The date of his ~~commission~~ specified in his ~~record of service~~ enrolment ~~attestation~~ enrolment ~~attestation~~ paper 15th June, 1942

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. State any ~~air force~~ military decoration or reward.

nil

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of nil

8

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NO		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

W Throp Capt. & A.
(W. Throp)
No. 10 District Depot, C.A.

Signed this 17th day of September, 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y signed by the president, and annexed to the proceedings.

W Throp Adjutant
President, S. C. M.

No. H-613018 | Name Brezden Dmetro | Sqn., Battery, or Company A | WLI Corps | Date of enlistment 15Jun42 | G.C. Badges | Tradesmen's Rates of Pay

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. one | Signature O.C. Company, etc. W.E.Boivin Capt. | Character

M.F.M. 6 (A.F.B.122) 750M—12-42 (7537) H.Q. 1773-39-1632

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Wainwright Alta	7-8 43	Pte.		Con to the prej of good order and Mil Disc drove vehicle on pleasure trip without requisition. AA 40	H70156 A/Sgt Blockley	7 dys CB For 5 days pay FR&I 149(2)	12-8-43	Capt. D.D.Groff	JS
				CERTIFIED TRUE COPY D.H.T.Evans Records Officer #10 DD	Capt.				

Forwarded

"J" Beaudoin Major
President, S. C. M.

DEFENDING OFFICER'S STATEMENT IN MITIGATION

Sir, the accused, Private Brezden -- Corporal Brezden, as he was when he went absent from the Army, has only had eleven days Basic training -- he was not a trained soldier. The man was promoted to a Corporal, Sir, and held that rank for seven or eight months as a Corporal in the M.T. He wasn't confirmed -- we don't have his documents to show whether he was confirmed or not; but I believe a man should be confirmed after three months. The man has pleaded the welfare of his family and the fact that his wife is going to have a baby in a few months. The man is only twenty-three, Sir, and he is young and has a wife dependent on him, and a future child, and also the health of his family, who are in poor health, as the man stated under oath.

That is all I have to say, Sir.

Wms

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PRECIS OF EVIDENCE

H-613 018 Private Dmetro BREZDEN, No. 10 District Depot, CA an N.R.M.A. soldier of the Canadian Army, placed on Active Service.

CHARGE: 1. DESERTION

2. LOSING BY NEGLECT

TO PROVE THE FIRST CHARGE: the following evidence is available.

Documentary: M.F.B. 375 M.F.B. 1481

M.F.M. 215 M.F.B. 1482

TO PROVE THE SECOND CHARGE: the following evidence is available.

Documentary: M.F.B. 375 M.F.C. 800

Verbal: H-7156 C.Q.M.S. OLSON, O.L., No. 10 District Depot, C.A., who will give evidence as to deficiencies and recoveries at Kit Inspection.

NOTICE

TAKE NOTICE: that I propose to present H-613 018 Private Dmetro BREZDEN, No. 10 District Depot, C.A. an N.R.M.A. soldier of the Canadian Army, placed on Active Service, the accused, for trial by Standing Court-Martial, at 1015 hours, Monday, the 17th day of September, 1945, in Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

Winnipeg, Manitoba,
14th September, 1945

(A. Thomson) Lieut. Colonel
Commanding Officer,
No. 10 District Depot, C.A.

6

TRIAL OF:

H-613 018 Pte. Demtro BREZDEN
No.10 District Depot, C.A.

I, H-613 018 Private Demtro BREZDEN
No.10 District Depot, C.A., desire ~~do not desire~~ DH
an Officer assigned to defend me at my trial by Court-Martial.

Demtro Brezden

Winnipeg, Manitoba,
13 September 1945

5

MEDICAL OFFICER'S REPORT

I certify that No. H-613 018 Pte. BREZDEN, D.

of #10 D.D. CA is in a good state of health,

and fit to undergo Trial by Court martial.

Medical Officer R.C.A.M.C.
No. 10 District Depot, C.A.

Station Winnipeg, Manitoba.

Date 17th September, 1945

M. F. B. 246
25M—9-40 (7120-1)
H.Q. 1773-39 480

4

HQC 55-B-1989 (JAG/D-8)

25 Sept 45

District Officer Commanding,
Military District No. 10,
Winnipeg, Man.

STANDING COURT-MARTIAL

H-813018 Pte. BREZDEN, Dmetro
No. 10 District Depot, CA

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

MO/ET

3

8M-7-45(M-188)

THIS COPY FOR: H.Q. C. 55-B-1989
M.D. W.44-B-4518 (1)

NRMA

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. H-613 617 Name BREZDEN, Dmetro

Rank Pte Unit No. 10 DD CA

Charge (1) AA 12 (1)(a) WOAS Deserting.....

(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 25-12-44 (2) 14-9-45

Date of Arrest 10-9-45 Charge Signed 14-9-45

Orders for D.C.M.

Place and Date of Trial Bldg 15, Fort Osborne Bks 17-9-45

Sentence Imp WHL 1 year Discharge with ignominy
Stoppages $102.45

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39832

Date 24-9-45

MEMO Balance of sentence remitted by Conf. Auth.

MD 10 No. 10 DD CA

Absent

Approx 9 mos

Sentence

Imp WHL 1 year
Disch. with ignominy

10M-8-45(M-189)

for Judge Advocate-General

DEPARTMENT OF NATIONAL DEFENCE W.44-B-4518 (J)
- ARMY -

Winnipeg, Manitoba
18th September, 1945.

Judge Advocate-General
Department of National Defence (Army)
OTTAWA, Ontario.

C.55-B-1989

STANDING COURT-MARTIAL
No. H-613018 Pte. BREZDEN, Dmetro
No. 10 District Depot, C.A.,

Herewith for review, are the proceedings of the marginally-noted Standing Court-Martial.

ACB.
Enc.

Major
President
Standing Court-Martial

39532.

H.Q.C. 55-B-1990

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT DISTRICT COURT-MARTIAL

BOURBEAU, CHARLES D.66004 CSM.

CONFIDENTIAL
H.Q.C. 55-B-1990

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		[redacted]			If purpose of file referred cannot be expressed on one line, add minute to file and [illegible] with Minute.		
SEP 28 1945	27/10/45	PA		JAG	NEW FILE	CR	24-9-45
				JAG	[illegible] C.R. OCT 9 - 1945		
OCT 10 1945 OCT 13 1945	12/10/45	P.A.		Admin	to note explanation	JB	9.10.45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. M.1-B-2396(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Montreal, P.Q., 6th October, 1945.

1756
OCT 8 1945
C55-B-1990
Job

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

District Court-Martial
D-66004 CSM (WOII) C. BOURBEAU,
CIC, CA, attached to No.4 DD, CA.

Reference your H.Q.C. 55-B-1990 (JAG/D-7) dated 27 Sep 45.

2. As regards para. 4 of your above quoted letter, hereunder, for your information, an explanation as to why the accused spent 45 days in military custody awaiting trial:

6 Jul 45	Apprehended in St. Jerome. Brought to No. 4 D.D. Wire to N.D.H.Q. for status.
10 Jul 45	Chaser for status. Status received. M/n T.O.S.
11 Jul 45	Letter H.Q. re: docs and Part II.
17 Jul 45	Documents received.
18 Jul 45	Kit inspection.
19 Jul 45	Remanded for S.C.M. Placed in open arrest. Awaiting evidence re: absence from O.C., A-13, CITC.
31 Jul 45	Evidence re: absence received.
1 Aug 45 to 5 Aug 45	Proceedings held in abeyance until proper entries in documents could be made by Records, question of QMS and CSM.
6 Aug 45	Phone Call to A-13 re: proper 375's and Part II's.
7 Aug 45	Summary taken, proceedings prepared and submitted to H.Q. on 9 Aug 45.
11 Aug 45	Application of the marginally-noted D.C.M. received at this H.Q.
16 Aug 45	Convening Order prepared and signed and trial of the accused scheduled to take place on 20 Aug 45.
20 Aug 45	Trial of the accused.

J. E. Renaud Capt
For (E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

M.F.B. 239
1000M—8-42 (5583)
H. Q. 1772-29-194

H.Q.C.55-B-1990 (JAG/D-7)

27 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

District Court-Martial
D.66004 CSM (WOII) Charles Bourbeau,
CIC.,CA.,att. No. 4 District Depot, C.A.

Receipt is acknowledged of your M.1-B-2396(J) dated 21st September 1945, under cover of which you forwarded, for registration and custody, the proceedings of the m/n District Court-Martial.

2. It is noted that the accused was found Guilty of the charges and sentenced to be reprimanded and put under stoppages in the amount of $4.20.

3. As the Finding would appear to be supported by the evidence and the Sentence is legal, the proceedings are being retained for custody.

4. It is observed that the accused spent 45 days in military custody awaiting trial. May an explanation of this delay be forwarded, please.

5. These proceedings have been registered under No. 39901, 26th September 1945.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/MM

ak

THIS COPY FOR: H.Q.C. 55-B-1990
M.D M.1-R-2396 (J)

MEMORANDUM - DISTRICT COURT-MARTIAL

GS
No. D-66004 Name BOURBEAU, Charles

Rank C.S.M. (W.O.II) Unit CIC CA Att to No. 4 DD CA

Charge (1) AA 15 (1) AWL
(2) AA 15 (1) AWL

Date of Crime (1) 15-4-45 (2) 30-5-45

Date of Arrest (1) 26-5-45 (2) 6-7-45 Charge Signed 13-8-45

Orders for D.C.M. By Ord Maj Gen Comd No. 4 DD CA

Place and Date of Trial No. 4 DD CA 20-8-45

Sentence ~~xxxxxx~~ reprimand Stoppages $4.20

Date of Confirmation 31-8-45

Date of Promulgation 7-9-45

Entered in Records of J.A.G. as No. 39901

Date 26-9-45

MEMO

MD 4	No. 4 DD CA
Absent	Sentence
41 days	reprimand
37 days	

L.J. Ryan Lt

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M.1-B-2396(J)

R-139

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
21st September, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

C. 55-B-1910

DISTRICT COURT MARTIAL
D-66004 C.S.M. BOURBEAU, Charles,
C.I.C.,C.A., attached to No. 4 DD,CA.

Herewith, proceedings of the marginally-noted District Court-Martial which have been confirmed and promulgated and which are forwarded for registration and custody, please.

2. C.S.M. Bourbeau was tried by District Court-Martial at No. 4 District Depot, C.A., Montreal South, P.Q., on the 20th day of August, 1945, on two charges of "Absenting himself without leave, A.A. Section 15(1)". He pleaded guilty to both charges. He was found guilty thereof. On the 20th day of August, 1945, he was sentenced to be reprimanded and to be put under stoppages of pay in the amount of $4.20, in respect of apprehension and return to Unit.

3. May this Headquarters be advised of the date and number of registration.

4. Enclosed herewith is Medical Officer's Report.

Justin Moreau Capt.
for (E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

39981

NAT. DEF. B. 440
250CM-4-44 (4331)
H.Q. 1772-39-757

MEDICAL OFFICER'S REPORT

Le Regt. de Joliette, C.A., I certify that No. D-66004 Bourbeau, C. C.S.M. of #4 D.D. is in a good state of health, and fit to undergo Trial by Court martial.

O.V. Gray, Lt.

(O.V.GRAY) Lieut. Medical Officer
R.C.A.M.C., C.A., att'd to
No. 4 District Depot, C.A.

Station M.L.R. #4 DD
Jacques Cartier Barracks,
Montreal South, Quebec.

Date 20 Aug. 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-39-460

Le président doit rayer et initialer tout ce qui, sur la présente formule, est inutile ou étranger à ce procès.

A

Formule de Procès Verbal de Cour Martiale Générale ou de District

Procès verbal d'une Cour martiale de District tenue au Dépôt du District No. 4, CA, Montréal-Sud, Qué le 20e jour d'août, 19 45 par ordre de Major-Général E.J. Renaud, C.B., C.B.E. Commandant District Militaire 4 en date du 16e jour de août, 19 45.

Président.

Major L.J.E. Belleau, Quartiers-Généraux, District Militaire 4

Membres.

Major G. Marchildon, Three Rivers Tank Regiment, C.A., attaché à C.I.(B) T.C. No. 44, C.A.

Capitaine L. Tardif, Fusiliers Mont-Royal, C.A.

Membre suppléant.

Capitaine J.M.G. Bouchard, Le Régiment de Maisonneuve, C.A.

~~XXXXXXXXXXXX~~

Procès de * D-66004, CSM (WOII) Charles BOURBEAU, CIC, CA, attaché au Dépôt du District No. 4, CA.

L'ordre de convocation de la Cour, l'acte d'accusation et le sommaire ~~XXXX~~ abrégé de la preuve sont déposés devant la Cour.

~~La Cour s'assure que n'est pas disponible, par suite de , suppléant, prend sa place comme membre de la Cour.~~

La Cour s'assure que les prescriptions des Règles de Procédure 22 et 23 ont été observées. ✕

L'accusé est amené devant la Cour.

Procureur,† Capitaine J.E.R. Labelle, Quartiers-Généraux, District Militaire 4

~~Avocat ou~~ officier défenseur † Lieut. R.O. Craig, Le Régiment de St. Hyacinthe, CA., attaché à CI(B) T.C. No. 44, C.A.

L'audience commence à 1000 heures.

L'ordre de convocation de la Cour est lu et est marqué "X" signé par le Président et versé au dossier.

Les noms du président et des membres de la Cour sont lus à portée d'oreille de l'accusé et chacun d'eux répond à l'appel de son nom.

Q.1 *Question du Président à l'accusé.* Avez-vous objection à être jugé par moi comme Président, ou par un des officiers que vous venez d'entendre nommer?

R.1 *Réponse de l'accusé.* Non, monsieur.

(N.B. — L'objection, le cas échéant, doit être consignée avec la décision de la Cour, sur une feuille séparée.)

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* Insérer le N°, le grade, les nom et prénoms, le Régiment et l'emploi (le cas échéant).
† Insérer le rang et le nom et, au besoin, le régiment.
‡ Insérer la qualité.

✕ Je me suis assuré qu'aucun des officiers détachés pour siéger à la Cour n'a précédemment fait partie d'un conseil de guerre constitué en vue d'instruire l'affaire dont est saisie la présente cour martiale.

Le président de la C.M.D.

J.E. Belleau Major

M.F.B. 271A
5M — 6-42 (4790)
H.Q. 1772-39-224

B

Le Président, les membres et ~~XXXXXXXXXXXX~~ sont dûment assermentés.
Le membre suppléant, le Capitaine J.M.G. Bouchard, Le Régiment de Maisonneuve, C.A., est dûment assermenté, aux fins d'instruction.
Les officiers suivants, présents aux fins d'instruction, sont dûment assermentés.

Capitaine G. Grenier, GSO(III)(Int) M.D. 4

Q.2 Vous opposez-vous à D-136118 CSM (WOII) DeKoninck, P., CMSC, CA., comme sténographe?

R.2 Non, monsieur.
D-136118 CSM(WOII) DeKoninck,P.,CMSC,CA, prête dûment serment en qualité de sténographe.

Acte d'Accusation

Instruction. *Si l'accusé a opté pour être jugé d'après l'art. 46 (8) de l'Army Act, cela doit être consigné ici.*

L'acte d'accusation est signé par le Président, marqué B-2 et versé au dossier.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation ci-dessus.

Q.3 Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture? *Question à l'accusé.*

R.3 Coupable, monsieur. *Réponse.*

Q-4 Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture? *Question*

R.4 Coupable, monsieur. *Réponse.*

~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture? *Question.*

Réponse.

Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture? *Question*

Réponse.

L'accusé s'étant avoué coupable sur les deux chefs d'accusation, les prescriptions de la Règle de Procédure 35 (B) sont observées.

S'il y a eu " dénégation de culpabilité " sur quelque chef d'accusation, la Cour en connaîtra en premier lieu et ne procédera à l'instruction d'un " aveu de culpabilité " que lorsqu'elle aura rendu sa décision dans le premier cas.

G.E. Bellerose Major
Pers. Sch

B²

CHARGE SHEET

The Accused, D-66004, C.S.M. (W.O. II) Charles BOURBEAU, C.I.C., C.A., attached to No. 4 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE
Sec. 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Valcartier, Quebec, at 0800 hours on 15th April, 1945, absented himself without leave from his Unit A-13, C.I.T.C., C.A., until he surrendered himself to the Military Authorities at Valcartier, Quebec, at 0800 hours on 26th May, 1945.

SECOND CHARGE
Sec. 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Valcartier, Quebec, at 0530 hours on the 30th May, 1945, absented himself without leave from his Unit, A-13 C.I.T.C., C.A., until he was apprehended by the Military Police at St.Jerome, Quebec, at 0130 hours on 6th July, 1945, the costs of apprehension and return to this Unit being in theamount of $4.20.

Signed at
Montreal South, Quebec,
13th August, 1945.

(S. Echenberg) Colonel,
Commanding No.4 District Depot, C.A.

TO BE TRIED BY DISTRICT COURT MARTIAL.

(E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Adjutant-General
Ottawa
MT 4

CC

Procédure sur un aveu de culpabilité

* A être rayé lorsqu'il n'y a pas eu de procédure ~~sur~~ et l'~~(les)accusation(s) dont il s'est "avoué coupable" lui est (sont) relue(s).]~~ une "dénégation de culpabilité".

~~* [L'audience étant reprise, l'accusé est de nouveau cité devant la Cour~~

L'accusé D-66004 CSM (WO II) Charles Bourbeau, CIC, CA, attaché au Dépôt du District No. 4, C.A.

est déclaré coupable ~~des~~ à l'égard du premier et du deuxième chefs d'accusation.

* Le sommaire ~~(xxxxxxx)~~ de la preuve est lu, marqué "G", signé par le Président et versé au dossier.

La Cour n'accepte pas en preuve le document MFB 375, marqué exhibit "D" au Sommaire de la preuve, étant donné qu'il n'est pas certifié vraie copie, et le rejette.

Q.5 *Question à l'accusé.* Désirez-vous faire quelque déclaration par voie d'atténuation de peine?

R.5 *Réponse.* L'accusé, par voie d'atténuation de peine, dit: — Je désire soumettre à la Cour une lettre que je viens de recevoir de mon père et je demande à la Cour de me la remettre après en avoir pris connaissance.

~~[ou remet une déclaration écrite, laquelle est lue et marquée signée par le Président et versée au dossier.]~~

Le document produit par l'accusé est lu par le Président:

" 18 août 1945.

Mon cher Charles,

Je suis bien peiné que les choses ne se soient pas améliorées et même qu'elles ne vont plus du tout. Gabrielle a quitté St-Jérôme et elle est partie, je crois, avec ta mère. Le Lieut. Craig a été ici pour quelques jours pour discuter de ton affaire. J'ai eu quelques informations et je le verrai encor demain pour avoir d'autres détails car on m'a invité à la danse du F.T.S.

Mon cher Charles, je comprends un peu que toi et Gabrielle, étant encore jeunes, puissiez mal analyser la situation de notre famille. Ta mère en a profité pour mener à point son but de me détruire et elle a presque réussi. Jacques n'a pas donné signe de vie depuis qu'il nous a laissé et ton déménagement m'a surpris un peu. J'ai oui dire que ta mère et Gabrielle sont venues ici pour toute une semaine mais je n'ai vu ni l'une ni l'autre. J'ai bien essayé dans le passé d'arranger les choses autrement; j'ai tenté de faire entendre à ta mère que si elle voulait se faire une vie à elle toute seule, au moins elle pourrait nous laisser la paix. Toutefois, les circonstances ont voulu que vous choisissiez de suivre votre

Instruction. * S'il n'y a pas de sommaire ou d'abrégé de la preuve, on devra enregistrer, sur une feuille distincte et de la même façon que dans le cas d'une "dénégation de culpabilité", suffisamment de témoignages pour permettre à la Cour de fixer la sentence et permettre à l'autorité confirmative de connaître toutes les circonstances de la cause.

Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la Cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la Cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.

DD

mère et c'est bien ce qu'elle a dit il y a quelques années, elle a bien que je resterais seul et maintenant je suis seul. Elle a de la tenacité ta mère et j'ai usé de tolérance extrême avec elle. Elle a voulu me détr re et elle a presque réussi; elle s'en est même pris à mes amis, les uns après les autres, alors je ne vois pas autre chose à faire que lui donner silence. J'aurais voulu qu'on lave notre linge sale en famille mais il a fallu qu'il en soit autrement. Vous comprendrez peut-être un jour lorsque vous serez plus agés et que vous aurez plus d'expérience dans la vie, mai il sera trop tard. J'aurais voulu vous rapprocher plus étroitement pour vous élever. Je n'en veux à personne, mon cher Charles. Je ne veux attaq ni discréditer personne et je reste chez-nous, mais je ne voudrais cepend pas qu'en plus de ce qui arrive on vienne me critiquer et d'essayer de me détruire chez-nous. Je voudrais rester paisible et j'ai la ferme intentio de me détacher de ceux qui cherchent à me faire du tort, ce que tu sais. Cet état de chose règne depuis dix ans et m'a empêché de faire la vie que j'avais toujours rêvé et de faire pour vous ce que j'aurais voulu. Tu voulais le savoir, alors voilà, et n'en parlons plus. S'il arrivait que quelqu'un de vous s'inquiète de moi, subtout ta soeur Gabrielle, vous ne devrez pas paraître surpris. On n'aura pas besoin non plus de vous donner d'explications. Je suis un humain et je dois avoir mes défauts, alors je les supporterai seul.

Mon cher Charles, ne te chagrine pas et je te souhaite tout le bon succès possible. "Daddy".

Après avoir lu le document à la Cour, le Président le remet à l'accusé.

Q.6 Désirez-vous témoigner vous-même ou citer des témoins à l'appui de votre réputation? *Question à l'accusé.*

R.6 Je désire faire entendre des témoins à l'appui de ma réputation. *Réponse.*

Preuve de réputation.

PREMIER TEMOIN SUR REPUTATION

Capitaine Laurent Jacques MARCHAND, Régiment de Joliette, Army Counsellor, attaché au Dépôt du District No. 4, C.A. étant dûment assermenté, est interrogé par l'officier défenseur:

Q.7 Je comprends que vous avez été attaché au Régiment de Joliette?

R.7 Oui, monsieur.

Q.8 Pendant combien de temps?

R.8 Depuis le 9 juillet, 1940.

Q.9 En quelle qualité?

R.9 J'ai commencé comme RQMS et au mois d'avril 1942, promu Quartier-Maître.

Q.10 Est-ce que vous connaissez l'accusé?

R.10 Oui, monsieur.

Q.11 Voulez-vous le désigner à la Cour?

R.11 Oui, monsieur. (Le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte

Q.12 Est-ce qu'il a travaillé sous vos ordres?

R.12 A partir du mois de mai, 1942.

Q.13 Pour quelle unité?

R.13 Le Régiment de Joliette.

PREMIER TEMOIN
POUR REPUTATION
(Suite)

Q.14 En quelle qualité a-t-il travaillé pour vous?

R.14 Comme commis aux Quartier-Maître.

Q.15 Voulez-vous dire à la Cour ce que vous pensez de l'accusé au point de vue de son caractère et quelles sont vos impressions à ce sujet quand il a travaillé pour vous?

R.15 Tout le temps que j'ai connu Bourbeau comme soldat, il a été un soldat exemplaire. Il était d'abord employé à l'Orderly Room et quand je suis devenu Quartier-Maître, je l'ai fait demandé à mon bureau immédiatement. Il a accepté et tout le temps qu'il a travaillé pour moi il s'est montré un employé modèle. Il n'a jamais épargné ni son temps ni d'efforts et énergies. Il a toujours été an avant et a compris l'importance du travail que je lui confiais et s'est toujours acquitté du travail que je lui confiais et s'est toujours acquitté de sa charge de la meilleure façon. Je n'ai pas pu lui obtenir dans le temps le grade de RQMS parce que dans le temps il était trop jeune, il n'avait pas encore 21 ans, c'est pourquoi le Colonel s'était opposé à sa promotion. J'ai agi par après par mon successeur et je me suis réjoui de sa promotion qu'il a mérité 100%. Je dois dire, toutefois que de temps à autres, il donnait des signes de mélancolie. Il y avait, je crois, des petites affaires chez-lui qui le tracassaient. Il a été ensuite désigné comme candidat officier et je fus réjoui de cette nouvelle possibilité pour lui que je croyais bien qu'il avait mérité car il n'avait jamais ménagé ses efforts. Après une dûre journée de travail il a continué à travaillé jusqu'au lendemain matin et ne s'est jamais plaint.

Q.16 Etes-vous au courant de ses troubles de famille?

R.16 Je sais que son père et sa mère ne vivent pas ensemble. Un jour je lui ai demandé le pourquoi de cette mélancolie et j'ai insinué "est-ce que c'est par rapport à chez-vous"? et il m'a répondu: "Que feriez-vous à ma place?" Je puis dire que de temps à autre ça l'affectait, mais ça n'a nui ni à son travail ni à son efficacité.

Q.17 Etes-vous au courant ... est-ce que l'unité ne partait pas pour l'autre côté, overseas?

R.17 Oui, monsieur.

Q.18 Est-ce qu'il y est allé lui-même?

R.18 Non, je crois qu'il est resté ici pour sa commission.

LE PROCUREUR NE DESIRE PAS CONTRE-INTERROGER LE TEMOIN

LA COUR NE DESIRE PAS INTERROGER LE TEMOIN

LE TEMOIN SE RETIRE

DEUXIEME TEMOIN
SUR REPUTATION

Le Capitaine J.L. Gauthier, faisant partie des forces du Pacifique, attaché au Dépôt du District No 4, C.A., étant dûment assermenté, est interrogé par l'officier défenseur:

Q.19 Connaissez-vous l'accusé?

R.19 Oui, monsieur.

Q.20 Est-ce que vous avez eu l'occasion de travailler avec lui?

R.20 Oui, j'ai travaillé avec lui depuis le mois de mai 1942 alors que j'étais RQMS du Régiment de Joliette, jusqu'au 9 janvier 1945 alors que j'étais Quartier-Maître.

Q.21 Voulez-vous dire un mot à la Cour du caractère de l'accusé?

R.21 Je n'ai pas d'autre chose que des louanges de la conduite et du caractère. Sur tous les rapports il a été un employé modèle, consciencieux, ponctuel et c'est moi qui l'a recommandé comme RQMS du régiment.

Q.22 Est-ce qu'il arrivait souvent qu'il travaillait au Quartier-Maître en dehors des heures de bureau?

R.22 Oui, surtout dans les derniers temps alors qu'il a même travaillé jour et nuit.

Q.23 Est-ce qu'il est allé overseas avec le régiment?

R.23 Non, j'ai soumis son nom, à la demande du Brigadier, pour sa commission d'officier.

Q.24 Est-ce qu'il avait manifesté le désir de suivre l'unité overseas?

R.24 Oui, jusqu'à la dernière minute. Jusqu'à ce que le Brigadier demanda au Colonel de soumettre cinq noms pour qu'on en fasse des officiers. Jusqu'à ce moment là Bourbeau s'en venait avec nous autres. Quand je lui ai donné la main le matin, il était peiné.

Q.25 Etes-vous au courant de la raison pour laquelle on ne lui a pas donné sa commission d'officier?

R.25 Non, j'étais parti dans ce temps là. Mais je crois qu'il avait beaucoup d'ouvrage car il a travaillé jour et nuit.

Q.26 Connaissez-vous sa famille?

R.26 Oui, monsieur.

Q.27 Pouvez-vous donner des renseignements au sujet de sa famille?

R.27 Bien ... c'est un ménage séparé, son père est à St-Jérôme et sa mère à Montréal.

DEUXIEME TEMOIN
SUR REPUTATION
(Suite)

Q.28 Combien y a-t-il d'enfants dans sa famille?

A.28 J'en connais trois.

Q.29 Est-ce qu'ils vivent avec le père ou la mère?

R.29 Il y en a une de marié et il y a un petit bonhomme qui vit avec le père. Bourbeau m'en a souvent parlé et je sais que ça l'affectait beaucoup de voir la manière dont son père vivait.

LE PROCUREUR NE DESIRE PAS CONTRE-INTERROGER LE TEMOIN

LA COUR NE DESIRE PAS INTERROGER LE TEMOIN

LE TEMOIN SE RETIRE.

E

Verdict*

*A biffer, sauf dans les cas de "dénégation de culpabilité".

L'audience est levée pour délibérer sur le verdict.

La Cour déclare l'accusé

Procédure sur déclaration de culpabilité *précédant la Sentence*

* Lorsque l'audience est déjà ouverte, cette phrase doit être rayée.

* Le Procureur, Capitaine J.E.R. Labelle, Quartiers-Généraux, District Militaire 4 est dûment assermenté.

Preuve de réputation.

Q.30 *Question par le Président.* Avez-vous quelque preuve à produire quant à la réputation et les états des services de l'accusé. *Réponse du témoin.* R.30 Je produis un MFB 355 et un MFM 6 précités [lus, marqués Y et Z, signés par le Président et versés au dossier.

Q.31 *Question par le Président.* L'accusé est-il la personne nommée dans les documents dont vous venez d'entendre lecture? *Réponse du témoin.* R.31 Oui, monsieur.

Q.32 *Question.* Avez-vous comparé le contenu des documents précités avec les livres régimentaires? *Réponse.* R.32 Oui, monsieur.

Q.33 *Question.* Sont-ce des copies conformes des livres régimentaires et l'exposé des inscriptions figurant aux feuillets de punition est-il un résumé juste et fidèle de ces inscriptions? *Réponse.* R.33 Oui, monsieur.

(Instruction. — *Si par suite de la nature du service de l'accusé dans un corps départemental, ou autrement, le verdict de la Cour le rend passible de peine exceptionnelle, en sus de celle qui lui est infligée par la Cour, le procureur doit le signaler à la Cour, et celle-ci doit s'enquérir de la nature et de l'importance de cette peine additionnelle.*)

Q.34 *Question à l'accusé.* Avez-vous quelque chose à dire à la Cour? *Réponse.* R.34 Oui, monsieur, par l'entremise de mon officier défenseur. (Voir document marqué "H" ci-joint)

L'audience est levée pour délibérer sur la sentence.

(5)

Le Président informe l'accusé que la sentence étant sujette à confirmation ne sera pas annoncée en Cour mais sera publiée plus tard dans les ordres.

F

Sentence

La Cour condamne l'accusé D-66004 CSM(WOII) Charles BOURBEAU, C.I.C., C.A., attaché au Dépôt du District No. 4, CA. à être reprimandé et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $4.20, coût d'appréhension et retour à son unité.

Sentence.
Reprimande
Suppression de solde $4.20, coût d'appréhension et retour à l'unité.

Signé à Montréal-Sud, Qué., ce 20e jour d'août, 1945.

.....
(L.J.E. BELLEAU) Major
Quartiers-Généraux, District Militaire 4
Président, Cour Martiale de Distric

D0216

CONFIRMED

(E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.
31st August, 1945.

Promulgated and Extracts taken this 7th day of September, 1945.

(J.H. Chamberlain) Capt & Adj.,
Gen List, C.A. Attached to
No. 4 District Depot, C.A.

Extracts entered as No. 39901 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 26 day of Sept 1945

J.E. Bellemare. Major. Pres. DCM. "E"

SUMMARY OF EVIDENCE

IN THE CASE OF

D-66004, C-574 (W.O II) ~~Pte~~. Charles BOURDEAU, C.I.C., C.A., attached to No. 4 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service.

CHARGES

1. Absenting himself without leave.

2. Absenting himself without leave.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

Captain W. BAIRD, C.C.G., C.A., attached to No. 4 District Depot, C.A., having been duly sworn, states:

"I am the Officer in charge of Records of No. 4 District Depot, C.A."

"I produce the following documents in support of the charges against the accused whom I identify as D-66004, ~~Pte~~ C.S.M. Charles BOURDEAU: (W.O II)

(i) M.F.B. 375, dated 10th of May, 1945, showing commencement of absence as 0800 hours 15th of April, 1945, filed as exihibit "A".

(ii) Part II Order Extract, emanating from A-13 C.I.T.C., C.A., Valcartier, Quebec, numbered 98, dated 25th of April, 1945, filed as exihibit "B".

(iii) M.F.M. 216, dated 28th of July, 1945, filed as exihibit "C".

(x) (iv) M.F.B. 375, dated 22nd of June, 1945, showing commencement of absence as 0530 hours on the 30th of May, 1945, filed as exihibit "D".

(v) Part II Order Extract, No. 132, dated 4th of June, 1945, emanating from A-13 C.I.T.C., C.A., Valcartier, Quebec, filed as exihibit "E".

(vi) M.F.M. 216, dated 6th of July, 1945, filed as exihibit "F".

(vii) M.F.B. 1481, cost of transportation, filed as exihibit "G".

(viii)

(x) La Cour n'accepte pas ce document. (Voir note page CC)

SUMMARY OF EVIDENCE CONTINUED
D-66004, ~~[illegible]~~S., C. BOURBEAU.

FIRST WITNESS (CONT'D)

The Accused is the person referred to in the said documents, which I produce herewith as exhibits A,B,C,D,E,F, and G respectively.

The Accused declined to cross-examine the witness.

W. Baird, Captain,

QUESTION TO THE ACCUSED -

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY THE ACCUSED -

I have nothing to say.

QUESTION TO THE ACCUSED -

Do you desire to produce any witnesses to give evidence on your behalf?

ANSWER BY THE ACCUSED -

No.

I have notified the Accused that the Convening Officer will retain as Prosecutor an Officer holding legal qualifications. The Accused was also advised of his rights with the Provisions of Rule of Procedure 89 (B).

I certify that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Taken down by me in the presence of the Accused at Jacques Cartier Barracks, Montreal South, Quebec, this 7th day of August, 1945.

(N. I. Auerback) Capt., C.A.
General List, C.A., att'd to
No. 4 District Depot, C.A.

Officer delegated to take down summary of evidence.

EXHIBIT "A"

-19

Bourbeau Major, "G" Pres. H.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Valcartier Camp, P.Q., the 10th day of May 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-66004 C.S.M. Bourbeau C., RdeJoliette, att. to A-13 C.I.T.C.

DECLARATION

The Court declare that No. D-66004 (Regt'l No.) C.S.M. (Rank) Bourbeau C., (Full Name) RdeJoliette, att. to A-13 C.I.T.C. (Unit) illegally absented himself without leave from A.I.T.C. A-13 at Valcartier Camp (Place) at 0800 hours on the 15th day of April 1945 that he is still so absent, and that on the 15th April 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
1 Battle dress blouse	6	50	C.A.R.O. 3464		
1 Battle dress trouser	6	55	less 25% being applied on		
2 Drawers woollen	2	80	each article separately.	14	32
2 Shirts under cotton		86			
1 Brush tooth		09			
1 Comb hair		04			
1 Knife clasp		99			
1 Necktie black		19			
1 Razor safety set		42			
2 Socks black prs		56			
1 Stick button		02			
1 Badge cap		09			
C.A.R.O. 1862	19	11			

J.E. PICARD, Major, RdeMont'y (Name) (Rank) (Unit) President

Signed at Valcartier Camp, P.Q., J.R. DUMAIS, Capt., R. 22e R. (Name) (Rank) (Unit) Member

this 10th day of May 1945 P.A. DUPUIS, Lieut., Gen.List (Name) (Rank) (Unit) Member

Signature of Commanding Officer D. MENARD, Colonel, O.C. A.I.T.C. A-13 (Name) (Rank) (Unit)

Certified true copy J.L. Ramsay (Name) Lieutenant, General List, C.A., (Rank) (Unit) Officer i/c Records, A-13 C.I.T.C., C.A. (Signature of Officer having custody of original record)

M.F.R. 373
A.F.R. 118
200M—1-44 (3376)
H.Q. 1775-26-247

EXHIBIT "B" J.E. Belleau, Major. Pres. DCM G

DAILY ORDERS PART II
by
COLONEL DOLLARD MENARD, D.S.O.
commanding

A-13 CANADIAN INFANTRY TRAINING CENTRE

Order No 98
25 Apr 45
Valcartier, Que.

(Last orders issued No 97 d/24 Apr 45)

11. ABSENCE WITHOUT LEAVE.

b) A.W.L. from 0890hrs. 15 Apr 45

D-66004 CSM. BOURBEAU, C. (R.deJoliette)

(SIGNED) (J. TREMBLAY) Capt.,
for (R. PLANTE) Capt. & Adjutant,
A-13 CANADIAN INFANTRY TRAINING CENTRE,
VALCARTIER CAMP, P.Q.

Certified true extract of Daily Orders
Part II, No. 98, dated 25 April, 1945.

J.L. Rameau Lieut & Off i/c of Records,
General List C.A., att. to A-13 CITC, C.A.

EXHIBIT "C"

J E Bellemare Major, G
Pres. D. Chr.

CERTIFICATE IN ACCORDANCE WITH

ORDER IN COUNCIL P.C.2797 , DATED APRIL 10 TH, 1942

AS PUBLISHED IN GENERAL ORDER 127 ,1942.

(~~xxxxxxxxxxxxxxxxxx~~surrender to service authorities.

I,....Colonel.....D. MENARD,..Q.Q. A-13 C.I.T.C., C.A.....
(rank) (name) (unit)

hereby certify that....D-66004.....C.S.M. BOURBEAU C.,.....
(number) (rank) (name in full)

of the ..R. de Joliette C.A., att'd to A-13 C.I.T.C., C.A.,....
(Unit and attachment (if any))

~~xxxxxxxxxxxxxxxxxx~~ surrendered to)..P-48365..R.S.M. TREMBLAY, J.,
(number) (rank) (name)

.R. 22e R. C.A. att'd to A-13 C.I.T.C. C.A.....
(Unit or appointment.)

at..Valcartier Camp. P.Q.....at....0800 hours.....
(Place) (Hour)

on the.....26th.....day of.....May.....1945.

as a deserter ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ and that at the time of his arrest he was wearing military ~~xxxxxxxxxxx~~ uniform ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~

DATED at .Valcartier Camp, P.Q....this.....26th day of July..194.5.

D Menard
Colonel,
Officer Commanding.
A -13 C.I.T.C., C.A.

(Strike out words
not applicable.)

M.F.M. 216

J E Bureau Major... G 4
Pers. Adm.

EXHIBIT "E"

DAILY ORDERS PART II
by
COLONEL DOLLARD MENARD, D.S.O.,
commanding

A-13 CANADIAN INFANTRY TRAINING CENTRE

Order No 132
4 Jun 45
Valcartier, Que.

(Last Orders Issued No 131 d/2 Jun 45)

"B" OTHER RANKS

10. ABSENCE WITHOUT LEAVE.

c) A.W.L. as shown.

D-66004 CSM BOURBEAU, C. (R.de Joliette)
0530hrs. 30 May 45

(SIGNED) M. Thivierge, Lt.,
For:(R. PLANTE) Capt. & Adjutant,
A-13 CANADIAN INFANTRY TRAINING CENTRE,
VALCARTIER CAMP, P.Q.

Certified true extract of Daily
Orders Part II No.132 dated
4 June 1945.

J L Rameau Lieut.& Off.i/c Records,
General List, CA, att. A-13 C.I.T.C., C.A.

EXHIBIT "P"

J.E. Bureau Major, C
Pres. D.C.M.

-27-

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. Pouliotte, O.C. Composite Provost Coys. M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-66004 C.S.M. BOURBEAU, Charles
(Number) (Rank) (Name in full)

of the A-13 9th Inf. Coy Valcartier
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrender~~ D-136148 L/Cpl.
(Number) (Rank)

EMARD, J.M. Composite Provost Companies M.D. 4
(Name) (Unit or appointment)

at St-Jerome, Que. at 0130
(Place) (Hour)

on the 6th day of July 19 45

Strike out words not applicable } as a ~~deserter or~~ absentee without leave) and that at the time of his arrest he was wearing military ~~clothing~~ uniform ~~[illegible]~~

Dated at Montreal, Que. this 6th day of July 19 45

(R.W.Pouliotte) Major R.W. Pouliotte Maj
(Signature, Number, Rank, Unit or appointment)

RD...

O.C. Composite Provost Coys. M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

Soldier of the Active Army

M.F.M. 216
100M—11-42 (6900)
H.Q. 1772-39-1936

EXHIBIT "G"

"G"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major R.W. Pouliette O.C. Composite Provost Companies M.D. 4 (Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I ~~(issued)~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Montreal, Que (Place) to St Jerome, Que. (Place)

and return to Montreal, Que. (Place) for the purpose of escorting

Full description of soldier being escorted — D-66004 (Number) C.S.M. (Rank) BOURBEAU Charles (Name in full)

A-13 9th Inf. Coy (Unit) Valcartier. (Attachment, if any)

Strike out phrase not applicable — alleged to be a ~~deserter or~~ absentee without leave, the facts, date and particulars of ~~the~~ ~~transportation issued~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
July 6th, 1945.	
Montreal, Que to St Jerome, Que and return.	
Total mileage covered by DND Vehicle No. 54-075 was 70 miles.	
70 miles @ 0.06 per mile.	4.20
Total mileage incurred by a Provost Detail to escort the a/m absentee.	
TOTAL	$ 4.20

Dated at Montreal, Que this 7th day of July A.D. 1945

(R.W. Pouliette) Major R.W. Pouliette Maj

Signature, rank, unit, attachment (if any) and appointment of officer ~~issuing transport warrants~~ (authorizing transportation)

Strike out description not applicable.

O.C. Composite Provost Companies M.D. 4

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
125M—10-42 (6463)
H.Q 1772-39-1481

J.E. Belleau major
Pour le Cm

"H"

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR
AU NOM DE L'ACCUSE AVANT QUE LA SENTENCE SOIT RENDUE

M. le Président,
Membres de la Cour,

Je ne parlerai pas longtemps, je voudrais simplement récapituler un peu ce que les témoins de caractère ont dit au sujet de l'accusé.

Il est dans l'armée active depuis plusieurs années, comme l'ont dit les Capitaines Marchand et Gauthier. Il a toujours été bon soldat et sous-officier modèle. On lui a confié plusieurs charges responsables, surtout celle de RQMS, dont il a toujours su s'acquitter avec honneur. Il ne s'occupait pas de son temps et a travaillé jour et nuit. Il a été à Terre-Neuve, ce n'était pas en preuve, mais il a été à Terre-Neuve pendant deux mois, où il a travaillé fort et, comme ont bien voulu témoigner les Capitaines Gauthier et Marchand, il a travaillé jusqu'à quinze heures par jour lorsqu'il était avec son régiment. Le régiment a été transféré à Valcartier pour aller de l'autre côté et on a laissé Bourbeau au Quartier-Maître avec l'intention de lui faire prendre sa commission, espoir qui ne s'est pas réalisé.

La grande cause, toutefois, de l'offense commise par Bourbeau, ce sont bien les troubles de famille chez-lui. Je n'ai pas besoin de m'étendre la dessus parce que la lettre de son père est explicative pour tout le monde. Il faudrait se mettre à sa place pour comprendre dans quel état d'esprit se trouvait l'accusé. Ses parents vivent chacun de leur côté, les enfants sont séparés et il n'y a pas d'unité familiale. Cet état de chose existe depuis assez longtemps et, comme le disaient les Capitaines Gauthier et Marchand, celà affectait certainement son morale, si ça n'affectait pas son travail. Bourbeau était pris entre son père et sa mère et il essayait probablement une réconciliation, qui n'a pas réussi d'ailleurs et je prétends que c'est la grande cause pour laquelle il est resté absent-sans-permission.

Pour toutes ces raisons, je demande à la Cour d'être aussi clémente que possible. Bourbeau est un jeune et bon homme, bon travaillant qui a fait ses preuves dans l'armée. Son record est intacte, mais par contre, son morale est à terre complètement et je dirais qu'une sentence un peu forte ne contribuerait pas beaucoup à améliorer son sort. Il a déjà passé quarante jours sous "close arrest" dont cinq jous dans le "clink" couché à terre avec les ivrognes du camp. Je vous demande de lui donner une chance, ça ne fera certainement pas de tort.

L.J.E. Belleau Major
Pres. D.C.M.

"X"

Orders by Major-General E.J. Renaud, CB,CBE, Commanding

~~xxx~~ Military District No. 4

District Court-Martial

D-66004, CSM(WOII) Charles BOURBEAU
CIC,CA, attached to No.4 D.D.,CA.

Montreal,PQ., 16th Aug 1945.

The detail of Officers as mentioned below will assemble

at Jacques Cartier Bks,Mtl South, P.Q., on Monday

the 20th day of August 1945 at 1000 hours

for the purpose of trying by a District Court-Martial the accused person (persons) named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

Major L.J.E. Belleau,
Headquarters, M.D. No.4 is appointed President.

MEMBERS

Major G. Marchildon, Three Rivers Tank Regiment, C.A., attached to C.I. (B) T.C. No. 44, C.A.
Captain L. Tardif, Fusiliers Mont Royal, C.A.

WAITING MEMBERS

Captain J.M.G. Bouchard,
Le Regiment de Maisonneuve, C.A.

~~JUDGE ADVOCATE~~

~~Judge Advocate~~ ~~(is hereby appointed~~

PROSECUTOR

Captain J.E.R. Labelle,
Headquarters, Military District No. 4 ~~xxxxx~~ (is hereby) appointed Prosecutor.

DEFENDING OFFICER

Lieut. R.O. Craig, Le Regiment de St. Hyacinthe, C.A., att'd to C.I.(B)T.C. No.44,C.A. ~~xxxxx~~ (is hereby) appointed Defending Officer.

UNDER INSTRUCTION: All officers available at No. 4 District Depot, C.A.

The accused will be warned and all witnesses duly required to attend.

The Officer Commanding, No. 4 District Depot, C.A., will arrange for the necessary accommodation, stationery, court orderly, escort, ~~xxxxxx~~ ~~xxxxx~~ and interpreters.

The proceedings will be forwarded to A.A. & Q.M.G., M.D. No.4

Signed this 16th day of August 1945

M.F.B. 220
A.F.A. 47
35M—7-43 (1152)
H.Q. 1772-39-344

(E.J.Renaud), Major-General,
District Officer Commanding,
Military District No.4.

Adm Stringer
Adm to DJ

Y

M.F.B. 355
50M—9-42 (5992)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-66004,	C.S.M. (W.O.II)	Charles BOURBEAU, C.I.C., C.A., att'd No. 4 Dist. Depot, C.A.	

1. The following is a fair and true summary of the entries in the Field ~~Service or General Regimental and Squadron or Battery Conduct sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 45 days in military custody, making a total of 45 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 23 years 3½ months (31st March, 1922.)

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 11th July, 1941.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military ~~award (or is in possession of or entitled to). State any air force decoration or award.~~

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of Staff Sergeant.

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ..... Permanent Force ..... unit ..... dated ..... and in his regiment (or corps), the rank ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

		Date of promotion.
In the rank of A/Cpl.	8½ months years.	18th Augs 1942.
A/Sgt.	3 months	1st Apr. 1943.
In the rank of A/S/Sgt.	12 months years.	1st Jul. 1943.
In the rank of R.Q.M.S.	1 years, 1½ months years.	1st July, 1944.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is an extract from the regimental books in my custody.

Signed this 20th August, 1945. ..... date

W. Baird, Captain,
C.G.B., C.A., att'd to
No. 4 District Depot, C.A.,
Officer i/c Records
No. 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

D-66004

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	Badges	Tradesmen's Rates of Pay
	BOURREAU Charles		C.I.C.	20 Sep 40	G.C.	

No. and date of last drunk | Period not reckoning towards freedom from extra duty | Sheet No. one | Signature O.C. Company, etc. | Character

Sheet destroyed 21 Sep 44.
(Sgd) A.E.T. Paquet, Major.

(Sgd) A.E.T. Paquet, Major.

M.F.M. 6
(A.F.B.112)
730M—12-42 (7387)
H.Q. 1772-99-1552

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY
.....
(W. BAIRD) Captain,
C.G.C.,C.A., att'd to
No. 4 District Depot, C.A.,
Officer i/c Records,
No. 4 District Depot, C.A.

(P.T.O.)

H.Q.C. 55-B-1991

CONFIDENTIAL

M.F.R. 1070
2551-2-13 (M59)
H.Q. 301-1-18

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT FIELD GENERAL COURT-MARTIAL

BUTCHER, GLENN CLARENCE A.22966 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1991

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				ADMIN	NEW FILE	CR	4-9-45
SEP 26 1945	4/10/45	PA		JAS	To note		26/9/45
OCT 5 - 1945				CMBR	For Information C.R. OCT 25 1945		
NOV 3 - 1945	31/46			Adm 3	Recommendation		OCT 31 1945
JAN 4 1946	3-2-46			D. Adm.	PER B.F. JAN 3 1946		
FEB 19 1946	18-2-46			Admin	For Information C.R. JAN 19 1946		
				CMBR	With Papers C.R. MAR 21 1946		
MAR 22 1946	18 3/46			Adm 3	To note, pl		22/3/46

(If purpose for which referred cannot be expressed on one line, add minute to file and enter "See Minutes")

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

File: L28-B-2375 (DAPM)

Date: 20 Mar 46

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

CENTRAL REGISTRY Army
CONF. SEC.
MAR 21 1946
File L28-B-1991
Chgd. to
Referred to adjoined

13471

NFM 288 for Disposal.

Re: A-22966 Pte. BUTCHER, G.C.

Herewith returned in accordance with HQC 9039-2 Adm. 3(b)3 d/8 Sep 45 (Rd)2a) para 4. XXXXXXXXXX AF A3104 concerning the m/n soldier, duly completed.

2. For disposal on remission XXXXXXXXXXX of sentence.

for (P. Earnshaw) Brigadier,
D.O.C., M.D. 1.

Encl.-- 1

SR(C)
File on file
22/3/46

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. A22966 Pte BUTCHER GC Unit 2 Cdn NETD

Sentenced to 2 yrs imprisonment with HL and to be discharged from HMS with ignominy on 12 Mar 45

Age on, and date of enlistment 17 yrs 1 Feb 41 Term of service DURATION

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(15712) Wt.24568/173 7,000 8/40 A.& E.W.Ltd. Gp.698
(16811) Wt.36943/1217 15,000 12/40 " " Forms/A3104/11

19

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION - RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 30 JUL 1945	
7 mar	Remitted on CMBP Recommendation WCJ. 8 mar 1946	P. Saunders Brig DOC HQ1	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
(1) AWL 211 days 3 hrs 55 mins)	12 Dec 43	12 Mar 45
(2) AWL ~~from~~ 219 days)	16 Jul 44	" " "
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
25 Apr 45	Committed to central guard room Avellino	D A Burgoyne Maj OC No 1 Cdn MPU

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
1st May 45	To be reviewed in due course	(S. A. LEE) Colonel A/OIC Cdn Sec 1 Ech AFHQ

18

File: L28-B-2375(DAPM)

HQ MD 1 London, Ont., Date: 20 Mar 46.....

CENTRAL REGISTRY Army
CONF SEC.
MAR 21 1946
File 835-B-191
Chgd. to

13470

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

Appendix "G" to CARO 5913 (Remission, Etc., of Sentence by C.M.)

Re: A-22966 Pte. BUTCHER, G.C.

Herewith forwarded for N.D.H.Q., files the m/n pro forma, concerning the m/n soldier, duly completed.

Encl. 1.

(P. Earnshaw) Brigadier
D.O.C., M.D. No. 1

(Appendix "G" to CARO 5913)
FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY COURTS MARTIAL
NDHQ File No..... District File No. 148-P-2375 (PAPM)

PART I

No. A-22966 Rank Pte. Name BUTCHER, G. C.

Unit No. 1 District Depot, London, Ontario.

PART II

Date of Trial 12 March 1945

Charge(s) A.W.L. (two charges)

Sentence 2 yrs. imprisonment WHL and to be discharged with ignominy. Date of sentence 12 Mar 45

Confirmation--(a) Authority S.A.LEE Colonel A/OIC Cdn Sec 1 Ech AFHQ
(b) Date 1 May 45

PART III
(REMISSION)

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ S~~xxxxxxxxxx~~, do hereby remit (~~xxxxxxxx~~ (~~xxxxxxxx~~ (~~xxxxxxxx~~ (~~xxxxxxxxxxxxxxxxxx~~ the balance of sentence of imprisonment concerning A-22966 Pte. BUTCHER, G.C., effective 1400 hrs 8 Mar 46

Signed at London Ont. this 5th day of March 19.46.

(P.Barnshaw) Brigadier,
D.C.C. M.D. No.1.

PART IV
(PROMULGATION)

Remission (~~xxxxxxxxxxx~~ (~~xxxxxxxxx~~) (~~xxxxxxxxx~~)(~~xxxxxxxxxxxxxxxx~~) promulgated and extracts taken at London, Ontario this 15th day of March 19 46

(1)

(Rank)
Officer i/c Documents.
(W.L. Kress) Capt.

(1) Unit, attachment and appointment to be stated

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

Certified true extract of Daily Orders Part II, No. 69

Unit. No. 1 DD C.A. Station. London, Ontario Date. 10 Mar. 46

Concerning:
Granted remission of sent. & rel. from det'n 1400 hrs 8 Mar 46. The pay acct. of the u/m is credited with 368 days pay (Auth: CMBR)

(Rank)
Adjutant (R.M. Agnew) Capt.
No. 1 DD C.A. London, Ontario

COPY

VER V CIA NR 23

CIL V CIA NRS 7 & 8

FROM COMMANDING 3 KINGSTON MAR 011630R

TO IOC MD 1 LONDON

TO COMMANDANT NO 60 MDB LONDON

TO SECRY DND OTTAWA

GR 164 BT

KD 106 RESTD

RELET KS 674(A) DATED 28 FEB 46 STOP FOLLOWING SUS PRESENTLY HELD 89 MDB FORT HENRY BARRIEFIELD WILL CEASE ATTACHMENT THAT UNIT SOS 3 DD TO 1 DD EFF 4 MAR 46

A.22966 PTE BUTCHER G C CMBR RELEASE 8 MAR 46

A.118257 PTE KUSZCZAK J J CMBR RELEASE 31 MAR 46

STOP THESE SUS WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE LONDON ONT 2114 HOURS 4 MAR 46 STOP REQUEST COMMANDING OFF HAVE ESCORT DETAILED TO MEET THIS TRAIN ON ARRIVAL AT TRAINSIDE STOP REGIMENTAL DOCUMENTS IN EACH SOLDIERS CASE WILL BE ~~FEWXXXXXXX~~ HANDED OVER TO NCO I/C ESCORT PARTY MEETING TRAIN ON ARRIVAL STOP AFA3104 ILL BE FORWARDED UNDER SEPARATE COVER DIRECT TO COMMANDING OFF STOP ADDED CMDG OFF RPTD 60 MDB AND DEFENCOR

BT KM 011747R IB B

CR(C) PA on file

C 51-6-1991

Ad.E (b)2

File: A.22966-C(A)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 26th Feb 46.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

A.22966 Pte. Butcher, G.C.

Ref HQC 55-B-1991 Adm 3(b)2 d/15 Feb 46.

2. Receipt is hereby acknowledged of the following documents in the case of the m/n soldier.

(a) CMHQ Letter 10/Butcher GC/1 7 Sep 45.

(b) AFA 3104

(c) ~~xxxxxxxxxxx~~

(d) CMBR Recommendations remission 8 Mar 46.

Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

Pa on file
1-7-46

DEPARTMENT OF NATIONAL DEFENCE
- Army -

CONFIDENTIAL
OTTAWA, Ontario
15 Feb 46
HQC 55-B-1991
Adm 3(b)2

District Officer Commanding,
Military District No. 3,
KINGSTON, Ont.

A.22966 Butcher G.C.

SUS - HMS Arbiter

1. Further this HQ letter HQS 8336-6 Vol 5 dated 2 Feb 46 and 12 Feb 46.

2. Herewith is AFA 3104 and CMHQ letter.

3. ~~[illegible]~~

3. It will be noted that this SUS was sentenced to be discharged with ignominy under CARO 1029(9).

4. The sentence awarded has been reviewed by CMHR who have recommended remission 8 Mar 46.

5. Ack.

(E.G. Weeks)
Major-General
Adjutant-General.

HQC 55-B-1991 CMBR-1 /e
29 Oct 45

Case No ----------

0515

REVIEW OF SENTENCE
BY
COURTS MARTIAL BOARD OF REVIEW

1. No. Rank and Name: A.22966 Pte BUTCHER, G. C.

2. Unit at date of offence: 1 CBRB, 1 CBRG, CAC - CMF.

3. Charge: 2 charges AA Sec 15(1) WOAS: AWL 211 days, 219 days respectively.

PLEA: Guilty

4. Place and Date of Trial: In the Field - Italy - 12 Mar 45
(FGCM) (~~XXXXXXXXXXXXXX~~)

5. Finding: Guilty

6. (a) Sentence: 2 years hard labour and discharge with Ignominy.
(b) Date of Sentence: 12 Mar 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: To be ascertained. in MD ----------

(N.B. - Discharged under RO 1029 ( ) for
wef)

24

CONDUCT

11. (a) Prior to conviction: Good.

Date of enlistment: 1 Feb 41

Date of enrolment: Age: 24

(b) After conviction: Good.

Earliest date of release: 11 Jul 46.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Accused testified under oath. He fought through the Sicilian Campaign and into Italy as far as Ortona, had a very close escape at Ortona, and is nervous. When apprehended on 1st offence MP told him he would be shot, so he went loose again. Accused is 34, complains of family troubles.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Offr, etc.)

Rev Offr: Recommend release on completion of half of sentence.

Reviewed by A.B. O'KEEFE, Capt.

Recommendation of the Board:

For remission on 8 Mar 46 or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date OCT 31 1945 at 19

Secretary
Courts-Martial Board of Review.

noted

Quote No. HQC. 55-B-1991 (JAG/D-5)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
27 September 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
A-11966, G.C. Butcher, Pte.

1. Receipt is acknowledged of your 10/ Butcher G.C./ 1 dated 7 Sept. 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

E K M

for (R.J. Orde), Brigadier
Judge Advocate-General.

LCC:2J

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THIS COPY FOR: H.Q.C. 55-B-1991
M.D.10/Butcher G.C./1

MEMORANDUM - FIELD GENERAL ~~DISTRICT~~ COURT-MARTIAL

No. A-22966 Name Glenn Clarence BUTCHER

Rank Pte. Unit No. 1 C.I.R.B.Bn. 1 C.B.R.G. C.A.O.

Charge AA 15 (1) WOAS AWL

(2) AA 15 (1) WOAS AWL

Date of Crime 18-12-43 (2) 16-7-44
(1) 10-7-44

Date of Arrest (2) 20-8-45 Charge Signed 7-8-45

Orders for F.G. C.M. Col. Comd. 1. C.B.R.G. ~~[illegible]~~

Place and Date of Trial In the field. 12-8-45

Sentence Imp. MHL. 2 yrs. Discharge with ignominy.

Date of Confirmation 13-8-45

Date of Promulgation 25-4-45

Entered in Records of J.A.G. as No. 4240

Date 27-9-45

MEMO

Reviewed at C.M.H.Q.

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E. E. [illegible]
for Judge Advocate-General

10M-8-45(M-139)

SECRET
CONFIDENTIAL

AIR MAIL

Quote No. 10/Butcher, GC/

CANADIAN MILITARY HEADQUARTERS

LONDON 7 Sep 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-B-1991

A-22966 Pte Butcher, G.C.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour and discharge with ignominy awarded by FGCM 12 Mar 45 for an absence without leave from which he was apprehended after 211 days (AA Sec 15(1)), and an absence without leave from which he surrendered after 219 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which his sentence of imprisonment with hard labour should terminate if he continues to do so, is 11 Jul 46.

3. This soldier enlisted 1 Feb 41 at Windsor, Ont., and he is now 24 years of age. In addition to the offences mentioned in para 1 above he has since enlistment been found guilty of 2 offences under AA Sec 40. He has had no previous FGCM.

4. This soldier was medically reboarded 8 Aug 45 and placed in Pulhems Grade S4 on a diagnosis of "chronic psychoneurosis, anxiety state". He has been certified as fit to undergo detention.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an individual of average intelligence who is immature, timid and apprehensive; that his history is one of inadequacy; that he projects himself into his dreams to compensate for his lack of achievement; that he states he went absent because he was too nervous to stand further service in action; and that although he is reasonably conscientious, he is not of operational calibre.

6. In view of the length of this soldier's illegal absence from a field unit and the fact that he now admits it was for the purpose of avoiding further service in action, it is considered that the sentence including discharge with ignominy is appropriate and that he should be required to serve his sentence of imprisonment with hard labour in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered that this soldier has deliberately misconducted himself in order to avoid further service in action and he probable had his discharge in view.

7. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 12 Mar 45, together with original A.F.A3104 in respect thereof on which this direction has been endorsed.

for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters

Enc. 2.

Copy to OIC Records.

20

1/39B CMHQ 1000-77
M.P. & S/3810 (8147)

RECORDED AT CMHQ IN AB 160 5G-80

CFA96 (In lieu of AFA3) 40/P & S/1096 (40/43) 7/388

RECEIVED 14 MAR 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col S.A. Lee Comd 1 Cdn Base Rft Gp Dated 7 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A22966	Pte		Glenn Clarence	Butcher	1 C I B R Bn.

PROCEEDINGS REVIEWED
J.H. Rodgers
15 May 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(~~s~~)) 12 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) JJR The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

JJR A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0.7.45 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) JJR ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

JR ~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

JR ~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	W.J. Rodge	CIC	2 C I B R Bn
Member	Lt	W.H. Pope	CIC	1 C I B R Bn
Member	Lt	N.L. Prideaux	CIC	2 C I B R Bn
Judge-Advocate				
Prosecutor	Lt	C.M. Forsyth-Smith	CIC	1 C I B R Bn
Defending Offr	Lt	M.H. Marchessault	CIC	1 C I B R Bn

Questions by President: Is the Prosecutor a lawyer? Ans nil Is the Defending Offr a lawyer? Ans nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused A22966 Pte S C Butcher before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

JJR A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

JJR A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

0.18

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (~~not~~) so informed, ~~and he (they) change(s) his (their) plea(s) on~~.....~~charge(s)~~. Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement.* *Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and. if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

10/ Butcher, G.C./1

OFFICE OF THE JUDGE ADVOCATE GENERAL

CANADIAN ARMY OVERSEAS

REVIEW SHEET

~~FOR - GOC CONFIRMATION~~

~~(21-Gp-~~
~~(2~~
~~(Ba-~~

FGCM.....12.Mar.45...
(Date of sentence)

No..A22066.....Rank..Pte.....

Name .....BUTCHER, G.C.....

Unit.....1.CIBR.Bn.....

Charge(s)	15(1)	15(1)		
Plea	G	G		
Finding	G	G		

Sentence To be Imp. with hard labour for two years and to be discharged with ignominy from His Majesty's Service.

Received from CR....14.May.45...

Passed to Rev Offr..15.May.45...

Passed to Rev 1 .....

Passed to .....

Passed to.....

Returned to Rev Clerk.....

Record ~~Fil~~ Pass AGF ..15.May.45...

....."Neil.M.Fraser".Major....

ACCUSED'S NOTICE OF INITIAL REVIEW ING OFFR

Pass ~~Confirm~~

~~Sentence confirm - Charge~~

Date 15 May 45 "J.H.Ready" Capt.
(Reviewing Officer)

FINAL JUDGE ADVOCATE

Pass ~~Confirm~~

~~Sentence confirm - Charge~~

Date 15.May 45 "Neil M.Fraser"
Major.

OBSERVATIONS:
In the case of pleas of guilty:- There is nothing in the record of the proceedings which required the Court to advise the accused to change his plea.
~~xxxx

WSR

CHARGE SHEET

The accused, A. 22966, Pte. Glenn Clarence BUTCHER, 1 Canadian Infantry Base Reinforcement Battalion, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with :-

FIRST CHARGE

Sec. 15 (1)

Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, at about 1600 hrs, 12 Dec. 43, absented himself without leave until apprehended at about 1955 hrs, 10 July 1944. (Absent, 211 days, 3 hrs, 55 mins).

SECOND CHARGE

Sec. 15 (1)

Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Italy, at about 2000 hrs, 16 July 1944, absented himself without leave until surrendering himself at about 2000 hrs, 20 Feb. 45. (Absent, 219 days).

Vincent McKenna Lt-Col.
(VINCENT McKENNA,)
Officer Commanding,
1 Cdn Inf Base Rft Bn, 1 CBRGp.

In the Field,
7 March 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
9 Mar 45

S. R. Lee
(S. R. LEE) Colonel
Comd 1 Cdn Base Rft Gp

16

WJR

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A22966	Pte		Glenn Clarence	BUTCHER	1 Cdn Inf Base Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 9 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W J RIDGE (CIC)	2 Cdn Inf Base Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lieut	to be detailed by the OC 1 Cdn Inf Base Rft Bn	
Capt or Lieut	to be detailed by the OC 2 Cdn Inf Base Rft Bn	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut	to be detailed by the OC 1 Cdn Inf Base Rft Bn	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.)
(S. A. LEE)
Colonel (Rank.)

Date 9 Mar 45

Commanding 1 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

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WDR. WDR.

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) 557)

I certify that I have this morning examined No 922966 Rank Pte
Name BUTCHER G.C. of 48th. I Bn. and in my opinion he is
fit/~~unfit~~ to undergo trial by Court Martial.
Mt.

In the Field
Date 12-3-45.

John McFrane Capt
(MEDICAL OFFICER)

15

0-3

WJR.

Statement by the Accused

I joined the army in 1940 and I have been high strung, and nervous ever since a accident in 1934. I went to England in July 41. I went through all of the Sicilian campaign and the Italian campaign up as far as the Ortona front. Since the Sicilian campaign, I have had family troubles. At the Ortona front my ~~[illegible]~~ nerves started to go. The reason I did not go to M.O. was because others who went to the M.O. were advised to return to the front. I just about got it at Ortona. After a few weeks I was thinking about coming back, but thought it was too late. I asked a military policeman at Campobasso, who appeared to be a sergeant, what sentence they would give me on coming back, and ~~[illegible]~~ he told me they would shoot me. After he told me that, I assumed it would be better to stay in Italy than be shot. I had that idea up until last January, when some English soldiers came to the town I was staying in. I asked them if it was true that a man A.W.L. for more than six months would be shot. They said "No". When they told me that, I figured a term in jail would be the best thing in order to return home. So I said good bye to my friends, and surrendered simply at Benevento, and was returned here.

Many times while I was A.W.L. I would wake up in the middle of the night, hearing the whistling of shells. I would have to get up and walk around and therefore got no sleep at all. Even now I jump at the slightest loud noise.

R.P. 83(b) complied with

The above statement was read back to the accused.

15

WJR 12 Nov. 19

Mitigation of sentence

Pte Butcher G. C. joined the army on the 1st Feb. 1941 in Canada, He was sent to England six months later in July 1941 where he spent two years, doing training. He took part in various battle schemes held in England, ~~where~~ he proved to be a soldier willing to learn, and anxious to do work, his results he had very good records of his work while in England.

He was in the Invasion ~~during~~ and through all the campaing, and finally came to Italy where he fought ~~up to~~ Ortono front in action, he was a good soldier, ~~despite~~ the man was subject to be nervous at times.

~~He~~ Through all this time in the army Pte Butcher was only awarded few days C.B for minor offences.

I would ask the court to take these facts in consideration when giving the sentence to the accused.

W. Buchanan

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4-A-USK

SUMMARY OF EVIDENCE

in the case of

A-22966 PTE BUTCHER ~~C.E.~~ GLENN CLARENCE

1 Canadian Infantry Base Reinforcement Battalion, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas:

The commanding officer directs that the evidence be taken under oath.

FIRST WITNESS
For the prosecution

B-72806 PTE MORTON M.W. orderly room clerk, 48th Highlanders of Canada 1 Canadian Infantry Base Reinforcement Battalion 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, having been duly sworn states:—

I am B72806 PTE MORTON M.W. orderly room clerk of 48th Highlanders of Canada 1 Battalion 1 CB R Gp. I present extract of the 48th Highlanders of Canada Part II orders No 11 dated 2 Feb. 44, issued by Canadian Section G.H.Q. 2nd Echelon C.M.F. which states that A.22966 PTE BUTCHER G.C. has been S.O.S. as a deserter w.e.f. 2 JAN. 44 having been declared illegally absent from 1600 hrs 12 December 43 by a C of enquiry held the 2 JAN. 44. Descriptions of Ret. unknown. Presented as Exhibit "A"

I also present extract of 48th Highlanders of Canada Part II orders No 13 dated 11 Feb 44. issued by Canadian Section G.H.Q. 2nd Echelon C.M.F. which amends the date of C of enquiry and date of S.O.S. of A.22966 PTE BUTCHER G.C. And to read: S.O.S as deserter w.e.f. 10 JAN 44 having been declared illegally absent from 1600 hrs 12 Dec 43 by a C of enquiry held 1500 hrs 10 JAN. 44 presented as exhibit "B"

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I further present the 48th Highlanders of Canada PART II Orders No 61 dated 4 Aug issued by Canadian Section G.H.Q 2nd Echelon A.A.1 which states that A 22966 PTE BOTCHER G.C. was T.O.S on apprehension from desertion 1955 hrs 10 July 44.
presented as exhibit "C"

I further present the "X" List 48 Highlanders of Canada PART II orders No 126 dated 21 Oct 44 issued by Canadian Section G.H.Q 2nd Echelon A.A.1 which states that A.22966 PTE BOTCHER G.C. was posted from X-3 list to X-4 list (3 Bn) the 06 July 44.
It also states that A.22966 PTE BOTCHER G.C was A.W.L from 2000 hrs 16 July 44. Still absent at 2000 hrs 24 July (44 (8th day). Still absent at 2000 hrs 7 Aug 44 (22nd day)
presented as exhibit "D"

I also present the certificate under Section 63 (i) (s) Army Act, signed by Capt P. MAGEE 246 Provost Company M.P. Police which certifies that A 22966 PTE BOTCHER G.C. of the A Coy 48th Highlanders of Canada surrendered himself to 7686050 Sgt. WASS. G. at Benevento on the 20 Feb 45.
presented as exhibit "E"

B72806 pte Morton MG

The accused declines to cross-examine the witness

7

The 48th Highlanders of Canada PART II Order No 11 dated 2 Feb 44, the amendment on ~~order~~ PART II Orders No 13 dated 11 Feb 44, the 48th Highlanders of Canada Part II orders No 61 dated 4 Aug 44, the "X" list 48 Highlanders of Canada PART II Orders No 126 dated 21 Oct 44, and the certificate under Section 163(1) (a) Army Act, by 246 Provost Company CM. Police, referred to by the witness, produced, read over, shown to the accused, marked exhibits "A" "B" "C" "D" & "E" respectively and attached to the summary.

R. Lains Capt.
Officer taking Summary of Evidence

Summary of Evidence in the case of
A22966 Pte BOTCHER G.C. (Cont'd)

Question to the accused

Do you wish to make a statement or to give evidence under oath? You are not obliged to say anything but any evidence you may give or any statement you may make will be taken down in writing and may be given as evidence.

Answer by the accused

I reserve my defense

I certify that the foregoing summary of Evidence consisting of four (4) pages was taken down by me in the presence of the accused and that Rules of procedure 4(c)(d)(e)(f) and (g) have been complied with.

R.R. Laird Lieut.
Officer taking Summary of Evidence

in the Field
3 March 1945

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ex-B-WOR

orighal "A"

Last Order No 10 28 Jan 44

48TH HIGHLANDERS OF CANADA
Part II Orders issued by
CANADIAN SECTION, G.H.Q., 2ND ECHELON, C.M.F.

This Order No 11 2 Feb 44

"B" OTHER RANKS

5. STRENGTH DECREASE CONT'D:

(i) S.O.S. as a des. w.e.f. 2 Jan 44, having been dec. illegally absent from 1600 hrs 12 Dec 43 by a Ct. of Inq. held on 2 Jan 44 Deficiencies of kit unknown:

A22966 Pte. Butcher, G.C.

(Sgd) "C.O. MacInnes Lieut"
(C.O. MacInnes) Lieutenant
for Officer i/c
Canadian Section, G.H.Q., 2nd Echelon, C.M.F.

/JS

Certified True Extract

26 Feb 1945
(Date of Certification)

(D M Owen) Capt
Discipline Section
Cdn Sec 2nd Echelon AFHQ
Officer having custody of the original

8

ex-Cpl WOR

Exhibit "B"

Last Order No 12 5 Feb 44	48TH HIGHLANDERS OF CANADA Part II Orders issued by CANADIAN SECTION, G.H.Q., 2ND ECHELON, C.M.F.	This Order No 13 11 Feb 44

"B" OTHER RANKS

3. STRENGTH DECREASE:

(j) Amendment - Part II Order No. 11, para. 5(i), of 2 Feb 44, insofar as it refers to the under-named, is amended to read "S.O.S. as a des. w.e.f. 10 Jan 44, having been dec. illegally absent from 1600 hrs 12 Dec 43 by a Ct. Inq. held at 1500 hrs 10 Jan 44. Def. Kit. 23-14-9:

A22966 Pte. Butcher, G.C.

(Sgd) "C.O. MacInnes, Lieut"
(C.O. MacInnes) Lieutenant
for Officer i/c
Canadian Section, G.H.Q., 2nd Echelon, C.M.F.

/JS

Certified True Extract

26 Feb 1945
(Date of Certification)

(D M Owen) Capt
Discipline Section
Cdn Sec 2nd Echelon AFHQ
Officer having custody of the original

8

Ex-R-WSR

original to "C" Regd Rec'd

Last Order No 60 31 Jul 44	48TH HIGHLANDERS OF CANADA Part II Orders Issued by Cdn Sec GHQ 2 Ech, AAI.	This Order No 61 4 Aug 44

"B" OTHER RANKS

3. STRENGTH INCREASE

(k) T.O.S. on app from des 1955 hrs 10 Jul 44.

A22966 Pte Butcher G.C.

(Sgd) "F.F. Knight Lieut"
(F.F. Knight) Lieut
for Officer i/c
Cdn Sec GHQ 2 Ech A.A.I.

SWG

Certified True Extract

26 Feb 1945
(Date of Certification)

(D M Owen) Capt
Discipline Section
Cdn Sec 2nd Echelon AFHQ
Officer having custody of the origin

6

file copy. Please return to "C" ex-FWSR

"D"

Last Order	"X" LIST 48 HIGHLANDERS OF CANADA	This Order
No 125	Part II Orders Issued by	No 126
19 Oct 44	CANADIAN SECTION, G.H.Q., 2ND ECHELON A.A.I.	21 Oct 44

"A" OFFICERS

1. STRENGTH INCREASE
   (a) T.O.S. X-3 List from 48 Highrs
   Lieut A.S. Le Mesurier — 19 Oct 44

   (b) T.O.S. X-5 List from 48 Highrs
   Lieut N.H. Mc Murrich — 9 Jun 44

   (c) AMENDMENT Part II Order No 125 para 1(a) d/19 Oct 44 for: " 17 Oct 44 "read" 16 Oct 44 ".
   Lieut R.D. Dailley

2. INTERNAL POSTINGS
   (a) Posted from X-5 List to X-4 List (4 Bn)
   Lieut N.H. Mc Murrich — 17 Jul 44

3. STRENGTH DECREASE
   (a) S.O.S. X-4 List (4 Bn) to 48 Highrs 17 Oct 44
   Auth - 1 CD/341 d/14 Oct 44.
   Capt W.G. Angus
   Lieut I. Mac Donald
   Lieut W.T. Pentland
   Lieut J.E. Pickering

   (b) S.O.S. X-4 List (4 Bn) to 48 Highrs 17 Jul 44
   Auth - CECH/A2/1259 d/28 Jul 44.
   Lieut N.H. Mc Murrich

"B" OTHER RANKS

4. STRENGTH INCREASE
   (a) T.O.S. X-3 List from 48 Highrs

B68084	Pte	Abbs D.F.	18 Oct 44
B75170	Pte	Bradley G.M. Dr Mech (MV) C	18 Oct 44
B147388	Pte	Chemula S.	19 Oct 44
B108561	Pte(L/Cpl)	Church J.R.	17 ~~18~~ Oct 44
B146994	Pte	Cole W.M.	18 Oct 44
B68712	Pte	Condie T.M.	18 Oct 44
B75002	Pte	Cox J.L.	17 Oct 44
B147165	Pte	Culleton E.L.	17 ~~18~~ Oct 44
B145944	Pte	Davies A.F.	19 Oct 44
A117002	Pte	Deschaines E.O.	19 Oct 44
C5312	Pte	Geynor J.W.	18 Oct 44
B73293	Pte(A/Cpl)	Gibson W.	19 Oct 44
F33059	Pte	Grant J.W.	18 Oct 44
B42203	Pte	Green W.E.J.	19 Oct 44
B73297	CQMS	Jonessen J.H.	15 Oct 44
K46884	Pte	Lindsay J.	17 ~~18~~ Oct 44
B103183	Pte	Little I.E.	17 ~~18~~ Oct 44

6. ABSENT WITHOUT LEAVE

(a) AWL from 0800 hrs 16 Oct 44. Still absent at 0800 hrs 17 Oct 44 (1st Day).
B56460 Pte Watts J.H. (4 Bn)

(b) AWL from 0800 hrs 9 Oct 44. Still absent at 0800 hrs 17 Oct 44 (8th Day).
B64138 Pte Gordon W.C. (4 Bn)
K48817 Pte Zadorowich W.W. (4 Bn)

(c) AWL from 2000 hrs 16 Jul 44. Still absent at 2000 hrs 24 Jul 44 (8th Day). Still absent at 2000 hrs 7 Aug 44 (22nd Day).
A22966 Pte Butcher G.C. (3 Bn)

(d) AWL from 2300 hrs 12 Oct 44. App at 1550 hrs 17 Oct 44 by 111 Prov Coy, CMP.
F29031 Pte Mc Kenzie F.H. (X-3 List)

7. REVERSIONS

(a) AMENDMENT Part II Order No 100 para 6(a) d/25 Aug 44 insofar as it refers to the u/n is CANCELLED.
B115342 L/Cpl Fraser D.

8. STRENGTH DECREASE

(a) S.O.S. X-3 List to 16 Cdn Spec Emp Coy
B17930 Pte Cunningham M. 16 Oct 44
B147783 Pte Mateyk G.J. 16 Oct 44
B68829 Pte Wilson G.C. 18 Oct 44

(b) S.O.S. X-3 List to 48 Highrs
B73297 CQMS Jonassen J.H. 18 Oct 44

(c) S.O.S. X-3 List to 3 Cdn Base Reinf Bn
B73997 Pte(A/Sgt) Tracy M.J. 17 Oct 44

(d) S.O.S. X-4 List (3 Bn) as a des 18 Oct 44. Having been declared illegally absent by a Ct of Inq since 2000 hrs 16 Jul 44. Kit deficiencies NIL.
A22966 Pte Butcher G.C.

(e) S.O.S. X-4 List (4 Bn) to Inc 5 CCS RCAMC 17 Oct 44. Auth - 1 CG/286 d/14 Oct 44.
B32402 Pte Picard C.L.

(f) S.O.S. X-4 List (4 Bn) to 48 HighRs 17 Oct 44 Auth - 1 CD/341 d/14 Oct 44.
B64248 Pte Ash P.J.
B112517 Pte Avarell A.R.
B112645 Pte Bannister W.A.
M104984 Pte Barrowcliff A.
B157703 Pte Biefer H.
B119507 Pte Burton R.E.

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8. STRENGTH DECREASE (CONT'D)

(f)

B116230	Pte	Carroll	W.F.
B160326	Pte	Cockwell	J.W.
B149241	Pte	Collis	L.R.
B41873	Pte	Cook	J.
B72839	CQMS	Craig	K.G.
B145392	Pte	Dank	J.S.
B21784	Pte	Durham	A.D.
B74037	Pte	Fee	B.S.
B73907	Cpl	Felstead	J.A. Dr Mech (MV) C
B159514	Pte	Friesen	M.J.
B148086	Pte	Givlin	P.F.
B45219	Pte	Hay	G.
B75855	Pte	Hoey	W.L.
B66667	Pte	James	T.R.
B110270	Pte	Jenkins	F.R.
B147828	Pte	Junnila	B.E.
M35562	Pte	Kashman	P.
C123549	Pte	Lafonte	D.F.
K71097	Pte	Linger	[illegible]
B159264	Pte	Lowrey	H.[illegible]
C120436	Pte	Morris	F.G.
B73305	Sgt	Munro	[illegible]
B72740	Pte	Raffan	C.G. Pi er C
B54725	Pte	Reaney	E.L.
B75402	Pte	Shannon	T.
D138615	Pte	Thompson	D.A.
B131147	Pte	Vahaypya	L.J.
B73667	Pte	Wilkinson	D.H.
B159413	Pte	Young	W.[illegible]

(g) B.O.[illegible] 2-5 List to 2-4 List R.C.A.S.C. (7 Bn) 9 Oct 44.
Auth - Overseas R.O. 3470.
B147641 Pte Mearns R.E.

(J.I. Hayes) Capt.
for Officer I/C
CANADIAN SECTION, G.H.Q., 2ND ECHELON A.A.I.

/MRdeG

Certified True Copy.
Washington Lieut.
Officer having Custody of ~~Regt Records~~ Original

ex. F-W.R.

Exhibit "E"

Certificate under Section 163 (i) (j) Army Act

I Capt.P.MAGEE Certify that No A22966 Rank Pte

Name BUTCHER G.C. of the A Coy 48 Highlanders of Canada

surrendered himself to No 768050 Rank Sgt Name Wass G.

at Benevento on the 20/2/45 at about 2000 hrs as a

deserter/absentee without leave.

P. Magee Capt,

Commanding 246 Provost Company,C.M.Police.

(Commanding Officer of the person or portion of His Majesty's Forces to whom surrender was made).

PS82- 967B 5M 7-44

4

Def-C-WSR

ARMY FORM B.2[illegible].

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A. 22966	Pte.	Butcher, G.C.	1 CIBRBn, 1 CBRGp

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement and annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A.Sec. 40	times	2 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~

~~or~~

~~There are no entries in the conduct sheet.~~

2. The accused has not been previously convicted, *or*

~~The following convictions† of the accused by a court martial or of a civil court, summary awards under section 47 of the Army Act and dispensations with trial under section 72 of the Army Act are all those which are known to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused is at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 16 days in military custody, making a total of 16 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 1/2/41.

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or* corps *or* department) the rank of dated

(*16259) Wt.15892/144 125,000 6/41 A.&E.W.Ltd. Gp.698

4

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		nil		
		nil		
		nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of March 1945.

Warrant Lieut
Officer having Custody of Regt'l Books.

~~18. The accused has served as a non-commissioned officer continuously, without reduction, to the present~~

In the rank of ..... years.

In the rank of ..... years

In the rank of ..... years

Date of Promotion.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph completed accordingly.*)

No. A22966 Name BUTCHER, Clarence, Glenn Sqn., Battery, or Company

Corps CIC

Date of enlistment 1/2/41. G.C. Badges

Service or Proficiency Pay

M.F.M. 6 (A.F. B.122) 40/P & /B136 (2068)

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	5/9/41.	Rfn.		A.A.40. In that he was smoking on parade at 0825 hrs, 5/9/41.	CSM Score, S.	3 days CB	6/9/41.	Capt. GFC Pangman	
Field	20/8/43.	Pte.		A.A. Sec. 40	CSM Wigmore	7 days C.B.	21/8/43.	Capt. J.C. Clarke	

Certified true copy from regtl books in my custody [signature]
(Officer in custody of regtl books)

(P.T.O.)

LIST OF WITNESSES

in the case of,

A. 22966, Pte. BUTCHER, Glenn, Clarence,

1 Canadian Infantry Base Reinforcement Battalion,
1 Canadian Base Reinforcement Group, a soldier of
the Canadian Army Overseas :-

Witnesses for the Prosecution

B. 72806, Pte. Morton, M.W., 1 CIBRBn, 1 CBRGp.

Witnesses for the Defence

N I L

- - - - - - -

2

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

W J R

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. no

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. G..... and Ex. H..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(~~s~~), and in mitigation of punishment?(1) Ans. my defending offr will

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts [illegible] as No. 4240 in the Record [illegible] kept in the office of the Judge Advocate-General this 7 day of Oct 1945.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A22966 Pte Butcher G.C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instr. p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st charge	guilty	guilty	
2nd charge	guilty	guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
to be imprisoned with hard labour for two years
& to be discharged with ignominy from His Majesty's service.

(Sgd) ..... Judge-Advocate, if any. 12 Mar 45 Date awarded. (Sgd) W.J. Ridge Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order(s).~~ Sgd

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 13 Mar 45 Commanding Comd 1 Cdn Base Rit Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A22966 Pte BUTCHER G.C. 2 Cdn NFTD	28 Apr 45	D.H. Burgoyne Maj OC No 2 Cdn NFTD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

H.Q.C. 55-B-1992

CONFIDENTIAL

M.F.R. 3C3
10M—2-43 (8291)
H.Q. 301-1-100

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BELL, GORDON HENRY F.607734 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1992

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If purpose for which referred cannot be expressed on one line, add minute to file and with Memo)	INITIALS	DATE
SEP 28 1945				JAG	NEW FILE	CR	25-9-45
				JAG	[illegible] OCT 4 1945		
NOV. 23 1947				WGR	PER REQUEST OF OCT 28 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1992 (JAG/D-5)

5th October 1945

District Officer Commanding,
Military District No. 6,
Halifax, N.S.

Standing Court-Martial
F-607734, Pte. G.H.BELL

Receipt is acknowledged of your H.B-5200(JAG) dated 1st October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:EJ

IN REPLY PLEASE QUOTE
No. H. B-5200 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, M. D. No. 6,
Halifax, N. S., 1st Oct 45 194

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
873
OCT 4 1945
File C 55-B-1992
Chgd. to
Referred to J. G. Ly.

Secretary,
Department of National Defence,
Ottawa, Ontario.

Standing Court-Martial
F-607734 Pte. G.H. BELL
No. 60 C.I.(B)T.C.,C.A.

Ref HQC.55-B-1992 (JAG/D-8) d/27 Sep 45.

2. Proceedings of the m/n Court-Martial have been duly reviewed and are herewith returned for safe custody.

(J.C. Stewart) Brigadier,
D. O. C., M. D. No. 6.

N.D. 23
3000M—10-44 (5709)
H.Q. 1772-101-23

PROCEEDINGS OF A STANDING COURT-MARTIAL

F-607734 Pte. Gordon Henry BELL,
No. 60 C. I. (S) T. C., C. A.

Yarmouth, N.S., 19th day of September, 1945

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Yarmouth, N.S.

on the 19th day of September 19 45 at 1000 hours,

for the trial of: F-607734 Private Gordon Henry BELL
Number Rank Full Name

No. 60 C.I.(B) T.C., CA
Unit Attachment, if any

PRESIDENT: Major R.F. Barnes, E.D., Headquarters, M.D. No. 6, CA
Permanent President Standing Courts-Martial, M.D. No. 6

PROSECUTOR: Lieut. H. Solomon, Headquarters, M.D. No. 6, CA
Officer detailed to perform duties of permanent prosecutor.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut. T.A. Hislop, No. 60 C.I.(B) T.C., CA
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused F-607734 Private Gordon Henry BELL, No. 60 C.I.(B) T.C., CA, guilty of the charge.

SENTENCE: The Court sentence the accused F-607734 Private Gordon Henry BELL, No. 60 C.I.(B) T.C., CA, to undergo detention for thirty (30) days, and to be placed under stoppages of pay until he has made good the sum of $21.27 in respect of the costs of apprehension and return to his unit.

Signed at Yarmouth, N.S. this 19th day of September 1945.

R.F. Barnes Major
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4625)
H.Q. 1792-30-2286

Extracts entered as No. 39921 in the Register of Courts-Martial kept in the Office of the Judge Advocate-General this 26 day of Sep 1945

Question to accused. Do you object to be tried by me as President of the Court ?

Answer: No sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer: -

Question to the accused. Do you object to G-13090 CSM (W.O.II) G.H. Russell, No. 6 Detachment, C.M.S.C., CA as shorthand writer ?

Answer: No sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. The name is Gordon, not George. The rest is correct.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

R.F. Barnes
(R.F. BARNES) Major
President S.C.M.

4 6

CHARGE SHEET

R.F. Barnes
President SCM

The accused, No. F607734 Pte. ~~George~~ "GORDON" Henry Bell, No. 60 Canadian Infantry (Basic) Training Centre (C.A.) an N.R.M.A. soldier of the Canadian Army, placed on Active Service is charged with:

First Charge
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Yarmouth, N.S., absented himself from No. 60 Canadian Infantry (Basic) Training Centre (C.A.) from 2359 hrs., 12 Jul 45 until apprehended by Military Authorities at Amherst, N.S., at 2100 hrs., 27 Aug 45, dressed in Civilian clothes.

Cost of apprehension and return to Unit $23.27.

U G Dawson
(U. G. Dawson) Lt-Col
Officer Commanding,
No. 60 C.I.(B)T.C. (C.A.)

Yarmouth, N. S.
12 Sep 45.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

STATEMENT OF ACCUSED IN REFERENCE TO PLEA OF GUILTY:
F-607734 Pte. Gordon Henry BELL

Sir:

The reason I went home is the illness of my father. My father and sister have been under a doctor's care since my mother died. My father is 74 years old and he has been sick for five years, and my sixteen year old sister is delicate, and she was home alone when mother died, and she suffered quite a shock when mother died. Since then my father and sister have been sick. Father was laid off, and I had a chance to get a job, and I wired for ah extension. I could not take the chance of leaving my father and sister in the state they were in, and I had a chance to get a job, so I took it. The Monday I was apprehended I had told my father I intended to come back to the army on Wednesday. I present the following documents to that effect: Certified true copy of letter from M.J. Kaufman, Mayor of Amherst(marked Exhibit "F" attached), letter from Dr. B. McCannell (marked Exhibit "G" attached), certified true copy of letter from Dr. B. McCannell (marked Exhibit "H" attached), letter from the Rector of St. Charles' Rectory, Amherst (marked Exhibit "I" attached) and letter from the Commissioner of Public Works at Amherst, Mr. H.J. Shea (marked Exhibit "J" attached).

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes sir, through my Defending Officer.

Defending Officer: I would like to enter a plea in mitigation of punishment in view of the facts which the the accused has already stated.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Marked "F" and signed by me.

MAJOR
PRESIDENT C.M.

8

September 6, 1945.

Officer Commanding,
No.60 CI(B)TC,
Yarmouth, N. D.

Dear Sir:

I am writing on behalf of F.607734 Pte. Gordon Bell, under your command.

Pte. Gordon Bell is making application for his discharge from the Armed Services or to be granted leave of absence for compassionate reasons which are as follows:

I have been advised by Dr.Bruce MacCannell of this Town that his father, William Henry Bell, who is residing at No.2 Park Street, Amherst,N.S. because of ill health and age is certainly unfit for further labor.

I am well acquainted with Mr.Wm. Bell and know the above to be true in every respect. Mr.Bell's wife passed away last February 1945.

In view of these facts and also the fact that Pte.Bell is needed here at home, I would very much appreciate anything that you could do with regard to his obtaining his discharge.

Thanking you, I remain

Yours very truly,

M. J. Kaufman
Mayor.

C O P Y

Certified True Copy

Capt.
Adjutant
No. 60 CI(B)TC

Marked "A" and signed by me.

B. MacCANNELL, M. D. MAJOR
PRESIDENT, C. M.

54 CHURCH ST. PHONE 415
OFFICE HOURS: 2-4 7-8
AMHERST, NOVA SCOTIA

9

Re Wm. Henry Bell aet 70.
#2 Park St Amherst N.S.

The above man is in only
fair health. He suffers
from Myositis & Arthritis.
& because of this has a
Chronic Disability.

B. MacCannell M.D.

Marked "H" and signed by me.

B. MacCannell MAJOR
PRESIDENT. C.M.

BRUCE MacCANNELL M.D.
AMHERST, NOVA SCOTIA.

Re: Wm. Henry Bell. Age 74

The above man because of health and age is certainly unfit for further labor.

Sgd: B. MacCannell M.D.

Sep 5/45

COPY

Certified True Copy

A. D. Stab. Capt.

Adjutant
No. 60 CI(B)TC

11

Marked "I" and signed by me.
R. D. Harris
MAJOR
PRESIDENT. C. M.

St. Charles' Rectory
Amherst, N. S.

To Whom It May Concern:

The bearer of this letter Gordon Bell is a member of my Parish and a resident of Amherst. Mr Bell, I understand, has the promise of permanent employment as soon as he is discharged from the Army and considering home conditions, especially the state of his father's health, I would recommend that such discharge be granted him.

Yours truly,
W. Shreeth
Rector

July 31/15

Marked "Y" and signed by me.
For PRESIDENT MAJOR C.M.

Amherst N.S. Aug 3/45

to O.C. Unit:

Dear Sir:
This letter is on behalf of Gordon Bell: If at all possible it would be appreciated by many to allow this young man a permanent discharge: due to sudden death of his mother some months ago. the elderly age of his father:
and the keeping of a younger sister.
Due to circumstance of war etc: It will be greatly appreciated for him to receive a discharge

Due to these circumstances he has also been able to get a good position in Montreal at the Wheel Foundry of Canadian Car Foundry Ltd.

Thanking you for any favor granted

I remain
Yours truly
Councillor H. J. Allen
Com. of Public Works

Marked "Y" and signed by me.

PRESIDENT. MAJOR C.M.

M.F.B. 356
75M—6-43 (145)
H.Q. 1772-20-630
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F607734	Private	Gordon Henry Bell	#60 CI(B)TC(CA)

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron Registers~~ ~~Conduct sheets~~ ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act ~~Air Force Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	A.W.L. 2 times	A.W.L. 2 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act~~ ~~Air Force Act~~ ~~A.F.A. 49~~ ~~and dispensations with trial under A.A. 78 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time ~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 23 days in military custody, making a total of 23 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation~~ enrolment paper is 23 yrs 7 mos.

6. The date of his ~~commission~~ ~~attestation~~ enrolment specified in his ~~record of service~~ ~~attestation~~ enrolment paper is 10 May 43

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to:—State any air force decoration or reward~~ military

10. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held ~~the regimental rank of~~ ~~Air Force~~

15

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Name.....of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of Sep 45

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

(G.F. Hart) Capt. & Adjt.
#60 C.I.(B)T.C.(CA)

M.F.M. 6
(A.F.R. 122)
500M—11-41 (2408)
H.Q. 1772-39-1892

No. F607734 Name BELL, G. | Sqn., Battery, or Company | Corps CIC (NRMA) | Marked "Z" Draft / Marked by mon/listment / 8 Mar 43 | Period not reckoning towards freedom from extra fine | No. and date of last drunk | G.C. Badges | Tradesmen's Rates of Pay | Character

Sheet No. One

G.A. Braine, Capt
MAJOR
PRESIDENT, L.C.M.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Halifax, N.S.	18Sep44	Pte		AWL from 0630 hrs 18 Sep 44 to 1330 hrs 29 Jan 45 (SOS as a deserter) (Absent 133 days, 7 hrs.) Sec 15(1)AA	DOCUMENTARY	ADMonished	19Feb45	Col. F.I. Andrews	Forfeits 134 days pay & costs of $14.35
Yarmouth, N.S.	27Apr45	"		Sec 15 (1) AA AWL from 2200 hrs 27 Apr 45 to 0930 hrs 12 May 45 (Absent 14 days 11 hrs 30 mts)	Documentary	Ordered to forf 15 days pay	12May45	Lt.-Col. U.G. Dawson	Forfs 15 days pay (FR&I)
Yarmouth, N.S.	.....			CERTIFIED TRUE COPY.....	(G.A. Haff) Capt. & Adjt. No. 60 CI(B)TC (CA)				

(P.T.O.)

Exhibit B

RECORD of the Declaration of a Court of Inquiry assembled at Yarmouth, N. S.

the 6th day of August 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F607734 Pte. Bell, G.H.

DECLARATION

The Court declare that No. F607734 (Regt'l No.) Pte. (Rank)

Gordon Henry BELL (Full Name) No. 60 C.I.(B)T.C. (Unit)

illegally absented himself without leave from No. 60 C.I.(B)T.C.

at Yarmouth, N.S. (Place) at 2359 hours on the 12th day of July 45.

that he is still so absent, and that on the 13th July 45 he was deficient, and

that he is still deficient of the following articles:—

Priced at 75% of Vocabulary Rate in accordance with R.O. 3464

ARTICLES		VALUE		ARTICLES		VALUE	
Anklets Web Prs.	1		56	Housewives	1		27
Blouses Battle Dress	1	4	88	Razor Safety Sets	1		32
Boots Ankle Prs.	1	4	37	Towels Hand	2		48
Drawers Cotton Shorts Prs	2		64	Belts Waist Web 1½"	1		19
Badges Cap CIC	1		06	Coats Waterproof Army	1	5	19
Sticks Button	1		03	Jackets Khaki Drill	1	2	57
Brushes Cloth	1		13	Neckties Black	1		19
" Hair	1		30	Pins Collar Safety	1		06
" Shaving	1		32	Shirts Khaki Cotton	2	2	32
" Boot Polishing	1		16	Shirts Under Cotton	2		66
Combs Hair	1		03	Shoes Leather Black Prs	1	3	63
Dressings First Field	1		16	Socks Black Prs.	2		56
Holdalls	1		17				

J.J. MacDonald, DCM, Capt. (Name) (Rank) (Unit) President

No. 60 C.I.(B)T.C. (Name) (Rank) (Unit) Member

Signed at Yarmouth, N. S.

this 6th day of August 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer (U. G. Dawson) Lt-Col., No. 60 CI(B)TC (Name) (Rank) (Unit)

Certified true copy (Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(W.S.K. Jones) A/Adjt.,
No. 60 C.I.(B)T.C.

M.F.B. 375
A.F.B. 115
200M—1-44 (3576)
H.Q. 1772-39-257

RECORD of the Declaration of a Court of Inquiry assembled at

the day of 19 , for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. (Regt'l No.) (Rank)

(Full Name) (Unit)

illegally absented himself without leave

at (Place) at hours on the day of ,

that he is still so absent, and that on the he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
Trousers Khaki Drill Prs 1	1	35			
Trousers Khaki Drill Shorts Prs. 3	2	97			
TOTAL $	32	57			

(Name) (Rank) (Unit) President

(Name) (Rank) (Unit) Member

Signed at

(Name) (Rank) (Unit) Member

this day of 19

Signature of Commanding Officer (Name) (Rank) (Unit)

Certified true copy (Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
250M—1-44 (3576)
H.Q. 1772-39-257

Exhibit "C"

APPENDIX "B"

(Certificate on accordance with Order-in-Council, P.C., 2797 dated 10th April, 1942 as published in G.O. 127/42.)

Apprehension by or surrender to Service Authorities

I F-50010 Sgt. Merritt, P.P. H.C.C.I/C Amherst Det. No38 Provost Coy.
(NUMBER) (RANK) (NAME) (UNIT)

hereby certify that F-607734 Pte. Bell, Gordon Henry.
(NUMBER) (RANK) (NAME)

of the NO.60 C.A.B.T.C. Yarmouth,N.S.
(UNIT AND DETACHMENT, IF ANY)

was apprehended by (surrendered to) F-50010 Sgt.
F-77161 Cpl.
(NUMBER) (RANK)

Merritt,P.P. Amherst Detachment No.38 Provost Company
McManaman,J.R. Amherst Detachment No.38 Provost Company.
(NAME) (UNIT)

Amherst,N.S.
(PLACE)

at Approx 2100 hours on the 27 th. day of,

August 1945 as a (Absentee without leave) and at the time of his arrest, he was (Dressed in Military (Air Force) Uniform) (Dressed in Civilian Clothes).

Dated at Amherst,N.S. This 27 th. day of August 1945.

DISTRIBUTION:

UNIT CONCERNED (I)
D.A.P.M., MD 6 (I)
FILE (I)

M.F.M. 216
/JFL
23-2-44

Sgt. Merritt P.P.
Sgt. Merritt,P.P.
N.C.O. i/c Amherst,N.S. Detachment
No. 38 Provost Company,
Canadian Provost Corps,(CA).

A.G.S. Soldier or a N. R. M. A. Soldier (~~Arrest~~) (CLOSE) ARREST.

COST OF APPREHENSION: Meals and Lodging $3.40.

M.F.B.I482 will follow.

I herby acknowledge receipt of the live body of F-607734 Pte. Bell,G.H. and appendix (B) 216 against the soldier named above.

Signature H B Bell

(May a copy of the charge sheet be returned to this detachment to show punishment awarded)

Exhibit "F"

Certified true Copy

(G.F. Hart)
Capt. & Adjt.
#60 C.I.(B)T.C.(CA)

DAILY ORDERS PART II

by
MAJOR R. T. CHISHOLM, E.D.
commanding

NO.60 CANADIAN INFANTRY (BASIC)TRAINING CENTRE

Order No. 181
29 Aug 45
Yarmouth, N. S.

= = = =

HOLDING ESTABLISHMENT

"C"-OFFICERS

NIL

"D"-OTHER RANKS

7. STRENGTH INCREASE

(a) T.O.S. from No. 5 C.C. Sussex, N.B. 26 Aug 45
(Auth. R.O. 5434)
F38871 Pte. KIRK R.

(b) Having been S.O.S. NO.60 CI(B)TC by
Ct. of Inq. held on 6 Aug 45
for A.W.L. fr 2359 hrs. 12 Jul 45
T.O.S.(At $1.50 per diem)on apprehn.
by Mil. Auth. at Amherst, N.S.
at 2100 hrs. 27 Aug 45
(Held in Amherst Town Jail)
F606734 Pte. BELL G.H.

8. ATTACHMENTS

(a) Ceases att. for R. & Q. 28 Aug 45
F91079 Pte(A/Cpl)MELANSON P.D. (No. 6 E.S. & W. Coy. R.C.E.)

9. ACCUM. SHORT LEAVE

AMENDMENT

(a) Para. 7(b) D.O. #180 d/28 Aug 45 ref. the u/n is cancelled.
F37022 Pte. EATON V.H.

10. ABSENCE WITHOUT LEAVE

(a) A.W.L. from 0600 hrs. 21 Aug 45. Still absent at 0600 hrs. 29 Aug 45 (8th. day)
F38787 Pte. GRAHAM C.M.
F21131 " MELVIN E.B.
F59368 " OGILVIE F.W.

AMENDMENT

(b) Para. 8(b) D.O. #180 d/28 Aug 45 ref. the u/n is amended:
For: "Pte. WOOD, R.J." Read: "Pte. THOMAS R.J."
F59448 Pte. WOOD R.J.

11. RETURN FROM A.W.L.

(a) Ceases to be A.W.L. on apprehn. by Mil.. Auth. at Aldershot, N.S. at 1030 hrs. 28 Aug 45
(Held in Aldershot Guard Room)
F38929 Pte. JACKSON H.S.

12. HOSPITAL

(a) Discharged from hosp. as shown:
F38716 Pte. COLLINS R.L. D.M.H. 28 Aug 45

13. PUNISHMENTS

AMENDMENT

(a) Para. 9(a) D.O. #178 d/24 Aug 45 ref. the u/n is amended:
For: Date of award -"23 Aug 45"
Read:"24 Aug 45"
F38856 Pte. CHAMBERS R.V.

(b) Para. 9(d) D.O. #178 d/24 Aug 45 ref. the u/n is amended:
For: "date of award: 23 Aug 45"
Read:"24 Aug 45"

Also for: "A.W.L.(15 days 22 hrs. 11 mins)"
Read: "A.W.L.(14 days 22 hrs. 11 mins)"
F38822 Pte. MacLELLAN J.D.

14. STRENGTH DECREASE

(a) S.O.S. to Windsor Military hospital 29 Aug 45
(Auth. H.K.1115 d/24 Aug 45)
C36455 Pte. GOSELIN A.I.

(b) S.O.S. to No. 5 C.C. Sussex, N.B. 29 Aug 45
(Auth. R.O. 5590)
F38894 Pte. TAYLOR A.J.

(W.S.K. Jones),
Lt. & A/Adjt.,
NO.60 CI(B)TC..

Exhibit "A"

Certified True Copy:

(G.F. Harris)
Capt. & Adjt.
#60 C.I.(B)T.C. (CA)

DAILY ORDERS PART II

by
LIEUT.-COLONEL U. C. DAWSON, V.D.
commanding

NO.60 CANADIAN INFANTRY (BASIC) TRAINING CENTRE

Page 3

ORDER NO. 146
13 JUL 45.
YARMOUTH, N.S.

= = = =

7. MARRIAGES, BIRTHS & DEATHS

(a) Married with permission to Miss Ruth Sheldon North Raynard at Arcadia, N.S. on
All docs. to be amended accordingly.
F66130 A/Cpl. JAYNE M.D.

8. NEXT-OF-KIN

(a) Change of N-of-K:
From: Mr. Willis Jayne (Father)
Yarmouth, N. S.

To: Mrs. Ruth Sheldon North Jayne (Wife)
Yarmouth, N. S.

F66130 A/Cpl. JAYNE M.D.

9. RETURN FROM A.W.L.

(a) Ret. from A.W.L. at 1800 hrs. 11 Jul 45
B156440 Pte.(A/Cpl.) PRINCE O.F.

10. SUBSISTENCE ALLOWANCE

(a) Granted ration allce (4 day's) while on leave
(Auth. 196(4) F.R. & I.) 15 Jul 45 to 18 Jul 45
W60570 Pte. STEWART S.C.

(b) Granted ration allce (7 day's) while on Compassionate Leave 16 Jul 45 to 22 Jul 45
F10636 Pte. CHANDLER J.D.

11. PUNISHMENTS

(a) Ordered to revert to the rank of Private and to receive $1.50 plus Trades Pay Group "B" per diem for an offence under A.A. Sec 15(1) A.W.L. from 2359 hrs., 29 Jun 45 until 1800 hrs., 11 Jul 45 (Absent 11 day's, 18 hrs., 1 min.) In open arrest. Forf. 12 day's pay under F.R. & I. 149(1)(a). Total forf. 12 day's pay. 12 Jul 45
B156440 Pte.(A/Cpl.) PRINCE O.F.

12. STRENGTH DECREASE

(a) S.O.S. H.W.E. (on being T.O.S. Holding Establishment 11 Jul 45

F5153	Sgt.	HANNIGAN	L.A.	F52713	L/Cpl.	LEVY	C.J.
F96010	"	JEFFERY	P.W.	F46046	A/Cpl.	MacDONALD	W.F.
F8087	"	RHODENIZER	G.S.	F10666	A/Cpl.	WESSELL	C.R.
F57507	Cpl.	HUMPHREY	T.	F3846	Pt.	SAMWAYS	E.R.
F57418	Sgt.	SYKES	A.E.	D147656	"	CAMPBELL	J.H.
F66787	Sgt.	THOMPSON	C.H.	F36104	Pte.	GRIFFITHS	J.
F37630	L/Cpl.	BAKER	W.O.	F37443	A/Cpl.	WILLETT	G.E.
F37790	"	COOPER	R.G.				
F37788	"	DURANT	W.C.				

D.O. #147 d/16 Jul 45

(b) S.O.S. (Ceases to be att. as in H.W.E.) from No. 6 Dist. Coy., RCASC, Halifax, NS, eff. 13 Jul 45 (Proceeding direct to A19, CASCTC, Camp Borden, Ont.)
(Auth. HS/150-1-1 (A4) d/27 Jun 45) 14 Jul 45
D156440 Pte. PRINCE O.F.
F96074 " CLAIRMONT M.E.

HOLDING ESTABLISHMENT

"C"-OFFICERS

13. VOLUNTEERS PACIFIC THEATRE

(a) Volunteered for Pacific Theatre M.F.M. 2J completed: 12 Jul 45

Lieut. Arthur Seeley KIMBERLEY
2/Lieut. Gordon Cameron SMITH

(b) Not acceptable for Canadian Army Pacific Force because of AGE and PULHEMS:
2/Lieut. Gordon Cameron SMITH

"D"-OTHER RANKS

14. STRENGTH INCREASE

(a) T.O.S. from H.Q. Staff, Debert, NS
(Auth. XAG 39 d/23 Jun 45)
F40092 Pte. SURRETTE C.M. 12 Jul 45

(b) T.O.S. from No. 3 Inf. Trg. Bn, C.I.C., Debert, NS
(Auth. HQ 54-27-7-7 FD 66 (Org) d/21 Jun 45)
P15180 Sgt. GRAY G.N. ~~13~~ 13 Jul 45

(c) T.O.S. from Windsor Military Hosp., Windsor, NS
(Auth. HS-150-1-1 (A4) d/27 Jun 45)
F56593 Pte. McKAY A.D. 12 Jul 45

(d) Having been S.O.S. No. 60 CI(B)TC by Ct. of Inq. for A.W.L. 2359 hrs. 23 May 45
T.O.S. (at $1.50 per diem) on being apprehd. by Mil. Police at St. John's, Nfld. on 5 Jul 45
Held Close Arrest in No. 82 M.D.B., St. John's, Nfld.
F710 Pte. GULLIVER W.

(e) T.O.S. Holding Establishment (on being S.O.S. H.W.E.) 12 Jul 45

F5153	Sgt.	HANNIGAN	L.A.	F52713	L/Cpl.	LEVY	C.J.
F96010	"	JEFFERY	R.W.	F46046	A/Cpl.	MacDONALD	W.F.
F8087	"	RHODENIZER	G.S.	F10668	A/Cpl.	WECSELL	C.R.
F57507	Cpl.	HUMPHREY	T.	F3846	Pte.	SAMWAYS	E.R.
F57418	Sgt.	SYKES	A.E.	D147656	"	GRIFFITHS	J.
F66787	Sgt.	THOMPSON	C.H.	F37443	A/Cpl.	WILLETT	G.E.
F37630	L/Cpl.	BAKER	W.O.				
F37790	"	COOPER	R.G.				
F37788	"	DURANT	W.C.				

15. COMPASSIONATE LEAVE

(a) Granted 4 day's Compassionate Leave 15 Jul 45 to 18 Jul 45
B631689 Pte. DOJIN T.L.

16. ABSENCE WITHOUT LEAVE

(a) A.W.L. from 2359 hrs. (1st. posting)
F607734 Pte. LELL G. 12 Jul 45

(b) A.W.L. from 0030 hrs. 5 Jul 45. Still absent at 0030 hrs. 12 Jul 45 (8th. day posting)
F35933 Pte. JONES H.E.

D.O. #146 d/13 Jul 45--NO.60 CI(B)TC--Sheet #3

16. ABSENCE WITHOUT LEAVE (CONT'D)

(c) A.W.L. from 0600 hrs. 5 Jul 45. Still absent at 060[illegible] hrs. 12 Jul 45. (8th-day posting)
~~F54543 Pte. McPHERSON H.C.~~ Cancelled D.O. # 15[illegible] d/12 Jul 45
B16820 " VERONEAU U.

(d) A.W.L. from 0800 hrs. (1st. posting) 12 Jul [illegible]
F40092 Pte. SURETTE C.M.

AMENDMENT

(e) Para 12(a), D.O. #145 d/12 Jul 45, ref. the u/n is cancelled: Noted
F58640 L/Cpl. ADAMS E.

17. SUBSISTENCE ALLOWANCE

(a) Granted ration allce (4 day's) while on Compassionate Lv. (Auth. 196(4) F.R. & I.) 15 Jul 45 to 18 Jul 45
B631689 Pte. BOJIN T.L.

18. HOSPITAL

(a) Admitted to hosp. as shown:
F38898 Pte. THOMPSON E.K.(sick) YMH 13 Jul 45
F38083 " WOOD G.M.(sick) " 12 Jul 45

19. PUNISHMENTS

(a) Awarded 14 day's C.B. for an offence under A.A. Sec 15(1) A.W.L. from 2359 hrs., 7 Jul 45 until 1835 hrs., 11 Jul 45. (Absent 3 day's, 18 hrs., 36 mins.) Forf. 4 day's pay under F.R. & I. 149(1)(a). Total forf. 4 day's pay. 13 Jul 45
B154584 Pte. SZMIK A.

20. STRENGTH DECREASE

(a) S.O.S. des. having been decl'd illegally absent from 0600 hrs. by Ct. of Inq. held 10 Jul 45 13 Jun 45
Deficiencies of kit to the value of $18.06
Total forf. 28 day's pay.
F10788 Pte. ANNIS M.H.

(b) S.O.S. to No. 6 District Depot (Auth. HR 2806 (Rep) 6 CD/R-415 d/3 Jul 45) 18 Jul 45
F59534 Pte. ROSS G.G. D.O. #14[illegible] d/18 Jul 45

AMENDMENT

(c) Para 25(b) D.O. #126 d/15 Jun 45 is amended:
For: "F69659 Pte. SMITH G.T."
Read "G69659 " SMITH G.T."

For: "S.O.S. to No. 6 District Depot"
Read: "S.O.S. to No. 7 District Depot"

for(G.F. Hart),
Capt. & Adjt.,
No. 60 CI(B)TC.

M.F.B. 1481
125M—10-43 (32906)
H.Q. 1272-39-1851

Exhibit D

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut (Rank) W.S.K. Jones (Name) #60 C.I.(B)T.C. (Unit)

Strike out word not applicable — hereby certify that I (~~issued~~) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Yarmouth, N.S. (Place) to Amherst, N.S. (Place) and return to Yarmouth, N.S. (Place) for the purpose of escorting

Full description of soldier being escorted — F606734 (Number) Pte. (Rank) Bell, G.H. (Name in full) #60 C.I.(B)T.C. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	F66344 L/Cpl. Perry, H.B. 60 T.C. (Escort) Yarmouth to Amherst Return T.W. # D59508	$ 10.94
	F606734 Pte. Bell, G.H. 60 T.C. (Prisoner) Amherst to Yarmouth Single Meals T.W.#59509	5.47
	Tax 15 %	2.46
	one meal T.W. # 59509	1.00
	TOTAL	$ 19.87

Dated at Yarmouth, N.S. this 29th day of Aug. A.D. 1945

W.S.K. Jones Lieut. A/Adjt.

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (authorizing transportation)
Strike out description not applicable.
#60 C.I.(B)T.C.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

Exhibit "E"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 56/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

H.110-260-18 (PRO)

Complete description

I, Sgt. Merritt, P.P., NCO i/c, Amherst Detachment, #38 Provost Coy.
(No.) (Rank) (Name) (Unit)

Strike out words not applicable

as ~~XXXXX~~ (commander of escort) consisting of Amherst Detachment, #38 Provost Coy.

Members of escort

Cpl. McManaman, J.E., Amherst Detachment, #38 Provost Coy.

detailed to proceed from Amherst, N.S. (Place) to Amherst, N.S. (Place)

Name and description of soldier escorted

to return F.607734 Pte. BELL, G.H. #60 C.I.(TS).T.C.

alleged to be a deserter or absentee without leave, to Yarmouth, N.S. (Place),

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
IN ACCOUNT WITH:	
J.E. AUSTIN, County Jailor, Amherst, N.S.	
27 Aug 45	
Lockup Fees $1.00	
28 Aug - 30 Aug	
8 Meals @ 30¢ 2.40	
Total $3.40	$ 3.40

Dated at Amherst, N.S. this 30th. day of August, A.D. 1945.

Sgt. Merritt, P.P.
(Signature and rank of commander of escort)

N.C.O.I/C. Amherst Detachment,
NO.38 Provost Company.
(Strike out description not applicable.)

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1493
75M—3-43 (8826)
H.Q. 1772-99-1630

MEDICAL OFFICER'S REPORT

I certify that No. F607734 Pte. Bell, G. H.

of #60C.I.(B)T.C(CA) is in a good state of health,

and fit to undergo Trial by Court martial.

Capt. RCAMC

Medical Officer

Att No 60 C.I.(B)T.C.(CA)

Station Yarmouth, N.S.

Date 19 Sep 45

M. F. B. 246

50M—12-43 (3222)

H.Q. 1773-39-480

HQC.55-B-1992 (JAG/D-8)
Your File H.B-5200

27 Sep 45

District Officer Commanding,
Military District No. 6,
HALIFAX, N.S.

STANDING COURT-MARTIAL

F.607734, Pte. G.H. BELL
No. 60 C.I.(B)T.C., CA.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

MO/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

...IS COPY FOR: H.Q. C. 55-B-1992
M.D. H.B-5200

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. R-607734 Name Gordon Henry NEIL

Rank Pte. Unit No. 60 C.I.(B)T.C. C.A.

Charge AA 15 (1) AWL

Date of Crime 12-7-45

Date of Arrest 27-8-45 Charge Signed 12-9-45

Orders for D.C.M.

Place and Date of Trial Yarmouth N.S. 19-9-45

Sentence Detention 30 days. Stoppages ~~XXXXX~~ ~~XXXXX~~ $21.27

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39921

Date 26-9-45

MEMO

MLD. 6
ABSENT
1½ mos.

No. 60 C.I.(B)T.C. C.A.
SENTENCE
Det. 30 days.

Wilson, Capt.
for Judge Advocate-General

10M-8-45(M-189)

In reply please quote. H.B.-5200.(JAG)

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

CONFIDENTIAL

Headquarters, M.D. No. 6,
Halifax, N. S. 20 Sep 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-B-1992

STANDING COURT-MARTIAL:
F-607734 Pte. G.H. Bell,
No. 60 C.I.(B)T.C., CA

1. Proceedings of the m/n Court are forwarded herewith for the consideration of the Judge Advocate General, in accordance with R. O. 4566.

(R.F. BARNES) Major
President Standing Courts-Martial
M. D. No. 6.

RFB/ GHR
Encl.

39921.

H.Q.C. 55-B-1993 CONFIDENTIAL

H.Q.S. 162B
10M—2-42 (3526)
H.Q. 201-1-65

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BERUBE, LUCIEN D.102844 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1993

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 29 1945	28 9/45	PA		JAG	NEW FILE	CR	25-9-45
					With Papers C.R. OCT 27 1945		
OCT 29 1945	30 10/45	PA		Admin	2 minute punishing		22.10.45
OCT 31 1945							
NOV 22 1945	22 11/45	P.A.					

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-B-1993 (JAG/D-6)

29 October, 1945.

District Officer Commanding,
Military District No. 5
Quebec, Quebec.

Standing
D-102844 Pte. Lucien Berube
R. 22 R CA att A13 CITC CA
.....Court-Martial

25 October 5 Q.39-B-8673 (JA)

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned the trial of the above-mentioned lady pte. proceedings
of the marginally noted Court of the Procedure Manual thereof
have been noted.

(R.J. Orde), Brigadier,

Judge Advocate-General.

ELM:jb

Noted
for Adv Orde
30 10 45

IN REPLY PLEASE QUOTE No. Q. 39-B-8673 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters M.D. No.5,
QUEBEC QUE 25 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT.

53710
OCT 27 1945

STANDING COURT-MARTIAL
D-102844 Pte Lucien BERUBE
R. 22 R CA Att A13 CITC CA.

1. Ref HQC. 55-B-1993 (JAG/D-7) dated 28 Sep 45.

2. It is desired to advise, with reference to para 2 of your above mentioned letter, that this case was submitted to this HQ during the absence of the AJAG then on special duty at the WDCS CA. The Officer who checked this Summary of Evidence forgot to comply with the provisions of K.R.(Can). 540. This error is regretted and steps have been taken to avoid the repetition of such errors.

3. The Finding and Sentence in this case were quashed as suggested. A Minute of this Quashing and a Minute of Promulgation are attached to Page "A" of the proceedings.

4. It was not considered practical to convene a new Court-Martial as four material witnesses are now out of this District and too much expense would be incurred to recall them. Authority has therefore been granted to discipline this soldier summarily.

5. The proceedings of this SCM are returned herewith for custody.

JAC/C.

(Edmond BLAIS) - Brigadier,
District Officer Commanding
Military District No.5.

PROMULGATION

Promulgated and extracts taken at Valcartier Camp, P.Q., this 17th day of October 1945.

Officer i/c Records,
A-13 C.I.T.C., C.A.
Valcartier Camp, P.Q.

On the advice of the Judge Advocate-General, I hereby quash the Finding of this Court on the first charge and direct that the record of such conviction be, and the same is, hereby removed and the accused relieved from all consequences of his trial thereon.

Signed at QUEBEC, P.Q., this 11th day of October, 1945.

Edmond Blais

(Edmond BLAIS) - Brigadier,
District Officer Commanding
Military District No.5.

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse. Non monsieur.-

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à Mlle Lorraine Chandonnet comme sténographe ?

Réponse. Nonmonsieur.-

Le sténographe est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse. Non monsieur.-

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse. Oui monsieur.-

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse. Non coupable.-

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse. Non coupable.-

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse.

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse.

(L'accusé s'étant avoué coupable sur le chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à C. I. B.T. C. No. 54, A.C., Valcartier, P.Que.,

le 13ième jour de septembre 1945 à 11.30 heures,

pour le procès de D-102844, Soldat Lucien BERUBE, Royal 22ième Régiment, A.C.,
Matricule Grade Nom et prénoms

Att. A-13, C.I.T.C., A.C.-
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, CMP., Q.G., R.M.No.5.-

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent, Q.G., R.M. No. 5.-
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant R. BELAND,
~~OU AVOCAT~~ Grade Nom et prénoms

A-13, C.I.T.U., A.C.
Unité Détachement, le cas échéant

" LA COUR DECLARE LE PREVENU COUPABLE SOUS LE PREMIER CHEF D'ACCUSATION ET NON COUPABLE SOUS LE DEUXIEME CHEF D'ACCUSATION. "

SENTENCE: " LA COUR CONDAMNE LE PREVENU A SUBIR UNE PEINE DE SIX (6) MOIS DE DETENTION."

Signé à VALCARTIER CMP, P.Que., ce treizième jour de septembre 1945.-

(PIERRE DECARY) - Major,
Président de la cour martiale permanente.
Q.G., R.M.No.5.-

No.
10M-1-1486A
H.Q. 1775-1-19
K.P. 26109 ~~C20~~

Contacts entered as No. 3997 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 26 day of Sept 1945

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

"B - 2"

CHARGE SHEET

in the case of

The accused, No. E-102844, Private Lucien BERUBE, Royal 22e Regiment, C.A., attached to A-13 C.I.T.C., C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Sec.18(4) Army Act. STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW,

in that he

at Valcartier Camp, P.Q., on 31 August 1945, stole a radio, the property of D-643817, Private VEZINA R., General List, C.A., attached to A-13 C.I.T.C., C.A., a person subject to military law.

SECOND CHARGE: (Alternative) Sec. 40 Army Act. CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

at Valcartier Camp, P.Q., on 31 August 1945, was improperly in possession of a radio, the property of D-643817, Private VEZINA R., General List, C.A., attached to A-13 C.I.T.C., C.A.

Valcartier Camp, P.Q., this
12th day of September 1945.

Pierre Tascherau

(P. TASCHEREAU) - Capt.,
Permanent Prosecutor,
Military District No. 5.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense?

Réponse: Non monsieur.-

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

Le procureur procède à l'appel des témoins.

Premier témoin à charge. D - 605282, Soldat Christian DUPONT, P.H.Q., R.M.P. att. to A-13, C.I.T.C., A.C.,

étant dûment assermenté, est interrogé par le procureur.

Question. Dupont, à quelle unité êtes-vous attaché?

R. A A-13 Monsieur.

Q. Quel corps?

R. La police militaire monsieur.

Q. Le 31 août 1945, est-ce que vous étiez en devoir?

R. Oui monsieur.-

Q. Qu'est ce qui s'est passé?

R. C'était vers 9 heures monsieur, on avait reçu un téléphone du R.S.M. du A-13 d'aller se rapporter à la troisième infanterie et delà le C.S.M. de la compagnie nous a donné l'ordre d'aller dans les huttes et de voir à ce qu'un radio qui avait été volé dans une des huttes. J'ai demandé au C.S.M. pour avoir le soldat Vézina avec nous autres, c'était à lui qu'appartenait le radio qui avait été volé, on voulait l'avoir avec nous autres pour pouvoir identifier le radio volé. On a commencé par la hutte no. ... je ne sais pas quelnuméro au juste mais c'était à la première infanterie, ensuite, on est entré dans la hutte 325 et on a tâté les kit-bags et puis je suis arrivé à un kit-bag j'ai tâté et j'ai senti qu'il y avait quelque chose dedans comme la forme d'un radio, j'ai demandé à Laflamme qui était avec moi d'aller chercher .....

Q. Avez-vous vu si le kit-bag portait un nom?

R. Il y avait deux sacs ensembles et sur un des sacs s'était marqué le nom de Bérubé, son initiale, et son numéro de matricule. Ensuite j'ai envoyé Laflamme chercher Bérubé qui était à la 9ième infanterie et quand il est arrivé, j'ai donné ordre à Bérubé d'ouvrir son kit-bag.

Q. Où était Bérubé à ce moment là?

R. -Entre les deux escortes. Il a ouvert son kit-bag et j'ai demandé à Vézina d'identifier son radio, il m'a donné les marques, la description de son radio, je lui ai montré le radio et il m'a dit que c'était son radio. J'ai pris le radio avec le gard qui l'avait volé et je suis parti à la hutte325.

Q. Qui a sorti le radio du kit-bag?

R. C'est Bérubé lui-même monsieur.

Q. Est-ce que vous seriez en mesure d'identifier la radio?

R. Certainement.

Q. Est-ce que vous connaissez ce radio là?

R. Oui.

Q. Quand l'avez vous vu?

R. Le 31 août monsieur.

Q. Où?

R. Dans lahutte 325 monsieur.

Voulez-vous produire à la cour ce radio comme exhibit?

Oui monsieur.

(Le témoin produit en cour le radio en question, pour détail du dit exhibit voir document marqué "A" ci-joint.)

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT"

DE L'AVIS DE LA COUR IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (3).

LE TEMOIN SE RETIRE.-

DEUXIEME TEMOIN DE LA POURSUITE:-

D-642630. Soldat J.P. Laflamme, R.H.Q., R.M.P., Att. To A-13, C.I.T.C., A.C., étant dument assermenté, est interrogé par le Procureur:-

Q. Soldat Laflamme, à quelle unité appartenez-vous?

R. Au A-13.

Q. Quelles fonctions exercez-vous au A-13?

R. Police militaire monsieur.-

Q. Le 31 août de cette année, est-ce qu'il s'est passé quelque chose de spécial?

R. On avait été détaillé le soldat Dupont et moi pour aller dans la deuxième infanterie au sujet d'un vol. Dupont et moi on a été se rapporter au C.S.M. Il nous a donné ordre d'aller dans les huttes pour retrouver un radio volé.

Q. Et qu'est ce que vous avez fait?

R. Nous sommes partis pour aller chercher le radio, pour le retrouver. Nous avons commencé par la première infanterie à faire l'inspection. Un coup rendu au lit de Bérubé, Dupont s'est aperçu qu'il y avait un radio dans

le kit bag. On ne pouvait pas ouvrir le kit-bag il était fermé à clef. Dupont m'a détaillé pour aller chercher Bérubé à la 9ième infanterie . Quand je suis revenu a la hutte 325 avec Bérubé, le soldat Dupont lui a donné ordre d'ouvrir son kit-bag et Bérubé l'a ouvert et Vézina a identifié le radio comme étant le sien. Ensuite on a amené le soldat Bérubé et le radio à la deuxième infanterie.-

Q. Quelle sorte de radio était-ce?

R. Un petit Victor, monsieur.-

Q. Est-ce que vous avez déjà vu ce radio ci?

R. Oui le matin,quand on l'a retrouvé dans le kit-bag de Bérubié.

" INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR : "

Q. Avez-vous des marques pour l'identifier? Il y a plusieurs sortes de radio,vous savez.

R. C'est le soldat Vézina qui a identifié le radio. Je le reconnais celui là parce que c'est celui que j 'ai vu l'autre matin monsieur.

Q. Est-ce qu'il y a desmarques dessus qui vous font dire que c'est bien celui-là?

R. J'avais vu le radio le matin,c'est tout.

Q. Vous ne savez pas s'il y a des marques?

R. Le soldat Vézina disait des marques quand il l'a identifié, mais je ne sais pas au juste où elles sont ces marques là.

" INTERROGE DE NOUVEAU PAR LE PROCUREUR: "

Q. Est-ce que ce radio là vous l'avez déjà vu avant ce matin là?

R. Non monsieur.- Je l'ai vu le 31 août seulement.

Q. Vous ne l'avez pas vu avant?

R. Non monsieur.-

INTERROGE PAR LA COUR: -

Q. Etes-vous bien certain quece radio là est le même que celui que vous avez vu le 31 août?

R. Ca dépend, si je l'examinais de plus près,je pourrais le dire mieux. (Le témoin examine le radio:) Oui,c'est lui, il a desmarques ici, sur le coté il est fêlé, c'est cette marque là que je reconnais.

DE L'AVIS DE LA COUR IL N'EST PAS NECESSAIRE DE SE CONFORMER ALA R.P. 83 (B)

" LE TEMOIN SE RETIRE

TROISIEME TEMOIN DE LA POURSUITE:- D-45017, Soldat Roland NOEL, N.R.M.A., Att. A-13, C.I.T.C. AC, étant dument assermenté, est interrogé par le Procureur:-

Q. Noel, à quel unité appartenez-vous?

R. Au A-13 monsieur.

Q. Quelle infanterie?

R. A la deuxième infanterie monsieur.

Q. Quelle hutte habitiez-vous le 31 août 1945?

R. Le 31 août 1945, j'étais à la hutte no.330.

Q. Le 31 août 1945, est-ce qu'il s'est passé quelque chose d'anormal?

R. Non monsieur.

Q. Rappelez-vous bien?

R. Ah out! J'avais une passe le 31 août au matin et je m'en allais de la hutte et en arrivant près de la porte, je me suis aperçu qu'il y avait à terre une "plug" de radio, je me suis demandé d'où ça pouvait provenir, j'ai ensuite pensé que ça provenait du radio de Vézina parce que je savais qu'il avait un radio à lui, alors, j'ai été près de son lit, je l'ai éveillé et je lui ai demandé où était son radio.

Q. Ce radio là, est-ce que vous l'aviez déjà vu?

R. Oui monsieur, Vézina l'avaitdepuis le printemps.

Q. Seriez-vous capable de le reconnaitre?

R. Oui monsieur.

Q. Voulez-vous examiner celui-ci et dire si c'est le même?

R. C'est bien celui là monsieur.

Q. Quand aviez-vous vu ce radio àl pour la dernière fois?

R. La veille au soir monsieur.

Q. Vézina, quelle hutte habitait-il?

R. La hutte 330 monsieur.

Q. Où était situé le lit de Vézina par rapport au vôtre?

R. Son lit était en face du mien monsieur.

Q. Depuis quand avait-il son radio?

R. Il l'avait quand je l'ai connu monsieur.-

INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR:"

Q. Il y a longtemps que vous connaissez Vézina?

R. Depuis ce printemps monsieur.-

Q. Est-ce qu'il avait ce radio là ce printemps ?

R. Oui monsieur, il l'avait.

Q. Maintenant, vous êtes certain que le radio en question est bien celui ci?

R. Oui monsieur.

Q. Est-ce que la compagnie qui fait des radios en fait plusieurs de la même forme?

R. Ca se peut monsieur.

Q. Comment pouvez-vous dire que c'est bien ce radio là?

R. Parce que je le connais monsieur.

Q. Aviez-vous des remarques qui pourraient vous faire dire que c'est bien ce radio là?

R. Je ne l'ai pas assez examiné de près.

Q. Dans votre mémoire, vous n'avez aucune marques?

R. Non.

Q. Alors si c'était un autre radio, vous ne pourriez pas l'identifier?

R. S'ils étaient exactement pareils, peut-être que non.

"LE PROCUREURNE DESIRE PAS INTERROGER DE NOUVEAU"

DE L'AVIS DE LA COUR IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

LE TEMOIN SE RETIRE.

QUATRIEME TEMOIN DE LA POURSUITE:

D-C43817, Soldat Vézina, Roger, N.P.M.A., Att. A-13, C.I.T.C., A.C. étant dûment assermenté, est interrogé par le Procureur:

Q. A quelle unité appartenez-vous?

R. A-13, monsieur.

Q. Depuis quand êtes-vous à A-13?

R. A peu près trois mois.

Q. Quelle hutte habitez-vous?

R. A la hutte 341, 4ième infanterie.

Q. Au mois d'aout, dans quelle hutte, habitiez-vous?

R. J'habitais dans la hutte no.330 monsieur.-

Q. Est-ce que vous connaissez l'accusé?

R. Je le connais de vue, une fois il est venu à la hutte etm'a demandé un information ausujet d'un soldat quelconque,était pour un information si je me rappelle bien.

Q. Save-zvous dans quelle hutte il habite?

R. La hutte325.

Q. Est-ce qu'il s'est passé quelque chose le 31août cette année?

R. Le vendredi matin quand le Private Noel est venu me réveiller il avait trouvé une "plug" qui était collecté après le radio en dehors de lahutte. Il y avait une broche qui pendait et le ground avait été g coupé. Il m'a demandé où j'avais mis mon radio, je me suis réveillé et j'ai regardé et j'ai vu que mon radio était parti La veille au soir,le radio était sur la tablette et à 10.15 heures, le lights out, le sergent m'a demandé de fermer le radio, il m'a dit "ferme le radio, on va fermer les lumières." J'ai ensuite fait rapport au sergent il m'a dit de continué à fair e mon devoir pareil qu'il était pour s'en occuper qu'il ferait rapport au R.S.M.

Q. Et apreà?

R. Ils m'ont envoyé chercher par deux R.P. pour pouvoir identifier le radio. On a commencé par la hutte np. 324. Ensuite,on a pris la hutte no.325, ils ont taté les kitbags, on est arrivé au lit de Bérubé et ils ont vu que dans le kit-bag il y avait quelque chose en forme de radio.

Q. Comment saviez-vous que c'était le kit-bag de Dubé?

R. Son nom était écrit sur un des deux sacs.

Q. Qu'est ce qu'il y avait d'écrit?

R. Son numéro de matricule,sonnom et je ne sais pas s'il y avait autre chose.-

Q. Ensuite?

R. Ensuite,les R.P. , sont allés chercher Bérubé, ils l'ont amené à la hutte pour débarrer le kit-bag et pour sortir le radio et j'avais avant donné des marques d'identification.

Q. Quelles sont ces marques?

R. Du coté gauche il est fêlé, il avait tombé en bas d'une tablette un e fois.

Q. Y avait-il d'autres marques?

R. Il manque deux ou trois vis.

Q. Voulez-vous examiner ce radio là et dire si c'est bien votre radio?

R. C'est bien mon radio monsieur.-

Q. Pourquoi dites-vous que c'est bien votre radio?

R. Parce que je sais que c'est un R.C.A. Victoir, tiens, vous voyez ici, c'est fêlé, et il manque trois vis, c'est -le mien monsieur.

Q. Depuis quand avez-vous ce radio là?

R. Ca fait deux ans et demie monsieur.-

Q. Combien avez-vous payé pour ce radio là?

R. J'ai payé $25. piastres pour ce radio là monsieur.-

"INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR:"

Q. Soldat Vézina, est-ce que vous étiez présent lorsque le radio a été sorti du kit-bag?

R. Oui monsieur.-

Q. Est-ce qu'il y a longtemps que vous avez ce radio là?

R. Ca fait deux ans et demie monsieur.-

Q. Dans votre hutte, vous avez des amis?

R. Oui.

Q. Est-ce que vous avez prêté votreradio déjà à quelqu'un?

R. Non monsieur.

Q. Vous avez dit tantôt que vous aviez des marques, pouvez-vous les énumérer?

R. Certainement. Il y avait sur le coté gauche une craque dans le coté gauche Va, ensuite il lui manquait trois vis., en arrière. Aussi, l'aiguille relevait quand on se servait du radio.

Q. Vous êtes bien sur que c'était votre radio.

R. Bien sur monsieur.

"LE PROCUREUR NE DESIRE PAS INTERROGER DE NOUVEAU :"

DE L'AVIS DE LA COUR IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

LE TEMOIN SE RETIRE.

D

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé: Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Je désire rendre témoignage sous-serment monsieur.- (Pages D-3 et suivantes).

Question à l'accusé: Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non monsieur.-

[illegible]

TEMOIN DE LA DEFENSE — L'ACCUSE MATRICULE B-102844, Soldat Lucien BERUBE, Royal 22ième Régiment, A.C., Att. A-13, C.I.T.C., A.C., étant dûment assermenté, est interrogé par l'Officier Défenseur:-

Q. Soldat Bérubé, qu'est-ce que vous faisiez avant d'être dans l'Armée?

R. C'était fils de cultivateur monsieur.

Q. Quel âge a votre mère?

R. 61 ans monsieur.

Q. Est-ce que vous connaissez cette lettre ici?

R. Oui monsieur.

Q. Voulez-vous la produire à la cour comme exhibit?

R. Oui monsieur.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

Q. Quel âge a votre mère?

R. 61 ans.

Q. Est-elle bien?

R. Malade monsieur.

Q. Depuis longtemps?

R. Ca fait un mois qu'elle est malade monsieur.

Q. Est-ce que votre père est vivant?

R. Mon pere est mort.

Q. Depuis combien de temps?

R. Depuis 11 ans.

Q. Avez-vous fait une demande pour un "farm-leave"?

R. Oui. Ma mère a envoyé des papiers signés par le maire de la paroisse, elle a envoyé ya ici au camp et j'ai donné cette lettre là au capitaine Lepage, il a travaillé pour faire ma demande, il a fait la demande à Ottawa et ma demande a été refusée.

Q. Durant combien d'années êtes-vous allé à l'école?

R. Huit ans monsieur.

Q. Est-ce que vous connaissez le soldat Vézina?

R. Je l'avais déja vu dans la hutte une couple de fois.

Q. Dans quelle hutte couche-t-il?

R. Dans la hutte 330 monsieur,

Q. Est-ce que quelqu'un vous a vu prendre le radio de Vézina?

R. Non monsieur, personne.

Q. Avez-vous en aucun temps près des moyens pour vendre ou disposer du radio de Vézina?

R. Non monsieur. J'avais toujours l'intention de le lui remettre monsieur.

Q. Qu'auriez-vous fait si vous étiez parti en draft?

R. J'aurais remis le radio à Vézina.

Q. Si Vézina était parti en draft, qu'auriez-vous fait?

R. Je lui aurais remis son radio.

Q. Et si il était parti sans que vous le sachez?

R. Je me serais informé pour savoir où il était, et je lui aurais envoyé son radio.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:

Q. Avez-vous déjà été mis sous une draft?

R. Non monsieur, à part de la draft du 54 au 4-13 .

Q. Aviez-vous fini votre entrainement?

R. Oui.

Q. C'est bien exact lorsqu'on dit que vous avez pris le radio de Vézina?

R. Oui monsieur, c'est exadt. J'ai pris le radio dans l'intention de lui remettre monsieur.

Q. Est-ce que vous avez pris ce radio là?

R. Oui monsieur.

Q. Comment avez-vous fait ça?

R. Comment j'ai fait ça? J'ai été dans la hutte, la hutte de Vézina, j'ai pris le radio sur la tablette et je suis retourné à ma hutte.

Q. Le jour?

R. Le soir.

Q. A quelle heure?

R. Je ne me rappelle pas l'heure, je n'avais pas l'heure.

Q. Est-ce qu'il faisait noir?

R.

R. S'il faisait noir? Naturellement, c'était après le ligths out.

Q. Il faisait bien noir?

R. Oui, bien noir monsieur.-

Q. C'était la nuit?

R. La nuit.

Q. Vous saviez que c'était à Vézina?

R. Oui je le savais.

Q. Vous l'aviez déjà vu?

R. Oui.

Q. Pourquoi avez-vous choisi le radio de Vézina au lieu d'en prendre un autre?

R. Pour la raison que je connaissais Vézina personnellement, je l'avais déjà rencontré et c'était plus facile de lui remettre après vu que je le connaissais.

Q. C'était pas un de vos chums?

R. Je l'avais déjà vu?

Q. Pourquoi avez-vous pris le radio?

R. Pourquoi j'ai pris le radio? J'ai pris le radio parce que j'étais descendu chez nous pour un 96 heures, j'ai travaillé tout le temps et j'ai dit à mamère que mon entrainement était fini que j'étais supposé avoir un furlough j'ai dit: "Je vais avoir mon furlough je vais pouvoir venir travailler ici," ensuite, ils nous mettaient sur une draft pour l'ouest, j'ai demandé à mon lieutenant pour avoir mon furlough il a dit "non" il a aussi dit que nous aurions notre furlough dans l'Ouest et comme je n'aurais pas eu assez d'argent pour y aller, je n'aurais pas pu aller chez nous et alors j'ai décidé de voler le radio va me donnait la chance de rester ici.

Q. De quelle manière?

R. De quelle manière? De la manière qu'ils pouvaient m'oter de dessus la draft pour me rentrer dans le "clink" jusqu'à temps que le procès passe.

Q. Vous avez trouvé que c'était la meilleure manière?

R. Ca bien marché puisque je ne suis pas parti et que je suis encore ici.

Q. Est-ce que vous aviez été avemi que vous étiez sur une draft?

R. Notre lieutenant nous l'avait dit.

Q. Quand?

R. On était transferré à la 9ième Infanteire et il disait qu'on était pour s'en allwr.

Q. Les drafts partent de la 8ième infanterie?

R. Oui monsieur.

Q. Quelle presse avez-vous eu de prendre le radio pour vous faire mettre dans le clink?

R. Ils disaient que la draft partait la semaine suivante.

Q. Il restait une semaine?

R. Oui.

Q. Quand vous attendiez vous à être mis dans le clink?

R. La journée même monsieur.

Q.- Le 31 août?

R. Oui monsieur.

Q. C'est pour ça que vous avez entendu que les Provosts viennent vous chercher?

R. Oui.

Q. Pourquoi l'avez-vous mis dans votre kit-bag?

R. Pour qu'ils le trouvent.

Q. Pourquoi ne l'avez-vous pas laissé sur le lit?

R. Ils auraient pensé que c'était à moi.

Q. Pourquoi le cachiez-vous?

R. Pour le cacher je l'aurais mis ailleurs, je ne l'ai pas caché.

Q. Saviez-vous quelles étaient les conséquences de ce que vous faisiez?

R. Non.

Q. Vous ne vous en rendiez pas compte?

R. Non monsieur.

Q. Excepté que ça vous mettait dans le clink?

R. Oui.

Q. Avez-vous pensé que ça vous donnerait un furlough tout ça?

R. J'ai pensé qu'après être sorti du clink je pourrais être envoyé en furlough.

Q.- Vous savez ce que c'est un serment?

Q. Quand vous avez ét prendre le radio, il n'y avait personne pour vousvoir?

R. Personne.

Q. Vous vous êtes arrangé pour qu'iln'y ait personne?

R. Je ne me suis pas arrangé monsieur, c'était le hasard, aussi c'était pendant la nuit, quand biemême quelqu'un m'aurait vu, ca m'aurait rien fait du tout.

Q. Vous y êtes allé pendant la nuit?

R. Oui.

Q. Alors qu'il faisait noir.

R. Oui. Vu que c'était la nuit, j'avais plus de chance qu'ils découvrent le radio le lendemain.

Q. C'est un beau petit radio que vous avez choisi?

R. Ca s'adonnait comme ça monsieur.

Q. Il n'y en avait pas d'autres?

R. Non. C'était le seul que je connaissais.

Q. Vous en connaissiez un seul mais il était très beau.

R. Des radios j'en ai pas besoin monsieur.

" L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT."

" INTERROGE PAR LA COUR"

Q. Quel âge avez-vous?

R. Dix-neuf ans monsieur.

DE L'AVIS DE LA COUR IL NEST PAS NECESSAIRE DE SE CONFORMER A LA R.F. 83(B).

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE ET L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE."

"L'ACCUSE REPREND SON SIEGE."

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

" F "

E X H I B I T

RADIO RCA VICTOR

MASTER NIPPER

SERIAL 08288

-o-o-o--o-o-o-o-o-o-

F

Pierre Decary
(PIERRE DECARY) MAJOR
"G" PRESIDENT, S.C.M.

Rivière Ouelle 9 septembre 1945

Mon cher enfant

[illegible] la
lettre avec grande que me rend
[illegible] fait
[illegible] être [illegible] de la sorte
[illegible] de conduite
[illegible] sans [illegible]
[illegible] entre des mauvais
compagnons qui vous gâte
[illegible] et perdre ton avenir
Par la Marine qu'elle te
donne sortir de l'armée
[illegible] le milieu d'habitant
[illegible] vous on est plus
[illegible] les [illegible] d'ouvrage
[illegible] [illegible] est tant
attaché on a rentre dans

Il faut Rémi coupe son grain
c'est le grain sec les patates
sont petites recolte et elles sont rude
[illegible] Albert est parti a
continue dans le bois
[illegible] bonne
[illegible] Pasto le mariage
est retardé après les travaux
[illegible] mariage attend après lui
il y a 3 semaines il m'a
pas été à la messe j'ai été
aujourd'hui j'ai assisté avec
[illegible] le garçon il veut
[illegible] plus je ne vous je
[illegible] je vais être obligé
[illegible] j'ai
j'ai trouvé ? tu le sait
a moi seulement et la
monde gardé cela secret
je n'ai pas [illegible] a personne
[illegible] dira c'est conte
et si tout je le [illegible] bonne
chanson de la mère

Qui vas faire pour moi

"Y"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

M.F.B. 355
(Form 2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment or Unit

No. E-102844 Private Lucien BERUBE, Royal 22e Regt., C.A., att. to A-13 C.I.T.C., CA.

Field xxxxxxxxxxxxxx
xxxxxxxxxxxxxxxxxxxxxxxx

1. The following is a fair and true summary of the entries in the conduct sheets of the accused for offences for which he has been tried by Court Martial or a Civil Court and which are not more than two years old, and of cases in which trial has been dispensed with:

xxxxxxxxxxxxxxxxxxxx xxxxxxxxx

Within last 12 months		Since enlistment	
For	times		times
For	times		times
For	times		times
For	times		times

xxxxxxxxxxxxxxxxxxxx

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of _____ Permanent Force unit

dated _____ and in his regiment (or corps), the rank of _____

dated _____

12. The accused has served as a non-commissioned officer continuously, without reduction to the present date:

		Date of promotion.
In the rank of	years	
In the rank of	years,	
In the rank of	years	

[illegible] matter in any of the above paragraphs [illegible] from the Regimental books, the [illegible] check through.

SCHEDULE

Convictions by a court martial or [illegible] other military tribunal [illegible] awards under Section 17 of the Air Force Act, Army Act, Rules of Procedure, which trial has been dispensed with of [illegible] Number _____ Rank _____ of _____ Regiment

Note.—A verbatim extract from the regimental books stating these convictions and dispensations with trial [illegible] to be inserted.

Date of Offence	Nature of Offence	Charge	Sentence of the Court	Punishment Remitted
Court-martial	of Trial			

I certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this _____ day of September 45.

J. L. Ramsay Lt.
Officer i/c of Records
A-13 C.I.T.C., C.A.

The above statement with the schedule of convictions and of cases in which trial has been dispensed with is read, marked _____ signed by the president, and annexed to the proceedings.

No. E-102844 Name, BERUBE L. Sqn., Battery, or Company CIC Corps Date of enlistment 19 Fev 45 Date of birth: 23 Apr. 1926 G.C. Badges Tradesmen's Rates of Pay M.F.M. 6 (A.F.B. 122) 500M—11-41 (2408) H.Q. 1772-39-1652

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY.

Lieut. & Off. i/c of Records,
General List C.A., att'd to A-13 CITC, C.A.

(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

PTO

MEDICAL OFFICER'S REPORT

I certify that No. H102844 Pte Berube L.

of No 1 Inf. C.I.T.C.A-13 in a fair state of health,

and is under Trial by Court martial.

Medical Officer

Station Valcartier

H.Q. A.I.T.C. A-13 VALCARTIER

Date 13 septembre 1943

M. F. B. 246

50M—5-43 (2541)
H.Q. 1772-39-180

SUMMARY OF EVIDENCE

in the case of

No. E-102844, Private Lucien BERUBE, Royal 22nd Regiment C.A., attached to A-13 C.I.T.C., C.A., a G.S. soldier of the Canadian Army placed on Active Service.

CHARGES:

1. STEALING GOODS, THE PROPERTY OF A PERSON SUBJECT TO MILITARY LAW.

2. CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

The O.C. directs that the evidence be taken on oath.

FIRST WITNESS: D-643817 Sdt VEZINA Roger, N.R.M.A., att. to A-13 C.I.T.C., C.A., dûment assermenté, déclare:

Jeudi soir le 30 août 45 lorsque le "lights out" a sonné, j'ai fermé mon radio que se trouvai sur une tablette au-dessus de mon lit. Le lendemain matin, le Sdt Noel a trouvé une "plug" près de la porte. Comme il savait que cette "plug" m'appartenait, il a regardé sur ma tablette et il s'est aperçu que le radio était disparu. Il m'a alors réveillé et je me suis aperçu que mon radio était disparu. Lorsque le C.O.S. est passé, je lui ai fait remarquer que le radio était parti. Le C.O.S. m'a donné instruction de continuer mon ouvrage et a fait rapport au C.S.M. de ma Compagnie. Vers 9 heures, deux M.P's sont arrivés à ma hutte et m'ont amené avec eux afin d'identifier le radio au cas où ils le trouveraient. Rendu à la hutte 325 en tâtant les "kit bags" un dit M. P's s'est aperçu qu'il y avait un radio dans l'un d'eux. Le Kit Bag était sous clef. Le nom du Sdt Bérubé apparaissait sur ce Kit bag. Le M.P. s'est alors informé au "hut orderly" et à quelques autres soldats si Bérubé avait un radio. Ils ont tous déclaré qu'il n'en avait pas. L'autre M.P. est alors sorti et est revenu avec Bérubé. Durant son absence, j'avais donné au M.P. qui était demeuré, la description de mon radio et les marques d'identification qu'il y avait dessus. Les M.P's ont alors demandé à Bérubé d'ouvrir son Kit Bag. Il L'a ouvert et a sorti un radio que j'ai alors recommu comme étant le mien. Un des M.P's a alors demandé à Bérubé à qui appartenait le radio et il a répondu que c'était le mien. Le même M.P. lui a demandé pourquoi il avait volé ce radio. Il a alors déclaré que c'était pour se faire ôter de sur une draft. Nous sommes allés ensuite au bureau du Major Doiron à la 21ème Infanterie. On a alors gardé mon radio comme pièce à conviction et on amené Bérubé dans le "clink".

Q.- Connaissiez -vous Bérubé?
R.- J'ignorais son nom, mais en le voyant je me suis rappelé qu'il était venu quelques jours auparavant dans notre hutte afin d'obtenir un renseignement quelconque.

THE ACCUSED CROSS-EXAMINES THE WITNESS

Q.- A quel endroit a-t-il trouvé la "plug"?
R.- A peu près 8 ou 9 pas de la porte du milieu en direction de la 1ère et 81ème Infanterie.

Roger Vezina Sdt.
D-643817 (R. VEZINA) NRMA, C.A.
Att. to A-13 C.I.T.C., C.A.

SECOND WITNESS: D-605282 Sdt Christian DUPONT, R.H.Q., R.M.P., att. to A-13 C.I.T.C., C.A., dûment assermenté, déclare:

Vers les neuf heures, je fus détaillé par le Sergent Leclerc B., en charge du "clink", pour aller me rapporter au bureau de la 2e Infanterie pour devoir au sujet d'un vol qui fut perpetré à cette compagnie. A la 21ème Infanterie, le C.S.M. m'a dit d'aller dans les huttes du A-13 et vérifier les kits des hommes afin d'essayer de trouver un radio qui fut volé. Ce radio appartenait au soldat Vézina de la 21ème Infanterie. Je me suis rendu d'abord à la 1ère Infanterie en compagnie du Pte Laflamme M.P., et du Pte. Vézina. A la hutte 325, en tâtant les "Kit Bags", j'ai senti comme une sorte de petite boîte pouvant avoir la forme d'un petit radio dans un de ces "Kit Bags". Le nom de Bérubé apparaissait sur celui-ci. J'ai alors donné instructions à Laflamme d'aller chercher Bérubé. Durant ce temps, Vézina m'a dit que son radio était de la marque Victor et qu'il était cassé dans le coté et qu'il manquait 3 vis en arrière. Lorsque Laflamme est revenu avec Bérubé, j'ai demandé à ce dernier d'ouvrir son "Kit Bag". Il l'a ouvert et a sorti un radio qui correspondait à la description que m'avait donnée le Pte. Vézina. J'ai demandé à Bérubé à quel endroit il avait pris le radio et il m'a répondu que c'était à la hutte 330. Je lui ai alors demandé si c'était à lui. Il m'a répondu non que c'était au Pte. Vézina. Je lui ai ensuite demandé pourquoi il avait pris ce radio. Il m'a dit que c'était pour s'exempter d'une draft.

Je l'ai amené au bureau du Major Doiron afin de faire rapport que le radio était retrouvé. Le Major Doiron m'a donné instructions de conduire Bérubé au "clink". C'est ce que j'ai fait.

The accused declined to cross-examine.

C. Dupont Sdt.
D-605282 (C. DUPONT) R.H.Q.
R.M.P., att. to A-13 CITC C.A.

THIRD WITNESS: D-642630 Sdt Jean-Paul LAFLAMME, R.H.Q., R.M.P., att. to A-13 C.I.T.C., C.A., dûment assermenté, déclare:

Le 31 août 45, j'ai été détaillé par le Sergent Leclerc, en charge du "clink", pour aller enquêter sur un vol de radio à la 21ème Infanterie. Je me suis rendu à la 21ème Infanterie en compagnie du Sdt Dupont. Le C.S.M. de la 21ème Infanterie nous a donné instruction d'aller dans les huttes faire des recherches.

Nous sommes partis en compagnie du Sdt Vézina qui s'était fait voler son radio. Nous sommes allés d'abord dans la hutte 325 de la 1ère Infanterie. En tâtant les "Kit Bags", le Sdt Dupont s'est aperçu qu'il y avait un radio dans l'un d'eux. Il y avait deux "kit bags" attachés ensemble et sur l'un d'eux, le nom de Bérubé apparaissait. Dupont m'a alors dit d'aller chercher Bérubé. Je suis revenu avec lui quelque temps après. Dupont a alors dit à Bérubé d'ouvrir son "kit bag". Celui-ci ouvrit son "kit bag" et sortit un radio que Vézina a immédiatement identifié comme le sien. Lorsque nous nous sommes dirigés vers le bureau de la 21ème Infanterie, le sdt Dupont a demandé à Bérubé à quelle place il avait pris le radio. Le Sdt Bérubé a alors déclaré que le radio appartenait au Sdt Vézina et qu'il l'avait volé pour

s'exempter d'une draft. Nous nous sommes rendus au bureau du Major Doiron et nous avons ensuite amené Bérubé dans le "clink".

The accused declined to cross-examine.

SDT.
D-542630 (J.P. LAFLAMME) R.H.Q.,
R.M.P., att. to A-13 C.I.T.C., CA.

FOURTH WITNESS: D-450917 Pte Roland NOEL, N.R.M.A., att. to A-13 C.I.T.C. C.A., dûment assermenté, déclare:

Vendredi le 30 août 45 au matin je revenais de passe. En dehors de la hutte où je loge à six ou sept pas de la porte du centre, en entrant j'ai trouvé une "plug". Je l'ai ramassée en me faisant la réflexion que cela pouvait provenir du radio du Sdt Vézina que je connais depuis ce printemps. Arrivé dans la hutte, j'ai regardé sur la tablette où Vézina mettait son radio et j'ai constaté qu'il n'y était plus. J'ai réveillé Vézina et je lui ai demandé ce qu'il avait fait de son radio. Il a alors regardé sur la tablette et il a dit: "Il faut croire que je me suis fait voler mon radio cette nuit". J'étais parti en passe la veille au soir et le radio était là. De ma connaissance, Vézina avait ce radio depuis que je le connais. C'est un petit radio.

Q.- Quelle sorte de "plug" était celle que vous avez trouvée?
R.- C'était une "plug" avec 2 pattes pour permettre d'entrer celle qui va au bout du fil.

The accused declined to cross-examine.

Sdt.
D-450917 (R. NOEL) N.R.M.A., CA
att. to A-13 C.I.T.C., C.A.

QUESTION TO THE ACCUSED:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY THE ACCUSED:

Je n'ai rien à dire.

Lucien Bérubé

I CERTIFY THAT THE FOREGOING SUMMARY OF EVIDENCE CONSISTING OF 3 PAGES WAS TAKEN DOWN BY ME IN THE PRESENCE OF THE ACCUSED AT VALCARTIER CAMP, P.Q., THIS 5TH DAY OF SEPTEMBER 1945 AND THAT RULES OF PROCEDURE 4 (C),(D),(E) AND (F) WERE COMPLIED WITH.

Capt.,
(P. DeGUISE) RdeChaud., C.A.,
Att. to A-13 C.I.T.C., C.A.

LIST OF WITNESSES

in the case of

No. E-102844, Private Lucien BERUBE, Royal 22nd Regiment, C.A., attached to A-13, C.I.T.C., C.A.

FOR PROSECUTION:

D-643817 Pte Roger VEZINA, N.R.M.A., att. to A-13 C.I.T.C. C.A.

D-605282 Pte Christian DUPONT, R.H.Q., R.M.P., att. to A-13 C.I.T.C., C.A.

D-642630 Pte Jean-Paul LAFLAMME, R.H.Q., R.M.P., att. to A-13 C.I.T.C., C.A.

D-450917 Pte Roland NOEL, N.R.M.A., att. to A-13 C.I.T.C. C.A.

FOR DEFENCE:

N I L .

Signed at Valcartier Camp, P.Q.,
this 5th day of September, 1945.

D. Menard

(D. MENARD) Colonel,
O.C. A-13 C.I.T.C., C.A.

H.Q.C.55-B-1993 (JAG/D-7)
Your Q. 39-B-8673

28 Sep 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

Standing Court-Martial
K.102844 Pte. Lucien Berube,
Royal 22e Regt., C.A.,
att.A-13 C.I.T.C., C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. The accused was charged with theft contrary to A.A. 18(4) and alternatively with improper possession contrary to A.A. 40 in connection with the theft of a radio from a fellow soldier. The Charge Sheet and Summary of Evidence were not submitted to this Headquarters in accordance with K.R.(Can) 540. May an explanation of this omission be forwarded, please.

3. The accused was remanded for trial by Standing Court-Martial on the above charges, to both of which he pleaded Not Guilty. He was found Guilty of the first charge (theft) and Not Guilty of the alternative charge (improper possession) and was sentenced to undergo detention for six (6) months.

4. As the accused did not elect trial by Standing Court-Martial pursuant to C.A.R.O. 4563 para.10, the Court had no jurisdiction to try him upon the charge in respect of which he was convicted. Accordingly, the Finding cannot be upheld in law and I must advise that the same should be quashed. Quashing may be effected by the endorsing by you on page "A" of the proceedings of the following Minute to be signed by you and dated:

> "On the advice of the Judge Advocate-General, I hereby quash the Finding of this Court on the first charge and direct that the record of such conviction be, and the same is, hereby removed and the accused relieved from all consequences of his trial thereon."

5. The quashing should be duly promulgated to the accused and reflected in Unit Orders in the usual manner.

6. Since there was evidence upon which a conviction of theft could properly be made by a Court having jurisdiction to try the charge, you may care to consider whether the accused should be retried by District Court-Martial. In this connection you are referred to A.A.157 para. 3 of Note thereto.

.....(PTO)

7. It is further observed that the date of the alleged offence was 31 Aug 45 and the date of trial was 13 Sep 45, but that M.F.B.355 does not state the number of days spent by the accused in military custody.

8. The proceedings are forwarded to you in order that the above recommendation may be carried out and also in order that you may comply with the provisions of paragraph 12 of C.A.R.O. 4565. May they be returned to this office after they have served your purpose.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/MM

THIS COPY FOR: H.Q. C. 55-B-1993
M.D. 5 39-B-8673

G.S.

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. S-102844 Name ~~xxxxx~~ Lucien BERUBE

Rank Pte. Unit Royal 22e Regt. C.A. Att A-13 C.I.T.C.CA

Charge AA 18 (4) Stealing property.....

AA 40 Conduct ot the prejudice.....

Date of Crime 31-8-45 (2) 31-8-45

Date of Arrest ..... Charge Signed 12-9-45

Orders for D.C.M. .....

Place and Date of Trial No. 54 C.I.B.T.C. C.A. 13-9-45

Sentence Detention 6 mos.

Date of Confirmation .....

Date of Promulgation .....

Entered in Records of J.A.G. as No. 39917

Date 26-9-45

MEMO. finding and sentence quashed by S.O.C. 1933 11-10-45 (2) Not Guilty

M.D.5 Royal 22e Regt. C.A. Att A-13, C.I.T.C. C.A.

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-B-8673

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Sept. 21st. 1945.

C.55-B-1993

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL
D/102844, Pte. Lucien BERUBE.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

NAT. DEF. R. 440
2506M-4-44 (32)
H.Q. 1772-39-787

34917

H.Q.C. 55-B-1994 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOUGIE, CHARLES RENE D.448461 PTE.

CONFIDENTIAL
H.Q.C. 55-B-1994

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 28 1945				JAG	NEW FILE	CR	25-9-45
OCT 16 1945	16 Oct 45	PA		JAG	With Papers C.R. OCT 15 1945		
DEC 4 - 1945	4 Dec 45	PA		Adm.	With Papers C.R. DEC 3 1945		
	7 Dec	PA		CMDR	For Information C.R. DEC 7 1945		
DEC 7 - 1945	10 Dec	PA		Adm.	Minute file		7/12/45
				JAG	With Papers C.R. DEC 11 1945		
DEC 18 1945	14 Dec 45	PA		CMBR	To note file		12-12-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1994
(JAG/D-6)

OTTAWA, 13 December, 5

District Officer Commanding
Military District No 4
MONTREAL, Que

D-448451, Pte NOUGIE, CR

Receipt is acknowledged of your M-1-B-13618 ADIS dated, under cover of which you forwarded to this headquarters for custody MFM 288 in respect of the m/n soldier.

E.L.M

/jm

for (R J Orde) Brigadier
Judge Advocate General

FILE NO: M.1-B-16618 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
10th December, 1945.

The Secretary,
Department of National Defence,
Ottawa, Ontario.

14322
DEC 11 1945
Origin to
Dispatched to

D-448461 - Pte. BOUGIE, C.R.

Reference HQC 55-B-1994.

2. Attached hereto, form for remission in respect to the marginally named soldier.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURE

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-B-1994
District File No. M.1-B-16618

PART I

No. D-448461 Rank Pte. Name BOUGIE, C.R.
Unit LRCD

PART II

Date of Trial 6 Sep 45
Charge (s) AW 15 (1)
Sentence 160 days
Date of sentence 6 Sep 45
Confirmation -- (a) Authority: D.O.C. - M.D. 4
(b) Date 6 Sep 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 25 Nov 45.

Signed at Montreal this 18 Nov. day of 1945

(Appointment)(E.A. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~xxxxxxxxxxxxxxxxxxxxxxxxxx~~)* promulgated and extracts taken at No. 48 C.I. (B) T.C., St. Johns, this 6th day of December 1945 194....

(1)

H.C. Bawden, capt
Officer i/c Documents.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-448461 Rank Pte Name Bougie, C. R.

The sentence of 160 days detention awarded by ~~xxxxxxxx~~ Standing Court Martial on the 6th September 194 5 has been remitted by 80 days on the 25th November 194 5 by D.O.C. M.D. 4.

UNIT. No. 48 C.I. (B) T.C.

Certified true Extract of Daily Orders Part II of No. 48 C.I. (B) T.C. Place St. Johns, Quebec Date 6 DEC
Part II No. 292

Adjutant (J.F. HAWTHORNE) Capt. & Adjt
No. 48, C.I. (B) T.C.

* Strike out and initial words not applicable.

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

File. M-1-B-16618 ADIS
MONTREAL QUE.

12712

DEC 3 1945

File 16.55-B-1994
Chgd. to
Referred to admin

Secretary,
Department National Defence,
Ottawa Ontario.

REVIEW OF SENTENCES CM CARO 5913
D-448461 HOUGIE C.R.

Reference HQC 9039-1, Adm 3(b),3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Attached hereto MFM 288 duly completed in respect to the m/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(E.J.Renaud) Major-General,
DOC MD No. 4.

ENCL.

D. Adm:
It would be appreciated if such remissions be brought to attention of CMBR
G.A. Stitwell Maj
Secretary
Courts - Martial Board of Review
7/12/45

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-448461 (Number) Pte. (Rank) BOUGIE, Charles Rene (Name in full)

Longue Pointe Ordnance Depot(CA) (Unit) (Attachment (if any))

Sentenced to 160 days det'n

on 6th Sep 45 at Montreal, Que.

being served at No. 65 Mil Det Barracks, M.D. 4 (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 yrs 8 mos; 4 Dec 41

Medical grade or category 19 1112111

FIRST TRIAL—PART II

To Adjutant General MDHQ (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~(not)~~ committed to undergo his sentence, which I recommend should ~~(not)~~ be ~~(suspended)~~ (put into execution) ~~(concurrently)~~ (consecutively) (date) for reasons given in paragraph X.

Place MONTREAL, Que

(E J RENAUD) Maj Gen
DOC MD No 4
(Confirming Authority)

Date 11 Oct 45

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
15 Oct 45	No suspension No remission Bal 25 Nov 45	Sentence confirmed for 30 days P.D.	
19 Nov 45.	Sentence remitted wef 25 Nov 45.	(E.J. Renaud), Maj Gen, DOC MD No. 4.	
26NOV45	"RELEASED"26 Nov 45	(C.Potter)Major Commandant No.65 M.D.B.MD#4 Montreal Sth,Que.	Marks earned 656

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Sec.15(1)AA AWL fr 0830 hrs 20 Feb 45 to 1125 hrs 28 Aug 45. Held in close arrest to 1730 hrs 6 Sep 45	20 Feb 45	6 Sep 45

(M. [illegible]) Administrative Officer
Longue Pointe Ordnance Depot(CA)
Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
3 Oct 45	I concur in the findings and sentence of this Standing Court Martial	(A.E. Duncanson) Brigadier OC Longue Pointe Ord.Depot(CA)

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
11 Oct 45	Sentence considered fair and reasonable. First review to take place on 21 Oct 45.	(E J RENAUD) Maj Gen DOC MD No 4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

H.Q.C. 55-B-1994 (JAG/D-5)

16 October, 1945.

District Officer Commanding,
Military District No. 4,
Montreal, Quebec.

Standing
D-448461 Pte. Charles Rene Bougie,
L.P.O.D., RCOC, C.A. Court-Martial

M.1-B-16618 (J)

12th October 5

Receipt is acknowledged of your Standing
dated 194 -, under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

(R.J. Orde), Brigadier,

LCC:jb

Judge Advocate-General.

IN REPLY PLEASE QUOTE No. M.1-B-16618(J)

R-103

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
12th October, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

GENERAL REGISTRY
COURT SECT.
3055
OCT 15 1945

HQC.55-B-1994

JAG

STANDING COURT-MARTIAL
D-448461 Pte. Charles Rene BOUGIE,
L.P.O.D., RCOC, C.A.

Reference your HQC.55-B-1994 (JAG/D-7) dated 27 Sep 45.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, please.

J. E. Renaud Capt.

(E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

DNT. DEF. B. 440
(500M-4-44 (4321)
H.Q. 1772-39-767

MEDICAL OFFICER'S REPORT

I certify that No. D-448461 Pte. Bougie, C.R.

of LPOD.RCOC.CA. is in a good state of health,

and fit to undergo Trial by Court martial.

S. Pedvis Capt

Medical Officer

(S. Pedvis) Capt.,
(No.4 District Coy., R.C.A.M.C.)
Att'd L.P.O.D., R.C.O.C., C.A.

Station Longue Pointe, Que.

Date 6th September 1945.

J. C. G. Dubeau major
President SCM

M. F. B. 246

35M—2-43 (8525)
H.Q. 1772-39-440

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Longue Pointe Ordnance Depot, R.C.O.C., C.A.

le 6ième jour de septembre 1945 à 1130 heures,

pour le procès de D-448461, Pte. Charles Rene BOUGIE, Longue Pointe Ordnance
Matricule Grade Nom et prénoms

Depot, R.C.O.C., C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers-généraux, District Militaire No. 4

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Major A.A. Cossette, Le Régiment de Maisonneuve, C.A.,
Grade Nom et prénoms

attached to Longue Pointe Ordnance Depot, RCOC, C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-448461, Pte. Charles Rene BOUGIE, Longue Pointe Ordnance Depot, R.C.O.C., C.A. coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-448461, Pte. Charles Rene BOUGIE, Longue Pointe Ordnance Depot, R.C.O.C., C.A. à la détention pendant cent soixante (160) jours.

Signé à Longue Pointe, Que. ce 6ième jour de septembre 1945

(J.A.G. DUBEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-8096
K.P. 26109

Extracts entered as No. 399/8 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 26 day of Sept 1945.

B

Question à l'accusé.

Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse:

Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé.~~

~~Vous opposez-vous à être interprète ?~~

~~Réponse:~~

Question à l'accusé.

Vous opposez-vous à D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det. CMSC, C.A., Quartiers-généraux, District Militaire No. 4 comme sténographe ?

Réponse:

Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté.

Question au procureur.

L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse:

Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé.

Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse:

Oui, monsieur.

Question à l'accusé.

Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Coupable, monsieur.

~~*Question à l'accusé.*~~

~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

Réponse:

Question à l'accusé.

Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé.

Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. C. G. Duchesne, major
President SCM

"B2"

5

CHARGE SHEET

The accused, No. D-448461 Pte. Charles Rene BOUGIE, Longue Pointe Ordnance Depot, R.C.O.C., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Section 15(1) Army Act.

"ABSENTING HIMSELF WITHOUT LEAVE"

in that he,

at Longue Pointe, Montreal, Quebec, on the 20th day of February 1945, absented himself without leave from 0830 hours on the said 20th day of February 1945 from the Longue Pointe Ordnance Depot, R.C.O.C., C.A., until he surrendered to the military authorities at Montreal South, Quebec, at 1125 hours on the 28th day of August 1945, dressed in military uniform.

A.E. Duncanson A/Brig

(A.E. Duncanson) Col. (A/Brigadier) RCOC.CA.,
Commanding,
Longue Pointe Ordnance Depot, R.C.O.C., C.A.

Longue Pointe,
this 30th day of August 1945.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur. (Voir CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Oui, monsieur. (Voir CC-5)

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

Montreal, 5 sept. 1945.

Je, soussigne, Charles Rene Bougie, declare ce qui suit:-

En fevrier 1945, j'etais avec la 3ieme Compagnie de Munitions de St-Polycarpe depuis environ un an. Durant ce temps je fus promu L/Cpl et plus tard Corporal. Je visitais regulierement ma famille et en particulier ma mere qui était bien malade. Aussi, ma feuille de consuite etait sans tache. Vers le 14 février, je recus l'ordre de me rapporter quelques jours plus tard au depot de la region militaire No 4.

Je ne savais pas d'une facon definitive ou je devais etre transferre, mais les bruits couraient que j'allais a debert, tandis que d'autres allaient a St-Jean, Que.

Comme ma mere avait une grave maladie de coeur (Certificat assermente du medecin inclus) et que son etat necessitait beaucoup de menagement, je me rendis aux quartiers-generaux du district pour demander si l'on voulait bien me transferre a St-Jean plutot qu'a Debert. Ma mere s'inquietait beaucoup a mon sujet, a cause de mon depart et de mon état de santé.

Ne recevant aucune reponse, je m'absentai sans permission le 20 fevrier pour me rapporter le 28 aout. [redacted]

En terminant, puis-je ajouter qu'etant un peu l'enfant prefere de ma mere, je craignais, apres consultation d'un medecin sur son etat de sante que mon depart au loin pourrait avoir pour elle des suites tres graves et que cela pourrait peut-etre la faire mourir d'une syncope.

Signe Charles René Bougie
D-448461

CC-3
(page 2)

Dr. Roland Guy M.D.
MEDECIN - CHIRURGIEN

WILBANK 3200
2598, RUE ST-ANTOINE
MONTREAL

27 août 1945

A qui de droit :

Ceci pour certifier que j'ai traité Madame Elise Bougie, mère de M. Pierre Bougie, en février 1945 pour hypertension artérielle grave, mon mia dépassant 250 mm. Madame Bougie a d'ailleurs présenté une hémi-plégie transitoire. Je puis actuellement pas condition inchangée. C'est une pauvre malade nécessitant beaucoup de soins et de ménagements.

Roland Guy M.D.

Nécessité d'avoir soin ce jour pour du mois de septembre 1945 et de disposer mon salaire Merci

Capitaine G. Deneault, Les Fusiliers de Sherbrooke, C.A., attached to Longue Pointe Ordnance Depot, R.C.O.C., C.A. étant dûment assermenté, est interrogé par l'officier défenseur.

Q. Avez-vous déjà été l'officier commandant du soldat BOUGIE, l'accusé?

R. J'ai eu le soldat BOUGIE sous mes charges durant six mois à St-Polycarpe, qui était le No. 3 Ammunition Coy.

Q. Pourriez-vous dire à la cour de quelle façon le soldat BOUGIE s'est conduit pendant qu'il était sous vos ordres?

R. Lorsque j'ai eu le soldat BOUGIE à St-Polycarpe il agissait comme en charge du département médical "First Aid"; aussi il a été un soldat modèle, très dévoué. Il prenait souvent l'organisation du divertissement des soldats du côté "sport" ou de la bibliothèque, et je n'ai jamais rien eu à reprocher au soldat BOUGIE durant les six mois que j'ai été son commandant.

LE PROCUREUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT LE TEMOIN.

LE TEMOIN SE RETIRE.

J.G.H.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur. (Par l'entremise de mon officier défenseur - Voir E-3).

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Monsieur le président,

Le soldat René BOUGIE appartient à une des vieilles et bonnes familles de Notre-Dame de Grâce que je connais très bien. J'ai vu le soldat Bougie à l'oeuvre dans toutes les organisations paroissiales, organisations de charité, etc., et il s'est toujours dévoué. Dans l'armée il a toujours eu le même esprit. C'est pour cette raison que j'ai accepté de le défendre.

Bougie, durant les trois premières années de son service militaire dans l'armée canadienne a eu une conduite exemplaire, malgré certains handicaps. Il causait beaucoup d'inquiétude à sa mère, parce qu'assez longtemps il a souffert des oreilles et à la tête, et évidemment la mère s'inquiétait. Bougie était aimé et estimé de ses camarades et de ses supérieurs.

Cependant, un moment ou il eut à choisir entre le coeur et la raison, sa mère était malade et il savait que son départ subitaurait pu lui être néfaste, alors par un sentiment que l'on peut très bien comprendre, sentiment qu'un fils doit avoir pour sa mère, il a laissé le devoir pour écouter son sentiment. Je crois que dans les conditions...l'état de santé de sa mère, il ne voulait pas risquer qu'elle devienne plus mal, puisqu'elle était déjà très mal, et il s'est absenté. Il a toujours été le grand bébé de la maison.

C'est pour ces raisons, monsieur le président, que je demanderais la clémence de la cour pour le soldat BOUGIE.

---

g.c.r.v

ARTICLES	100%	75% VALUE
1 Brushes Tooth	.09	.07
1 Caps Comforter	.41	.31
1 Combs Hair	.04	.03
1 Forks Table	.08	.06
1 Holdalls	.22	.16
1 Housewives	.35	.26
1 Knives Table	.18	.14
1 Neckties Black	.19	.14
1 Pins Collar Safety	.06	.05
1 Razors Safety Sets	.42	.31
1 Spoons Table	.08	.06
2 Socks Black	.56	.42
2 Towels Hand	.62	.47
1 Badges Cap RCOC	.05	.04

CERTIFIED TRUE COPY

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
L.P.O.D., R.C.O.C., (C.A.)

ARTICLES	100%	75% VALUE
1 Badges Ration	.04	.03
1 Belts Waist	.67	.50
1 Bottles Water	.62	.46
1 Braces left	.35	.26
1 Braces Right	.33	.25
1 Carriers Waterbottle	.37	.28
1 Covers Mess Tin	.08	.06
1 Haversack	2.29	1.71
1 Helmets Steel Complete	2.39	1.79
1 Packs	2.26	1.69
2 Attachments Braces	.32	.24
2 Straps Shoulder Hav Left	.62	.46
2 Straps Web Supporting	.28	.21

ARTICLES	100%	75% VALUE
1 Tins Mess	.60	.45
1 Nets camouflage helmet	.26	.20
2 Detectors Gas Sleeves	.56	.42
1 Respirators Anti Gas Light Complete	3.80	2.85
1 Outfit Anti Dimming	.03	.02
1 Eyeshields Anti-Gas	1.04	.78
2 Ointment Anti-Gas	.52	.40
1 Mugs Enamel	.16	.12
1 Sheets Ground	2.38	1.78
TOTALS	$ 100.13	$75.11

ARTICLES	100%	75% VALUE

CERTIFIED TRUE COPY

(Wm. E. Lynes) Lieut.
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

J.C.G. Dubeau major
Pointe Claire

Ethebel

RECORD of the Declaration of a Court of Inquiry assembled at LPOD Montreal, Que.

on the 14th day of March 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-448461 Pte. BOUGIE C.R. LPOD R.C.O.C. C.A.

DECLARATION

The Court declare that No. D-448461 (Regt'l No.) Pte. (Rank) Charles Rene BOUGIE (Full Name) LPOD, RCOC, CA. (Unit) illegally absented himself without leave from L.P.O.D. R.C.O.C. CA. at Montreal Que. (Place) at 0830 hours on the 20th day of Febuary 1945. that he is still so absent, and that on the 14th March 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	100%	75% VALUE	ARTICLES	100%	75% VALUE
1 Anklets Web Prs.	.74	.56	1 Shoes Canvas	2.29	1.72
1 Dressing First Field	.13	.10	4 Socks Army	1.84	1.38
1 Gloves Woollen Khaki	.66	.50	2 Battle Dress Trousers	13.10	9.82
1 Greatcoats, Drab	15.54	11.66	1 Bags Kit	1.27	.95
1 Overalls Combination	2.52	1.89	1 Belts Waist Web 1½"	.25	.19
2 Blouses Battle Dress Serge	13.00	9.75	1 Braces	.28	.21
2 Boots Ankle Army	11.64	8.73	1 Brasses Button	.04	.03
2 Caps Field Service	1.40	1.05	1 Brushes Boot Blacking	.14	.11
2 Drawers Cotton Short	.84	.62	1 Brushes Boot Polishing	.21	.16
2 Drawers Woollen	2.80	2.10	1 Brushes Button	.11	.08
1 Jackets Sweater	1.37	1.03	1 Brushes Cloth	.17	.13
2 Shirts Flannel Khaki	3.26	2.45	1 Brushes Hair	.39	.29
2 Shirts Woollen	2.40	1.80	1 Brushes Shaving	.42	.32

Capt. P.V. Salvaneschi LPOD RCOC CA. (Name) (Rank) (Unit) President

Lieut. R.E.A. Kerr LPOD RCOC CA. (Name) (Rank) (Unit) Member

Signed at Montreal, Que.

this 14th day of March 1945

Lieut. A.M. Fraser LPOD. RCOC. CA. (Name) (Rank) (Unit) Member

Signature of Commanding Officer (L. Patrick) Brigadier. (Name) (Rank) (Unit)

Certified true copy (Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
Longue Pointe Ordnance Depot.

M.F.B. 375
A.F.B. 115
200M—1-44 (3076)
H.Q. 1772-39-257

J. C. R. Walker major
President

Ethelbert C

DAILY ORDERS PART II

BY

BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

ORDER NO 43
d/ 24 Feb 45
Montreal, Que.

(Last Order issued No 47 d/23 Feb 45)

12. ABSENT WITHOUT LEAVE

(h) A.W.L. from 0830 hrs. 20 Feb 45.

D-448461 Pte. BOUGIE R.

(Signed) A.H. Frame, Major.
for (L. Patrick) Brigadier,
Longue Pointe Ordnance Depot.

----------CERTIFIED TRUE EXTRACT----------

Wm. E. Lynes

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
Longue Pointe Ordnance Depot. R.C.O.C., C.A.

J.C.G. Lachance major
President SCM

Exhibit A
"H"

DAILY ORDERS PART II

BY
BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

ORDER NO 50
27 Feb 45.
Montreal, Que.

(Last Order issued No 49 d/26 Feb 45)

8 ABSENT WITHOUT LEAVE

(d) A.W.L. from 0830 hrs. 20 Feb 45 Still absent 0830 hrs. (8th day) 27 Feb 45.

D-448461 Pte. BOUGIE R.

(Signed) A.H. Frame, Major,
for (L. Patrick) Brigadier,
Longue Pointe Ordnance Depot.

----------CERTIFIED TRUE EXTRACT----------

Wm E. Lynes
(Wm. E. Lynes) Lieut,
Assistant Adjutant,
Longue Pointe Ordnance Depot. R.C.O.C., C.A.

Exhibit #25 "I"

J. C. G. Walker major
President

DAILY ORDERS PART II

BY
BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPTO

ORDER NO 62
13 Mar 45.
Montreal, Que.

(Last Order Issued No 61 d/12 Mar 45)

11. ABSENT WITHOUT LEAVE

(e) A.W.L. from 0830 hrs. 20 Feb 45 Still absent 0830 hrs. (22nd day) 13 Mar 45.

D-448461 Pte. BOUGIE G.R.

(Signed) M. Jack, Major
for (L. Patrick) Brigadier,
Longue Pointe Ordnance Depot

CERTIFIED TRUE EXTRACT

Wm. E. Lynes

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

4

J. R. E. Lachance major
Provost Corps

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942. and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. S. ECHENBERG, Commanding No. 4. District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-448461. Pte. BOUGIE, Charles Rene.
(Number) (Rank) (Name in full)

of the RCAMC. C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~xxxxxxxxxxxx~~ (surrendered to) D-126460. SGT.
(Number) (Rank)

PATENAUDE, L. No. 4. District Depot Police, C.A.
(Name) (Unit or appointment)

at MONTREAL SOUTH QUE.,
(Place)

at 1125 hours,
(Hour)

on the 28 day of August, 19 45.

Strike out words not applicable } ~~xxxxxxxxxx~~ absentee without leave), and that at the time of his ~~arrest~~ SURRENDER he was wearing military ~~xxxxxxxx~~ uniform ~~xxxxxxxxxxxxxx~~.

Dated at MONTREAL SOUTH QUE., this 28 day of August, 19 45.

(Signature, Number, Rank, Unit or appointment)
(S. ECHENBERG,) Colonel.
Commanding No. 4. District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

J. A. G. Hughes major
President SCM

M.F.B. 355
30M—11-41 (2275)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 448461	Pte.	BOUGIE, C.R.	LPOD.RCOC.CA.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct.~~

~~or,~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in ~~Air Force~~ civil custody, and 9 days in military custody, making a total of 9 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ ~~attestation~~ enrollment paper is 26 years 5 months

6. The date of his ~~commission~~ ~~attestation~~ enrollment specified in his ~~record of service~~ ~~attestation~~ enrollment paper is 4 December 1941

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of .....~~

30

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

Wt

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of Sept. 1945. Wm. E. Lynes (Wm. E. Lynes) Lieut. Assistant Adjutant, L.P.O.D., R.C.O.C.,

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "V" signed by the president, and annexed to the proceedings.

J. C. P. Warlow maj
President

Longue Pointe Ordnance Depot

M.F.M. 6

Reg. No. D-448461 Name BOUGIE Charles Rene Corps R.C.O.C. CA. Date of enlistment or enrolment 4 Dec 1941 Date of Birth 28 Mar 19

Signature O.C. Company, etc. R. Morin Lieut.

Sheet No. One of *1. 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				-CERTIFIED TRUE COPY-					
				Wm. E. Lynes (Wm. E. Lynes) Lieut., Assistant Adjutant, Longue Pointe Ordnance Depot.					

M.F.M. 6—500M—6-44 (5386)
H.Q. 1772-39-1652

(P.T.O.)

H.Q.C.55-B-1994 (JAG/D-7)
Your M. 1-B-16618

27 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 448461 Pte. Charles Rene Bougie,
Longue Point Ordnance Depot, R.C.O.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R. J. Orde) Brigadier
Judge Advocate-General.

LJR/MM

JAG DJS

CANADA

In reply quote No. M. 1-B-16618 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
21st September, 1945

C O N F I D E N T I A L

6.55-B-1994

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT-MARTIAL
D-448461, Pte. Charles Rene BOUGIE,
Longue Pointe Ordnance Depot,
R.C.O.C., C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 6th September, 1945

2. Submitted for your information, consideration and approval, please.

J. A. G. Duheau

(J.A.G. DUHEAU) Major,
Headquarters, Military District No.4,
President - S.C.M.

ENC.

39915

M.F.A. 1326
1,000M—1-43 (8995)
H.Q. 1772-30-2039

THIS COPY FOR: H.Q.C. 55-B-1994
M.D.A. 1-B-16618

NPMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-448461 Name Charles Rene ROUGIE

Rank Pte. Unit Longue Pt. Ord. Dep. R.C.O.C. C.A.

Charge AA 15 (1) AWL

Date of Crime 20-2-45

Date of Arrest 28-8-45 Charge Signed 30-8-45

Orders for D.C.M.

Place and Date of Trial Longue Pt. Ord. Dep. RCOC C.A. 6-9-45

Sentence Detention 160 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39918

Date 26-9-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 4

ABSENT

6½ mos.

Longue Pt. Ord. Dep. R.C.O.C. C.A.

SENTENCE

Det. 160 days.

10M-8-45(M-189)

L.J. Lyon Lt.
for Judge Advocate-General

H.Q.C. 55-B-1995

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOULANGER, JEAN-PAUL E.627372 FUS.

1036-32

CONFIDENTIAL
H.Q.C. 55-B-1995

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 28 1945					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG	NEW FILE	CR	25-9-45
				Admin	For Requisition C.R. OCT 12 1945		
				SE(AG)	SE	WOF	15.10.45
OCT 19 1945	18 Oct 45	PA		2nd			16.10.45
OCT 28 1945		PA		JAG	PER B.F. OCT 28 1945		
				J.A.G.	For Requisition C.R. OCT 29 1945		
OCT 30 1945				Cmdr			30.10.45
OCT 31 1945	1.11.45	PA		WOF	Admin. 3(b)(2) - To note -	AAG	31/10/45.

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-1995
(JAG/D-6)

OTTAWA 29 October 5

District Officer Commanding,
Military District No. 5
Quebec, Quebec.

E-627372 Fus Jean Paul Boulanger
Les Fus du St-Laurent CA Att No. 5 DD CA

Receipt is acknowledged of your Q.39-B-5407 (JA) dated 25 Oct 45 under cover of which you forwarded to this Headquarters Form of Remission together with MFM 288 in connection with the m/n soldier.

E.L.M.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

ELM:jb

Adm. 3(b)(2):
Under S.E.
OAC CMBR
31/10/45 CMBR-3

IN REPLY PLEASE QUOTE No. Q. 39-B-5407 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 25 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

NATIONAL DEFENCE ARMY
OCT 29 1945
5368
File 55-B-1995
Chgd. to JAG 28-10-45
Referred to JAG

REMISSION OF SENTENCE - SCM.

E-627372 Fus Jean Paul BOULANGER
Les Fus du St-Laurent CA Att No.5 DD CA.

1. Ref HQC. 55-B-1995 (JAG).

2. A remission of sentence in this case has been granted w.e.f. 20 Oct 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1772-19-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. H.C.55-B-1995(JAG)
District File No. R.39-B-5407(JA).

PART I

No. E-627372 Rank Fus. Name Jean Paul BOULANGER

Unit Les Fus. du St-Laurent CA, Att. No. 5 District Depot, CA.

PART II

Date of trial 18th Sept. 45.

Charges AA Sec. 12(1)(a) -- Sec. 24(2)

Sentence 8 months detention & Stoppage 82.02

Date of Sentence 18th Sept. 45.

Confirmation - (a) Authority Standing Court-Martial MD No. 5.

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E-627372, Fus. Jean Paul BOULANGER, Les Fus. du St-Laurent CA, Attached No. 5 District Depot, CA, effective 20th. October 1945

Signed at QUEBEC, P.Q. this 16th. day of October 1945.

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at No.5, District Depot, LAUZON this 22nd day of October 1945

(W.G. LAROCHE) - Capté.
(Att'd) R.C.C.S., No.5, D.D.
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E/627372 Rank Pte Name BOULANGER, Jean Paul.

The sentence of 8 months detention

awarded by Court-Martial on the 18th day of September 1945

has been remitted

on the 20th Oct 1945 by Brigadier Edmond Blais, CBE MC DOC MD 5

Unit

Certified true Extract of Daily Orders Part II of

No. 261 Place LAUZON Date 23-10-45

(M.R. LEDOUX) - Capt.,
GEN. LIST. ATT'D. No. 5, D.D.
Adjutant.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-627372 (Number) Fusilier (Rank) Jean-Paul BOULANGER (Name in full)

Les Fusiliers du St-Laurent (Unit) No. 5 DD (Attachment (if any))

Sentenced to 8 months det.

on 18 Sept. 1945 at 1120 hrs.

being served at Val. Mil. Det. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22years, 6 months, 9 Dec. 1942

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~xx~~) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended~~ reviewed on 18 Jan 46 (date)) for reasons given in paragraph X.

Place QUEBEC QUE

Edmond Blais
(Edmond BLAIS) - Brigadier,
D.O.C. MD No.5,
(Confirming Authority)

Date 13 Oct 45.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Superior Military Authority

Date

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Confirming Authority

Date

M.F.M. 288
(Army Form A-3104)
15M—4-43 (461)
H.Q. 1772-70-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
25 Oct 45:	Remission of Sentence granted w.e.f. 20 Oct 45.	Edmond Blais (Edmond BLAIS) - Brig D.O.C.,MD No.5.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA Sec. 12 (1)(a) AWL from 0800 hrs on 27 Dec. 1944 until 1355 hrs on 6 Sept. 1945	27/12 /44	18/9/45
AA Sec 24 (2) Los by negl his arms his equip cloth and regt'l nec. for $2.02	13/9/45	18/9/45

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
4 Oct 45	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	Paul Mathieu (PAUL MATHIEU) Colonel

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-1995 (JAG/D-6)

18 October, 1945

District Officer Commanding
Military District No 5
QUEBEC, PQ

Standing Court-Martial

E-627372, Fus Jean-Paul BOULANGER
Les Fus du St-Laurent CA
Att No 5 DD CA

Q. 39-B-5407 (JA)

Receipt is acknowledged of your dated 15 Oct 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

for (R.J. Orde) Briagdier
Judge Advocate-General.

/jm

IN REPLY PLEASE QUOTE No. Q. 39-B-5407 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 13 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

3351
OCT 16 1945
File C55-B-1995
Class Admin 12-10
Referred JAG

STANDING COURT-MARTIAL

E-627372 Fus Jean-Paul BOULANGER
Les Fus. du St-Laurent CA
Att No.5 DD CA.

1. Ref HQC. 55-B-1995 (JAG/D-7) dated 28 Sep 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C;

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. B. 440
250M-4-44 (4321)
H.Q. 1772-39-787

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au dépôt régional No.5, A.C., Lauzon, P.Q.

le 18ème jour de septembre 19 45 à 1120 heures,

pour le procès de E-627372, Fusilier Jean-Paul BOULANGER, Les Fusiliers du St-Laurent, A.C., att. dépôt régional No. 5, A.C.
(Matricule, Grade, Nom et prénoms; Unité, Détachement, le cas échéant)

PRÉSIDENT: Major Pierre DECARY, Président Permanent, C.M.P., QG., R.M. No. 5.

PROCUREUR: Capitaine (Grade) TASCHEREAU, Pierre (Nom et prénoms)
Procureur Permanent, Q.G., R.M. No. 5. (Unité, Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lt. (Grade) DEMERLIS, Guy (Nom et prénoms)
R. 22 R., A.C., att. dépôt régional No. 5, A.C. (Unité, Détachement, le cas échéant)

VERDICT: La Cour déclare le prévenu non coupable de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation.

SENTENCE: La Cour condamne le prévenu à la détention pendant HUIT (8) mois, et à une suppression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, savoir: $2.02.

Signé à LAUZON, P.Q. ce 18ème jour de septembre 1945.

Pierre Decary -Major
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2
K.P. 26109

Extracts entered as No. 39919 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 26 day of Sept 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non Monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé.~~ ~~Vous opposez-vous à comme interprète ?~~

~~Réponse:~~

Question à l'accusé. Vous opposez-vous à Mlle Thérèse Leclerc comme sténographe ?

Réponse: Non Monsieur.

Le sténographe est ~~[illegible]~~ dûment assermentée. (Minute d'ajournement et de reprise d'audience, voir document "F" ci-joint.)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non Monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui Monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

~~*Question à l'accusé.* Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

(L'accusé s'étant avoué coupable sur le DEUXIEME - - - - - chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

ACTE D'ACCUSATION

Le prevenu, E-627372 Fusilier Jean-Paul BOULANGER, Les Fusiliers du St.Laurent, A.C., attache au Depot Regional No.5, A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE LE SERVICE DE SA MAJESTÉ,

en ce que,

a Valcartier, P.Q., a 0800 heures, le 27 decembre 1944, il s'est absente sans permission des Fusiliers du St.Laurent, A.C., jusqu'a ce qu'il se livre aux autorites militaires, a Lauzon, P.Q., a 1355 heures, le 6 septembre 1945, en uniforme militaire.

DEUXIEME CHEF
Art. 24(2)
Army Act

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES SES EFFETS D'EQUIPEMENT D'HABILLEMENT ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Lauzon, P.Q., le 13 septembre 1945, il etait en deficit des articles suivants:

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "A"		
1 Dressing first field	.22	.16
1 Gloves woollen pr	.66	.49
HABILLEMENT DIVISION "C"		
1 Belt waist l. brown	.35	.26
1 Boot dressing tin	.05	.04
SECTION "A-1"		
1 Bag ration	.04	.03
1 Strap shoulder left	.31	.23
1 " " right	.31	.23
1 Strap web supp.	.14	.10
SECTION "A-2"		
1 Outfit anti-dim	.15	.11
Detectors gas sleeves	.50	.37
TOTAL:	$ 2.73	$ 2.02

Lauzon, P.Q.,
14 septembre 1945

(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent 5e District Militaire

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non Monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins~~

~~Pr à~~

~~Une enquête sommaire, est interrogé par le procureur.~~

~~Question.~~ LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE.

- - - - - - - - - - - - - - -

1° Extrait certifié des Ordres du Jour Partie II, No. 2, en date du 5 janvier 1945, émis par le 1er Bataillon Fus. du St. Laurent, A.C., se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier."

2° MFB 375 en date du 7 février 1945, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier."

3° MFM 216, en date du 6 septembre 1945, se rapportant à l'accusé;

"Ce document est lu par la Cour, marque "I", signé par le Président et versé au dossier.

Le procureur n'a pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, Monsieur.
(Voir page D-3 et suiv.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense ?

Réponse: Non Monsieur.

~~*Question à l'accusé.*~~ ~~Est-ce uniquement un témoin à l'appui de votre réputation?~~

~~*Réponse:*~~

TEMOIN DE LA DEFENSE: L'accusé, E-627372, Fusilier Jean-Paul BOULANGER, Les Fusiliers du St-Laurent, A.C., att. dépôt régional No. 5, A.C., étant dûment assermenté, est interrogé par l'Officier Défenseur:

Q. Voulez-vous dire à la Cour depuis quand vous êtes dans l'Armée?

R. 9 décembre 1942.

Q. Vous avez fait votre entraînement dans l'Artillerie?

R. Oui.

Q. Avez-vous toujours été dans l'Artillerie?

Q. J'ai été transféré au St. Laurent au mois de décembre.

Q. Est-ce que vous avez subi un entraînement d'Infanterie?

R. Non, seulement un Basic Training.

Q. Voulez-vous dire à la Cour les raisons pour lesquelles vous vous êtes absenté?

R. Je voulais prendre un congé jusqu'à la fin du jour de l'An. Ma mère est tombée malade. Elle m'a demandé de rester.

Q. Avez-vous travaillé pendant votre absence?

R. Une couple de mois.

Q. Pas à votre ancienne position?

R. Non.

Q. Vous dites que votre mère est malade, est-elle tombée malade avant ou après votre absence?

R. Pendant, à la veille du jour de l'An.

Q. Aviez-vous une passe lorsque vous vous êtes absenté des Fusiliers?

R. J'étais en embarkation leave.

Q. C'est pendant cette passe d'adieu que votre mère est tombée malade?

R. Oui

Q. Est-ce que votre père est en état de faire vivre votre famille?

R. Plus ou moins.

Q. Avez-vous des frères, des soeurs?

R. 9 frères, 4 soeurs.

Q. Avez-vous des frères dans l'Armée?

R. 2 dans l'Armée active et 2 dans la Marine.

Q. Etes-vous l'aîné?

R. Non, je suis le 3ème.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR.

Q. Où est-ce que vous avez travail lé pendant votre absence?

R. Chez un cultivateur.

Q. Cet été?

R. A venir jusqu'au milieu de juillet.

Q. On dit que vous avez été absent du 27 décembre 1944 jusqu'au 6 septembre cette année, est-ce vrai?

R. Oui Monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

- - - - - -

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B)

L'ACCUSE REPREND SON SIEGE.

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE.

L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au deuxième - - - - - - - - - - - chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

PAR LE PROCUREUR:

Si l'accusé avait plaidé non coupable, la Poursuite aurait établi, à l'aide de la 375 et du témoignage du Quartier-Maître, qu'à la date du 13 septembre 1945, il manquait à l'accusé des articles pour un montant de $2.02.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable?

Réponse: Non Monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine?

Réponse: Non Monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation?

Réponse: Non Monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: L'accusé, par son Officier Défenseur, dit: "Voici le cas d'un fils qui, sur les instances de sa mère malade, quitte pour un certain temps le service militaire. 4 de ses frères sont actuellement dans le service et il reste à la maison 8 enfants auxquels il lui faut subvenir. Je désire présenter à la Cour, en mitigation, 2 lettres: Une du député Bourget et l'autre du Dr. Bourget:"

1° Lettre de M. Maurice Bourget, M.P., en date du 15 septembre 1945 :

"Cedocument est lu par la Cour, marqué "J", signé par le Président et versé au dossier."

2° Lettre du Dr. R. Bourget, en date du 15 septembre 1945;

"Ce document est lu par la Cour, marqué "K", signé par le Président et versé au dossier."

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

"F"

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - - - - -

A 1125 heures le 18 septembre 1945

la Cour s'est ajournée.

A 1402 heures le 18 septembre 1945

la Cour se rassemble.

LE PROCES SE POURSUIT

"G"

DAILY ORDERS PART II
Issued for
1st BATTALION FUSILIERS DU ST-LAURENT, CA
BY
Lt.-Col. P.H.L'HEUREUX - COMMANDING OFFICER
(Last Order Issued No. 1 d/4 Jan 45)

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.
Order No. 2
5 Jan 45
Valcartier, Que.

"B" OTHER RANKS.

3.- ABSENT WITHOUT LEAVE.

(a) The un are A.W.L. from the hours and dates shown.

x x x x x x x x x x x x x x x x

E-627372 Pte BOULANGER, J.P. 0800 hrs. 27 Dec 44

x x x x x x x x x x x x x x x x

(P.H. L'HEUREUX) Lt.-Col.
Officer Commanding,
1 Bn Fusiliers du St-Laurent, CA.

CERTIFIED TRUE EXTRACTS.

(L. BOIS) Major,
District Records Officer,
Military District No. 5.
17 Sep 45.

"H"

(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at LAUZON, P.Q., on the 7TH ...day of February .....19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.E-627372 .Pte .BOULANGER .J.P.....

DECLARATION

The Court declare that No.E-627372 .Pte .BOULANGER .J.P.
.....
illegally absented himself without leave..FUS..DU .ST-L.....
at.Valcartier.Que.....at0800....hours on the.27th..day of.December 1944....
that he is still so absent, and that on the....7th.February.1945.....he was deficient, and that he is still deficient of the following articles:-

ARTICLES		VALUE	ARTICLES		VALUE
Anklets web prs	1	.74	Knves table	1	.18
Caps winter melton cloth	1	1.05	Razor safety set	1	.42
Dressing first field	1	.22	Spoon table	1	.08
Gloves woolen Khaki	1	.66	Towels hand	1	.31
Great coat drab	1	15.54	Badges cap assorted	1	.09
Battle dress blouse serge	1	6.50	Bags ration	1	.04
Battle dress trouser "	1	6.55	Strap shoulder haversack L.		.31
Boots ankle prs	1	5.82	Strap shoulder haversack R.		.31
Drawers cotton short	1	.84	Strap web supporting	1	.14
Drawers woolen	2	2.80	Outfits anti-dimming	1	.15
Jacket sweater	1	1.37	detectors gas sleeves	2	.50
Shirts woodan	2	2.40	Wallets AG Camouflage	1	.27
Trousers Khaki drill short	1	1.31			
Belts waist leather brown	1	.35			
~~Brushes~~					
Boots dressing tins	1	.05			
Braces button stick	1	.04			
Brushes boot polishing	1	.21	TOTAL:		50.73
BRushes button	1	.11			
Brushes cloth	1	.17	75%		38.04
BRushes shaving	1	.42			
Brushes tooth	1	.09			
Comb hair	1	.04			
Fork table	1	.08			
Holdalls	1	.22			
Housewives	1	.35			

.(E.J.BERARD) Capt. DD 5.....President
.(J.A.R.PARENT) Lieut DD 5.....Member
.(X. LORTIE) Lieut DD 5.....Member

Signed at..Lauzon, P.Q.
this.7th.....day of..February....19.45.

Signature of Commanding Officer (JEAN .LA FONTAINE) COL.....
5 D.D.

Certified true copy.....
(Signature of Officer having custody of original record)

Records Office,
No. 5 D.D.,
Lauzon, P.Q.

MFB 375

"I"

Pierre Decary

PIERRE DECARY, MAJOR
PRÉSIDENT, S.C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 17, 1941, and General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel P aul MATHIEU O.C.NO 5 D.D. C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that E-627372 (Number) PTE (Rank) BOULANGER Jean-Paul. (Name in full)

of the Attached to No 5 D.D. C.A. (Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended~~ ~~XXXXXXXXXXXXXX~~ surrendered to) D-610313 (Number) PTE. (Rank)

LABONTE L.P. (Name) Att to No 5 D.D. C.A. (Unit or appointment)

at LAUZON P.Q. (Place) at 1355 (Hour)

on the 6th day of Sept 19 45

Strike out words not applicable } as a deserter (~~XXXXXXXXXXXXX

"J"

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

Chambre des Communes
Canada

Levis, 15 sept. 1945

Colonel Paul Mathieu
O.C. Dépôt District No 5
Lauzon, Co. Levis
P.Q.

Le: Jean-Paul Daulaygat E-67370

Mon Cher Colonel,

Je comprends que le soldat ci-haut mentionné s'est absenté de son service militaire depuis le 27 décembre 1944. La raison de cette absence provient du fait que sa mère qui était malade à cette période ne voulait pas laisser partir son fils Jean-Paul. Elle avait déjà deux de ses fils enrolés dans l'armée active depuis le début de la guerre, et elle ne pouvait supporter le départ de ce troisième.

J'espère que vous comprendrez le bien-fondé de ces raisons, et que vous jugerez ce jeune homme avec beaucoup de sympathie.

Vous remerciant à l'avance, je vous prie de me croire,

Votre tout dévoué,
Maurice Bourget M.P.
Levis

"K"

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

Lanyon Sept 15/45

Colonel Paul Mathieu

Mr.

Mde Emile Boulanger de Beauville, ayant eu 2 fils dans l'armée depuis le début, étant malade, lorsque son 3e fils Jean Paul fut appelé sous les armes. Elle insista pour qu'il reste avec elle. Son fils ne se rapporta pas.
Aujourd'hui il est rendu au camp de Lanyon depuis le 6 Sept.
J'espère Mr le Colonel que vous jugerez ce garçon avec beaucoup de sympathie.

Bien à vous
Les Pr Beauregard
Lanyon

"Y"

Pierre Decary

M.F.B. 355
(PIERRE DECARY) (Lt. Maurice)
H.Q. 1772-39-620
PRESIDENT, S.C.M. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E627372	Pte.	BOULANGER, J.P. Rus. St Laurent.	

1. The following is a fair and true summary of the entries in the field ~~Regimental and~~ Service and General Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a ~~Civil Court,~~ of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a Court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 12 ~~days in civil custody, and~~ ..... days in ~~Air Force~~ military custody, making a total of ..... days in custody, ~~of which ..... days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 22 years, 6 months

6. The date of his commission specified in his ~~record of service is~~ attestation paper 9 Dec 42

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State any air force decoration or reward.~~ military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of Sept. 1947. Benoit Tascherau Lieut. Asst. Records Officer. Ferry Command, R.C.A.F.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. E62737 Name BOULANGER J. F. Sqn., Battery, or Company } Corps C.I.C. Date of enlistment } 9dec42 G.C. Badges } Tradesmen's Rates of Pay } YOB: 25may23.

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. one. Signature O.C. Company, etc. } Character

M.F.M. 6 (A.F.B. 122) 500M—11-41 (2498) H.Q. 1773-30-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified the copy
Benoit Fischereau Lieut.
Ass to Records Officer.
5.DD Lauson. P.Q.

PIERRE DECARY, MAJOR
PRESIDENT S.C.M.

"Z"

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No 2627372 Pte Boulanger J. P.
of D D S is in a good state of health,
and fit to undergo Trial by Court martial.

Thibault, capt.
Medical Officer

Station Laurentian Room.

Date 18 Sept 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

Medical Inspection Room
D.D. M.D. No. 5
SEP 18 1945
LAUZON, P.Q.

RESUME DE LA PREUVE

Proces de E-627372 Fusilier Jean-Paul BOULANGER, Les Fusiliers du St.Laurent, A.C., attache au Depot Regional No.5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No. 2 d/ 6 janvier 1945, a Valcartier, P.Q.

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE: P-4788 CQMS LEBLANC, M. Liste Generale, A.C., attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (9-6-45)

MEMORANDUM

Department of National Defence
(Army)

TO:

M.S.

HQC 55-B-1995 Adm 3(b)2

OTTAWA, Ontario 15 Oct 45

S.E. 6447B d/11 Oct 45
Min File: 1036-32

E.627372 Fus BOULANGER, J P

This SUS was tried by SCM 18 Sep 45 on a charge of desertion, having absented himself without leave from 27 Dec 44 until he surrendered 6 Sep 45 (an absence of approximately 8 1/3 months).

2. He was found guilty of absenting himself without leave and was sentenced to undergo detention for a period of 8 months.

3. The first review of sentence will take place 45 days after the date of the award. It is not contemplated that, in view of this soldier's absence, there will be any remission at that time but the sentence will be further reviewed when he has served one-half of the sentence with a view to remission if his conduct warrants.

MINISTERS OFFICE
OCT 17 1945
DEPT. N.D. OTTAWA.

MILITARY DEPARTMENT
1036-32 Fus
RECEIVED

(A E Walford)
Major-General
Adjutant - General

FINAL

WOP:da

SPECIAL ENQUIRY 869 B. 1057 C

~~H Conf file~~ Date OCT 11 1945 L.55 D 199

To D Admin

No. 6447B

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY H D at the earliest possible moment. If any part of the information is not available, or will inv olve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

F.T. For translation and return, please.

Colonel,
Military Secretary.

OTTAWA, October 9th, 1945.

Antoine Bourget, Esq., K.C.,
Pouliot & Bourget,
111 Mountain Hill,
Quebec, Quebec.

Dear Mr. Bourget:

Re: E.627372, J. P. Boulanger

I have your letter of October 1st in which you ask that the above mentioned soldier be released from detention.

I do not feel that I would be justified in ordering the release of a soldier from detention except on the advice of the officers having jurisdiction over such matters. I have, however, asked for a report on any review which may have been made of Private Boulanger's case and will write to you again as soon as this is received.

Yours very truly,

RECEIVED
OCT 11 1945
ADMIN.

Min. File 1036-32

A.G. (Co-ord.3)

May a report on this case be forwarded for the Minister's information, please.

Colonel,
Military Secretary.

TRANSLATION
MB/JLa
3-10-45

POULIOT & BOURGET
Barristers
111 Mountain Hill,

Quebec, October 1st, 1945.

Honourable D. Abbott,
Minister of National Defence,
O T T A W A.

Re: E.627372, J.P. Boulanger.

Mr. Minister:

I wish to submit to you, in your capacity of Minister of National Defence, the case of the above-named who is from Lauzon.

This young man was called for service on December 9th, 1942, and served as a volunteer for nineteen months at several places in the country. On December 7th, 1944, he obtain a few days' leave and was transferred to the Fusiliers du St. Laurent.

On December 27th, 1944, he was called for service overseas and deserted. He reported to Lauzon Camp on September 16th, 1945, and was sentenced to eight months' imprisonment with hard labour.

Mr. Emile Boulanger, the young man's father, has a family of thirteen children and two other sons have served in the Merchant Navy and Royal Canadian Navy during the present war. Mr. Boulanger's three sons had rather good positions at the time of their enlistment and their future is now quite impaired.

Mr. Boulanger counted on their help to support his family but has been disappointed. I must say that the population of Lauzon among which this young man lives is insulted and vexed at such a sentence.

After all, the war is over and do you not think that an amnesty should be granted to all absentees as the Conservatives did in 1918? It seems to me that this case is revolting and as I trust your sense of justice, I have every reason to believe that you will see to it that this sentence is reviewed and that the injustice is rectified.

That war has brought dire poverty on Mr. Boulanger who has made all the necessary sacrifices to bring up his large family.

I therefore trust that you will take my request into serious consideration and see that this injustice is rectified at once by giving instructions to that effect to the appropriate authorities.

I beg to remain,

Yours truly,
(Sgd.) Antoine Bourget, K.C.

TELEPHONE: 2-5560

LOUIS-A. POULIOT, C. R., LL. D.

POULIOT & BOURGET

BARISTERS - AVOCATS

111, COTE DE LA MONTAGNE

QUEBEC

ANTOINE BOURGET, C. R., LL. L.

FOR TRANSLATION AND RETURN TO DEPT. N. D.

le Ier octobre 1945.-

BUREAU FOR TRANSLATION OCT 3 1945 Rec'd ..... Ref'd Oct 4 1945 NATIONAL DEFENCE

MINISTERS OFFICE OCT 2 1945 DEPT. N. D. OTTAWA.

Honorable D. Abbott,
Ministre de la Défense Nationale,
O T T A W A.-

Monsieur le Ministre,

re:- E-627-372 - J.-P. Boulanger.

Je viens vous soumettre en votre qualité de ministre de la Défense Nationale le cas de M. J.-P. Boulanger, de la ville de Lauzon.

Ce jeune homme a été appelé sous les armes le 9 décembre 1942 et il a servi volontairement pendant une période de dix-neuf mois à plusieurs endroits du pays.

Le 7 décembre 1944, il a obtenu un congé de quelques jours et il a été versé dans le régiment des Fusilliers du St-Laurent.

Le 27 décembre 1944, il a été appelé pour service pour outremer et il a déserté. Le 16 septembre 1945, il s'est rapporté au camp de Lauzon et il a été condamné à un emprisonnement aux travaux forcés pour une période de huit mois.

M. Emile Boulanger, père du jeune homme, a une famille de treize enfants et deux autres de ses enfants ont servi durant la guerre dans la marine marchande et canadienne.

Les trois garcons de M. Boulanger au moment de leur enrolement avaient des positions assez enviables et leur est fortement compromis.

M. Boulanger, père, comptait sur eux pour pouvoir lui aider pour la subsistance de la famille et il n'en fut pas ainsi. Il me faut vous dire en toute sincérité que la population de Lauzon où ce jeune homme habite est outragée et vexée contre une telle sentence.

Après tout, la guerre est terminée et ne croyez-vous pas qu'un armistice devrait être accordé aux insoumis tout comme les conservateurs l'ont fait en 1918? Ce cas me semble révoltant et comme j'ai confiance dans votre esprit de justice, j'ai tout lieu de croire que vous allez voir à ce

POULIOT & BOURGET

que cette sentence soit reformée et que cette injustice sera réparée.

Cette guerre a plongé dans une plus grande pauvreté M. Boulanger qui a fait tous les sacrifices nécessaires pour élever sa nombreuse famille.

J'espère donc que vous allez prendre ma demande en sérieuse considération et que vous allez voir à ce que cette injustice soit réparée immédiatement en donnant des instructions à ce sujet à qui de droit.

Veuillez me croire, Monsieur le Ministre,

Votre bien dévoué,

Ant. Bourget.

ANTOINE BOURGET, C.R.

AB /eb

H.Q.C.55-B-1995 (JAG/D-7)
Your Q. 39-B-5407

28 Sep 45

The Dist ict Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 627372 Fus. Jean-Paul Boulanger,
Les Fus. du St.Laurent, C.A.,att.
No. 5 District Dep t, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

THIS COPY FOR: H.Q. C. 55-B-1995
M.D. 2. 39-B-5407

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. R-627872, Name Jean-Paul BOULANGER

Rank Fus. Unit Les. Fus. de St. Laurent C.A. att. 45 D.S.

Charge (1) AA 12 (1) (a) WOAS Desertion.....

(2) AA 24 (2) Losing by neglect.....

Date of Crime 27-12-44 (2) 13-9-45

Date of Arrest 6-9-45 Charge Signed 14-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. 18-9-45

Sentence Detention 8 mos. Stoppages 28.02

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39919

Date 26-9-45

Balance of sentence remitted by Conf. Auth. 20.10.45

MEMO (1) Guilty AWL

M.D. 5 Les Fus. de St. Laurent C.A.

ABSENT SENTENCE

8 1/3 mos. Det. 8 mos.

10M-8-45(M-189)

for Judge Advocate General

IN REPLY PLEASE QUOTE No.

Q:39-B-5407

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Sept. 21st. 1945.

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

6.55-B-1995

STANDING COURT MARTIAL

E/627372, Fus. Jean-Paul BOULANGER.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.M.O. 4555 (11) (a).

Pierre Decary

(PIERRE DECARY), Major,
Permanent President, S.C.M.

NAT. DEF. B. 440
2500M-4-44-4321
H.Q. 1772-39-767

39919

H.Q.C. 55-B-1996 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOURBEAU, RAYMOND D.649709 PTE.

CONFIDENTIAL H.Q.C. 55-B-1996

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If remarks for which referred cannot be expressed on one line, add minute to file and write here "With Minute")		
SEP 28 1945				JAG	NEW FILE PER B.F. OCT 27 1945	CR	25-9-45
OCT 26 1945				J.A.G.			
OCT 30 1945	30.11.45	PA			Per Requisition C.R. OCT 29 1945		
				CMBA	Per Requisition C.R. NOV 15 1945		
JAN 7 1946				D.A.J. 3	Recommendation	was	DEC 17 1945
JAN 8 1946	7/1/46	PA		JAG	Ch B.F. 10/1/46 CR		7/1/46
JAN 15 1946	15/1/46	PA		D. Adm.	Per Requisition C.R. JAN 10 1946		
				JAG	With Papers C.R. FEB 12 1946		
FEB 13 1946	14.2.46			Adm	To senior pls		13/2/46
FEB 14 1946	15/2/46	PA		JAG.	Per Requisition C.R. FEB 15 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M. 1-B-15590 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ A R M Y /

Montreal, Que., Feb 12 46.

The Secretary,
Department of National Defence,
Ottawa, Ontario.

CENTRAL REGISTRY ARMY
7058
FEB 13 1946
File
Chgd. to
Referred to

D-649709 Pte. BOURBEAU, R.

Reference HQC 55-B-1996.

2. Attached hereto, form for remission with respect to the marginally named soldier, duly completed.

(E.J.RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURE

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5-5
District File No. M.1- B-15590 ADIS.

PART I

No. D.649709 Rank Pte. Name BOURBEAU, R.
Unit LPOD

PART II

Date of Trial 6th September 1945
Charge (s) [illegible]
Sentence 10 months detention
Date of Sentence 6th September 1945
Confirmation -- (a) Authority: [illegible]
(b) Date : 19 Dec 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 8 Feb 46.

Signed at Montreal 15 Feb 1946.

(A.J. RENAUD), Major-General
D.O.C. M.D. No. 4

PART I V
PROMULGATION

Remission ~~(commutation)(mitigation)~~ promulgated and extracts taken at Montreal P.Q. this day 8th of February 1946.

(1)

Ass - Officer i/c Document (W.A. MURRAY) Lieut., V.R. of C., CA, att'd to No.4 District Depot, CA

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D649709 Rank Pte. Name Raymond BOURBEAU Standing
The sentence of Ten months detention awarded by District Court-Martial on the 6th September 1945 has been remitted on the 6th February 1946 by D.O.C.
UNIT Military District No.4, Montreal, Quebec
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No. 34 Place Jacques Cartier Barks Date 8th February, 1946.

Adjutant

(R. DE G. STEWART) Capt-Adjt.
Gen. List., C.A., att'd to
No.4 District Depot, C.A.

FILE NO: M. 1- B-15590 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

MONTREAL, 11 Feb 46

6930
FEB 12 1946
File
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM CARO 5913 (HQC 55-B-1996(JAG/D-6)
D-649709 Pte BOURBEAU, R.

Ref HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Att hereto MFM 288 duly completed with respect to the m/n soldier, submitted to NDHQ in accordance with instrs contained in Para 4 of the above mentioned letter.

(E.J. RENAUD) Major-General,
DOC MD No. 4.

Encl.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-649709 (Number) Private (Rank) BOURBEAU, Raymond (Name in full)

R.C.O.C.,C.A., (Unit) attached to No.4 District Depot,C.A. (Attachment (if any))

Sentenced to 10 months detention and Stopp.pay to the amount of $30.6

on 6th day of September, 1945 at Longue Pointe ,Que.

being served at No.65 Military Detntion Barracks,Longueuil,Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years - 27 September, 1943

Medical grade or category

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offence see Part VII.

I have directed that the above-named be ~~not~~ committed to undergo his sentence, which I recommend should (~~not~~ be ~~suspended~~) (put into execution) (~~commenced~~) (date) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 23rd October 1945.

(E.J. RENAUD) Major-General, D.O.C., M.D. No. 4

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To

Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Confirming Authority

Date

M.F.M. 255
(Army Form A-3104)
20M—9-15 (1868)
H.Q. 1772-49-2015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
Nov 45	No suspension No remission [illegible]	[illegible] Capt for DOC MD 4	
5 Feb 46	Sentence remitted wef 8 Feb 46.	(E.J. Renaud), Maj Gen, DOC MD No. 4.	
8 FEB 46	"RELEASED" 8FEB 46	(C.Potter) Major Commandant No.65 Mil.Det.Brks. Montreal Sth,Que.	Marks earned 1148

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE: WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE" in that he, Sec.12 (1)(a) at Longue Pointe, Montreal, Que., after having been warned that he Army Act. would proceed on Special Duty, with intent to avoid so proceeding, absented himself without leave from 0730 hrs on the 28 Dec.1944 from L.O.D. RCOC, C.A., until he was app. by the mil.auth. at Mtl. Que. at 1655 hrs the 28 Aug.45		
2nd CHARGE: LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES. Sec.24(2) in that he, at L.P.O.D. RCOC, C.A., Longue Pointe, Montreal, Que., on the Army Act. 29th August, 1945, was deficient of the following articles of his clothing and equipment and regimental necessaries: to the amount of $30.64		

Signature of Officer making entry

(E.I. AUERBACK) Capt.,
General List, C.A., att'd to
No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
17Oct.45	I do not recommend any remission of sentence in this soldier's case. (S. ECHENBERG) Colonel, Commanding No.4 District Depot, C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
23rd Oct 45	Sentence considered fair and reasonable. 1st review on 22 Oct 45.	(E.J. RENAUD) Major General, D.O.C. MD No. 4.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

55 B 1996

Dalton

ROYAL CANADIAN SIGNALS
Wireless Sig.
OTTAWA
JAN 8 1946
Phone
L
Army Signal Office

THIS IS MY ARTHUR COPY
IF INCORRECT OR INCOMPLETE COMPLETE BELOW AND RETURN TO A. WOODS
BRANCH | TIME | SIGNATURE

RECEIVED
JAN 9 1946
A.M. P.M.
383

VER V CIM NR 80

FROM COMMANDING FOUR MONTREAL PQ 081740R

TO SEC D N D OTTAWA ONT

GR 38 BT

ADIS 98 UNCLASS RELET HQC 55-B-1996 ADM 3(B)3 DATED 7 JAN 46

REFERRING D SIX FOUR NINE SEVEN NOUGHT NINE PTE BOURBEAU R STOP

ACKNOWLEDTED

G

Put to file

11-1-46

081945Z

BT 081822R SA B

LOCAL ARMY SIGNAL OFFICE ARMY MESSAGE ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE

HQC 55-3-1996
DEPARTMENT OF NATIONAL ADM 3(b)3
DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario, 7 Jan 46.

District Officer Commanding,
Military District No. 4,
MONTREAL, P.Q.

D.649709 Pte BOURBEAU R
CM Board of Review
65 MDB

Ref telegram AG 0267 D/18 Oct 45 Review.

2. The CM Board of Review has in the case of the a/m soldier made the following recommendation:

"Release on 5 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. [redacted]

7. Acknowledgment by telegram requested.

(R. G. Meeks)
Major-General
Adjutant-General

KDM/MA

HQC 55- (CMBR)/ 4 MGT
B-1996
16 Nov 45

1550

REVIEW OF SENTENCE
BY
COURT MARTIAL BOARD OF REVIEW

1. Rank, No and Name: D649709 Pte BOURBEAU R.

2. Unit at date of offence: Longue Pointe Ord Depot RCOC CA Longue Pointe, Que.

3. Charge:

1. AA (12)(i)(a) DESERTION (After having been warned that he would proceed on special duty, with intent to avoid so proceeding absented himself from 28 Dec 44 till apprehended in civilian clothing on 28 Aug 45 - 8 months).

2. AA (24)(2) Losing by neglect his clothing, equipment, etc.

Plea: Guilty of both charges

4. Place and Date of Trial: Longue Pointe Ord Depot RCOC CA Longue Pointe, Que, - 6 Sep 45
(FGCM) XXXXX (DCM) XXX (SCM)

5. Finding: Guilty of both charges

6. (a) Sentence: 10 months detention

(b) Date of Sentence: 6 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 65 MDB in MD....4.....

(N.B. - Discharged under RO 1029( ) for
wef)

21

Case No----------

PAGE 3

CONDUCT

	Offence	Date	Sentence
11. (a) Prior to conviction			
(1) Civil Convictions:	NIL		
(2) Courts/Martial:	NIL		
(3) Summary Convictions:	NIL		

(b) After conviction Good - Expected date of release - 6 Feb 45

(c) Date of enrolment/XXXXXXXXXX: 27 Sep 43 Present Age: 21

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

STATEMENT BY ACCUSED IN MITIGATION: "I was not (medically) fit to go)/S. I have sinusitis and rheumatism". Was given embarkation leave and returned to camp, was given another day's leave and went back home. There he found his mother sick in bed because of his impending departure. He produces a letter from Dr. J.A. Sylvestre which represents that the state of his health was fair. During his absence did not get medical treatment because he was not earning enough money to pay the bills.

DEFENDING OFFICER: Reiterates statement made by accused and adds that his (accused's) aged mother has very (great) influence on her son," and I feel that he was greatly influenced by her in deserting."

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr., etc.)

REVIEWING OFFICER:
(1) This soldier was one of the 16000 NRMA.
(2) The story of his alleged health is on it's very face, a story conceived out of whole cloth. No remis.is recommended other than that earned by good conduct.

Reviewed by.....
(A.B. GOLD) Lieut

14. Recommendation of the Board: Release on 5 MAR 46

Date DEC 17 1945

Secretary
Courts Martial Board of Review

26

H.Q.C. 55-B-1996 (JAG/D-6)

29 October, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

Standing
D-649709 Pte. Court Martial
Longue Pointe Ordnance Depot, RCOC, CA.

Receipt is acknowledged of your M.1-B-15590 (J) dated 25th October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial, together with Form of Remission.

E L M

for (R.J. Orde), Brigadier,
Judge Advocate-General.

MLM:jb

25

IN REPLY PLEASE QUOTE No. M.1-B-15590(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
25th October, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY
5196
OCT 26 1945
File 55-B-1996
Chgd. to JAG-2710
Referred to

STANDING COURT-MARTIAL
D-549709 Pte. R. BOURBEAU,
Longue Pointe Ordnance Depot, RCOC,CA,

Reference your HQC.55-B-1996 (JAG/D-7) dated 27 Sep 45.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, together with form of remission duly completed.

(E.J.Renaud),Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

24

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE
BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-8-1996 (JAG/D-7)

District File No. M. 1-B-15590

PART I

No. D-649709 Rank Private Name Raymond BOURBEAU
Unit Longue Pointe Ordnance Depot R.C.O.C. C.A.

PART II

Date of Trial 6th September 1945
Charge(s) Desertion and Losing by neglect
Sentence Detention: 10 months Stop of pay: $30.64
Date of Sentence 6th Sept. 1945
Confirmation - (a) Authority: Major-General E.J. Renaud DOC. MD.4
(b) Date : 6th Sept. 1945

PART III

REMISSION

I, the undersigned, being the competent military authority under Sec. 57 (2) of the Army Act, do hereby remit ~~(commute)~~ ~~(mitigate)~~ x the sum of $5.64.

Signed at Montreal, P.Q. this 29th day of Sep. 1945

(Appointment) (E.J. Renaud, Major-Gen. DOC, MD4
to be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission ~~(commutation)~~ ~~(mitigation)~~ x promulgated and extracts taken at Montreal South, Que. this 13th day of October 1945

(1)

Ass- Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

23

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-649709 Rank Pte. Name BOURBEAU, R.

The sentence of Stoppages of pay to the am't of $30.64 awarded by ~~District~~ Garrison Court-Martial on the 6th September 1945 has been remitted to sum of $5.64 by D.O.C. No. 4 Montreal, Que. on the 29 September 1945

UNIT Military District No. 4, Montreal, Que.

Certified true Extract of Daily Orders Part II of No. 247 Place Jacques Cartier Barracks, Montreal, South, Que. Date 13 October 1945

Adjutant

(J.E.M. CHARLEBOIS) Captn.
General List, C.A., att'd
No.4 District Depot, C.A.

x Strike out and initial words not applicable.

MEDICAL OFFICER'S REPORT

I certify that No. D-649709 Pte. BOURBEAU, R.
of LPOD.RCOC.CA. is in a good state of health,
and fit to undergo Trial by Court martial.

S. Pedvis Capt.
~~Medical Officer~~
(S. Pedvis) Capt.,
(No.4 District Coy., R.C.A.M.C.)
Att'd L.P.O.D., ~~R.C.~~A.O.C., C.A.

Station Longue Pointe, Que.

Date 6th September 1945.

M. F. B. 246
55M—2-43 (8525)
H.Q. 1772-39-480

G. A. G. Vulcan major
President SCM

22

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Longue Pointe Ordnance Depot, R.C.O.C., C.A.

le 6ième jour de septembre 19 45 à 1145 heures,

pour le procès de D-649709, Pte. Raymond BOURBEAU, Longue Pointe Ordnance Depot,
Matricule Grade Nom et prénoms

Unité R.C.O.C., C.A.
Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers-généraux, District Militaire No. 4

PROCUREUR: Capitaine J.E.R. Labelle, Quartiers-généraux,
Grade Nom et prénoms

Unité District Militaire No. 4.
Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. A.J. Belliveau, Longue Pointe Ordnance Depot,
Grade Nom et prénoms

Unité R.C.O.C., C.A.
Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-649709, Pte. Raymond BOURBEAU, Longue Pointe Ordnance Depot, R.C.O.C., C.A. coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La cour condamne l'accusé, D-649709, Pte. Raymond BOURBEAU, Longue Pointe Ordnance Depot, R.C.O.C., C.A. à la détention pendant dix (10) mois, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $30.64, coût des articles perdus.

21

Signé à Longue Pointe, Que. ce 6ième jour de septembre 194 5

(J.A.G. DUBEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26169

Extracts entered as No. 39926 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 26 day of Sept 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous à~~

D-137479, CSM (WO 11) J.E.R. Samson, No. 4 Det. CMSC,

Question à l'accusé. Vous opposez-vous à C.A. Quartiers-généraux, District Militaire No. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermentés.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

20

(L'accusé s'étant avoué coupable sur le~~s~~ deux chef~~s~~ d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. C. G. [illegible] Rudolf [illegible]

"B2"

CHARGE SHEET

The accused, No. D-649709 Pte. Raymond BOURBEAU, Longue Pointe Ordnance Depot, R.C.O.C., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Section 12(1)(a) Army Act.

"WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE"

in that he,

at Longue Pointe, Montreal, Quebec, after having been warned that he would proceed on Special Duty, with intent to avoid so proceeding, absented himself without leave from 0730 hours on the 28th day of December 1944 from the Longue Pointe Ordnance Depot, R.C.O.C., C.A., until he was apprehended by the military authorities at Montreal, Quebec at 1655 hours on the 28th day of August 1945, dressed in civilian clothes.

SECOND CHARGE: Section 24(2) Army Act.

"LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES"

in that he,

at Longue Pointe Ordnance Depot, R.C.O.C., C.A., Longue Pointe, Montreal, Quebec, on the 29th day of August 1945, was deficient of the following articles of his clothing and equipment and regimental necessaries:

ARTICLES	ARTICLES DEFICIENT	TOTAL AMOUNT ARTICLE	AMOUNT CHARGED 75%
Catalogue Section "A"			
Caps, Winter Melton	1	$ 1.05	$ .79
Gloves, Woollen Khaki	1	.66	.50
Greatcoat, Serge Drab	1	15.54	11.66
Catalogue Section "B"			
Battle Dress Blouse	1	6.50	4.88
Battle Dress Trousers	1	6.55	4.91
Boots, Ankle Army	1	5.82	4.36
Jersey Pullover	1	1.65	1.24
Shirts, Woollen	1	1.20	.90
Catalogue Section "C"			
Brushes, Cloth	1	.17	.13
Comb, Hair	1	.04	.03
Fork, Table	1	.08	.06
Knife, Clasp & Lanyard	1	1.01	.75
Knife, Table	1	.18	.14
Neckties, Black	1	.19	.14
Pins, Collar Safety	1	.06	.05
Spoons, Table	1	.08	.06
Catalogue Section "D"			
Badges, Cap	1	.05	.04
TOTALS		$40.83	$30.[illegible]

(Over)

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A.E. Duncanson A/Brig

(A.E. Duncanson) Col. (A/Brigadier) RCOC.CA.,
Commanding,
Longue Pointe Ordnance Depot, R.C.O.C., C.A.

Longue Pointe,
this 31st day of August 1945.

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CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au premier et au deuxième chefs d'accusation, il est déclaré coupable ~~de ladite accusation~~ desdites accusations.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement ~~à l'accusation~~ aux accusations dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (Voir CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d). Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

J'étais pas "fit" pour aller de l'autre bord, j'ai une sinusite et du rhumatisme. J'ai parti en "embarkation leave" et je suis revenu le 27 au matin, et puis ils m'ont donné une autre passe jusqu'au lendemain matin.

Quand je suis arrivé chez nous, ma mère était malade au lit parce que j'étais supposé partir. Quand j'ai vu ça, j'ai dit: "Je vais rester à la maison". C'est la police qui m'a ramassé et je leur ai dit tout de suite: "Vous ne pourrez pas me garder parce que je suis un déserteur de l'armée". J'avais toujours l'idée de revenir mais j'avais plutôt peur.

Je demanderais à la cour la permission de produire une lettre de mon docteur, le Dr. J.A. Sylvestre, en date du 5 septembre 1945. (Voir CC-5)

Je suis dans l'armée depuis le 27 septembre 1943. Avant d'entrer dans l'armée je travaillais comme machiniste dans une "machine shop". Dans l'armée j'ai passé par Longueuil, Petawawa et ici. Je ne suis par marié. Durant mon absence sans permission, j'ai travaillé un petit peu dans la peinture, deux ou trois jours par semaine. J'ai demeuré en chambre sur la rue Montcalm et St-Catherine, et j'allais manger au restaurant. Je payais seulement $2.00 par semaine pour ma chambre. Pendant mon absence, je ne me suis pas fait soigner parce que je ne gagnais pas assez d'argent pour y aller.

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ACSC

" CC- 5 "

Docteur J. A. Sylvestre
281 Beaubien Est
Bureau : 285 Beaubien Est

J. C. E. Bourbeau maire
Président s.c.m.

CONSULTATIONS { 2 A 4 P.M. / 7 A 9 P.M.
TEL. CALUMET 1182-83

Montréal, 10 Janvier

Famille Bourbeau

A qui cela concerne

Je déclare être le médecin de la famille depuis 1/4 de siècle.
Raymond Bourbeau, fils, a toujours été sous mes soins professionnels, et sa santé a toujours été défaillante et moyenne.
Il s'est toujours plaint d'une variété de douleurs qui minaient ses forces.
Il a une santé moyenne

5 Sept. 1946

J. A. Sylvestre M.D.

15

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur (Par l'entremise de mon officier défenseur - Voir E-3).

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Mr. President,

The accused has pleaded guilty to the charges laid against him. He is a young man, 21 years of age. Yesterday, I visited his home to find out the circumstances under which he deserted.

His mother told me the story that she was not well and the first time he returned to the Army, he did it against her will. The next morning, in fact, he left early in the morning without her knowing about it. When he came back on a 24-hour leave she was sick in bed; the reason for it being she was heart-broken at his leaving for overseas. As a result he stayed home.

Ever since he was a child seven years old, he was very sick. He suffers from sinus trouble and she claims that all the times he went to the doctors in the army no one would do anything for him. His mother took him to Dr. Sylvestre and to Dr. Godin, a specialist, and they verified his sinus trouble, but due to lack of money he could not be treated. Due to the fact that he also suffers from rhumatism, he did not think he was fit to undertake going overseas.

As his age a mother has very good influence on her son, and I feel he was greatly influenced by her in deserting. I would ask you in passing sentence on this man to keep these things in mind.

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J.C.G.S.

J. G. G. Wilson major
President SCM.

Exhibit 2

LOCATION ...Longue Pointe, Montreal, Que.

DATE ..16th December 1944.....

WARNING ORDER

I, THE UNDERSIGNED, HEREBY ACKNOWLEDGE THAT I HAVE BEEN WARNED THIS ..16 th..DAY OF ..Dec....19..44, THAT I WILL PROCEED ON SPECIAL DUTY ANY DATE AFTER ..0900....HOURS ON THE 16 th.....DAY OF Dec....19..44., I FURTHER ACKNOWLEDGE THAT I HAVE BEEN ORDERED TO REPORT UPON THE EXPIRATION OF MY LEAVE AT ..Longue Pointe Ordnance Depot , R.C.O.C., C.A., Montreal, Que.
(UNIT & DATE)
BY .....0900 Hrs., 27th Dec.....19..44.. AND I AM AWARE THAT IF I ABSENT MYSELF WITHOUT LEAVE OR IF I OVER STAY MY PASS OR FURLOUGH FOR ANY TIME OR IF I FAIL TO REPORT AS ORDERED, I SHALL BE LIABLE TO BE CHARGED WITH DESERTION UNDER A.A. SECTION 12.

REGT'L NO. RANK NAME SIGNATURE ADDRESS ON LEAVE

.....

ORDRE D'AVERTISSEMENT

JE, SOUSSIGNE, RECONNAIS PAR LES PRESENTES QUE J'AI ETE AVERTI CE .16 iome JOUR D ..Dec....19..44, QUE JE DOIS PARTIR EN MISSION SPECIALE EN AUCUN TEMPS APRES .0900HEURES LE..16 iome.....JOUR DE Dec....19..44, DE PLUS JE RECONNAIS QUE J'AI RECU L'ORDRE DE ME RAPPORTER A LA FIN DE MON CONGE A..Longue Pointe ..Ordnance Depot, R.C.O.C., C.A. Montreal Que. (UNITE & ENDROIT) A ..0900..... heures..27 iome Dec 1944.
ET SI JE M'ABSENTE SANS PERMISSION OU SI JE PROLONGE MA PERMISSION OU MON CONGE POUR QUELQUE PERIODE DE TEMPS QUE CE SOIT OU SI JE NE ME RAPPORTE PAS SUIVANT L'ORDRE QUE J'AI RECU, JE COMPRENDS QUE JE SUIS PASSIBLE D'ETRE ACCUSE DE DESERTION AU SENS DE L'ARTICLE 12 DE L' "ARMY ACT".

MATRICULE RANG NOM SIGNATURE ADDRESSE

D647229 Pte Bourbeau P. 7646 Bersi. Ment

SIGNED BEFORE ME.....
SIGNE DEVANT MOI

12

J. C. G. Duhaime major
Quebec 5 cm

Exhibit "G"

RECORD of the Declaration of a Court of Inquiry assembled at L.P.O.D. Montreal, Que.

on the 19th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-649709 Pte. BOURBEAU R. L.P.O.D., R.C.O.C., C.A.

DECLARATION

The Court declare that No. D-649709 (Regt'l No.) Pte. (Rank)

Raymond BOURBEAU (Full Name) L.P.O.D., R.C.O.C., C.A. (Unit)

illegally absented himself without leave from L.P.O.D., R.C.O.C., C.A.

at Montreal, Que. (Place) at 0730 hours on the 28th day of December 1944,

that he is still so absent, and that on the 19th January 1945. he was deficient, and

that he is still deficient of the following articles:—

ARTICLES	100 %	75% VALUE	ARTICLES	100%	75% VALUE
1 Caps Winter Melton	1.05	.79	1 Lanyards Knive	.02	.01
1 Gloves Woollen Khaki	.66	.50	1 Neckties Black	.19	.14
1 Greatcoats Serge, Drab	15.54	11.66	1 Pins Collar Safety	.06	.05
1 Battle Dress, Blouse	6.50	4.88	1 Spoons Table	.08	.06
1 Battle Dress Trousers	6.55	4.91	1 Badges Cap.	.05	.04
1 Boots Ankle Prs.	5.82	4.36			
1 Jersey Pullover	1.65	1.24	TOTALS	$ 40.83	$ 30.64
1 Shirts Woollen	1.20	.90			
1 Brushes, Cloth	.17	.13			
1 Combs Hair	.04	.03			
1 Forks Table	.08	.06			
1 Knives Clasp	.99	.74			
1 Knives Table	.18	.14			

Capt. C.V. Petteplace LPOD.RCOC.CA. President
(Name) (Rank) (Unit)

Lieut. A.M. Fraser LPOD. RCOC. CA. Member
(Name) (Rank) (Unit)

Signed at Montreal, Que.

this 19th day of January 1945 Lieut. R.E.A. Kerr, LPOD. RCOC. CA. Member
(Name) (Rank) (Unit)

Signature of Commanding Officer (L. Patrick) Brigadier. LPOD RCOC CA.
(Name) (Rank) (Unit)

Certified true copy
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
Longue Pointe Ordnance Depot.

M.F.B. 375
A.F.B. 115
200M—1-44 (3576)
H.Q. 1772-39-257

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J.C.G. Woolcain major
President SCM

Exhibit "H"

DAILY ORDERS PART II

B Y

BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

Order No. 306
29 Dec 44
Montreal, Que.

(Last Order Issued No. 305 D/28 Dec 44)

9. ABSENT WITHOUT LEAVE

(b) A.W.L. from 0730 hrs . 28 Dec 44

D-649709 Pte. BOURBEAU, R.

(Signed) A.H. Frame, Major,
for(L. Patrick) Brigadier,
Officer Commanding,
Longue Pointe Ordnance Depot.

- - - - - - - - - - - - - - -CERTIFIED TRUE EXTRACT- - - - - - - - - - - - - - -

Wm. E. Lynes

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

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J.C.G. Sullivan major
President SCM

Exhibit V.I.

DAILY ORDERS PART II

B Y

BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

Order No. 12
15 Jan 45
Montreal, Que.

(Last Order Issued No. 11 D/13 Jan 45)

7. ABSENT WITHOUT LEAVE

(f) A.W.L. from 0730 hrs. 28 Dec 44. Still absent 0730 hrs. (8th day) 4 Jan 45

D-649709 Pte. BOURBEAU, R.

(Signed) A.H. Frame, Major,
for (L. Patrick) Brigadier,
Longue Pointe Ordnance Depot.

-CERTIFIED TRUE EXTRACT-

Wm. E. Lynes

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

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J. C. G. Sullivan major
President SCM

Exhibit "J"

DAILY ORDERS PART II

B Y

BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

Order No. 15
18 Jan 45
Montreal, Que.

(Last Order Issued No. 14 D/17 Jan 45)

5. ABSENT WITHOUT LEAVE

(b) A.W.L. from 0730 hrs. 28 Dec 44. Still absent 0730 hrs. (22nd day) 18 Jan 45

D-649709 Pte. BOURBEAU, R.

(Signed) M. Jack, Major,
for (L. Patrick) Brigadier,
Officer Commanding,
Longue Pointe Ordnance Depot.

- - - - - - - - - - - - - - -CERTIFIED TRUE EXTRACT- - - - - - - - - - - - - - -

Wm. E. Lynes

(Wm. E. Lynes) Lieut.,
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

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J.C.G. Dubeau major President SCM Exhibit M.K.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. POULIOTTE, O.C. Composite Provost Companies, M.D.4
(Number) (Rank) (Name) (Unit)

hereby certify that D-649709 Private BOURREAU, Raymond
(Number) (Rank) (Name in full)

of the R.C.O.C. Longue Pointe Ordonance, Montreal, Que.,
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered~~) D-138121 Lance Corporal
(Number) (Rank)

OTTONI, H. Composite Provost Companies, M.D.4
(Name) (Unit or appointment)

at Montreal, Que., at 1655
(Place) (Hour)

on the 28th day of August 1945

Strike out words not applicable } as a ~~deserter~~ absentee without leave), and that at the time of his arrest he was ~~wearing military clothing or uniform~~ (dressed in civilian clothes).

Dated at Montreal, Que., this 28th day of August 1945

MB. (R.W. POULIOTTE) Major
(Signature, Number, Rank, Unit or appointment)

O.C. Composite Provost Companies, M.D.4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1930

Soldier of the ACTIVE ARMY

7

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4

ARTICLE	QUANTITY
Badges, arm, drab, Royal Arms	
Badges, arm, drab, Royal Arms in Wreath	
Bags, kit, universal	1
Braces	1
Brass, cleaning	1
Brush, button, brass	1
Brush, clothes	1
Brush, hair	1
Brush, shaving	1
Brush, shoe, blacking	1
Brush, shoe, polishing	1
Brush, tooth	1
Cap, comforter	1
Chevrons	
Initials of Soldier	RB
Initials of QM or Rep.	RB

9

ARTICLE	QUANTITY
Rifle No. 39L 46720 (Reg'd No.)	1
Bayonet No. ..... w/scabbard	1
Bottles, oil	1
Pullthroughs, single	
Rods, cleaning, pistol (Reg'd No.)	
Carbine, Mach. (.....)	
Magazines, Carbine	
Pistol Revolver No. ..... (Reg'd No.) (.....)	
Ctges, SA, revolver .380 in.	
Ctges, SA, .303 in Mk VII	
Initials of Soldier	RB
Initials of QM or Rep.	RB

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6

ARTICLE	QUANTITY
Towels, hand	2
Unit or Corps titles, prs.	3
Attachments, brace	
Bag, ration	1
Belts, waist	1
Bottles, water	1
Braces, WE (Right)	1
(Left)	1
Carriers, cartridge	
Carriers, waterbottle	1
Cases, binoculars	
Cases, pistol	
Covers, breech, rifle	1
Initials of Soldier	RB
Initials of QM or Rep.	RB

7

ARTICLE	QUANTITY
Cover, mess tin	
Frogs, web, bayonet	1
Haversack	1
Helmet, steel	1
Net camouflage helmet	
Packs	1
Pockets Compass	
Pouches, amm, pistol	
Pouches, basic	2
Pouches, utility { Front / Rear	
Slings, rifle, web	1
Straps, shoulder, haversack { left / right	2
Straps, web, supporting	2
Tins, mess, TP	1
Initials of Soldier	RB
Initials of QM or Rep.	RB

#0

8

ARTICLE	QUANTITY
Veil, face, camouflage	
Yoke	
Capes, A/G	1
Respirators, A/G, complete with haversack	1
Outfits, A/D	1
Ointment, A/G	2
Eyeshields, A/G, pk of 6	1
Detectors, Individual prs	1
Wallet, A/G	
Blanket	
Mug, drinking	
Sheet, ground	1
Initials of Soldier	
Initials of QM or Rep	

8

ARTICLE	QUANTITY
Combs, hair	1
Discs, identity, sets, with cord	1
Dressing, field	
Fork, NS Table	1
Holdall	
Housewife, complete	
Knife, clasp	1
Knife, table	1
Lanyard, knife	1
Razor, safety, with blade	
Patches, distinguishing, prs	
Shorts, gymnasium	
Spoons, NS dessert	1
Vest, cotton, gym	
Initials of Soldier	
Initials of QM or Rep	

#2

35

10

ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY
Belts, waist, leather, brown or web 1½"	1 1
Boots ankle, felt, prs	
Boots, insoles, prs	
Boots, lumberman's rubber prs	
Buttons, G.S., large	4
Buttons, G.S., small	4
Buckle Bras	1
Cap, winter, melton cloth	1 1
Coat waterproof	
Helmet, gun	
Jackets, Khaki drill	2
Jackets, serge, drab, O.C.	1 1
Initials of Soldier	
Initials of QM or Rep	

3

ARTICLE	QUANTITY
~~Jacket sweater~~, or jersey pullover	1 1
Overalls, combination	1
Overalls, blouses, denim	
Overalls, trousers, denim	
Shirts, Angola, drab or flannel khaki	
Shoes, canvas, prs	1
Socks, prs	4
Trousers, battle-dress, prs	2
~~Socks~~ Toques, woollen	2
Badges, cap	1
Badges, arm, drab, crowns	
Badges, arm, drab, crown in wreath	
Badges, arm, Tank Bn	
Badges, shoulder, "CANADA", prs	3 3
Initials of Soldier	
Initials of QM or Rep	

2	1					
ARTICLE	QUANTITY					
Anklets, web, prs.	1					
Blouses, Battle-dress	1 2					
Bonnet, tam-o'shanter						
Boots, ankle, prs.	1 2					
Boots, rubber, high, prs.						
Boots, leather, high, prs.						
Bonnet, drab, Irish						
Cap, field service	2					
Cap, mechanic						
Cap, tank battalion						
Drawers, Cellular (cotton) short, prs.	2					
Drawers, Woollen, prs.	2					
Gloves, knitted, drab, prs.	1					
Greatcoat, drab	1					
Initials of Soldier	RB					
Initials of QM or Rep.	RA					

11						
ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.			1	1		
Muffler, khaki	1	1	1	1		
Necktie, black	1	1	1	1		
Pin, collar, safety	1	1	1	1		
Puttees, prs.						
~~Rubbers~~, prs. OVERSHOES	1	1	1	1		
TROUSERS SERVICE		2	2			
Shirts, khaki, cotton	2	2	2	2		
Shirts, undercotton	2	2	2	2		
Shoes, leather, black, prs.	1	1	1			
Socks, black, prs.	2	2	2			
Trousers, khaki drill, prs.		2	2			
Trousers, khaki drill, short, prs.						
Trousers, serge, drab, N.P. prs.	1	1	1			
Initials of Soldier	RB	RB	RB	RB		
Initials of QM or Rep.	[illegible]					

46

CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	
Battle Dress, trousers	
Cap or bonnet	
Boots, ankle	
Gloves	
Facepiece, respirator	
Greatcoat	
Helmet steel, lining	
Overalls, combination	
Jersey, pullover	
Shirts, Angola, drab	
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

31

CERTIFIED TRUE COPY:

OVERSEAS—Militia Book M. 1 Page III
40/P & S/1804 (2570)
CANADA —M.F.C. 800
750M 11-43 (2570)
H.Q. 1772-39-1643
K.P. 92283

(G.L.TISDALE) MAJOR
QUARTERMASTER

29-8-45

LONGUE POINTE ORDNANCE DEPOT.

CANADIAN ARMY
CLOTHING AND EQUIPMENT
STATEMENT

Regt'l. No. D-649709

Rank GNR

Name BOURBEAU R.

Date of Attestation 27.9/43

Original Unit R.R. Station

Home Address
(Reserve Unit Personnel Only)

6

33

4A.

12

ARTICLE	QUANTITY
Badges, shoulder, Canada, drill, prs.	
Blacking, tins	1
Boot dressing, tins	1
Bootlaces, prs.	1
Protectors, ear	
Sponge, pipeclay	
Lanyard, pistol	
COATS DUCK CANVAS #211	
GLOVES LEATHER w/fl	
Initials of Soldier	RBB
Initials of QM or Rep.	

1

3. Items withdrawn from soldier will be marked off by an "X" in ink, over the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner.

J. C. G. Walker - major
President SCM

'Y'

M.F.B. 355
30M—11-41 (2273)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-649709	Pte.	BOURBEAU, R.	LPOD.RCOC.CA.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 9 days in ~~Air Force~~ military custody, making a total of 9 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ ~~attestation~~ enrollment paper is 21 years 5

6. The date of his ~~commission~~ specified in his ~~record of service~~ is ~~attestation~~ enrollment ~~attestation~~ enrollment paper 27 September 1943

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Air Force
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of Sept. 1945. (Wm. E. Lynes) Lieut.,
Assistant Adjutant,
L.P.O.D., R.C.O.C., C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y signed by the president, and annexed to the proceedings.

J. A. E. Walker Major
President SCA

M.F.M. 6

Reg. No. D-649709 Name BOURREAU, Raymond Corps RCOC(CA) Date of enlistment or enrolment 27 Sep 43 Date of Birth

Signature O.C. Company, etc. H.H. Bower, Capt.

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Plea	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
O.C. Queen's Own Rifles of Can.				CERTIFIED TRUE COPY Wm E Lynes (Wm. E. Lynes) Lieut., Assistant Adjutant, I.P.O.D., R.C.O.C., C.A.					

M.F.M. 6—M&M—8-44 (5380)
H.Q. 1772-39-1052

(P.T.O.)

H.Q.C.55-B-1996 (JAG/D-7)
Your M. 1-B-15590

27 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 649709 Pte. Raymond Bourbeau,
Longue Point Ordnance Depot, RCOC.,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde) Brigadier
Judge Advocate-General.

LJR/MM

3

THIS COPY FOR: H.Q.C. 55-B-1996
M.D. M. 1-B-15590

NFMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. D-649709 Name Raymond BOURBEAU

Rank Pte. Unit Longue Pt. Ord. Dep. R.C.O.C. C.A.

Charge AA 12 (1) (a) NDAS Desertion....

(2) AA 24 (2) Losing by neglect...

Date of Crime 28-12-44 (2) 29-8-45

Date of Arrest 28-8-45 Charge Signed 31-8-45

Orders for D.C.M.

Place and Date of Trial Longue Pt. Ord. Dep. R.C.O.C. C.A. 6-9-45

Sentence Detention 10 mos. Stoppages $30.64

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39920

Date 26-9-45

MEMO Sum of $30.64 remitted by Conf. Auth. 28.9.45 Balance of sentence remitted by Conf. Auth. 7-2-46

M.D. 4

ABSENT

8mos1

Longue Pt. Ord. Dep. R.C.O.C. C.A. 2

SENTENCE

Det. 10 mos.

10M-8-45(M-189)

for Judge Advocate General

JAGD/S

In reply quote No. M. 1-B-15590 (J)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
21st September, 1945

C. 55-B-1996

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT-MARTIAL
D-649709, Pte. Raymond BOURBEAU,
Longue Pointe Ordnance Depot,
R.C.O.C., C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 6th September, 1945

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. DUBEAU) Major,
Headquarters, Military District No.4,
President - S.C.M.

ENC.

39920

M.F.A. 1326
1,000M-3-43 (9995)
H.Q. 1772-99-2009

H.Q.C. 55-B-1997

CONFIDENTIAL

M.F.R. 2070
15M—2-45 (6894)
H.Q. 201-1-45

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BEAUDOIN, JOSEPH PAUL C.33070 PTE.

CONFIDENTIAL
H.Q.C.55-B-1997

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enclose with Minute)		
OCT 1 - 1945				JAG	NEW FILE	CR	26-9-45
OCT 6 - 1945	5.10.45	PA		D. Adm			
OCT 15 1945	15-10-45	CA		JAG	With Papers C.R. OCT 10 1945		
NOV 3 - 1945	22.11.45			Admin	For Acquittal C.R. OCT 30 1945		
NOV 21 1945	22.11.45	PA		Admin	PER B.F. NOV 22 1945		
				EMBR	For Publication B.F. JAN 4 1946		
JAN 26 1946	26-1-46	Ta		Adm 3	Recommendation	Gas	JAN 16 1946
FEB 8 - 1946				JAG	With Papers C.R. FEB 6 1946		
FEB 7 - 1946	7-2-46	Ta		Adm	Transcripts	Ju	6/2/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

T-20-B-6827 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District 2,
159, Bay Street, Toronto, Ontario.

5 Feb 46

CENTRAL REGISTRY ARMY
5595
FEB 6 1946
File
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REMISSION OF SENTENCE
C-33070 Pte. BEAUDOIN J.P.
No. 2 DD. CA.

Reference HQC 55-B-1997.

2. Herewith completed Appendix "G" to CARO 5913.

3. Also enclosed herewith MFM.288 with respect to the marginally named, for disposal, please.

for (C. S. MANN)
Brigadier
A.D.C. M.D.2

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR POSTPONEMENT OF EXECUTION OF SENTENCES AWARDED BY C.S.M.

HQC File No. HQC 55-B-1997
District File No. T-20-B-6827

PART I.

No. C-33070 Rank Private NAME Joseph Paul BEAUDOIN
Sig. No. 2 District Depot, C.A.

PART II.

Date of Trial 13th September, 1945
Charge(s) (1) DESERTION - AA Sec 12(1)(a)
(2) LOSING BY NEGLECT - AA Sec 24(2)
Sentence 9 months' detention; $27.29 stoppages (deficiencies)
Date of Sentence 13th September, 1945
Confirmation - (a) Authority S.C.M.
(b) Date ---

PART III.
REMISSION

I, the undersigned, being the competent military authority under Section 97(2) of the Army Act XXXX

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C 33070 Pte. Joseph Paul BEAUDOIN, No. 9 District Depot, CA
(Number, Rank, Name in full)

.....
(Unit, Attachment (if any))

Sentenced to nine months detn and stoppage of pay $27.29 deficiencies of clothing, equipment and regimental necessaries.

on 13th Sept., 1945 at Lansdowne Park, Ottawa, Ontario

being served at No. 63 Military Detention Barracks, Barriefield, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18 yrs 3 mths - 17 Dec. 41

Medical grade or category 23 - 1 1 1 1 1 2 1

FIRST TRIAL—PART II

To .....
(Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended~~) (~~put into execution~~) (reviewed on 28 Jan. 45 (date)) for reasons given in paragraph X.

Place .....

.....
(Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

.....
(Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

.....
(Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-2104)
15M—6-43 (441)
H.Q. 1772-30-2015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

.....(and) be reviewed on .....

Place ....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
28 Jan 46	Remit effective 1 February, 1946	C.C. Mann (C.C. Mann) Brig. D.O.C. M.D.2	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
DESERTION - 18 Sep 44 until 30 Aug 45	18 Sep 44	13 Sep 45
LOSING BY NEGLECT, etc. value of $27.29	- do -	- do -

He did a Stewart
(W.A. Stewart) Capt
Legal Officer
No. 9 District Depot, CA.
Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

.....
Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Oct 45	Conduct has been poor. Has completed basic trg only. Ability and usefulness as a soldier are nil. No recommendations.	(J.A.Pewtress) Major A/Officer Commanding No. 9 Dist.Depot, CA

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
9th October 1945	Pursuant to the suggestion contained in H.Q.S.9039-1-1 Adm. 3- 15 Jun 45 I will review this sentence 28 Jan 46.	(F.L.M[illegible]ing) Brigadier MB#3

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-1997
Adm 3(b)3

OTTAWA, Ontario, 26 Jun 6

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

C.33070 Pte BEAUDOIN J F
B.647826 Pte DUPONT J F

Ref T.20-B-6827 T.20-B-21569 T.20-D-9544 (AJAG)
d/21 Jan 46.

2. A search of records fails to reveal WFAM 288 for the m/n soldiers. In the event they cannot be located at your HQ, appendix G to GARO 5913 will be sufficient.

(R. G. Weeks)
Major-General
Adjutant-General

NDC/mb

T-20-B-6827
T-20-B-21569
T-20-B-9544 (AJAG)

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
21st January, 1946.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (for information)
Military District No. 3,
KINGSTON, Ontario.

C-33070 Pte. BEAUDOIN, J.P.
D-647826 Pte. DUPONT, J.P.
D-148688 Pte. BEAUDOIN, J.

Reference RAWKS 1583 dated 18th January, 1946.

2. Receipt of the above-mentioned teletype is hereby acknowledged.

3. It is advised that D-148688 - Pte. BEAUDOIN, J. was released on the 6th January, 1946, on expiration of sentence.

4. May M.F's M. 288 with respect to the other two soldiers, namely, C-33070 - Pte. BEAUDOIN, J.P. and D-647826 - Pte. DUPONT, J.P., be forwarded, please, so steps may be taken to effect their release.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

HQC 55-B-1997
HQC 55-D-1258
HQC 55-B-1961
ADM 3(b)3

M.F.M. 3148
RDM-3-44 (5274)
R.F. 1949 H.Q. 1773-35-298

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE:

PLACE

DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 2
TORONTO ONT

OTTAWA ONTARIO 18 JAN 46

RANKS 1583 REGTD

REVIEW REF AG 0267 D/18 OCT 45 (.) CMHR RECOMMENDS IMMEDIATE RELEASE OF THE FOLLOWING SUS (.) G 33070 PTE BEAUDOIN J P D647826 PTE DUPONT J P D148608 PTE BEAUDOIN J (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFO COPY TO: CMHR

JAG

RDM/MA

Major-General
ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

HQC 55-B-1997(CMBR-5)/ EMA

Case No 1205

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

9 Jan 46

1. No. Rank and Name: C.33070 Pte BEAUDOIN, J P

2. Unit at date of offence: A-12 CITC

3. Charge: (1) AA Sec 12(1)(a) DESERTION: AWL from 0100 hrs on 18 Sep 44 until he surrendered at 2305 hrs on 30 Aug 45 dressed in civilian clothes. (Length of absence -11½ mos.)

(2) AA Sec 24(2)LOSS OF KIT: To the extent of $27.29

Plea: Not guilty of 1st charge
Guilty of 2nd charge

4. Place and Date of Trial: OTTAWA, Ont 13 Sep 45
(~~RSGM~~) (~~RSM~~) (BCM)

5. Finding: Guilty on both charges

6. (a) Sentence: 9 months detention and stoppages of $27.29

(b) Date of Sentence: 13 Sep 45

7. Date of Confirmation: -

8. Date of Promulgation: -

9. Being Served at: 91 MDB in MD 2

1583

(N.B. - Discharged under RO 1029( ) for
wef)

11. (a) Prior to Conviction: CONDUCT

	Offence	Date	Sentence
(i) Civil Convictions: Nil			
(ii) Courts-Martial: Nil			
(iii) Summary Convictions: 7 charges AWL - severest award 14 dys Detn.			

(b) After Conviction: Good - Earliest date of release - 12 Mar 46

(c) Date of ~~enrolment~~ enlistment: 17 Dec 41 Present Age: 21

12. Remarks: (here note any Petition or Representation other than in Item 10, but if Item 10 has been omitted so state, and show here any extenuating circumstances)

Item 10 has been omitted.

In sworn evidence the accused states that he enlisted at the age of 17; he could not go overseas although he wanted to very badly, instead he was employed on General Duty fatigues. Later he could not finish his advance training because his feet would not permit him to make long marches. He remained AWL because he thought his category would not permit him to go overseas if he returned. This man has a brother at present undergoing detention and a third brother has just returned from overseas and is blind due to alcoholic poisoning. The mother is highly disturbed about her sons and it has been suggested that the two sons in detention be given an early release, but the DOC MD 3 stated that the conduct of the accused does not warrant remission before half of sentence has been served.

13. Recommendations: (State by whom made, e.g., CMHS, DOC, Reviewing Officer, etc.)

REVIEWING OFFICER: As the accused has now served over one third of sentence, I recommend release. (immediate)

Reviewed by: A. M. Stephenson
(A.M. Stephenson) Major

14. Recommendation of the Board:

Immediate Release

Date: JAN 1 6 1946

M.A. Stilwell
Secretary
Courts-Martial Board of Review
Maj.

36

C55-B-1997

copy

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

K.S. 688 Vol 1(A)
and All Personal Files

KINGSTON, Ontario Nov 23rd, 1945.

The District Officer Commanding, M.D. No. 2 Toronto, Ont.
The Commandant, No. 91 M.D.B., Niagara Falls, Ont.
The Commandant, No. 63 M.D.B., Barriefield, Ontario.
The Commandant, Ottawa Area Command, Ottawa, Ont.
Officer Commanding, No. 9 District Depot, Ottawa, Ont.
The D.A.P.M. M.D. No 2, Toronto, Ontario.
Officer Commanding, No. 31 Coy. C. Pro. C. Toronto, Ont.
Officer Commanding, No. 33 Coy. C. Pro. C. Ottawa, Ont.
The D.S. & T.O., M.D. No 3, Kingston, Ontario.
The District Paymaster, M.D. No. 3, Kingston, Ont.
The District Medical Officer, M.D. No. 3, Kingston, Ont.
Officer Commanding, No. 1 Det. No. 33 Coy. C.PRO. C. Kingston, Ont.

TRANSFER OF S.U.S. FROM NO 63 M.D.B.
To No. 91 M.D.B. Chippawa, Ontario.

Reference T.22-1-233-13(DAPM) dated 11th October 45 and reference to Radiogram Ranks 9267 dated the 5th day of October 1945, from National Defence Headquarters, Ottawa, Ontario.

2. Due to the overcrowded conditions at No. 63 M.D.B. at Barriefield, Ontario, and in view of the number of soldiers presently sentenced to periods of detention, now being held in the various unit Guard Rooms throughout M.D. No 3, it has been found necessary to transfer the undermentioned S.U.S. from No. 63 M.D.B. Barriefield Ontario, to No. 91 M.D.B., at Chippawa, Ont under escort.

From No. 9 DD Ottawa Ont.		Sentence Date	Date of release full time	Date of release Remission
C.30070	Pte Beaudoin J.P.	9 mos 13-9-45	12-6-46	15-3-46
D.148688	Pte Beaudoin J.	6 mos 7-9-45	7-3-46	10-1-46
C.44666	Pte Beaudin L.H.	8 mos 15-10-45	15-6-46	25-3-46
D.648761	Pte Bertrand O.	8 mos 15-10-45	15-6-46	25-3-46
D.647826	Pte Dupont J.P.	10 mos 20-9- 45	20-7-46	9-4-46
C.418002	Pte Taylor R.R.	1 yr 8-9-45	8-9-46	8-5-46

3. The Escort personnel for this movement have been detailed by the D.A.P.M., M.D. No. 3, and are as follows:

Conducting N.C.O.	Escorts
C.37255 L/Cpl Brown J.	C.35366 Pte Bowman R.
	B.119977 Pte Sunnerton J.

4. The above mentioned soldiers under sentence will be despatched to No. 91 Military Detention Barracks, Chippawa, Ont. from No. 63 Military Detention Barracks, Barriefield, Ontario by the above mentioned escort personnel of No. 33 Coy. C. Pro C. The escort personnel will assemble at No. 63 M.D.B. Barriefield, Ontario at 0045 hours on the 24th November, 1945, and will take over the above mentioned soldiers under sentence together with all documents in connection with each case. This party will entrain at the Outer Station, Kingston, at 0140 hours same date and on their arrival in Toronto at 0630 hours same date the soldiers under sentence will be taken to the Provost Office in the Union Station and will be given a box lunch.

...../2

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5. Arrangements have been made by this Headquarters to meet this train on its arrival at trainside, with the D.A.P.M. M.D. No. 2. This party will leave Toronto via C.N.R. at 0800 hours same date and will arrive Niagara Falls at 1050 hours where they will be met on their arrival at trainside by personnel of the staff of No. 91 Military Detention Barracks.

6. All necessary documents as laid down in CARO 5099 will be taken with the conducting N.C.O. i/c of this movement, and will be handed over to the Commandant, No: 91 M.D.B. upon arrival.

7. Attention is directed to HQC 9039-1-1 Adm 3 dated 15th June, 1945, under which National Defence Headquarters lays down the policy to be followed in the remission and suspention of sentences of soldiers under sentence. On the expiration of one-half time the question of remission may be dealt with by the District Officer Commanding, Military District No. 2, or if desired may be referred to the District Officer Commanding, Military District No. 3,

8. Transportation for this movement will be made by demand by the D.A.P.M., M.D. No. 3 on the D.S. & T.O. M.D. No. 3.

Sgd. E.L. Potts. Major,
for (W.K. MacGregor) Major,
D.A.A.G. M.D. No. 3.

Copy to: The Secretary,
Department of National Defence
OTTAWA, Ontario

Attention Capt. Parlee

Sgd. E.L. Potts. Major
for(F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 3.

CR(C)
PA on files

C 55- B-1117

wof

Adm 3(t)2

MEMORANDUM

D:

Department of National Defence,
(Army)

D.M.(R)

HQC 55-B-1961 Adm 3(b)2

OTTAWA, Ontario 16 Nov 45

S.E. 7298B/5714B d/27 Oct 45

D.148688 Pte BEAUDOIN, Jean
C.33070 Pte BEAUDOIN, Joseph Paul

The sentences awarded these two soldiers have been reviewed by DOC MD 3. It is felt that, due to their very poor military record, they should serve at least one-half of the sentence awarded.

2. Accordingly consideration will be given to remission of the sentence awarded D.148688 Pte Beaudoin, Jean on 7 Dec 45 and C.33070 Pte Beaudoin, Joseph Paul on 28 Jan 46.

3. DOC MD 3 feels that if preferential consideration were given to these soldiers whose conduct had been far from satisfactory, other SUB whose conduct has been better in comparison, would feel that there had been a discrimination and an undercurrent of unrest would develop among the soldiers who felt themselves so aggrieved.

DW.

(A E Walford)
Major-General
Adjutant-General

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FINAL

WOR:da

CRConf. 16.11.81

Please PA on
HQC 55 B 1997.
W.O. Parker capt
for Dep Comm

HQC 55-B-1961
HQC 55-B-1997
HQ 405-B-41,896 Adm 3(b)2

CONFIDENTIAL

2 Nov 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

B-142688 Pte BEAUDOIN, Jean (Your PCO: B-17)
B-33070 Pte BEAUDOIN, Joseph Paul (Your PCO: B-19)
B-102869 Pte BEAUDOIN, Marcel

Jean and Joseph Paul Beaudoin are at present serving sentences of six and nine months detention awarded by CM at No 9 DD. In both instances they were convicted on charges of desertion.

2. Another brother, Marcel Beaudoin, has recently returned from overseas and is at present on leave.

3. Representations have been received that Marcel Beaudoin is totally blind and that the mother is in a highly nervous condition. It has been suggested that if some encouragement could be offered her regarding Jean and Joseph Paul Beaudoin, such compassionate action would tend to improve her condition.

4. Examination of the file of Marcel Beaudoin discloses the following info:-

(a) His condition is the result of alcoholic poisoning as a result of drinking cognac (where is not indicated). Another soldier who was apparently drinking with him died of the effects;

(b) The soldier is not totally blind - some improvement in his condition is indicated;

(c) Whether his condition will improve or deteriorate is not known at the present time.

5. Having regard to the above circumstances, any consideration be given, pls, to the advisability of remitting the sentences awarded Jean and Joseph Paul Beaudoin. If it is not considered that remission should be granted at this time, may it be indicated, pls, when further review with a view to remission is contemplated.

6. Special Enquiry - Urgent.

[signature]
Brigadier,
Adjutant-General.

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HQC 55-B-1997 (JAG/D-8)

15 Oct 45

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

Standing Court-Martial
C.33070 Pte. Joseph Paul BEAUDOIN,
No. 9 District Depot, C.A.

Receipt is acknowledged of your K.55-B-7496 (JAG)
dated 9 October, 194 5 under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

/ET

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HQ IN REPLY PLEASE QUOTE No. K.55-B-7496(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 9 Oct 45.

CENTRAL REGISTRY Army
CONF. SEC.
OCT 10 1945
2128
CS-5-B-1997
Jays

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C.33070 Pte. Joseph Paul BEAUDOIN,
No. 9 District Depot, C.A.

Reference H.Q.C.55-B-1997 (JAG/D-8) dated 29 Sep 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

W. C. Finch Capt
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

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MEDICAL OFFICER'S REPORT

I certify that No. C 33070 Pte Beaudoin J P

of #9 District Depot, CA is in a Good state of health,

and fit to undergo Trial by Court martial.

H Lord Lt

Medical Officer

Utd No. 9 D.D.

Station Lansdowne Park Ottawa Ont.

Date 13 Sep 45

Rmt 30

M. F. B. 246

50M—9-44 (5437)

H.Q. 1772-39-480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at the Court-Martial Building, Lansdowne Park, Ottawa, Ont.,

on the 13th day of September, 1945, at 1405 hours,

for the trial of: C-33070 - Pte. ~~XXX~~ JOSEPH PAUL BEAUDOIN,
Number Rank Full Name

No. 9 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major R. K. Laishley.

PROSECUTOR: Capt. J.D.C.Boland, Headquarters, Military District No.3, C.A.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. J. H. A. Caron, No. 9 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, C-33070, Pte. Joseph Paul Beaudoin, No. 9 District Depot, C.A., guilty of both charges.

SENTENCE: The Court sentence the accused, C-33070, Pte. Joseph Paul Beaudoin, No. 9 District Depot, C.A., to undergo detention for nine months and to be put under stoppages of pay until he has made good the sum of $27.29 in respect of the cost of deficiencies of clothing, equipment and regimental necessaries.

Extracts entered as No. 39961 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 27 day of Sep 19 45

Signed at Ottawa, Ont., this 13th day of Sept., 1945.

(R. K. Laishley) Major, President, Standing Court-Martial.
Military District No. 3.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to ..... as interpreter ?

Answer: .....

Question to the accused. Do you object to B-4233 - S.M. (W.O.I) F. A. Luet, No. 3 Detachment, C. M. S. C., C.A., as shorthand writer ?

Answer: No, sir.

The shorthand writer and interpreter (if any) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not guilty, sir.
---For proceedings at this point see [redacted] p.3.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Guilty, sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to the second charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

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BY THE PROSECUTOR: Mr. President, I request that the second charge be amended by striking out "Shoes, leather, black, prs., 1, $3.63.

BY THE COURT: The second charge will be amended accordingly.

---Second charge is amended by striking out: "Shoes, leather, black, prs., 1, $3.63".

B2 Belonging my Pers

CHARGE SHEET

The accused, No. C 33070 Pte. Joseph Paul BEAUDOIN, No. 9 District Depot, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:

FIRST CHARGE
Sec. 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

at Farnham, Quebec, at 0100 hours on the 18th September 1944, absented himself from A-12 C.I.T.C., C.A., until surrendering himself to Military Authorities at Ottawa, Ontario, at 2305 hours on the 30th August 1945, dressed in civilian clothes.

SECOND CHARGE
Sec. 24(2)
ARMY ACT

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES

in that he

at Ottawa, Ontario, on the 1st September 1945, was deficient of the following articles, viz:

		C.A.R.O. 4559	Less 25% C.A.R.O. 3464
CATALOGUE SECTION			
Boots, Lumberman Rubber,	1	$ 1.14	$ .86
Coats, Waterproof, Army,	1	6.91	5.18
Mitts, pullover, leather,	1	.93	.70
CATALOGUE SECTION "B"			
Blouses, Battle dress,	1	6.50	4.88
Caps, F/S,	1	.70	.53
Drawers, cotton,	1	.42	.32
Socks, Army, prs.	2	.92	.70
Shirts, woollen,	1	1.20	.90
~~Shoes, leather black, prs.~~	~~1~~	~~4.84~~	~~3.63~~
Shirts, khaki cotton,	2	3.90	2.92
Trousers, Battle dress,	1	6.55	4.91
Trousers, K.D., short,	3	3.93	2.94
CATALOGUE SECTION "C"			
Belts, waist leather brown,	1	.35	.26
Brushes, button,	1	.11	.08
Brushes, boot,	1	.14	.11
Brushes, cloth,	1	.17	.13
Brushes, hair,	1	.39	.29
Brushes, shaving,	1	.42	.32
Brushes, tooth,	1	.09	.07
Combs, hair,	1	.04	.03
Holdalls,	1	.22	.17
Housewives,	1	.35	.26
Neckties, black,	1	.19	.14
Pins, collar, safety,	1	.06	.04
Socks, black,	2	.56	.42
Sticks, button,	1	.04	.03
CATALOGUE SECTION "D"			
Badges, cap,	1	.09	.07
CATALOGUE SECTION "1-A"			
Bags, ration,	1	.04	.03
TOTALS:		$ 41.20	~~$ 30.92~~ $27.2[illegible]

(C. Roy Hall) Major,
A/Officer Commanding, No. 9 D.[illegible]

Lansdowne Park,
Ottawa, Ontario, 4th Sept 45

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question BY THE PROSECUTOR: I present M.F.B.375 dated the 10th of October, 1944, sir.

---M.F.B.375 is received, read, marked EXHIBIT "F", signed by the President and attached to the proceedings.

I present M.F.M.216 dated the 31st of August, 1945, sir.

---M.F.M.216 is received, read, marked EXHIBIT "G", signed by the President and attached to the proceedings.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

FIRST WITNESS) FOR DEFENCE)

The accused, C-33070 - Pte. JOSEPH PAUL BEAUDOIN, No. 9 District Depot, C.A., being duly sworn, is examined by the Defending Officer:

Q. Beaudoin, when did you join up?

A. In 17th December, 1941, sir.

Q. 17th ~~on~~ December, ~~1941~~ 1941?

A. 1941.

Q. How old were you when you joined up?

A. I was seventeen, sir.

Q. Where did you go after your basic training?

A. Camp Borden, sir.

Q. What were you doing in Camp Borden?

A. Washing dishes and fireman and some time I was pick and shovel.

Q. Why did you go absent?

A. Well, I run away lots of time and I run away like that, when I come back I have chance to go overseas like the other boys and fight.

Q. Why did you not report back in military clothes?

A. First, sir, couple of months somebody stole my clothes, everything I had. I had a battle dress and a field hat. That's all I had.

Q. Have you any brothers in your family of Army age?

A. Yes, sir; two.

Q. How many are in the service?

A. Two, sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Beaudoin, did you absent yourself without leave from A-12 Infantry Training Centre, Farnham, at 0100 hours on the 18th September, 1944?

A. Yes, sir.

Q. And did you remain continuously absent until you surrendered yourself to military authorities at Ottawa, Ontario, at 2305 hours on the 30th August, 1945?

A. Yes, sir.

Q. And you were dressed in civilian clothes at the time?

A. Yes, sir.

Q. Where was your home at the time you joined the Army?

A. Hull, Quebec, sir.

Q. And what was your address there?

A. 386 Champlain Street.

Q. What year were you born?

A. 1924, sir.

Q. What date?

A. 25th of March.

Q. When were you posted to Farnham?

A. Oh, I can't remember the date, sir.

Q. Was it May, 1944?

A. Its about that, sir.

Q. And you were sent down there to take advanced Infantry training, were you?

A. Yes, sir.

Q. And you completed your Infantry training, didn't you?

A. I beg your pardon?

Q. And you completed your Infantry training, didn't you?

A. I couldn't make it.

Q. Why?

A. Since I have been in the Army I have sore feet and

I was like for the instruction but I couldn't make the route march.

Q. You didn't like it?

A. I like it but I couldn't make it.

Q. What happened to you?

A. Every time I went on route march I was always on the back and they bring me back at the time we had dinner and the Mm. O. was always there and look at my feet all the time. I didn't say nothing, he bring me back himself all the time. I didn't made the full route march since I was there.

Q. How long was the advanced training at Farnham, eight weeks?

A. I made about six, seven weeks and we had two or three more months to do.

Q. You had two or three more months to do?

A. My advanced training wasn't finished yet and I had to go to T.S.

Q. Trained soldier company?

A. Yes, sir.

Q. But you only had a week or two weeks or three weeks to finish up your advanced training? How long did you have to do to finish your advanced training?

A. Three weeks, about a month.

Q. It might have been less than three weeks, it might have been a week or less, isn't that right, Beaudoin, before your finished your advanced training when you went absent?

A. About two weeks, I think, sir.

Q. You now change it to two weeks. Your categpry was A-1 at the time you went absent?

A. Yes.

Q. Where did you go when you went absent?

A. Back to Montreal, sir.

Q. Were you on leave when you went absent?

A. Yes; I had a weekend pass, sir.

Q. How long a weekend?

A. Friday till Monday morning.

Q. Was it just a weekend pass?

A. Yes, sir.

Q. There was no other mention of any other kind of pass

A. No, sir.

Q. And you went to Montreal?

A. Yes, sir.

Q. Why?

A. Well, that's why -- before I left somebody told me, "You are going to get your discharge", or something like that, and before I go I told a guy I was going away, I can't do it any more. And he said, "You stayed and you get your discharge, with a reason like that you can go on the M. O."

Q. You wanted your discharge:

A. Well, in a way, but [redacted] better I go overseas.

Q. You don't tell me that you believed that?

A. I didn't pass a reboard since 1942. They never passed me a reboard.

Q. You passed in 1942 and you were A-1 in 1944 when you went absent?

A. I passed a reboard in 1942, I never passed any after that.

Q. Yes; but your cate[redacted]gory was still the same in 1944 as it was in 1942?

A. My feet were bothering me.

Q. Why did you go to Montreal?

A. Well, I worked there.

Q. Who did you work for?

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Q. When I started to work I worked here and there for transport and after that, in the summer time, I worked three or four months for a farmer and after that I start to work for a transport again.

Q. What work were you doing for the transport company?

A. I can't say the thing. Move something in the house.

Q. It was pretty heavy work?

A. Yes; very heavy work.

Q. Your feet didn't bother you then?

A. Very bad, sir.

Q. You still went and worked on the farm and went back to the transport company; that is correct?

A. Yes, sir.

Q. And you were wearing your civilian clothes at the time you worked for the transport company?

A. Yes, sir.

Q. You didn't tell anybody you were in the Army?

A. Yes, sir.

Q. And it was while you were wearing your civilian clothes somebody stole your Army clothes?

A. Somebody stole my Army clothes.

Q. And where were your Army clothes, back here in Hull?

A. No; in Montreal.

Q. Did you come back to Hull?

A. Two times, sir.

Q. When was that?

A. I don't know the date. The time I was away I went two times.

Q. How long were you away when you first came ba

to Hull? How long had you been away, absent, when you first came back to Hull?

A. About five months, six months.

Q. How long did you stay there?

A. A day and a half, sir.

Q. And were you talking to your parents then?

A. Yes, sir.

Q. And they told you the Provosts had been looking for you?

A. Yes, sir.

Q. How many times had they been around?

A. Oh, lots of times.

Q. Lots of times?

A. Yes, sir.

Q. And that was the reason you only stayed a day and a half?

A. Yes, sir.

Q. When was the next time you came back to Hull?

A. About three months after.

Q. And the Provosts had been around in the meantime? How many times had they been around?

A. I don't know.

Q. How long did you stay at Champlain Street this time?

A. About the same.

Q. And the reason you left then was because you thought the Provosts would pick you up?

A. Yes, sir.

Q. And did you go back to Montreal?

A. Yes, sir.

Q. Did you have a girl in Montreal?

A. Yes, sir.

Q. You didn't get married while you were absent,

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did you?

A. No, sir.

Q. Why did you decide to return in August, 1945?

A. All the time I was away, every day, I was thinking about it and I have thinking about coming back and waiting and waiting.

Q. Everyday you thought about it from the 18th September to the 30th August, 1945; is that right?

A. Yes, sir.

Q. And it took you almost a year thinking about it to make up your mind to come back; is that right?

A. Yes, sir.

Q. Are you asking the Court to believe that?

A. Well, the time I have been away I have been sick lots of time and I weighed about 150 when I left and I was sick, you know. Before I joined the Army I didn't stay sick like that. I had trench mouth in the Army and it last about a week and then that.

Q. You had a difficult existence while you were away?

A. Yes, sir.

Q. And the only reason you put up with that existence was because you didn't want to come back to the Army?

A. No, sir.

Q. Well, what was the reason, you could have gone back to the Army and had medical attention?

A. Yes, sir.

Q. Why didn't you come back then? Because you didn't have any intention of coming back to the Army then; isn't that right, Beaudoin?

A. Oh, yes; I have thinking all the time about it.

Q. Why didn't you surrender the first time you were home, your family told you the Provosts were looking for

you? Why didn't you surrender yourself?

A. They told me to go back too, they didn't want me to stay on the loose.

Q. Why didn't you go back? Why didn't you surrender the first time, your family wanted you to come back and you thought about coming back? There must have been something kept you from coming back, what was it?

A. I don't understand what you said, sir.

Q. You told me you went home for a day and a half and you also told me your family wanted you to come back?

A. Not where I live, come back to the Army.

Q. Yes; to the Army. And why didn't you come back?

A. I told you before.

Q. Well, tell me again, I want to listen to you?

A. Well, my feet were still sore and I want to go overseas and I run away and since I have been in the Army my mouth has been sore.

Q. Is that the reason you didn't surrender yourself the second time?

A. I didn't go overseas and my feet were sore.

Q. Are your feet still sore?

A. Yes, sir.

Q. Were they sore on the 30th August, 1945?

A. Yes, sir.

Q. Why did you surrender yourself then, any difference between the 30th of August and say the 30th of April, 1945, were your feet in the same condition?

A. Yes.

Q. Why didn't you surrender yourself in April, 1945, then, have you any other reason?

A. No, sir; that's all.

Q. And when you surrendered on 30th August, 1945,

you knew the war was over, did you?

A. Yes, sir.

---The Defending Officer declines to re-examine.

QUESTIONED BY THE COURT:

Q. Beaudoin, did the medical officer at Farnham look at your feet?

A. Yes, sir. Only the Corporal there, sir.

Q. What about the officer?

A. He didn't see it, sir.

Q. What did the Corporal say?

A. He said I had bad feet and I went on sick parade about very day, sir.

Q. Did you have your feet looked at?

A. Yes, sir.

Q. What did they do?

A. Kind of water, I don't know the stuff. Kind of water and I put my feet in it.

Q. But your feet are not flat?

A. Falling arches.

Q. Did you see the medical officer?

A. No, sir; I went sick parade lots of time but I couldn't see him, only the Corporal.

Q. How told you you had falling arches?

A. When I arrived here I had been home before and I had seen a doctor before and he said I had fallen arches and I had something under my foot.

Q. When was this?

A. The same night I arrived, the same day I report myself at eleven o'clock at night.

Q. The day you arrived at Lansdowne Park?

A. Yes, sir.

Q. Did you see the doctor here?

A. Dr. Bigras.

Q. He is a civilian doctor?

A. Yes, sir.

Q. He says you have fallen arches?

A. Yes, sir.

Q. Of course, this is a year later?

A. Yes, sir.

Q. And you worked all the time you were away?

A. I didn't work at the same place all the time.

Q. But you had to work to live?

A. Yes, sir.

Q. And where did you work?

A. Transport and summer time I worked on a farm.

Q. What were you doing?

A. Well, I can't say in English.

Q. With the hay? Say it in French?

A. (answers in French) Hoeing and sowing.

Q. Did you work on the hay, too?

A. No, sir.

Q. You were standing on your feet then quite a lot, it is hard work. That's hard work, isn't it? Would you agree that it is, you have to stand up all the time?

A. For the farmer, I was on my knees all the time.

Q. But you can't hoe on your knees?

A. Well, I sit down.

Q. You had no treatment for your feet during this year you were away?

A. No, sir.

Q. Now, you had just about completed your training at Farnham?

A. Yes, sir.

Q. And your comerades there went overseas shortly after you left?

A. Yes. I went to St. Jerome one day and I saw one guy and he came back with all the boys that was there. The platoon I was with at Farnham, they went overseas and they are all back here now. I saw one guy in St. Jerome, his Depot was Longueuil.

Q. The platoon you were with when you went absent went overseas shortly after you left?

A. For that I don't know. I think they went about five or six months after.

Q. When you were absent in the winter of 1944, last winter, --

A. Yes, sir.

Q. -- you knew they were sending every available soldier overseas?

A. I knew, sir; but that's why somebody told me I wouldn't go overseas, because of my feet.

Q. You certainly couldn't go overseas if you remained absent?

A. I don't know.

Q. Well, you knew that, you were well aware that if you had come back, say, in December that you would have gone overseas? You knew that, Beaudoin? Come now, you knew that, you read the paper and you hear people talk, you knew they were sending everybody overseas then?

A. Well, when a guy gets sore --

Q. You didn't do anything about your feet all the time you were away? Surely they couldn't have been hurting you very much? If a man doesn't do anything about them? If you had wanted to go overseas you could have come back in December?

A. Like the other guys?

Q. Pardon?

A. You mean to go overseas --

Q. You knew they were sending everybody overseas last winter? You knew that? Even the "R" recruits, the draftees, the men they drafted into the Army, they were even sending them over. You knew that? So that, if you had wanted to go overseas you would have come back to the Army, isn't that right? Don't you agree with that? But, you didn't want to go overseas, Beaudoin?

A. Oh, yes; if I had gone overseas the first time I join the Army all those things wouldn't happen.

Q. That's quite true but in this last year you must have changed your mind? In any event, you were well aware they were sending everybody overseas,;that is right, isn't it? And you didn't come back. And then in May you knew that the war in Europe was over; isn't that right? And you didn't come back. And then you finally come back the end of August after a year's absence?

A. (no answer).

---The witness resumes his seat.

---The Prosecutor does not desire to make a closing address.

---The Defending Officer makes a closing address.

THE NUMBERED PAGES WHICH ARE OTHERWISE BLANK IN

THE FILES ON THIS FILM HAVE NOT BEEN PHOTOGRAPHED.

CENTRAL REGISTRY MICROFILMING UNIT.

END

FIRST

SIDE

44.B.17A

COUNTER NUMBER 76557

HOUR 1110

OPERATOR'S INITIALS ALO

RELIEVING OPERATOR ____

44.B.17B

START

SECOND

SIDE

THE NUMBERED PAGES WHICH ARE OTHERWISE BLANK IN

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CENTRAL REGISTRY MICROFILMING UNIT.

H.Q.C. 55-B-1997

CONFIDENTIAL

M.F.R. 5128
33M—2-45 (6884)
H.Q. 201-1-100

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BEAUDOIN, JOSEPH PAUL C.33070 PTE.

CONFIDENTIAL
H.Q.C.55-B-1997

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes")			
OCT 1 - 1945				JAG	NEW FILE	CR	26-9-45
OCT 6 - 1945	5.10.45	Pa		D. Adm			
OCT 15 1945	15-10-45	P.A.		JAG	With Papers C.R. OCT 10 1945		
NOV 3 - 1945	22.11.45			Admin	For Requisition C.R. OCT 30 1945		
NOV 21 1945	22.11.45	Pa		Admin	PER B.F. NOV 22 1945		
				CMBR	For Requisition C.R. JAN 4 1946		
JAN 26 1946	26-1-46	La		Adm 3	Recommendation	Gas	JAN 1 6 1946
				JAG	With Papers C.R. FEB 6 1946		
FEB 8 - 1946 FEB 7 - 1946	7-2-46	La		Adm	To note & ds	Jm	6/2/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

T-20-B-6827 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District 2,
159, Bay Street, Toronto, Ontario.

5 Feb 46

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY ARMY
CORRESPONDENCE
5595
FEB 6 1946
File
Chgd. to
Referred to

REMISSION OF SENTENCE
C-33070 Pte. BEAUDOIN J.P.
No. 2 DD. CA.

Reference HQC 55-B-1997.

2. Herewith completed Appendix "G" to CARO 5913.

3. Also enclosed herewith MFM.288 with respect to the marginally named, for disposal, please.

for (C. L. MANN)
Brigadier
D.A.G.
M.D.2

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CoM.

NDHQ File No. HQC 55-B-1997
District File No. T-20-B-6827

PART I.

No. C-33070 Rank Private NAME Joseph Paul BEAUDOIN
Unit No. 2 District Depot, C.A.

PART II.

Date of Trial 13th September, 1945
Charge(s) (1) DESERTION - AA Sec 12(1)(a)
(2) LOSING BY NEGLECT - AA Sec 24(2)
Sentence 9 months' detention; $27.29 stoppages (deficiencies)
Date of Sentence 13th September, 1945
Confirmation - (a) Authority S.C.M.
(b) Date ---

PART III.
REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (XXXX

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
28 Jan 46	Remit effective 1 February, 1946	C.C. Mann (C.C. Mann)Brig. D.O.C. M.D.2	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
DESERTION - 18 Sep 44 until 30 Aug 45	18 Sep 44	13 Sep 45
LOSING BY NEGLECT, etc. value of $27.29	- do -	- do -
W.A. Stewart (W.A. Stewart)Capt Legal Officer No. 9 District Depot, CA. Signature of Officer making entry		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Oct 45	Conduct has been poor. Has completed basic trg only. Ability and usefulness as a soldier are nil. No recommendations.	(J.A.Pewtress)Major A/Officer Commanding No. 9 Dist.Depot, CA

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
9th October 1945	Pursuant to the suggestion contained in H.Q.S.9039-1-1 Adm. 3- 15 Jun 45, I will review this sentence 28 Jan 46.	(F.L. Armstrong) Brigadier DOC MD#3

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C 33070 Pte. Joseph Paul BEAUDOIN, No. 9 District Depot, CA
(Number, Rank, Name in full)

(Unit, Attachment (if any))

Sentenced to nine months detn and stoppage of pay $27.29 deficiencies of clothing, equipment and regimental necessaries.

on 13th Sept., 1945 at Lansdowne Park, Ottawa, Ontario

being served at No. 63 Military Detention Barracks, Barriefield, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18 yrs 3 mths - 17 Dec. 41

Medical grade or category 23 - 1 1 1 1 1 2 1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended~~) (~~put into execution~~) (reviewed on 28 Jan 45 (date)) for reasons given in paragraph X.

Place .....

..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... (Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-30-2015

T-20-B-6827
T-20-B-21569
T-20-D-9544 (AJAG)

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
21st January, 1946.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (for information)
Military District No. 3,
KINGSTON, Ontario.

C-33070 Pte. BEAUDOIN, J.P.
D-647826 Pte. DUPONT, J.P.
D-148688 Pte. BEAUDOIN, J.

Reference RANKS 1583 dated 18th January, 1946.

2. Receipt of the above-mentioned teletype is hereby acknowledged.

3. It is advised that D-148688 - Pte. BEAUDOIN, J. was released on the 6th January, 1946, on expiration of sentence.

4. May H.F's M. 288 with respect to the other two soldiers, namely, C-33070 - Pte. BEAUDOIN, J.P. and D-647826 - Pte. DUPONT, J.P., be forwarded, please, so steps may be taken to effect their release.

(A. B. Potts)
Major-General
D.O.C. M.D. 2.

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

HQC 55-B-1997
HQC 55-D-1258
HQC 55-B-1961
ADM 3(b)3

W.F.M. 2548
20M-9-44 (2576)
K.P. 17649 H.Q. 1772-39-2004

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 2
TORONTO ONT

OTTAWA ONTARIO 18 JAN 46

RANKS 1583 REGTD

REVIEW REF AG 0267 D/18 OCT 45 (.) GMHR RECOMMENDS IMMEDIATE RELEASE OF THE FOLLOWING SUS (.) C 33070 PTE BEAUDOIN J P D647826 PTE DUPONT J P D148688 PTE BEAUDOIN J (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFO COPY TO: GMHR

JAG

EDM/MA

Major-General
ADJUTANT GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED			

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

HQC 55-B-1977
Adm 3(b)3

OTTAWA, Ontario, 26 Jan 6

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

C.33070 Pte BEAUDOIN J P
D.647826 Pte DUPONT J R

Ref T.20-B-6827 T.20-B-21569 T.20-D-9544 (AJAG)
d/21 Jan 46.

2. A search of records fails to reveal NFaM 288 for the a/n soldiers. In the event they cannot be located at your HQ, appendix G to CAMO 5913 will be sufficient.

(E. O. Banks)
Major-General
Adjutant-General

KIW/MA

HQC 55-B-1997(OMBR-5)/ EMA

Case No 1705

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

9 Jan 46

1. No. Rank and Name: C.33070 Pte BEAUDOIN, J P

2. Unit at date of offence: A-12 CITC

3. Charge: (1) AA Sec 12(1)(a) DESERTION: AWL from 0100 hrs on 18 Sep 44 until he surrendered at 2305 hrs on 30 Aug 45 dressed in civilian clothes. (Length of absence - 11½ mos.)

(2) AA Sec 24(2) LOSS OF KIT: To the extent of $27.29

Plea: Not guilty of 1st charge
Guilty of 2nd charge

4. Place and Date of Trial: OTTAWA, Ont 13 Sep 45
(~~FGCM~~) (~~DSM~~) (SCM)

5. Finding: Guilty on both charges

6. (a) Sentence: 9 months detention and stoppages of $27.29

(b) Date of Sentence: 13 Sep 45

7. Date of Confirmation: -

8. Date of Promulgation: -

9. Being Served at: 91 MDB in MD 2

1583

(N.B. - Discharged under RO 1089( ) for
wef)

CONDUCT

11. (a) Prior to Conviction: Offence Date Sentence

(i) Civil Convictions: Nil

(ii) Courts-Martial: Nil

(iii) Summary Convictions: 7 charges AWL - severest award 14 dys Detn.

(b) After Conviction: Good - Earliest date of release - 12 Mar 46

(c) Date of ~~enlistment~~ enlistment 17 Dec 41 Present Age: 21

12. Remarks: (Here note any Petition or representation other than in Item 10, but if Item 10 has been omitted so state, and show here any mitigating circumstances)

Item 10 has been omitted.

In sworn evidence the accused states that he enlisted at the age of 17; he could not go overseas although he wanted to very badly, instead he was employed on General Duty fatigues. Later he could not finish his advance training because his feet would not permit him to make long marches. He remained AWL because he thought his category would not permit him to go overseas if he returned. This man has a brother at present undergoing detention and a third brother has just returned from overseas and is blind due to alcoholic poisoning. The mother is highly disturbed about her sons and it has been suggested that the two sons in detention be given an early release, but the DOC MD 3 stated that the conduct of the accused does not warrant remission before half of sentence has been served.

13. Recommendations: (State by whom made, e.g., CMM, DOC, Reviewing Officer, etc.)

REVIEWING OFFICER: As the accused has now served over one third of sentence, I recommend release. (immediate)

Reviewed by A. M. Stephenson
(A.M. Stephenson) Major

14. Recommendation of the Board:

Immediate Release

Date JAN 1 6 1946

H. A. Sikoll Maj.
Secretary
Courts-Martial Board of Review

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C55-B-1997

copy

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

K.S. 688 Vol 1(A)
and All Personal Files

KINGSTON, Ontario Nov 23rd, 1945.

The District Officer Commanding, M.D. No. 2 Toronto, Ont.
The Commandant, No. 91 M.D.B., Niagara Falls, Ont.
The Commandant, No. 63 M.D.B., Barriefield, Ontario.
The Commandant, Ottawa Area Command, Ottawa, Ont.
Officer Commanding, No. 9 District Depot, Ottawa, Ont.
The D.A.P.M. M.D. No 2, Toronto, Ontario.
Officer Commanding, No. 31 Coy. C. Pro. C. Toronto, Ont.
Officer Commanding, No. 33 Coy. C. Pro. C. Ottawa, Ont.
The D.S. & T.O., M.D. No 3, Kingston, Ontario.
The District Paymaster, M.D. No. 3, Kingston, Ont.
The District Medical Officer, M.D. No. 3, Kingston, Ont.
Officer Commanding, No. 1 Det. No. 33 Coy. C.PRO. C. Kingston, Ont.

TRANSFER OF S.U.S. FROM NO 63 M.D.B.
To No. 91 M.D.B. Chippawa, Ontario.

Reference T.22-1-233-13(DAPM) dated 11th October 45 and reference to Radiogram Ranks 9267 dated the 5th day of October 1945, from National Defence Headquarters, Ottawa, Ontario.

2. Due to the overcrowded conditions at No. 63 M.D.B. at Barriefield, Ontario, and in view of the number of soldiers presently sentenced to periods of detention, now being held in the various unit Guard Rooms throughout M.D. No 3, it has been found necessary to transfer the undermentioned S.U.S. from No. 63 M.D.B. Barriefield Ontario, to No. 91 M.D.B., at Chippawa, Ont under escort.

From No. 9 DD Ottawa Ont.	Sentence Date	Date of release full time	Date of release Remission
C.30070 Pte Beaudoin J.P.	9 mos 13-9-45	12-6-46	15-3-46
D.148688 Pte Beaudoin J.	6 mos 7-9-45	7-3-46	10-1-46
C.44666 Pte Beaudin L.H.	8 mos 15-10-45	15-6-46	25-3-46
D.648761 Pte Bertrand O.	8 mos 15-10-45	15-6-46	25-3-46
D.647826 Pte Dupont J.P.	10 mos 20-9- 45	20-7-46	9-4-46
C.418002 Pte Taylor R.R.	1 yr 8-9-45	8-9-46	8-5-46

3. The Escort personnel for this movement have been detailed by the D.A.P.M., M.D. No. 3, and are as follows:

Conducting N.C.O.	Escorts
C.37255 L/Cpl Brown J.	C.35366 Pte Bowman R.
	B.119977 Pte Sunnerton J.

4. The above mentioned soldiers under sentence will be despatched to No. 91 Military Detention Barracks, Chippawa, Ont. from No. 63 Military Detention Barracks, Barriefield, Ontario by the above mentioned escort personnel of No. 33 Coy. C. Pro C. The escort personnel will assemble at No. 63 M.D.B. Barriefield, Ontario at 0045 hours on the 24th November, 1945, and will take over the above mentioned soldiers under sentence together with all documents in connection with each case. This party will entrain at the Outer Station, Kingston, at 0140 hours same date and on their arrival in Toronto at 0630 hours same date the soldiers under sentence will be taken to the Provost Office in the Union Station and will be given a box lunch.

...../2

5. Arrangements have been made by this Headquarters to meet this train on its arrival at trainside, with the D.A.P.M. M.D. No. 2. This party will leave Toronto via C.N.R. at 0800 hours same date and will arrive Niagara Falls at 1050 hours where they will be met on their arrival at trainside by personnel of the staff of No. 91 Military Detention Barracks.

6. All necessary documents as laid down in CARO 5099 will be taken with the Conducting N.C.O. i/c of this movement, and will be handed over to the Commandant, No: 91 M.D.B. upon arrival.

7. Attention is directed to HQC 9039-1-1 Adm 3 dated 15th June, 1945, under which National Defence Headquarters lays down the policy to be followed in the remission and suspention of sentences of soldiers under sentence. On the expiration of one-half time the question of remission may be dealt with by the District Officer Commanding, Military District No. 2, or if desired may be referred to the District Officer Commanding, Military District No. 3,

8. Transportation for this movement will be made by demand by the D.A.P.M., M.D. No. 3 on the D.S. & T.O. M.D. No. 3.

Sgd. E.L. Potts. Major,
for (W.K. MacGregor) Major,
D.A.A.G. M.D. No. 3.

Copy to:
The Secretary,
Department of National Defence
OTTAWA, Ontario

Attention Capt. Parlee

Sgd. E.L. Potts. Major
for(F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No. 3.

CR(C)
PA on files

C 55- B-1997

wof

Adm 3(b)2

MEMORANDUM

D:

Department of National Defence,
(Army)

D.M.(R)

HQC 55-B-1961 Adm 3(b)2

OTTAWA, Ontario 16 Nov 45

S.E. 72988/5714B d/27 Oct 45

D.148688 Pte BEAUDOIN, Jean
C.33070 Pte BEAUDOIN, Joseph Paul

The sentences awarded these two soldiers have been reviewed by DOC MD 3. It is felt that, due to their very poor military record, they should serve at least one-half of the sentence awarded.

2. Accordingly consideration will be given to remission of the sentence awarded D.148688 Pte Beaudoin, Jean on 7 Dec 45 and C.33070 Pte Beaudoin, Joseph Paul on 28 Jan 46.

3. DOC MD 3 feels that if preferential consideration were given to these soldiers whose conduct had been far from satisfactory, other SUS whose conduct has been better in comparison, would feel that there had been a discrimination and an undercurrent of unrest would develop among the soldiers who felt themselves so aggrieved.

(A E Walford)
Major-General
Adjutant-General

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FINAL

WOF:da

C.R.Conf. 16.11.45

Please PA on
HQC 55 B 1997.
W.O. Parle capt
for Dep Comm

HQC 55-B-1961
HQC 55-B-1997
HQ 405-B-41,896 Adm 3(b)2

CONFIDENTIAL

2 Nov 45

District Officer Commanding,
Military District No 3,
KINGSTON, Ont.

B-148688 Pte BEAUDOIN, Jean (Your PCO: B-17)
B-38073 Pte BEAUDOIN, Joseph Paul (Your PCO: B-19)
B-102869 Pte BEAUDOIN, Marcel

1. Jean and Joseph Paul Beaudoin are at present serving sentences of six and nine months detention awarded by GCM at No 9 BD. In both instances they were convicted on charges of desertion.

2. Another brother, Marcel Beaudoin, has recently returned from overseas and is at present on leave.

3. Representations have been received that Marcel Beaudoin is totally blind and that the mother is in a highly nervous condition. It has been suggested that if some encouragement could be offered her regarding Jean and Joseph Paul Beaudoin, such compassionate action would tend to improve her condition.

4. Examination of the file of Marcel Beaudoin discloses the following info:-

(a) His condition is the result of alcoholic poisoning as a result of drinking cognac (where is not indicated). Another soldier who was apparently drinking with him died of the effects;

(b) The soldier is not totally blind - some improvement in his condition is insisted;

(c) Whether his condition will improve or deteriorate is not known at the present time.

5. Having regard to the above circumstances, may consideration be given, pls, to the advisability of reviewing the sentences awarded Jean and Joseph Paul Beaudoin. If it is not considered that remission should be granted at this time, may it be indicated, pls, when further review with a view to remission is contemplated.

6. Special Enquiry - Urgent.

[illegible]
Brigadier,
Judge Advocate General.

GF:C 2

33

HQC 55-B-1997 (JAG/D-8)

15 Oct 45

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

Standing Court-Martial
C.33070 Pte. Joseph Paul BEAUDOIN,
No. 9 District Depot, C.A.

Receipt is acknowledged of your K.55-B-7496 (JAG)
dated 9 October, 194 5 under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier,
Judge Advocate-General.

/ZT

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HG

IN REPLY PLEASE QUOTE No. K.55-B-7496(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 9 Oct 45.

CENTRAL REGISTRY Army
CONF. SEC.
OCT 10 1945
3128
File No. CS-5-B-1997
Charge to
Referred to Jag

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C.33070 Pte. Joseph Paul BEAUDOIN,
No. 9 District Depot, C.A.

Reference H.Q.C.55-B-1997 (JAG/D-8) dated 29 Sep 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

31

MEDICAL OFFICER'S REPORT

I certify that No. C 33070 Pte Beaudoin, J P

of #9 District Depot, CA is in a Good state of health,

and fit to undergo Trial by Court martial.

H Lord Lt

Medical Officer

Mtl No. 9 D.D.

Station Lansdowne Park Ottawa Ont.

Date 13 Sep 45

M. F. B. 246

50M—9-44 (5437)

H.Q. 1772-39-480

Ret

30

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at the Court-Martial Building, Lansdowne Park, Ottawa, Ont.,

on the 13th day of September, 1945, at 1405 hours,

for the trial of: C-33070 - Pte. ~~XXX~~ JOSEPH PAUL BEAUDOIN.
Number Rank Full Name

No. 9 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major R. K. Laishley.

PROSECUTOR: Capt. J.D.C. Boland, Headquarters, Military District No. 3, C.A.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. J. H. A. Caron, No. 9 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, C-33070, Pte. Joseph Paul Beaudoin, No. 9 District Depot, C.A., guilty of both charges.

SENTENCE: The Court sentence the accused, C-33070, Pte. Joseph Paul Beaudoin, No. 9 District Depot, C.A., to undergo detention for nine months and to be put under stoppages of pay until he has made good the sum of $27.29 in respect of the cost of deficiencies of clothing, equipment and regimental necessaries.

Extracts entered as No. 39961 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 27 day of Sep 1945

Signed at Ottawa, Ont., this 13th day of Sept., 1945.

R. K. Laishley

(R. K. Laishley) Major, President, Standing Court-Martial
Military District No. 3.

M.F.R. 1486
25M-6-44 (4826)
H.Q. 1772-33-2296

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to ..... as interpreter ?

Answer: .....

Question to the accused. Do you object to B-4233 - S.M. (W.O.I) F. A. Luet, No. 3 Detachment, C. M. S. C., C.A., as shorthand writer ?

Answer: No, sir.

The shorthand writer and interpreter (if any) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not guilty, sir.

---For proceedings at this point see [redacted] p.3.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Guilty, sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to the second charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

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BY THE PROSECUTOR: Mr. President, I request that the second charge be amended by striking out "Shoes, leather, black, prs., 1, $3.63.

BY THE COURT: The second charge will be amended accordingly.

---Second charge is amended by striking out: "Shoes, leather, black, prs., 1, $3.63".

B2 Refer to my Pers

CHARGE SHEET

The accused, No. C 33070 Pte. Joseph Paul BEAUDOIN, No. 9 District Depot, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:

FIRST CHARGE
Sec. 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

at Farnham, Quebec, at 0100 hours on the 18th September 1944, absented himself from A-12 C.I.T.C., C.A., until surrendering himself to Military Authorities at Ottawa, Ontario, at 2305 hours on the 30th August 1945, dressed in civilian clothes.

SECOND CHARGE
Sec. 24(2)
ARMY ACT

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT
AND REGIMENTAL NECESSARIES

in that he

at Ottawa, Ontario, on the 1st September 1945, was deficient of the following articles, viz:

		C.A.R.O. 4559	Less 25% C.A.R.O. 3464
CATALOGUE SECTION			
Boots, Lumberman Rubber,	1	$ 1.14	$ .86
Coats, Waterproof, Army,	1	6.91	5.18
Mitts, pullover, leather,	1	.93	.70
CATALOGUE SECTION "E"			
Blouses, Battle dress,	1	6.50	4.88
Caps, F/S,	1	.70	.53
Drawers, cotton,	1	.42	.32
Socks, Army, prs.	2	.92	.70
Shirts, woollen,	1	1.20	.90
~~Shoes, leather black, prs.~~	~~1~~	~~4.84~~	~~3.63~~
Shirts, khaki cotton,	2	3.90	2.92
Trousers, Battle dress,	1	6.55	4.91
Trousers, K.D., short,	3	3.93	2.94
CATALOGUE SECTION "C"			
Belts, waist leather brown,	1	.35	.26
Brushes, button,	1	.11	.08
Brushes, boot,	1	.14	.11
Brushes, cloth,	1	.17	.13
Brushes, hair,	1	.39	.29
Brushes, shaving,	1	.42	.32
Brushes, tooth,	1	.09	.07
Combs, hair,	1	.04	.03
Holdalls,	1	.22	.17
Housewives,	1	.35	.26
Neckties, black,	1	.19	.14
Pins, collar, safety,	1	.06	.04
Socks, black,	2	.56	.42
Sticks, button,	1	.04	.03
CATALOGUE SECTION "D"			
Badges, cap,	1	.09	.07
CATALOGUE SECTION "1-A"			
Bags, ration,	1	.04	.03
TOTALS:		$ 41.20	~~$ 30.92~~ $27.

(C. Roy Hall) Major,
A/Officer Commanding, No. 9

Lansdowne Park,
Ottawa, Ontario, 4th Sept 45

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

BY THE PROSECUTOR: I present M.F.B.375 dated the 10th of October, 1944, sir.

---M.F.B.375 is received, read, marked EXHIBIT "F", signed by the President and attached to the proceedings.

I present M.F.M.216 dated the 31st of August, 1945, sir.

---M.F.M.216 is received, read, marked EXHIBIT "G", signed by the President and attached to the proceedings.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. .....

FIRST WITNESS)
FOR)
DEFENCE)

The accused, C-33070 - Pte. JOSEPH PAUL BEAUDOIN, No. 9 District Depot, C.A., being duly sworn, is examined by the Defending Officer:

Q. Beaudoin, when did you join up?

A. In 17th December, 1941, sir.

Q. 17th December, 1941?

A. 1941.

Q. How old were you when you joined up?

A. I was seventeen, sir.

Q. Where did you go after your basic training?

A. Camp Borden, sir.

Q. What were you doing in Camp Borden?

A. Washing dishes and fireman and some time I was pick and shovel.

Q. Why did you go absent?

A. Well, I run away lots of time and I run away like that, when I come back I have chance to go overseas like the other boys and fight.

Q. Why did you not report back in military clothes?

A. First, sir, couple of months somebody stole my clothes, everything I had. I had a battle dress and a field hat. That's all I had.

Q. Have you any brothers in your family of Army age?

A. Yes, sir; two.

Q. How many are in the service?

A. Two, sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. Beaudoin, did you absent yourself without leave from A-12 Infantry Training Centre, Farnham, at 0100 hours on the 18th September, 194?

A. Yes, sir.

Q. And did you remain continuously absent until you surrendered yourself to military authorities at Ottawa, Ontario, at 2305 hours on the 30th August, 1945?

A. Yes, sir.

Q. And you were dressed in civilian clothes at the time?

A. Yes, sir.

Q. Where was your home at the time you joined the Army?

A. Hull, Quebec, sir.

Q. And what was your address there?

A. 386 Champlain Street.

Q. What year were you born?

A. 1924, sir.

Q. What date?

A. 25th of March.

Q. When were you posted to Farnham?

A. Oh, I can't remember the date, sir.

Q. Was it May, 1944?

A. Its about that, sir.

Q. And you were sent down there to take advanced Infantry training, were you?

A. Yes, sir.

Q. And you completed your Infantry training, didn't you?

A. I beg your pardon?

Q. And you completed your Infantry training, didn't you?

A. I couldn't make it.

Q. Why?

A. Since I have been in the Army I have sore feet and

I was like for the instruction but I couldn't make the route march.

Q. You didn't like it?

A. I like it but I couldn't make it.

Q. What happened to you?

A. Every time I went on route march I was always on the back and they bring me back at the time we had dinner and the Mm. O. was always there and look at my feet all the time. I didn't say nothing, he bring me back himself all the time. I didn't made the full route march since I was there.

Q. How long was the advanced training at Farnham, eight weeks?

A. I made about six, seven weeks and we had two or three more months to do.

Q. You had two or three more months to do?

A. My advanced training wasn't finished yet and I had to go to T.S.

Q. Trained soldier company?

A. Yes, sir.

Q. But you only had a week or two weeks or three weeks to finish up your advanced training? How long did you have to do to finish your advanced training?

A. Three weeks, about a month.

Q. It might have been less than three weeks, it might have been a week or less, isn't that right, Beaudoin, before your finished your advanced training when you went absent?

A. About two weeks, I think, sir.

Q. You now change it to two weeks. Your category was A-1 at the time you went absent?

A. Yes.

Q. Where did you go when you went absent?

A. Back to Montreal, sir.

Q. Were you on leave when you went absent?

A. Yes; I had a weekend pass, sir.

Q. How long a weekend?

A. Friday till Monday morning.

Q. Was it just a weekend pass?

A. Yes, sir.

Q. There was no other mention of any other kind of pass

A. No, sir.

Q. And you went to Montreal?

A. Yes, sir.

Q. Why?

A. Well, that's why -- before I left somebody told me, "You are going to get your discharge", or something like that, and before I go I told a guy I was going away, I can't do it any more. And he said, "You stayed and you get your discharge, with a reason like that you can go on the M. O."

Q. You wanted your discharge:

A. Well, in a way, but better I go overseas.

Q. You don't tell me that you believed that?

A. I didn't pass a reboard since 1942. They never passed me a reboard.

Q. You passed in 1942 and you were A-1 in 1944 when you went absent?

A. I passed a reboard in 1942, I never passed any after that.

Q. Yes; but your category was still the same in 1944 as it was in 1942?

A. My feet were bothering me.

Q. Why did you go to Montreal?

A. Well, I worked there.

Q. Who did you work for?

Q. When I started to work I worked here and there for transport and after that, in the summer time, I worked three or four months for a farmer and after that I start to work for a transport again.

Q. What work were you doing for the transport company?

A. I can't say the thing. Move something in the house.

Q. It was pretty heavy work?

A. Yes; very heavy work.

Q. Your feet didn't bother you then?

A. Very bad, sir.

Q. You still went and worked on the farm and went back to the transport company; that is correct?

A. Yes, sir.

Q. And you were wearing your civilian clothes at the time you worked for the transport company?

A. Yes, sir.

Q. You didn't tell anybody you were in the Army?

A. Yes, sir.

Q. And it was while you were wearing your civilian clothes somebody stole your Army clothes?

A. Somebody stole my Army clothes.

Q. And where were your Army clothes, back here in Hull?

A. No; in Montreal.

Q. Did you come back to Hull?

A. Two times, sir.

Q. When was that?

A. I don't know the date. The time I was away I went two times.

Q. How long were you away when you first came back

to Hull? How long had you been away, absent, when you first came back to Hull?

A. About five months, six months.

Q. How long did you stay there?

A. A day and a half, sir.

Q. And were you talking to your parents then?

A. Yes, sir.

Q. And they told you the Provosts had been looking for you?

A. Yes, sir.

Q. How many times had they been around?

A. Oh, lots of times.

Q. Lots of times?

A. Yes, sir.

Q. And that was the reason you [redacted] only stayed a day and a half?

A. Yes, sir.

Q. When was the next time you came back to Hull?

A. About three months after.

Q. And the Provosts had been around in the meantime? How many times had they been around?

A. I don't know.

Q. How long did you stay at Champlain Street this time?

A. About the same.

Q. And the reason you left then was because you thought the Provosts would pick you up?

A. Yes, sir.

Q. And did you go back to Montreal?

A. Yes, sir.

Q. Did you have a girl in Montreal?

A. Yes, sir.

Q. You didn't get married while you were absent,

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did you?

A. No, sir.

Q. Why did you decide to return in August, 1945?

A. All the time I was away, every day, I was thinking about it and I have thinking about coming back and waiting and waiting.

Q. Everyday you thought about it from the 18th September to the 30th August, 1945; is that right?

A. Yes, sir.

Q. And it took you almost a year thinking about it to make up your mind to come back; is that right?

A. Yes, sir.

Q. Are you asking the Court to believe that?

A. Well, the time I have been away I have been sick lots of time and I weighed about 150 when I left and I was sick, you know. Before I joined the Army I didn't stay sick like that. I had trench mouth in the Army and it last about a week and then that.

Q. You had a difficult existence while you were away?

A. Yes, sir.

Q. And the only reason you put up with that existence was because you didn't want to come back to the Army?

A. No, sir.

Q. Well, what was the reason, you could have gone back to the Army and had medical attention?

A. Yes, sir.

Q. Why didn't you come back then? Because you didn't have any intention of coming back to the Army then; isn't that right, Beaudoin?

A. Oh, yes; I have thinking all the time about it.

Q. Why didn't you surrender the first time you were home, your family told you the Provosts were looking for

you? Why didn't you surrender yourself?

A. They told me to go back too, they didn't want me to stay on the loose.

Q. Why didn't you go back? Why didn't you surrender the first time, your family wanted you to come back and you thought about coming back? There must have been something kept you from coming back, what was it?

A. I don't understand what you said, sir.

Q. You told me you went home for a day and a half and you also told me your family wanted you to come back?

A. Not where I live, come back to the Army.

Q. Yes; to the Army. And why didn't you come back?

A. I told you before.

Q. Well, tell me again, I want to listen to you?

A. Well, my feet were still sore and I want to go overseas and I run away and since I have been in the Army my mouth has been sore.

Q. Is that the reason you didn't surrender yourself the second time?

A. I didn't go overseas and my feet were sore.

Q. Are your feet still sore?

A. Yes, sir.

Q. Were they sore on the 30th August, 1945?

A. Yes, sir.

Q. Why did you surrender yourself then, any difference between the 30th of August and say the 30th of April, 1945, were your feet in the same condition?

A. Yes.

Q. Why didn't you surrender yourself in April, 1945, then, have you any other reason?

A. No, sir; that's all.

Q. And when you surrendered on 30th August, 1945, 16

you knew the war was over, did you?

A. Yes, sir.

---The Defending Officer declines to re-examine.

QUESTIONED BY THE COURT:

Q. Beaudoin, did the medical officer at Farnham look at your feet?

A. Yes, sir. Only the Corporal there, sir.

Q. What about the officer?

A. He didn't see it, sir.

Q. What did the Corporal say?

A. He said I had bad feet and I went on sick parade about very day, sir.

Q. Did you have your feet looked at?

A. Yes, sir.

Q. What did they do?

A. Kind of water, I don't know the stuff. Kind of water and I put my feet in it.

Q. But your feet are not flat?

A. Falling arches.

Q. Did you see the medical officer?

A. No, sir; I went sick parade lots of time but I couldn't see him, only the Corporal.

Q. How told you you had falling arches?

A. When I arrived here I had been home before and I had seen a doctor before and he said I had fallen arches and I had something under my foot.

Q. When was this?

A. The same night I arrived, the same day I report myself at eleven o'clock at night.

Q. The day you arrived at Lansdowne Park?

A. Yes, sir.

Q. Did you see the doctor here?

A. Dr. Bigras.

Q. He is a civilian doctor?

A. Yes, sir.

Q. He says you have fallen arches?

A. Yes, sir.

Q. Of course, this is a year later?

A. Yes, sir.

Q. And you worked all the time you were away?

A. I didn't work at the same place all the time.

Q. But you had to work to live?

A. Yes, sir.

Q. And where did you work?

A. Transport and summer time I worked on a farm.

Q. What were you doing?

A. Well, I can't say in English.

Q. With the hay? Say it in French?

A. (answers in French) Hoeing and sowing.

Q. Did you work on the hay, too?

A. No, sir.

Q. You were standing on your feet then quite a lot, it is hard work. That's hard work, isn't it? Would you agree that it is, you have to stand up all the time?

A. For the farmer, I was on my knees all the time.

Q. But you can't hoe on your knees?

A. Well, I sit down.

Q. You had no treatment for your feet during this year you were away?

A. No, sir.

Q. Now, you had just about completed your training at Farnham?

A. Yes, sir.

Q. And your comerades there went overseas shortly after you left?

A. Yes. I went to St. Jerome one day and I saw one guy and he came back with all the boys that was there. The platoon I was with at Farnham, they went overseas and they are all back here now. I saw one guy in St. Jerome, his Depot was Longueuil.

Q. The platoon you were with when you went absent went overseas shortly after you left?

A. For that I don't know. I think they went about five or six months after.

Q. When you were absent in the winter of 1944, last winter, --

A. Yes, sir.

Q. -- you knew they were sending every available soldier overseas?

A. I knew, sir; but that's why somebody told me I wouldn't go overseas, because of my feet.

Q. You certainly couldn't go overseas if you remained absent?

A. I don't know.

Q. Well, you knew that, you were well aware that if you had come back, say, in December that you would have gone overseas? You knew that, Beaudoin? Come now, you knew that, you read the paper and you hear people talk, you knew they were sending everybody overseas then?

A. Well, when a guy gets sore --

Q. You didn't do anything about your feet all the time you were away? Surely they couldn't have been hurting you very much? If a man doesn't do anything about them? If you had wanted to go overseas you could have come back in December?

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A. Like the other guys?

Q. Pardon?

A. You mean to go overseas --

Q. You knew they were sending everybody overseas last winter? You knew that? Even the "R" recruits, the draftees, the men they drafted into the Army, they were even sending them over. You knew that? So that, if you had wanted to go overseas you would have come back to the Army, isn't that right? Don't you agree with that? But, you didn't want to go overseas, Beaudoin?

A. Oh, yes; if I had gone overseas the first time I join the Army all those things wouldn't happen.

Q. That's quite true but in this last year you must have changed your mind? In any event, you were well aware they were sending everybody overseas,;that is right, isn't it? And you didn't come back. And then in May you knew that the war in Europe was over; isn't that right? And you didn't come back. And then you finally come back the end of August after a year's absence?

A. (no answer).

---The witness resumes his seat.

---The Prosecutor does not desire to make a closing address.

---The Defending Officer makes a closing address.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the second charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

11

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

---The Prosecutor presents to the Court M.F.B.355 and M.F.M.6.

---These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir; through my Defending Officer.

BY THE DEFENDING OFFICER: This man got started on the wrong foot. He joined the Army at the age of seventeen, hoping to get overseas, instead of which his training was retarded after his basic traing, during which incidentally his conduct was excellent. He was sent to Borden as a G.D. man on the H. W. E. It was only by going absent that he got his interview with the Army examiner and he was posted to a French-Canadian advanced training unit in infantry. Thus, by going A.W.L. he got the posting he wanted and he thought that if he continued to go A.W.L. he could get what he wanted and could get overseas.

There are three boys in this man's family of Army age and all three are in the service. I would ask the Court to remember that this is not a case of the man not intending to return to the Army, he did return. I would ask the Court to consider the sincerity of this man's desire to get overseas as attested by his age when he joined and the fact that it was early in the war. Also I would ask the Court to consider that this man would not have gone absent had he been sent overseas.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

(1)

RECORD of the Declaration of a Court of Inquiry assembled at FARNHAM, Que. on the 10th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C.33070 Pte BEAUDOIN, J.P. Inf "R" C.A. att'd to A.12 C.I.T.C.,

DECLARATION

The Court declare that No. C.33070 (Regtl No.) Private (Rank) BEAUDOIN, J.P. (Full Name) Inf. "R" CA att'd to A.12 C.I.T.C., Farnham, Que., (Unit) illegally absented himself without leave from A.12 C.I.T.C., at Farnham, Que., (Place) at 0100 hours on the 18th day of September, 1944, that he is still so absent, and that on the 10th October, 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Clothing, Equipment & Web necessaries at vos. rates 75% C.A.			AMOUNT BROUGHT FORWARD		27.87
Boots lumberm. ruber prs	1	.86	Sticks button	1	.03
Coats waterproof	1	5.18	Brushes button	1	.08
Mitts pullover leather	1	.70	Brushes cloth	1	.13
Blouses battle dress	1	4.88	Brushes hair	1	.29
Caps F.S.	1	.53	Brushes shaving	1	.32
Drawers cotton sh prs	1	.32	Brushes boot polishing	1	.16
Socks prs	2	.70	Brushes tooth	1	.07
Trousers battle dress prs	1	4.91	Combs hair	1	.03
Shirts wollen	1	.90	Holdalls	1	.17
Shirts khaki cotton	2	2.32	Housewives	1	.26
Shoes leather black prs	1	3.65	Razors safety	1	.32
Trousers kh. dr. sh. prs	3	2.94	Belts waist leather	1	.26
Sub-total		27.87	Sub-total		29.99

R. GYR, Lieut., GEN. LIST CA President
(Name) (Rank) (Unit)

Signed at Farnham, Que.,

G. GUIMET, Lieut., GEN. LIST CA Member
(Name) (Rank) (Unit)

this 10th day of October 1944

H. TAISEY, Lieut., GEN. DUTY CA Member
(Name) (Rank) (Unit)

President & members att'd to A.12 CITC

Signature of Commanding Officer A.T. HOWARD, Colonel, BW(RHR) of Canada
(Name) (Rank) (Unit)

Certified true copy R.K. Puttee Capt
(Name) (Rank) (Unit)
(R.K. PUTTEE) Capt (Signature of Officer having custody of original record)
Adjutant,
A.12 C.I.T.C., Farnham, Que.,

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-257

9

RECORD of the Declaration of a Court of Inquiry assembled at FARNHAM, QUE., on the 10th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C.33070 Pte BEAUDOIN, J.P. Inf "R" CA att'd to A.12 C.I.T.C.,

DECLARATION

The Court declare that No. C.33070 (Regt'l No.) Private (Rank) BEAUDOIN, J.P. (Full Name) Inf "R" CA Att'd to A.12 C.I.T.C., (Unit) Farnham, Que., illegally absented himself without leave from A.12 C.I.T.C., at Farnham, Que (Place) at 0100 hours on the 18th day of September 1944, that he is still so absent, and that on the 10th October 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES	VALUE
Clothing, Equipment & Web necessaries at voc. rates 75% C.A.R.O. 2078				
AMOUNT BROUGHT FORWARD		29.99		
Neckties black	1	.14		
Pins collar safety	1	.05		
Socks black prs	2	.42		
Badges cap	1	.07		
Bags ration	1	.03		
TOTAL		30.70		

R. CYR, Lieut., GN. LIST CA President (Name) (Rank) (Unit)

G. OUIMET, Lieut., GEN. LIST Member (Name) (Rank) (Unit)

H. TAISEY, Lieut., Gen. List Member (Name) (Rank) (Unit)

Signed at Farnham, Que., this 10th day of October 1944.

President & members att'd to A.12 CITC

Signature of Commanding Officer A.T. HOWARD, Colonel, BW (RHR) of Canada (Name) (Rank) (Unit)

Certified true copy R.K. Puttee Capt.

(Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(R.K. PUTTEE) Capt.
Adjutant,
A.12 C.I.T.C., Farnham, Que.,

M.F.B. 375
A.F.B. 115
150M—10-42 (8530)
H.Q. 1772-99-357

8

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(~~[illegible]~~ SURRENDER TO SERVICE AUTHORITIES)

I, Major C. Roy Hall, E.D., A/Officer Commanding, No. 9 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that C 33070 Pte. BEAUDOIN, Joseph Paul,
(Number) (Rank) (Name in full)

of the A-12 C.I.T.C., C.A., Farnham, Quebec,
(Unit and attachment, if any)

Strike out words not applicable } ~~[illegible]~~ (surrendered to) C 34033 Cpl.
(Number) (Rank)

Cotman, J. No. 9 District Depot, C.A.,
(Name) (Unit or appointment)

at Lansdowne Park, Ottawa, Ontario, at 2305 hours
(Place) (Hour)

on the 30th day of AUGUST 1945

Strike out words not applicable } as a deserter (~~[illegible]~~), and that at the time of his arrest he was ~~[illegible]~~ ~~[illegible]~~ (dressed in civilian clothes).

Dated at Ottawa, Ontario, this 31st day of AUGUST 1945

C. Roy Hall
(C. Roy Hall, Major, Number, Rank, Unit or appointment)
A/Officer Commanding,
No. 9 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (5908)
H.Q. 1772-39-1936

7

M.F.B. 355
75M—4-43 (145)
H.Q. 1772-99-020
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number | Rank | Name | Regiment (or unit)

C 33070 Pte. Joseph Paul BEAUDOIN, No. 9 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Conduct Sheets~~ ~~in Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial ~~Air Force Act~~ or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For absence without leave	no times	for absence without leave seven times
For	times	times
For	times	times
For	times	times
Number of instances of gallantry or distinguished conduct	nil	times

~~There are no entries in the conduct sheet of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by a civil court~~ ~~Air Force Act~~ ~~A.F.A. 78~~ ~~Previous convictions of the accused by a court-martial, or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 78 are set out in the Schedule annexed to this Statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 days in military custody, making a total of 13 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years 5 months

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 17 December 1941

~~7. The period which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to wear ..... for the purpose of determining his position, the ..... C.V.S.M.~~

9. The accused is in possession of or entitled to ~~a military~~ military decoration, or ~~military~~ military reward (or is in possession of or entitled to). State any ~~military~~ military decoration or reward. C.V.S.M.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer was held ..... Air Force, ... the regiment/rank of .....~~

6

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(Wm. Cameron) Captain,
Officer i/c Records,
No. 9 District Depot, C.A.

Signed this 15th day of Sept. 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. C 33070 Name BEAUDOIN J.P.

Date of last entry in Company Conduct Sheet

Sqn., Battery, or Company } District Depot, M.D. # 3 Corps C.I.C. (R)

No. and date of last drunk } nil

Period not reckoning towards freedom from extra fine

Date of enlistment } 17 Dec 41 G.C.

Badges

Sheet No. One

Signature O.C. Company, etc. } (sgd) ? Lieut.

Service or Proficiency Pay

Character Bad

M.F.M. 6 (A.F.B. 122) 500M—11-40 (8033) H.Q. 1772-43-18

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
4 DD Mtl.	17-6-42	Tpr		Sheet # 1 destroyed after six months service (sgd) ? Lieut.					
Camp Borden	20-4-42	"		AWL from 0600 hrs 20-4-42 to 2145 hrs 20-6-42 (Absent 61 days 16 hrs) (Close arrest)	Cpl. Richardson	1 days Det.	11-6-42	J.A.McCamus Lt. Col.	Forf. 62 days pay.
Camp Borden	7-9-42	"		Sec 15(1) AA AWL from 0100 hrs 7-9-42 to 1315 hrs 12-9-42 (Abs. 5 days 12 hrs. 15 mins.)	L/Cpl. Bush. J.	14 days C.B.	14-9-42	K.M. Ramsey Capt.	Auto Forf. of 6 dayspay
Camp Borden	2-11-42	"		Sec 15 (1) AA AWL from 1800 hrs 2-11-42 to 1210 hrs 10-11-42 (Total time absent 7 days 18hrs 10 mins)	Cpl. Bradbury	4 days C.B.	12-11-42	K.M. Ramsey Capt.	Auto Forf. 8 days pay.
4 DD Mtl South--						(sgd) ? Lieut.			

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
J.C.A. Bks.	22-3-43	Pte		AWL from 1700 hrs 22-3-43 until 0800 hrs 24-3-43 (abs: 1 day, 15 hrs.)	Sgt.Hinks. Cpl. Ouellette	3 days C.B.	24-3-43	Capt. Lamb.(sgd)?	Forf. 2 days pay Art.149 F?R?&?I?
St.Jerome,P.Q.	20-9-43	Pte.		AWL from 0600 hrs 20th Sept 1943 till 1030hrs 22nd Sept 1943 Absent 2 days 4 hours 30 mins	Documentary	Admonished	22-9-43	Lt.P.Larocque (sgd) P.L.	3 days'pay 149 F.R. & I
St.Jerome.P.Q.	22-9-43							(sgd) P.L.	
Sorel, Que.								(sgd) R.Miller, Lt.	
Motordrome Bks	7-6-44	Spr.		AWL from 0700 hrs 7-6-44 until 1030 hrs 9-6-44 (Abs. 2 days 3 hrs 30 mins)		7 days C.B.		Major HR	Forf. (sgd) R.J.H.
Sherbrooke,	10 Jul			A.A.SEC.15 AWL: de 0700 hrs.10Jul 44 a 0725 hrs. 13 Jul 44. (Abs. 3 jrs.25mins.)	L/Cpl Trudeau Evidence Documenteire	7 days pay 14 days Detention	9-6-44 13 Jul 44	Cleveland Major Archambault	3 days pay. Put for.3 days pay... Art 149FR&I (sgd)A.L.M.

(W.H. Cameron)Captain, Officer i/c Records, No. 9 District Depot, C.A.

MEMORANDUM

TO:

DM (A)

Department of National Defence,
HQC 55-B-1961, Adm 3(b)2,
Ottawa, Ont, 5 Oct 45.

S.E. 5714B d/26 Sep 45

1. Ref D-148688, Pte BEAUDOIN Jean;
C-33070, Pte BEAUDOIN J P;
C-102869, Pte BEAUDOIN Marcel.

2. Beaudoin J P was tried by SCM on 13 Sep 45 on a charge of desertion having absented himself without leave from 18 Sep 44 until arrested on 30 Aug 45. An absence of 11½ months. He was found guilty of the offence and sentenced to 9 months detention.

Beaudoin Jean was tried by SCM on 7 Sep 45 on a charge of desertion having absented himself without leave from 2 Apr 45 until arrested on 29 Aug 45. An absence of 4½ months. He was found guilty of the offence and sentenced to undergo detention for a period of 6 months.

3. In view of the fact that both these SUS were convicted of desertion after long absences it is not considered that in the interests of military discipline that they should be released prior to their having served a substantial portion of the sentence awarded. Consideration would be given to their release only on the most serious compassionate grounds.

4. Beaudoin Marcel is at present O/S having been admitted to the 4th Cdn General Hospital, RCAMC, on 6 Aug 45 diagnosed alcoholic poisioning of the optic nerve. He is described as doing well.

5. In view of the fact Marcel Beaudoin is still O/S and his physical condition is apparently the result of his own action it is not considered that such compassionate grounds have been shown as to warrant other than normal review in these two instances.

6. First review of sentence will take place 45 days after the award.

DW.

(A E Walford)
Major-General,
Adjutant-General.

FINAL

WOP:6293:mw

HQC.55-B-1997 (JAG/D-8)
Your File PCO: B-19

29 Sep 45

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

STANDING COURT-MARTIAL

C.33070 - Pte. J.P. BEAUDOIN
No. 9 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

MO/AS

(R.J. Orde), Brigadier,
Judge Advocate-General.

3

BM-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-1997
M.D. 200: B-19

G.S.

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. C-32070 Name Joseph Paul BEAUDOIN

Rank Pte. Unit No. 9 D.D. C.A.

Charge (1) AA 12 (1) (a) WOAS DESERTED...

(2) AA 24 (2) Losing by neglect...

Date of Crime 18-8-44 (2) 1-8-45

Date of Arrest 30-8-45 Charge Signed 4-9-45

Orders for D.C.M.

Place and Date of Trial Lansdowne Park, 13-9-45

Sentence Detention 9 mos. Stoppages $27.29

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 89961

Date 27-9-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 3

ABSENT
11½ mos.

No. 9 D.D. C.A.

SENTENCE
Det, 9 mos.

2

10M-8-45(M-189)

for Judge Advocate-General

CANADA

IN REPLY PLEASE QUOTE
No. PCO: B-19

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Ottawa, Ontario, 22nd Sept., 1945.

Judge Advocate General,
Department of National Defence (Army),
Ottawa, Ontario.

C.55-B-1997

Standing Court-Martial
C-33070 - Pte. J. P. Beaudoin
No. 9 District Depot, C.A.

Herewith record of proceedings of the trial of the m/n by Standing Court-Martial, together with M.F.B.246.

R.K. Laishley
(R. K. Laishley) Major,
President Courts-Martial,
Military District No. 3.

39961

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

H.Q.C. 55-B-1998 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BELLAIRE, ORVILLE JOSEPH A.114243 GNR.

CONFIDENTIAL
H.Q.C. 55-B-1998

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 28 1945	Cancelled	Cancelled	Cancelled	JAG	NEW FILE	CR	26-9-45
OCT 21 1945		PA		JAG	OCT 18 1945		

If purpose for which raised cannot be expressed on one line, add minute to file and [illegible] with Minute

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for one or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-1998 (JAG/D-6)

19 Oct 45

District Officer Commanding,
Military District No. 1,
London, Ontario.

Standing
A.114243 Gnr. Orville Joseph BELLAIRE
.....Court-Martial

17th October

5

L-28-B-1484 (JAG)

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

EKM

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

IN REPLY PLEASE QUOTE
No. L-28-B-1484
(J. A. G.)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

H. Q., London, Ont., 17 Oct 1945

CENTRAL REGISTRY Army
CONF. SEC.
3665
OCT 18 1945
C55-B-1998
JAG

Judge Advocate General
N. D. H. Q.,
OTTAWA, Ontario.

STANDING COURT MARTIAL
A-114243 Gnr. Orville Joseph BELLAIRE

Ref: H. Q. C. 55-B-1998 (JAG/D-3) d/27 Sep/45.

2. Proceedings of the m/n court martial are returned herewith for custody as directed.

for (P. Earnshaw) Brigadier
D. O. C. MD 1

N.D. 23
2 Mil.—5-43 (321)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 1 District Depot (CA) London, Ont

on the 17th day of September 1945 at 1500 hours,

for the trial of: A.114243, Gnr. Orville Joseph BELLAIRE
Number Rank Full Name

No. 1 District Depot (CA)
Unit Attachment, if any

PRESIDENT: Lt-Col.H.C.Cameron,M.C.,Pres.Standing Court-Martial M.D.1.

PROSECUTOR: Lieut. W.D. Roberts, Permanent Prosecutor, M.D.1
Rank Full Name Unit Attachment, if any

~~CONSEL~~ DEFENDING OFFICER: Capt. J.F. McKnight, No. 1 District Depot (CA)
Rank Full Name Unit Attachment, if any

FINDING: Not Guilty of Desertion but Guilty of Absence Without Leave

SENTENCE: To undergo detention for a period of 90 days and to be placed under stoppages of pay until he has made good the sum of $4.95 in respect of the cost of his apprehension and return to his Unit.

Extracts entered as No. 3944 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 27 day of sept 19 x

Signed at London, Ontario this 17th day of September 1945

(H.C.Cameron) Lt-Col.
President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

7

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. [redacted]

Answer: [redacted]

Question to the accused. Do you object to A.106902,Cpl.L.R.Easdown, CMSC HQ MD 1 as shorthand writer ?

Answer: No, Sir.

The shorthand writer [redacted] is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the [redacted] charge against you, which you have heard read ?

Answer: Not Guilty, Sir.

Question to the accused. [redacted]

Answer. [redacted]

Question to the accused. [redacted]

Answer. [redacted]

Question to the accused. [redacted]

Answer. [redacted]

[redacted] Here concludes the proceedings.

B2.

Chas. S&M

CHARGE SHEET

The Accused, No. A.114243 Gnr. Orville Joseph BELLAIRE, No.1 District Depot, C.A. London, Ontario, a G.S. soldier of the Canadian Army placed on Active Service is charged with:-

CHARGE
Section 12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE

DESERTING HIS MAJESTY'S SERVICE

IN THAT HE

At Petawawa, Ontario on the 29th day of March, 1945 absented himself without leave from A.1,C.A.T.C. Petawawa Military Camp, Petawawa, Ontario from 0600 hours on the said 29th day of March, 1945 until apprehended by Military Police at R.R. #2 Maidstone, Ontario at 2230 hours on the 9th day of August, 1945. Cost of apprehension and return to this Depot being $4.95. He was dressed in civilian clothes at the time of apprehension.

(H.L.Petrie) Lt.Col.
C.O. No.1 District Depot, C.A.

No.1 District Depot, C.A.
London, Ontario
21 August 1945.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

Capt. William Lawrence KRESS, O.C. Legal Section, No. 1 District Depot (CA),

being duly sworn, is examined by the Prosecutor.

Question Will you please identify yourself for the Court?

A. Capt. William Lawrence Kress, O.C. Legal Section, No. 1 District Depot, officer having custody of original documents.

Q. From your custody, Capt. Kress, I produce this document, will you please identify the same?

A. MFB 375 Record of Declaration of Court of Inquiry, relating to the accused.

MFB 375 PRODUCED, READ, MARKED EXHIBIT "G" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

Q. From your custody, Capt. Kress, I produce this further document, will you please identify the same?

A. MFM 216 Certificate of Apprehension by or Surrender to Service Authorities and relating to the accused.

MFM 216 PRODUCED, READ, MARKED EXHIBIT "H" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS

Q. From your custody, Capt. Kress, I produce this further document, will you please identify the same?

A. MFB 1481, Certificate of Cost of Transportation and relating to the accused.

MFB 1481 PRODUCED, READ, MARKED EXHIBIT "I" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS

Q. From your custody, Capt. Kress, I produce this final document, will you please identify the same?

A. MFB 1481, Certificate of Cost of Transportation and relating to the accused.

MFB 1481 PRODUCED, READ, MARKED EXHIBIT "J" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

THE WITNESS WITHDRAWS

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I would just as soon take the oath, Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, Sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer. .....

First Witness for Defence

The Accused, A.114243, Gnr. Orville Joseph BELLAIRE, No. 1 District Depot (CA), being duly sworn, states:

Well, Sir, since coming in the Army I have had large and infected tonsils. They were supposed to have something done for me but apparently nothing was done. Since coming in the Army I was in an accident and I had an injury to my back, and since that time, Sir, I have been suffering with backaches continuously and sometimes they are very severe. Well, there was supposed to be something done for me and I kept going on sick parade and all they would do was give me treatments; that wasn't enough, Sir. So when I came home I brought my wife home; it was sometime in March, but on March 22nd I went to a civilian doctor and I had him examine me. He gave me a certificate to come back with and with the certificate I went up to my O.C. and I explained my story to him and showed him the doctor's certificate. Well he said there was nothing he could do, that I would have to go on sick parade, that all they would give me were just treatments; that is all they had been giving me since having this accident and with these enlarged tonsils. I got a slip of paper that the M.I.R. issues you with to prove that you are on sick parade. I was to be paraded before the Colonel...they put it off,going to the Colonel and that is when I went A.W.L. I have that doctor's certificate with me and I have the proof I went on sick parade.

CERTIFICATE FROM DR. A.H.E. TROTTIER, WINDSOR, ONTARIO, DATED 22 MAR 45 PRODUCED, READ, MARKED EXHIBIT "K" SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS

MEDICAL INSPECTION ROOM PRO FORMA L SICK BAY TREATMENTS DATED MAR 27/44 FROM A-1 CATC PRODUCED, MARKED EXHIBIT "L" READ, SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS

ACCUSED: Well, on top of that, Sir, on February 18th my wife gave birth to a baby boy and nine days later the baby died, which she took very hard and I had to bring her home after that. She was in a very nervous frame of mind. She influenced me a little although I didn't need much influence. I didn't intend to stay so long; I fully intended to come back on August the 16th and in the meantime I was apprehended. When I was apprehended in bed I had army issue underwear on and when I got out of bed I put army issue socks on and boots and a pair of civilian pants and later I put on my uniform. I guess that is all, Sir.

CROSS-EXAMINED BY PROSECUTOR:

Q. You spoke of an accident, Gnr. Bellaire, where did you have the accident and what nature of an accident was it?

A. I had five fractures of the spine; it was on August 26th or 27th, I just can't recall the date, but it was the Almonte train wreck in 1942.

Q. Were you in the service then?

A. Yes, Sir.

Q. You injured your back?

A. Yes, Sir.

Q. What did you say was wrong with your back?

A. I had five fractures of the spine; the vertebrae in the spine.

Q. And were you hospitalized as a result of that accident?

A. Yes, Sir, I was.

Q. And was it a military hospital?

A. Yes, Sir.

Q. And were you subsequently discharged from the hospital?

A. I was.

Q. Where was the hospital?

A. It was Rideau Military Hospital in Ottawa, Sir.

Q. What year did you say that was?

A. 1942, Sir.

Q. And how long were you in Rideau Military Hospital?

A. Three months, Sir.

Q. Were you in the Rideau Military Hospital in March of 1943?

A. Yes, Sir.

Q. What was the nature of your trouble at that time?

A. My back, Sir.

Q. Were you given a complete examination on that occasion?

A. Well I had been examined from time to time.

Q. Were you given any treatment on that occasion?

A. Yes, Sir.

Q. When you left the hospital that time what was the condition of your back?

A. It still bothered me.

Q. Were you discharged from the Rideau Military hospital then notwithstanding your condition?

A. Yes, Sir.

Q. Why were you in the Rideau Military Hospital in March of 1943?

A. That is when I was in, Sir; the accident happened December 27th, 1942 and in March 1943 I was still in the hospital.

Q. I thought you told us previously that the accident

happened on the 26th or 27th of August, 1942?

A. No, Sir, December.

Q. When you gave us previously the accident happened on the 26th or 27th of August, 1942 you were wrong were you?

A. Yes, Sir, I was.

Q. When did the accident in which your back was injured happen?

A. In December, 1942.

Q. And you were in hospital from the time of the accident until you were discharged on the 24th of March, 1943, is that right?

A. Well that is approximate, Sir, I can't just say.

Q. And I believe you told us previously that your back continued to bother you after you were discharged from the hospital?

A. Yes, Sir, it did.

Q. Were you given any treatments after you returned to your Unit?

A. Yes, Sir, the necessary physio-therapy treatments.

Q. How long did that continue?

A. I can only say approximately, Sir, that is a long time to recall; I imagine about a week or ten days.

Q. Did the accident necessitate and the injury you received necessitate any change in your Pulhems that you know of?

A. Not that I know of.

Q. Where was your wife living when you were at Petawawa?

A. When I first got married she lived at home for about three months.

Q. Where is your home?

A. Well right in the Village of Maidstone, but since I have been married I have made my home at my Father-in-Law's.

PRESIDENT:

Q. Where is that?

A. R.R. #2, Maidstone.

PROSECUTOR:

Q. Did you wife live at Petawawa when you were there?

A. Yes.

Q. You spoke when the baby was born as if your wife lived at Petawawa, is that right?

A. Yes, Sir.

Q. Was your wife living in Petawawa in March of this year?

A. Yes, she was.

Q. Was your wife living at Petawawa, when you went to the civilian doctor in Windsor?

A. No, Sir, I brought her home, Sir.

Q. She was home after the baby died was she?

A. Yes, Sir, in about four or five weeks, as soon as she was fit to travel.

Q. When you had this examination that is indicated in Exhibit "K" by Dr. Trottier were you on leave at that time?

A. Yes, Sir, I was.

Q. And what did you do with Exhibit "K" when you got back to your Unit?

A. Took it to my O.C.

Q. That is your Wing Commander, or what?

A. My Battery Commander.

Q. And as a result of that did he refer you to an M.O. or what action did he take?

A. He told me before I could go to the Colonel with Exhibit "K".....

Q. When you speak of Colonel, who is the Colonel?

A. The Camp Commander.

Q. Did you ask to be paraded before the Colonel?

A. Yes, Sir, he told me before I could be paraded before the Colonel I would have to go on sick parade to get that slip to see that I was telling the truth about Exhibit "K" and then he would parade me to the Colonel. I went, I don't know just about what day.

Q. Exhibit "K" is dated March 27th, 1944?

A. I went on sick parade the day I was told to go.

Q. What day did you go on sick parade?

A. Well, I can't recall that, Sir, if it was the 27th that must have been the day.

Q. When?

A. It would be March, 1945.

Q. It says 27th of March, 1944? When was it you went on sick parade, was it this last March?

A. Yes, Sir.

Q. Did you see an M.O. at that time?

A. Yes, Sir, I did.

Q. Did he give you an examination?

A. Yes, Sir, he did.

Q. Did he have any suggestions after the examination?

A. It was the same old story, I still had large tonsils and nothing was done about it.

Q. Did he examine your back on this occasion?

A. I don't think he did, Sir; I can't recall whether he did or not.

Q. Did Dr. Trottier examine your back?

A. Yes, Sir.

Q. Did Dr. Trottier look at your throat?

A. Yes, Sir, he did.

Q. What were you complaining of when you went to see your

Battery Commander?

A. Severe pain in my back and large a

Q. He told you to go on sick parade and

A. Yes, Sir.

Q. When you got to see the M.O. did you tell h trouble?

A. Yes, Sir.

A. That I was suffering from severe backache and sore throat.

Q. Did he look at your throat?

A. Yes, Sir.

Q. Did he look at your back?

A. I can't recall whether he did or not.

Q. You haven't any recollection of him examining your back?

A. I can't say he did or he didn't.

Q. Did he take any case history of your injury?

A. He knew me, Sir.

Q. Did he ask when you injured your back?

A. No, Sir, I didn't state anything about the injury to my back; I felt he was a doctor and should be able to tell me that.

Q. He didn't interrogate you about your back injury?

A. I told him I had it injured and was suffering from these backaches.

Q. And what where his instructions to you?

A. To go to the dispensary and have linament rubbed on my back.

Q. From whom did you receive Exhibit "L"?

A. That was from the N.C.O. in charge of the dispensary.

Q. And what did he want you to come back for, do you know?

Battery Commander?

A. Severe pain in my back and large and infected tonsils.

Q. He told you to go on sick parade and see the M.O.?

A. Yes, Sir.

Q. When you got to see the M.O. did you tell him your trouble?

A. Yes, Sir.

Q. What did you tell him?

A. That I was suffering from severe backache and sore throat.

Q. Did he look at your throat?

A. Yes, Sir.

Q. Did he look at your back?

A. I can't recall whether he did or not.

Q. You haven't any recollection of him examining your back?

A. I can't say he did or he didn't.

Q. Did he take any case history of your injury?

A. He knew me, Sir.

Q. Did he ask when you injured your back?

A. No, Sir, I didn't state anything about the injury to my back; I felt he was a doctor and should be able to tell me that.

Q. He didn't interrogate you about your back injury?

A. I told him I had it injured and was suffering from these backaches.

Q. And what where his instructions to you?

A. To go to the dispensary and have linament rubbed on my back.

Q. From whom did you receive Exhibit "L"?

A. That was from the N.C.O. in charge of the dispensary.

Q. And what did he want you to come back for, do you know?

A. To keep taking these treatments; rubbing linament on my back and spraying my throat.

Q. And did you go back?

A. Yes, Sir, I did.

Q. Exhibit "L" says "The m/n has been ordered to report back to the M.I.R. A-1, C.A.T.C., for further treatment at 0715 hrs., 1630 hrs., for the next two days." The document is dated March 27th and you say it was last March. That would mean that you were to report back on March 28th and March 29th, I take it?

A. It would be the 27th and 28th, Sir.

Q. Well this document is dated the 27th and you say it was last March. You were instructed to report back for further treatment at 0715 hours, 1630 hours, for the next two days. This treatment will take approximately 10 minutes. Now did you go back on the next day; that would be the 28th?

A. Yes, Sir, I did.

Q. And did you take the treatment then?

A. Yes, Sir.

Q. And did you go back on the 29th and take a treatment?

A. I can't recall whether I did or not because I think I went on the 27th and 28th. I was on sick parade in the morning and ordinarily you take your treatments after you have been on sick parade.

Q. Do you remember what day it was when you first went to the M.O.?

A. You mean to get this proof?

Q. Yes?

A. On the 27th of March, 1945.

Q. And you just have a recollection of going back one other

day?

A. One other day, Sir, plus March the 27th.

Q. And did you go at 1630 hrs. on the 28th of March to the M.I.R.?

A. Yes, Sir, I did.

Q. And what did you do after that?

A. I went back to my duties.

Q. Was it right that you were A.W.L. from your Unit at 0600 hrs. on the 29th day of last March?

A. Yes, Sir.

Q. Was there any reason for going at that time?

A. Well, as I say, Sir, I was suffering with these backaches and I was getting no relief and I still had to carry on with my duties and my wife was in a nervous frame of mind.

Q. What were your duties at that time?

A. Cooking in the kitchen, Sir.

Q. And you say your wife on the 29th of March was at R.R. 2 Maidstone, was she?

A. Yes, Sir.

Q. And what did you do after you left Petawawa?

A. I came back to that vicinity; I went driving tractors for farmers, I had to live somehow or other.

Q. I take it then from what you have said that after you went A.W.L. from Petawawa you returned to the Maidstone area?

A. Yes, Sir.

Q. What did you do before you came into the service?

A. Worked for the Ford Motor Company, Sir.

Q. You say when you left Petawawa you drove tractors?

A. Well that is what I mostly did.

Q. And where did you live while you were driving tractors?

A. I only worked by the day and lived at the place where I drove the tractor, I stayed right there.

Q. Whose tractor did you drive?

A. Do I have to answer that question?

Q. Sure?

A. Does that involve the poeope where I had driven the tractor.

Q. No?

A. Well it was Guinlin.

Q. Was that a man you worked for?

A. Yes, Sir.

Q. You just went to the farm and drove the farmer's tractor?

A. Yes, Sir. And Clark's.

Q. Did you see your wife at any time while you were away?

A. Not right at the start, Sir.

Q. How long was it after you were A.W.L. from your Unit that you saw your wife?

A. It was sometime after 21 days, Sir; I can't say to be exact.

Q. What was the state of her health when you saw your wife again?

A. She had improved a great deal.

Q. You say it was some time after 21 days after the 29th of March that you saw your wife?

A. Well it was after I had been classed as a deserter, Sir, anyway.

Q. Was there any reason why you didn't want to see your wife until after that period of time had elapsed?

A. I don't know why, Sir, but I didn't want to see anybody.

Q. Did you see a doctor during that period of time at all?

A. I couldn't go to a doctor when I was on the loose.

Q. When did you next see a doctor then?

A. I didn't go near any doctor, I was too scared.

Q. Do you mean from the 29th of March last and the time you were apprehended on the 9th of August that you didn't see any doctor?

A. Not until I came in the custody room here in London.

Q. Did your back bother you at all?

A. Well I just came out of the hospital; I was troubled with frequency from this back injury.

Q. And immediately when you came back to your Unit you were hospitalized I take it?

A. Not immediately; I was picked up on the 9th of August and I was returned to London on the 13th of August and on the 26th of August I was admitted to Crumlin Hospital.

Q. And you have been there until?

A. Last Saturday, this past Saturday.

Q. And now is your back now?

A. It still bothers me, Sir.

Q. But you have been released from the hospital?

A. Yes, Sir.

Q. Now after the 21 days of which you have spoken before you saw your wife did you continue to do any work while away?

A. I couldn't work every day, Sir.

Q. Did you give your wife any money?

A. No, Sir, I didn't make enough I only made enough to keep myself.

Q. What did you make while you were away?

A. As high as $4.00 to $5.00 a day.

Q. $4.00 to $5.00 a day?

A. Yes, Sir, I only worked sometimes three days a week; sometimes maybe four or five, it just depended on the climate;

it rained practically a

it rained a great deal.

Q. Because it rained you weren't ab

that right?

A. Yes, Sir.

Q. Did you do anything else besides plowing when

A. I did just ordinary farm work, disking, plowing an

cultivating; there is a number of things, I just can't p

my finger on them at the moment.

Q. Did you do any disking?

A. Yes, Sir.

Q. Besides plowing you tell us what you did while you were away?

A. I disked and plowed and I cultivated; I pulled a wagon with

a hay loader behind the wagon with a tractor.

Q. It would be safe in saying that you worked all the time

that you were away with the exception of when the weather

prevented you from working?

A. Not all the time; sometimes I would lay off.

Q. Why?

A. On account of my back, Sir.

Q. What did you do to help your back when you laid off?

A. All I could do was put linament on it.

Q. Did that help your back at all?

A. Sometimes it would relieve it for half an hour or an hour

then the pain would come back as bad as ever.

Q. After the 21 days when you saw your wife where were you

living then?

A. I can't just recall that, Sir.

Q. Well did you live at R.R. 2 Maidstone?

A. No, Sir, I didn't live at R.R. 2 Maidstone; that is

where I was apprehended at the end.

it rained practically all the time I was on the loose; it rained a great deal.

Q. Because it rained you weren't able to plow the land, is that right?

A. Yes, Sir.

Q. Did you do anything else besides plowing when you were away?

A. I did just ordinary farm work, disking, plowing and cultivating; there is a number of things, I just can't put my finger on them at the moment.

Q. Did you do any disking?

A. Yes, Sir.

Q. Besides plowing you tell us what you did while you were away?

A. I disked and plowed and I cultivated; I pulled a wagon with a hay loader behind the wagon with a tractor.

Q. It would be safe in saying that you worked all the time that you were away with the exception of when the weather prevented you from working?

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Q. Did that help your back at all?

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Q. After the 21 days when you saw your wife where were you living then?

A. I can't just recall that, Sir.

Q. Well did you live at R.R. 2 Maidstone?

A. No, Sir, I didn't live at R.R. 2 Maidstone; that is where I was apprehended at the end.

Q. How long had you been there before the day you were apprehended?

A. About three weeks, Sir.

Q. Is it right it was the 9th of August at 2230 hours when your absence terminated?

A. That was the time they brought me into the barracks in Windsor.

Q. That is the time you were apprehended?

A. Well they came out before that; I was in bed.

Q. 2230 hours, the 9th of August, 1945, you told us before it was on the 13th when they brought you down to Wolseley when you were apprehended?

A. No, Sir, I was in Windsor at 2300 hours.

Q. That is right then is it?

A. Yes, Sir.

Q. You say you got up out of bed and put on some army socks and army boots and a pair of civilian pants; did you have your battle dress?

A. Yes, Sir.

Q. Where was your battle dress?

A. At the wife's brother's place.

Q. Where is that?

A. About three miles from my Father-in-Law's place.

Q. Well is R.R. 2 Maidstone, Ontario, your wife's father's place?

A. Yes, Sir.

Q. Where was it at your Brother-in-Law's place?

A. It was about three miles from my Father-In-Law's.

Q. Where did you have it there?

A. Well just in the closet there.

Q. Why do you say you were coming back on the 13th of August?

was there anything particular about that?

A. Well it is foolish to be hiding; I was hiding all thetime I was on the loose and I felt like a criminal; I felt I had to give myself up sooner or later.

Q. When had you made up your mind you would come back on the 13th of August?

A. About three weeks before that, when I came home and talked to my wife.

Q. Was there any further significance to the date of August the 13th?

A. Well there was no use coming back into camp on Saturday or Sunday; they won't do anything for you then; I thought if I came back on the 13th they would start to proceed on my case right away.

Q. Did you see any newspaper while you were away at all?

A. I did occasionally, Sir.

Q. Did you ever hear the radio when you were away?

A. Now and again I did, Sir.

Q. Did you hear or see anything in the newspaper about lads being A.W.L. from their Units last Spring?

A. I don't think so, Sir.

Q. Did you see a copy of the Border Cities Star when you were away?

A. I did at times.

PRESIDENT:

What are you leading up to. I know there was a great deal in last winter; I am not prepared to say there was much in last Spring. Are you prepared to say it was published in the Spring?

(No answer by Prosecutor)

RE-EXAMINATION BY DEFENDING OFFICER:

Q. During the time after you had been in train accident in the latter part of 1942 at any time were you ever given a medical reboard?

A. I can't recall it, Sir, I don't think I was. Sir, just before March when I joined up in February I did have a medical examination but it was a very poor medical examination.

Q. That was in 1941 I take it?

A. No, Sir, in 1945; it was in between the birth of our child and when it died but I can't recall the correct date. I had been a Zombie up until that time.

Q. That would be in February, 1945 I take it; that would be approximately at the end of February, in 1945?

A. Well No, Sir, it would be shortly after the 18th because the baby was born.....

Q. That would be about the 24th, it states here the 24th of February, 1945?

A. That could be the date, Sir.

Q. Between the time you did have your train accident or you were involved in an accident on a train, until that time you never had a medical board?

A. The only thing I can recall is I went up for vaccinations.

PRESIDENT:

Q At no time between the train accident and February/45 did he have a medical board?

DEFENDING OFFICER: Yes, Sir.

ACCUSED: A. Well I had gone in for vaccinations and needles and I had to strip at that time; I don't recall ever having a medical examination.

QUESTIONED BY PRESIDENT:

Q. Your train accident occurred in December, 1942, is that right?

A. Yes, Sir.

Q. And were you in military hospital until March of 1943?

A. Yes, Sir.

Q. Didn't you have any examination before your release from the hospital?

A. I just went out of the hospital, Sir, that is all there was to it.

Q. I thought you were under continual examination while you were under treatment?

A. Yes, Sir, the M.O. came to see me every two or three days.

Q. You were finally discharged from the hospital in March of 1943?

A. Yes, Sir.

Q. Between March of 1943 and February of 1945 did you have any hospitalization at all?

A. Well I had been in three or four or five times; I just can't say how many times.

Q. Were you put into hospital?

A. Yes, Sir.

Q. You were in hospital three or four or four or five times between the time you were released from hospital in 1943 and the time you were examined for active service in 1945, is that right?

A. Yes, Sir.

Q. How long were you in hospital on those various occasions?

A. Well I couldn't say exactly, maybe two weeks, maybe three weeks, maybe four weeks, I couldn't say.

Q. On each occasion?

A. Yes, Sir.

Q. When was the last time before February, 1945 that you were in hospital?

A. Not including this last time I was put in the hospital?

Q. Not this last time since you came back?

A. It was in March some time, Sir.

Q. Were you in hospital in March?

A. Yes, Sir.

Q. And where were you in hospital in March of 1945?

A. Petawawa, Sir.

Q. How long were you in hospital in March, 1945?

A. Well it wasn't over two weeks, Sir, I don't think, I can't say exactly.

Q. Were you on leave on the 22nd of March?

A. Yes, Sir.

Q. How long before you went on leave?

A. I came right out of hospital and went on leave.

Q. Had you been in hospital for two or three weeks at that time?

A. Around two weeks, Sir.

Q. Prior to the 22nd of March and before this last time you mentioned as being in hospital in March, 1945, when was the last time before that you had been in the hospital?

A. Well I don't know whether it was a year before that or if it was the Fall before; I couldn't say exactly, Sir.

Q. It is your own case, you must have some recollection as to when it would be?

A. I couldn't tell, Sir, I have been in on so many different occasions.

Q. And have you been in many times since the train accident?

A. Four or five times, I couldn't say exactly.

Q. You were in a couple of weeks in March?

A. Yes, Sir.

Q. Do you think you were in prior to that, sometime in the Fall of 1944?

A. I couldn't say for sure.

Q. I say you think you were in?

A. Yes, Sir.

Q. Were you in during the summer of 1944 at all?

A. I couldn't remember, Sir.

Q. Do you recall whether you were in in the Spring of 1944?

A. I couldn't remember that either, Sir.

Q. Do you recall whether you were in in the Winter of 1944?

A. Well I don't know whether it was in the Fall, Sir, or just when it was in 1944; I was in the hospital in 1944 but I couldn't say exactly when.

Q. How often were you in the hospital in 1943? You got out in March 1943 for the first long stretch; how long after that in 1943 were you in the hospital?

A. I think in October, Sir.

Q. You think in October of 1943. Now then I am not trying to get you pinned down to dates, I have none of this information before me at all. You think you were in three or four or four of five times between the time you got out in March, 1943 and the time that you were last in in March, 1945, is that right?

A. Yes, Sir.

Q. Well now then what I want to do is get a picture of the various times you were in. You think you may have been in in the Fall of 1943?

A. Yes, Sir.

Q. And you don't think you were in between March of 1943 and October of 1943, is that right?

A. What is that again, Sir.

Q. You don't hink you were in hospital between March, 1943 and October, 1943?

A. Well I took treatments.

Q. When you were speaking of being in the hospital do you mean simply taking treatments and coming out again? You have told us of being in the hospital on a number of occasions for two or three weeks, that didn't refer to times you were taking hospital treatments and going back to duty did it?

A. No, Sir.

Q. The only time you have given us so far that you were in the hospital in 1943 was in October. When do you think was the next time you were in hospital; in 1944 were you in there at all?

A. I was in there once, Sir; it was either in the Spring or Fall of the year.

Q. In the Spring or Fall of 1944?

A. Yes, Sir.

Q. And you were in in the Spring of 1945?

A. Yes, Sir.

Q. Were you in in the Winter of 1945?

A. Well I think I was but I can't be sure.

Q. Was your head injured at all in this accident?

A. Yes, Sir, It was.

Q. Did that have any effect on your memory?

A. I don't think so, Sir.

Q. How seriously was your head injured?

A. Well it is.....I don't know, it wasn't really serious; my head was swelled up and I had one small cut, I had a cauliflower ear and my head was swelled up on the left side.

Q. That seems to be about as complete a picture as you can give of your hospital experience from the time you joined up until you went absent?

A. Yes, Sir.

Q. When you went to your Battery Commander was that after you got out of the hospital in March, 1945?

A. Yes, Sir.

Q. Then you went on leave and on the 22nd of March you got the certificate from the civilian doctor, Dr. Trottier, is that right?

A. Yes, Sir.

Q. Was it after you got that certificate that you went to see your Battery Commander?

A. Well, Sir, when I came out of the hospital and was immediately put on leave and I came home and after I left the hospital I had been running a temperature; I had an argument with a Nursing Sister there as they were discharging me from hospital and I wasn't fit and well and they sent an Orderly Officer in and I went out anyway. When I was put on leave I didn't have no time to go and see the O.C. then, I had to take the leave or else and when I came home.....

Q. What do you mean, you had to take the leave when they gave it to you?

A. Yes, Sir, when I came home, that is when I went to Dr. Trottier. After I was back off leave I took this letter to the O.C. then.

Q. In this letter from Dr. Trottier the only thing he says is that following your accident you developed a severe pain in the back and that you had not fully recovered from same and that you had large, infected tonsils which should be attended to. At the time you went to him what

was the condition of your back?

A. It was something like I went in the hospital with but I was troubled with the frequency then.

Q. Do you mean you had to go and relieve your bladder?

A. I was wetting in my pants.

Q. You couldn't control your bladder, is that right?

A. Yes, Sir.

Q. That is what you went to the doctor about that time?

A. No, Sir, it was just that I had the severe pain in the back.

Q. Did that severe pain in the back cause you to lose control of your bladder?

A. Yes, Sir.

Q. Was that causing you that trouble when you went to Dr. Trottier?

A. No, Sir.

Q. Was there anything it was causing aside from the pain itself?

A. Just that I didn't feel good and this pain knocks the devil out of me.

Q. There wasn't anything that Dr. Trottier could do for you at that time?

A. No, Sir.

Q. Then when you came back to camp you saw your Battery Commander and he said you should go on sick parade?

A. Yes, Sir.

Q. Did you take this Exhibit "K" with you when you went on sick parade?

A. I did not show that to the M.O. they would give me Hell for going to a civilian doctor; I had that once there before after I was in the accident and I got Hell for goi

to the civilian doctor.

Q. You and I must be in the same boat because I have gone to one when I was on leave and I never thought I was doing anything wrong?

A. I was given to understand in 1942 that if you went to a civilian doctor that you certainly knew about it afterward.

Q. You did see your Battery Commander and he said that you should go on sick parade; was that for the purpose of confirming what was in this Exhibit "K" or for the purpose of having a military medical officer examine you and come to the same conclusion as the civilian doctor?

A. I wanted to get my tonsils out.

Q. Your Battery Commander said that you should go on sick parade?

A. Yes, Sir.

Q. And did you show him Dr. Trottier's certificate, Exhibit "K"?

A. I showed Dr. Trottier's certificate to the O.C., that is my Battery Commander.

Q. And then what did you do about Exhibit "K"?

A. He said there wouldn't be anything he could do about it even if he took me to the Colonel; there wasn't anything he could do about it.

Q. Why did you want to go on sick parade?

A. To get my tonsils removed and in order to go to the Colonel I had to get this proof that all they had given me was this treatment.

Q. You were to go on sick parade and bring back the document to show what they were doing for you?

A. Yes, Sir.

Q. Did you get this exhibit "L" from the sick parade on

March 27th?

A. Yes, Sir.

Q. Was that given to you?

A. Yes, Sir.

Q. On March 27th?

A. Yes, Sir.

Q. And when did you take it to your Battery Commander?

A. The same date, Sir.

Q. On March 27th?

A. Yes, Sir.

Q. And what did he tell you then?

A. He said he would parade me to the Colonel but he didn't say when.

Q. What time of day did you take this to your Battery Commander?

A. Right after I came off sick parade.

Q. That would be in the morning?

A. On the morning of the 27th.

Q. Did he tell you to go and take treatments?

A. Yes, Sir.

Q. And did he tell you he would take you to the Colonel after you had completed the treatments or before?

A. He didn't say exactly when, Sir; I was given to understand as soon as I got that he would take me up immediately in the afternoon on the 27th.

Q. On the 27th he gave you to understand he would take you up on the 27th?

A. Yes, Sir.

Q. And he didn't take you up before the Colonel on the 27th?

A. No, Sir.

Q. Did you see him again on the 28th?

A. I was waiting, Sir, for him to sent for me.

Q. Then on the 29th at 0600 hrs. in the morning you were absent; you were absent when the roll was called, is that correct?

A. Yes, Sir.

Q. You didn't see your Battery Commander again on the 28th, is that right?

A. No, Sir.

Q. Why did you say you thought he had put off taking you to the Colonel?

A. Well it just seemed that was all I ever got in the Army Sir.

Q. You had been troubled with this thing for some two years at this time?

A. Yes, Sir, ever since having the accident.

Q. And was this the first time you had asked to be paraded [illegible]

A. Yes, Sir.

Q. It was the first time?

A. Yes, Sir.

Q. And rather than wait more than two days you went absent, is that right; after receiving this thing rather than wait for a couple of days to get before the Camp Commandant you went absent?

A. Yes, Sir.

Q. And you hadn't been to your Battery Commander except the one time and you didn't know whether there was any reason you couldn't see the Camp Commandant, is that right?

A. On the 26th I went to see the Battery Commander and he advised me to go on sick parade on the 27th.

Q. And you got this Exhibit "L" and you showed it to your

A. I was waiting, Sir, for him to sent for me.

Q. Then on the 29th at 0600 hrs. in the morning you were absent; you were absent when the roll was called, is that correct?

A. Yes, Sir.

Q. You didn't see your Battery Commander again on the 28th, is that right?

A. No, Sir.

Q. Why did you say you thought he had put off taking you to the Colonel?

A. Well it just seemed that was all I ever got in the Army Sir.

Q. You had been troubled with this thing for some two years at this time?

A. Yes, Sir, ever since having the accident.

Q. And was this the first time you had asked to be paraded to the Colonel?

A. Yes, Sir.

Q. It was the first time?

A. Yes, Sir.

Q. And rather than wait more than two days you went absent, is that right; after receiving this thing rather than wait for a couple of days to get before the Camp Commandant you went absent?

A. Yes, Sir.

Q. And you hadn't been to your Battery Commander except the one time and you didn't know whether there was any reason you couldn't see the Camp Commandant, is that right?

A. On the 26th I went to see the Battery Commander and he advised me to go on sick parade on the 27th.

Q. And you got this Exhibit "L" and you showed it to your

Battery Commander on the 27th?

A. Yes, Sir.

Q. Did he tell you any definite time he was going to parade you to the Camp Commandant?

A. I was given to understand I would be taken that afternoon.

Q. Did you see your Battery Commander again before you want absent?

A. No, Sir.

Q. You did not know whether or not it was possible to see the Camp Commandant that day; you did not know whether the Camp Commandant was in or whether he was away?

A. He was there, Sir.

Q. How do you know?

A. Well by word of mouth I heard he was in Camp and when nothing happened.....

Q. Did you see your Battery Commander again to find out why you were not paraded?

A. I had been over to the Battery office but I never found out why I was not paraded.

Q. Did you enquire why you were not paraded to the Camp Commandant?

A. No, Sir.

Q. Now then you have told us that you intended to come back on August 13th; what day would that be?

A. That would be Monday, Sir.

Q. On Monday?

A. Yes, Sir.

Q. You had been doing what kind of work?

A. Plowing and disking.

Q. Why did you pick out August 13th; why did you decide you were coming back on August 13th?

A. I figured when you go A.W.L. you don't like to come into camp on Saturday and spend Saturday and Sunday in camp.

Q. Was the work through you were doing?

A. No, I could have worked on; I have felt like a criminal and, well, I was scared all the time and I had to keep in hiding all the time; I wanted to come back.

Q. You say you had decided before August 8th that you would be back on August 13th, is that right?

A. Yes, Sir.

Q. Why were you keeping your uniform in this place three miles from where you were apprehended?

A. I didn't want to have my Father-in-Law involved; I thought maybe they would do something to him if they found the uniform there; I wanted to keep my uniform to wear back to camp.

Q. Whose house were you keeping your uniform at?

A. My wife's brother's.

Q. And you weren't living there at all, is that right?

A. No, Sir.

Q. Did you get your uniform and come back to camp in your uniform?

A. Yes, Sir.

Q. So that you had it available and were able to pick it up?

A. Yes, Sir.

THE WITNESS WITHDRAWS

THE PROSECUTOR MAKES A CLOSING ADDRESS

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. My Defending Officer will speak for me.

DEFENDING OFFICER: In view of the fact that the accused has served approximately four years in the Army and his Conduct Sheet is clear and he has spent 39 days in custody already, I ask you to take this into consideration when passing sentence on him.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" Chamberlain Elbe Chas SEM

RECORD of the Declaration of a Court of Inquiry assembled at PETAWAWA MILITARY CAMP ONT

on the 20 th day of APRIL 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A-114243 Gnr Bellaire O.J. "G" T/S BTY A-1, C.A.T.C. C.A.

DECLARATION

The Court declare that No. A-114243 (Army No.) GUNNER (Rank) BELLAIRE O.J. (Full Name) "G" T/S BTY A-1, C.A.T.C. C.A. (Unit) illegally absented himself without leave FROM A-1, C.A.T.C. C.A. at PET. MIL. CAMP. (Place) at 0600 hours on the 29 th day of MARCH 45 that he is still so absent, and that on the 20 th day of April-45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES BROUGHT FORWARD		VALUE $29.62
SECTION CLO DIV "B"			BRUSHES TOOTH	1	09
BATTLE DRESS BLOUSES	1	6 50	COMB HAIR	1	04
" " TROUSERS	1	6 55	FORK TABLE	1	08
BOOTS ANKLE PRS	2	11 64	HOLDALL	1	22
DRAWERS COTTON	1	42	KNIFE CLASP & LANYARD	1	1 01
" WOOLLEN	1	2 40	" TABLE	1	18
SOCKS PRS	1	46	RAZOR SAFETY SETS	1	42
SHIRTS WOOLLEN	1	1 20	SPOON TABLE	1	08
" UNDERCOTTON	1	43	TOWELS HAND	2	62
SECTION CLO DIV "C"			BADGE CAP R.C.A "D"	1	06
BRACE PRS	1	28	SECTION "A-1"		
BRASS CLEANING	1	04	BRACE RIGHT	1	33
BRUSHES BUTTON	1	11	HAVERSACK	1	2 29
" CLOTH	1	17	TOTAL		$ 35.04
" SHAVING	1	42			
		$29.62			

A.B. O'Keefe President
"A.B. O'Keefe" Lieut. ~~R.C.A.~~ C.A.
A-1, C.A.T.C. Member
(Name) (Rank) (Unit)

Signed at PET. MIL. CAMP. ONT Member

this 20 th day of APRIL 19 45

"K.H. Tremain" A/Colonel R.C.A.
COMMANDANT A-1, C.A.T.C. C.A.
PETAWAWA MILITARY CAMP, ONTARIO.

Signature of Commanding Officer (Name) (Rank) (Unit)

Certified true copy of original entry in NB 68

A.B. O'Keefe Lt.
(A?B. O'Keefe) Lt. BW (RHR)
Offr. i/c Records A/1 CATC
Petawawa Mil. Camp Ont.

(Signature of Officer having custody of original record)

M.F.B. 275
A.F.B. 115
200M—1-44 (3576)
H.Q. 1772-39-257

BROUGHT FORWARD		$35.04
25% Deduction R.O. 3464.....		$ 8.76
		$26.28
SECTION "B-1"	1	07
BOTTLE OIL	1	15
PULLTHROUGHT		
GRAND TOTAL.....		$26.50

a56

"H"

Chas. S.O.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, A-56075 Sgt Sisson, C.E., Windsor Detach, No 30 Coy C Pro C
(Number) (Rank) (Name) (Unit)

hereby certify that A-114243 Gnr BELLAIRE, Orville Joseph
(Number) (Rank) (Name in full)

of the A-1 CATC Petawawa, Mil Camp, Ont.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~[illegible]~~ A-102888 L/Cpl
(Number) (Rank)

Herdman, C.E., Windsor Detach, No 30 Coy C Pro C
(Name) (Unit or appointment)

at RR No 2 Maidstone, Ont at 2230 hrs
(Place) (Hour)

on the 9th day of Aug 19 45

Strike out words not applicable } as a ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was wearing ~~[illegible]~~ (dressed in civilian clothes).

Dated at Windsor, Ont this 9th day of Aug 1945

A-56075 Sgt
A-56075 (C.E. Sisson) Sgt
NCO i/c, Windsor Detach
No 30 Coy C Pro C
(Signature, Number, Rank, Unit or appointment)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6999)
H.Q. 1772-39-1936

"I"

M.F.B. 1481
115M—10-43 (2206)
H.Q. 1772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description / Strike out word not applicable / Complete / Full description of soldier being escorted / Strike out phrase not applicable

I, Captain (Rank) C. Dobson (Name), Issuing Officer, D.S. & T.O., M.D. No. 1 (Unit) hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort to proceed from Walkerville, Ontario. (Place) to London, Ontario. (Place) and return to Walkerville, Ontario. (Place) for the purpose of escorting A-114243 Gnr. (Rank) BELLAIRE, Orville, Joseph (Name in full) (Number) No. 1 District Depot (Unit), London, Ontario. (Attachment, if any) alleged to be a ~~deserter or~~ absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~authorized~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
14 Aug 45	To cost of Transport Warrant D.148430 and issued to cover the following transportation:-	
	One 2nd class single Walkerville to London (absentee)	$2.07
	½ of one 2nd class return Walkerville to London (escort)	$2.10
	The above costs are recoverable from: A-114243 Gnr. BELLAIRE, Orville, Joseph, No. 1 District Depot, London, Ontario.	
	TOTAL	$ 4.17

Dated at London, Ontario. this 14th day of August A.D. 1945.

(C. Dobson) Captain

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~authorizing~~

Strike out description not applicable

Issuing Officer, D.S. & T.O., M.D. No. 1

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

M.F.B. 1481
125M—10-43 (2206)
H.Q. 1772-39-1851

'J'

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — Strike out word not applicable — Complete

I, Lieut W.H. Billington, Offr i/c, Windsor Detach, No 30 Coy C Pro C
(Rank) (Name) (Unit)
hereby certify that I ~~[illegible]~~ (authorized) the hereinafter itemized transportation for escort
to proceed from Windsor, Ont (Place) to RR No 2 Maidstone, Ont (Place)
and return to Windsor, Ont (Place) for the purpose of escorting

Full description of soldier being escorted

A-114243 Gnr BELLAIRE, Orville, Joseph
(Number) (Rank) (Name in full)
A-1 CATC Petawawa Mil Camp, Ont
(Unit) (Attachment, if any)

Strike out phrase not applicable

alleged to be ~~[illegible]~~ an absentee without leave, the facts, date and particulars of (~~[illegible]~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
9 Aug 45	Cost of transportation via DND Vehicle from Windsor Ont to RR No 2 Maidstone, Ont and return. Total distance travelled 26 Miles @ 3¢ per mile	.78
	TOTAL	$ .78

Dated at Windsor, Ont this 9th day of Aug A.D. 1945

(W.H. Billington) Lieut, Offr i/c Windsor Detach
Signature, rank, unit, attachment (if any) and appointment of officer
(~~[illegible]~~) (authorizing transportation)
No 30 Coy C Pro C
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

"K"

Harrow Ont

OFFICE PHONE 3-3744
1163 WYANDOTTE ST. EAST

RESIDENCE PHONE 3-5478
925 VICTORIA AVENUE

DR. A. H. C. TROTTIER
SURGEON
WINDSOR, ONTARIO

hes. SBM

March 22/45

This is to certify that I have examined Orville Bellaire and find that following his accident he developed a severe pain in the back and that he has not fully recovered from same. He has very large & infected tonsils which should be tended to before he is exposed on military service.

A H C Trottier.

Pro-Forma 1.
Sick Bay Treatments.

Medical Inspection Room.
A-1, C.A.T.C.

L.

Cameron [illegible] March 27 44.

The Officer Commanding,
" G. " Battery,
A-1, C. A. T. C.

Pres S.B.M.

Pte Bellani O.J.

1. The m/n has been ordered to report back to the MIR., A-1, C.A.T.C., for further treatment at 0715 hrs., 1630 hrs., ____ hrs., ____ hrs., for the next 2 days. This treatment will take approximately 10 mins. While taking this treatment he will be fit for ____ duties.

2. He has been warned that failure to attend will be regarded as a Crime.

.....
(N.C.O.) Duty, MIR, A-1, CATC.

"X" Cameron SLC Chas SOM.

M.F.B. 255
TM—8-40 (6400-1)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-114243	Gnr.	Orville Joseph BELLAIRE,	No. 1 District Depot, C.A.

~~1. The following is a fair and true summary of the entries in the Service and General~~ Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 30 days in military Air Force custody, making a total of 30 days in custody, of which 20 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 yrs 6 mos

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ attestation paper is 28 Aug 41 23 Feb 45.

7. ~~The service which the accused is allowed to reckon towards discharge is~~ ~~service for the purpose of determining his pension, etc.~~

8. ~~The accused is entitled to reckon~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward

~~(If possession of or entitled to). State any air force decoration or reward.~~

~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~

10. ~~(If the accused is a warrant officer.) Air Force~~ the regimental rank of

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps), the rank of Permanent Force unit .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Name ..... of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of SEPTEMBER 1945 (W.L. Kress) Capt. O.C. Legal Sect. No.1 Officer i/c Original Documents

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

"Z" Stamford Bde
Acc. D.M.

A-114243 No. BELLAIRE, Orville, Joseph. Name

Sqn., Battery, or Company } Corps RCA

No. and date of last drunk }

Period not reckoning towards freedom from extra fine }

Date of enlistment } 28 Aug 41 G.C. Badges }

Sheet No. One

Tradesmen's Rates of Pay }

Signature O.C. Company, etc. } A.H.G. Ross Maj.

Character

Sheet Destroyed 28 Feb 44

(A.F.B. 122)
20M—11-41 (3000)
H.Q. 1773-28-1003

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY (F.P.Reeves) Lieut. O.C. Legal Section #1 DD., C.A. Officer i/c original document.					

(P.T.O.)

MEDICAL OFFICER'S REPORT

Res. SEM

I certify that No. A-114243. Gnr, BELLAIRE, O.J.

of NO, 1 , D.D. is in a Fit state of health,

and is Able to undergo Trial by Court martial.

Medical Officer
(W.F. COPP, Capt.
R.C.A.M.C.

Station NO. 1 District Depot C.A.

Date 17 Sept 1945.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-39-480

H.Q.C.55-B-1998 (JAG/D-3)
Your L. 28-B-1484

27 Sep 45

The District Officer Commanding,
Military District No. 1, London, Ont.

STANDING COURT-MARTIAL

A.114243 Gnr. Orville Joseph Bellaire,
No. 1 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

EPL/MM

THIS COPY FOR: H.Q.C. 55-B-1998
M.D. L.28-B-1484

U.S. ~~xxiiiiiii~~

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. A-114243 Name Orville Joseph HELLAIRE

Rank Gnr. Unit No. 1 D.D. C.A.

Charge AA 12 (1) (e) WOAS Desertion....

Date of Crime 29-8-45

Date of Arrest 9-8-45 Charge Signed 21-8-45

Orders for D.C.M.

Place and Date of Trial No. 1 D.D. C.A. 17-9-45

Sentence Detention 90 d vs. Stoppages £4.95

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 59962

Date 27-9-45

MEMO Guilty AWL

M.D. 1
ABSENT
7 1/3 mos.

No. 1 D.D. C.A.
SENTENCE
Det. 90 days.

for Judge Advocate-General

10M-8-45(M-199)

IN REPLY PLEASE QUOTE
No. L.28-B-1484 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ MD 1, London, Ont., 24 Sep 1945

Judge Advocate-General,
National Defence Headquarters,
OTTAWA, Canada.

C. 25-B-1998

STANDING COURT-MARTIAL
A.114243, Gnr. Orville Joseph BELLAIRE
No. 1 District Depot (CA)

Enclosed herewith are the proceedings of the m/n Standing Court-Martial which took place at No. 1 District Depot (CA) on 17 Sep 45.

(H.C. Cameron) Lt-Col.,
Pres. Standing Court-Martial MD 1

39962

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

H.Q.C.55-B-1999

CONFIDENTIAL

M.F.D. 1018
H.Q. 301-1-40

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BRUNEAU, PAUL-EMILE E.620887 PTE.

CONFIDENTIAL
H.Q.C.55-B-1999

CENTRAL REGISTRY	DATE	P.A. OR R.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
SEP 29 1945				JAG	NEW FILE	CR	26-9-45
OCT 18 1945					With Papers C.R. OCT 16 1945		
					Per Recommendation C.R. OCT 19 1945		
				Trans	1 pers. to DM.		22.10.45
				DM	Matter		1945
OCT 25 1945	25.10.45					Zm	25-10-45
OCT 26 1945				JAG.	Per Recommendation C.R. NOV - 5 1945		
NOV 6 - 1945	5 11/45	PA		C.M.O.R.	To note	EKM	5 Nov 45
					NOV 19 1945		
JAN 18 1946	cancelled		cancelled	Jan 3	Recommendation fol 33		JAN 16 1946
					With Papers C.R. JAN 29 1946		
JAN 30 1946					To note file		30/1/46
JAN 31 1946 FEB 1 - 1946	31-1-46			Adm3	11 fin. pk.		31/1/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to R.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. Q:-39-B-3731. (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE..28 JAN 46.....

THE SECRETARY
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY Army
COMP. SEC.
4664
JAN 29 1946
File
Clngd. to
Referred to

REMISSION OF SENTENCE
E 620887 Pte BRUNEAU, P.E.
NRMA (Att No 5 DD)

I

1. Ref HQC. 55-B-1999 (JAG/D-7) 28 SEP 45.

2. A remission of sentence in this case has been granted w.e.f. 19 JAN 46.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(EDMOND BLAIS) Brigadier
District Officer Commanding
Military District No 5.

II

Adm:
To note Fols 35 and 39, pls.
G. A. Stabell Maj
CMBR.
31/1/46

39

NAT. DEF. N. 440
250DM 4-44 (4321)
H.Q. 1772-39-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No..HQC.55-3-1999.(JAG/D-7)
District File No..C.39-B-3731..(DA)....

PART I

No..E.620887..... Rank .....Pte.....Name ...BRUNEAU, Paul-Emile.....

Unit .....NEMA..(Att.No.5.DD).....

PART II

Date of trial .....18.SEP.45.....

Charges .....Sec..12(1)(a)..AA.....

Sentence ....23.months.of.detention..... .....

Date of Sentence ...18.SEP.45.....

Confirmation - (a) Authority ..SCM.....

(b) Date .....

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to ...E.620887.Pte.BRUNEAU.Paul.-Emile..NEMA.(Att.No.5.DD).....

.....19.JAN.46 .....

.....

Signed at QUEBEC, P.Q., this 19th day of..JAN.46.

Edmond Blais

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at .No.5..District.Depot.C.A. .....

..... this ..24th.....day of ... January.....194 .6

W.G. Laroche

(W.G. LAROCHE) Capt.,
.....R.E.M.S. Att'd.No.5, D.D.
Officer i/c Documents (1)

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No..E/620887....Rank ....Pte.....Name .....BRUNEAU..P.E.....

The sentence of ...23months.detention.....

awarded by Court-Martial on the .....18.Sep.....194 ..5....

has been .remitted. .....

on the ....19...Jan....46.....194 ..by .....Brigadier Edmond Blais,...

.....CBE MC DOC MD 5.....

Unit .....

Certified true Extract of Daily Orders Part II of

No.....22.....Place.....LAUZON.....Date.....25 Jan 46.....

M.R. Ledoux Capt

(M.R. LEDOUX) - Capt.,
.....GEN.LIST..ATT'D.No.5,.D.D.....
Adjutant. No.5, D.D.

37

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-620887 (Number) Pte. (Rank) Bruneau, P.Q. (Name in full)

Gen. List., CA. (Unit) Att.No.5 DD (Attachment (if any))

Sentenced to 23 months det.

on 18 Sep 45 at Leuzon, Que.

being served at Val. Mil. Det. Brrks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 25 years 1 month. 8 Jan 42.

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (xxx) committed to undergo his sentence, which I recommend should (xxx) be (xxxx

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
28 JAN 46	Remission of sentence granted effective 19 JAN 46.	Edmond Blais (EDMOND BLAIS) Brigadier District Officer Commanding Military District No 5	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA SEC 12(1)(a) AWL from 2200 hrs on 18 Jun 42 until he surr. at Lauzon at 1400 hrs on 5 Sep 45.	18 Jun 42	18 Sep 45
Signature of Officer making entry		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Oct 45	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	Paul Mathieu (PAUL MATHIEU) Colonel

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

CLEAR

ARMY MESSAGE

(INCOMING)

PLACE FROM | DATE & TIME

28 CIQ PG 39

QUEBEC 22 1630R

SECTY

OTTAWA

A 265 RELET HQC 55-B-1999 ADM 3 (B) 3 DATED 18 JAN 46

REF E 620887 PTE BRUNEAU P E ACK

CMDG FIVE

221722R A

THIS IS AN ACCURATE COPY

IF INCORRECT OR ILLEGIBLE, COMPLETE BELOW AND RETURN WITH ENVELOPE

BRANCH	TIME	SIGNATURE

73747

RECEIVED JAN 22 1946

363

36

COPY 1

M.F.M. 344 300M-10-44 (5869)
H.Q. 1772-39-2350 K.P. 20293

CRAIN PRINTERS LIMITED-IE

HQC 55-B-1999
ADM 3(b)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario, 18 Jan 46

District Officer Commanding,
Military District No 5,
Quebec, P.Q.

E-620887 Pte Bruneau P E
CM Board of Review
66 MDB

Ref telegram AG 0267 d/18 Oct 45 Review.

2. The CM Board of Review has in the case of the a/m soldier made the following recommendation:

"Release on 17 Mar 1946"

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is ~~not~~ immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. ~~[illegible]~~

7. Acknowledgment by telegram requested.

(E. G. Weeks)
Major-General
Adjutant-General

HDM/HMR

35

NO. 55 B-1999(CNBR-1)/ EMA

Case No

REVIEW OF SENTENCE 5 Jan 46

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: E.620887 Pte. BRUNEAU, P.E.

2. Unit at date of offence: 5 DD CA

3. Charge: AA Sec 12(1)(a) DESERTION: WOAS was AWL from 18 Jun 42 untill apprehended by Military Police on 5 Sep 45 dressed in civilian clothes.

Plea: Not guilty

4. Place and Date of Trial: No. 5 District Depot, Lauzon, Que. (~~xxxx~~) (~~xxx~~) (BCM) 18 Sep 45

5. Finding: Guilty

6. (a) Sentence: 23 months detention

(b) Date of Sentence: 18 Sep 45

7. Date of Confirmation: -

8. Date of Promulgation: -

9. Being Served at: 66 M.D.B. in Rx 5

(N.A. - Discharged under AO 1029( ) for wef)

Page 3 Case No.....

CONTINUED

11. (a) Prior to conviction: Offence Date Sentence

(1) Civil Convictions Nil

(2) Courts Martial Nil

(3) Summary Convictions 2 offences of AWL
2 offences of AA 40.

(b) After Conviction: Good - Earliest date of release 31 Aug 46

(c) Date of enrolment, ~~xxxxxxxxxx~~ 8 Jan 42 Present Age: 25

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state and now make any additional circumstances.)

Accused states the reason he went AWL is that his father, mother and brother were sick and there was no one to work the farm so he stayed home for that reason.

13. Recommendations: (Here be shown Sentence, e.g., CSHQ, DOC, Reviewing Order, etc)

REVIEWING OFFICER: Recommend release at half sentence.

Reviewed by. A.B. O'Keefe Capt.
(A.B. O'Keefe) Capt

14. Recommendation of the Board: Release on 17 Mar 46

Date JAN 1 6 1946

M. A. Stilwell
Secretary
Courts-Martial Board of Review.

IN REPLY PLEASE QUOTE
No. Q: 39-B-3731 (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Headquarters
Military District No 5
QUEBEC QUE 9 JAN 46

CENTRAL REGISTRY
194
1480
JAN 10 1946
File 655-B-1999
CMDR 14-11-45
Referred to CMDR

The Secretary
Department of National Defence
OTTAWA ONT

E 620887 Pte BRUNEAU P.E.

Ref CMHR 63 unclassified dated 5 JAN 46 and HQC 55-B-1999 (CMHR 3) EMA dated 13 DEC 45.

2. Att herewith latest report on conduct regarding the mn, as requested.

(EDMOND BLAIS) Brigadier
District Officer Commanding
Military District No 5

N.D. 23
2 Mil.—5-43 (321)
H.Q. 1772-101-23

Doc F-1

APPENDIX "B" TO CANADIAN ARMY ROUTINE ORDER NO. 5913

REPORT ON CONDUCT 39-B-3781

TO: A.J.A.G.
M.D.5
Quebec. Que.

File.Q.39-B-3781.(DA1).....

8 January 46..19.....

1. Soldier under sentence E-620887 Pte BRUNEAU P.E.

2. Please State:-

(i) Date of sentence	18 Sep 45
(ii) Sentence	23 months
(iii) Date you received soldier	20 Sep 45
(iv) Can soldier read and write?	Yes
b) Religion	R.C.
c) Married, widower, single?	Single
d) What army trade has soldier?	Nil
(v) a) Conduct of soldier	Fair
b) Industry of Soldier	Laborer
c) Remission earned:-	
(i) Number of days actually earned.	35
(ii) Number of days obtainable to date	38
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill, should state:	
a) Whether imprisonment or detention will seriously aggravate soldier's condition.	
b) Whether further confinement is likely to prove fatal.	
(vii) a) Whether in your opinion conduct of soldier warrants	
(i) Remission	Remission
(ii) Suspension X	
b) Moral effect confinement has had?	Good
(viii) Date term will expire if all remission earned from now on. 27 Jan 47	

X Do NOT recommend suspension for personnel discharged from Canadian Army.

Signature
Governor/Commandant
MDB

Date of Report.
8 January 46

ARMY MESSAGE
(OUTGOING)

CLEAR

FILE: HQC.55-8-1999
HQC.55-8-930
(CMER-3)

PLACE: OTTAWA CANADA
DATE: 5 Jan 46

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 5
XXXXXX QUEBEC QUE

CMER 63 UNCLASSIFIED
REFER HQC 55-8-1999 (CMER-3) AND HQC 55-8-930 (CMER-3) DATED 13 DEC 45 STOP FORWARD LATEST REPORT ON CONDUCT R 620887 PTE HUNTRAN P R AND R 22440 PTE ROY J M

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING WIRELESS	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED: [illegible]		2200

COPY 5 FOR ORIGINATOR'S FILE

HDC/DL

Q.G.C. 55-B-1999 Adm 3(b)2

le 23 octobre 5

Madame,

Je vous accuse réception de votre lettre du 13 octobre 1945, relativement à votre frère, le soldat P.-E. Bruneau, matricule E.620887.

Les autorités militaires m'informent que le soldat Bruneau a été traduit devant une cour martiale permanente le 18 septembre 1945, pour répondre à une accusation de désertion, étant donné qu'il s'était absenté sans permission à compter du 18 juin 1942 jusqu'au 5 septembre 1945, alors qu'il a été arrêté par les autorités militaires et qu'il portait des habits civils. Il a été trouvé coupable et condamné à vingt-trois mois de détention.

Vous comprenez que les autorités militaires ne tiennent pas à garder un soldat en détention plus longtemps que ne l'exige l'intérêt de la discipline. Les sentences imposées par les cours militaires sont revisées régulièrement en vue d'une remise de peine, lorsque les circonstances la motivent. Toutefois, on prévoit que, vu la longue absence du soldat Bruneau, il sera tenu de purger une partie substantielle de sa peine avant d'être remis en liberté.

Votre bien dévoué,

30

le sous-ministre,

Mme Léon Cloutier,
Case postale D-169,
Price,
Comté de Matane, P.Q.

TRANSLATION C-55-B-1999
MJD/gd
16-10-45

PRICE, October 13, 1945

ADMIN. RECEIVED OCT 1945

Department of National Defence, (Army),
OTTAWA, Ont.

SIR: RE: 620887, Paul-Emile Bruneau,
Military Detention Barracks, No. 66,
Valcartier.

I beg to be excused for troubling you concerning my young brother, the above-named soldier.

I acknowledge that he deserted from the Army a long time ago but, he gave himself up of his own accord, hoping that you would be less severe towards him. I hereby request you to grant him his pardon not because of a fancy but because my father, who is a farmer, is an invalid and it is Paul-Emile who used to attend to the farm-work.

He has already been kept under detention for a month and that greatly affects my poor father.

Therefore, I hope you will comply with my request. I shall be very grateful if you do so. I put my trust in you because I know that you will kindly accede to my request.

I beg to remain,

Yours truly,

(Sgd.) Mrs. Léon Cloutier
P.B. D-169,
PRICE,
Matane County, P.Q.

I am waiting for a favourable answer.

TRANSLATION
MJD/gd
16-10-45

ADMIN.

PRICE, October 13, 1945.

Department of National Defence, (Army),
OTTAWA, Ont.

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Military Detention Barracks, No. 66,
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Yours truly,

(Sgd.) Mrs. Léon Cloutier
P.B. D-169,
PRICE,
Matane County, P.Q.

27

I am waiting for a favourable answer.

TRANSLATION
MJD/gd
16-10-45

ADMIN.

PRICE, October 13, 1945.

Department of National Defence, (Army),
OTTAWA, Ont.

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Military Detention Barracks, No. 66,
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I beg to remain,

Yours truly,

26

(Sgd.) Mrs. Léon Cloutier
P.B. D-169,
PRICE,
Matane County, P.Q.

I am waiting for a favourable answer.

Drie 13 oct 1945

OCT 15 1945
OCT 27 1945

Ministère de la défense
Armée
Ottawa, Ontario,

Cher Monsieur,

Excusez moi de vous déranger dans votre grande besogne. C'est au sujet de mon jeune frère seul Emile Bruneau 620-887-M BD 11 — Valcartier. Je conçois comme vous qu'il y a longtemps qu'il avait déserté mais il a eu la volonté de se rapporter espérant que vous serez humain sévère envers lui, je vous écris pour lui demander son pardon pas par caprice mais force que mon père est cultivateur et est invalide et c'est l'aîné Emile qui s'occupait de la ferme

Il y a déjà un mois qu'il est en détention et cela affecte beaucoup mon ~~mon~~ pauvre papa.

Alors j'espère que vous ne refuserez pas cela. Je vous en serai très reconnaissante.

Je me confie à vous parce que je sais que vous aurez l'amabilité de m'accorder ce grand désir.

Je vous prie de me croire

Je reste votre toute dévouée.

Madame Léon Cloutier
Grice
Co Malaïne
C.I.

P.S. J'attends une réponse satisfaisante à V.A.

QUOTE No. HQC 55-B-1999
Adm 3(b)2

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

OTTAWA, CANADA.

22 October, 1945

Dear Madam:

This will acknowledge your letter of the 13th October, 1945, with reference to your brother E.620887 Pte P.E. Bruneau.

I am informed by the Military Authorities that this soldier was tried by Standing Court-Martial on the 18th September, 1945 on a charge of desertion, having absented himself without leave from the 18th June, 1942 until he was apprehended by the Military Authorities on the 5th September, 1945, dressed in civilian clothes. He was found guilty of the offence and sentenced to twenty-three months detention.

You will appreciate that it is not the desire of the Military Authorities to retain a soldier in detention any longer than is necessary in the interests of military discipline. Sentences awarded by Military Courts are reviewed at regular intervals with a view to remission when the circumstances warrant. It is, however, contemplated that, in view of this soldier's long absence, he will be required to serve a substantial portion of his sentence before he is released.

Yours truly,

Deputy Minister,
(Army)

29

Mrs. Leon Cloutier,
P.R. D-169
PRICE,
Matane County, P Q

WOP:da

OCT 23 1945

TO: TRANS

For translation, pls

W.O. Parlee Capt

(H M Cathcarte)
Colonel
D Adm

OCT 24 1945

Nat. Def. A-168-A
1,000M—3-43 (9928)
H.Q. 1772-39-376

HQC 55-D-1999 (JAG/D-50

17th October 1945

District Officer Commanding,
Military District No. 5,
Quebec, P.Q.

Standing
~~A-620837, Court-Martial~~ Beauheau.

39-B-3751(JA)

Receipt is acknowledged of your dated 15th October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:MJ

IN REPLY PLEASE QUOTE No. Q. 39-B-3731 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 13 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

3318
OCT 16 1945
File C55-B-1999
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL

E-620887 Pte P.E. BRUNEAU
NRMA CA Att No.5 DD CA.

1. Ref HQC. 55-B-1999 (JAG/D-7) dated 28 Sep 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

21

NAT. DEF. B. 440
2500M. 4-44 (3321)
H.Q. 1772-38 (R)

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au Dépot Régional No. 5, A.C., Lauzon, Que.

le dix-huitième jour de - - -septembre - - - - 19 45 à - - -11.20 - - - heures,

pour le procès de E - 620887, Soldat BRUNEAU, P. G.,
Matricule Grade Nom et prénoms

W. R. M. A., Attaché au Dépot Régional No. 5, A.C., Lauzon, P.Que.-
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, Q.G., R.M.No. 5.-

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent, Q.G., R.M.No. 5.-
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant F. MARTINEAU,
Grade Nom et prénoms

Royal 22ième Régiment, Att. Dépot Régional No. 5, A.C.
Unité Détachement, le cas échéant

LA COUR DECLARE LE PREVENU COUPABLE SOUS LE CHEF D'ACCUSATION:

- - - - - - -

SENTENCE: LA COUR CONDAMNE LE PREVENU A SUBIR UNE PEINE DE VINGT-TROIS MOIS DE DETENTION.

- - - - - - -

20

Signé à Lauzon, P.Que., ce dix-huitième jour de --septembre - - 194 45.-

(PIERRE DECARY) - Major,
Président de la cour martiale permanente.
Q.G., R.M.No.5.-

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 59963 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 27 day of Sept 194

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non monsieur.-

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. Vous opposez-vous à - - - - Mademoiselle Lorraine Chandonnet - - - - - comme sténographe ?

Réponse: Non monsieur.-

Le sténographe est dûment assermentée

"VOIR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE " (DOCUMENT MARQUE "F"CI-JOINT.)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

19

(L'accusé s'étant avoué coupable sur le chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

"B-2"

ACTE D'ACCUSATION

Le prévenu, E-620887, Fusilier Paul-Emile BRUNEAU, Les Fusiliers du Saint-Laurent, A.C., attaché au Dépot Régional No.5, A.C., un soldat N.R.M.A. de l'armée canadienne, mis en activité de service, est accusé,

ACCUSATION
Article 12(1(A)
Army Act.

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE LE SERVICE DE SA MAJESTE,

en ce que,

à Valcartier, P.Q., à 2200 heures, le 18 juin 1943, il s'est absenté sans permission des Fusiliers du Saint-Laurent, A.C., jusqu'à ce qu'il se livre aux autorités militaires, à Lauzon, P.Q., à 1400 heures, le 5 septembre 1945, en tenue civile.

LAUZON, P.Q.,
14 septembre 1945.-

(PIERRE TASCHEREAU) - Capitaine,
PRocureur Permanent, 5e District Militaire.-

18

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non monsieur.-

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~*Préliminaires à l'appel*~~

~~Chaque témoin régulièrement assigné, est interrogé par le procureur.~~

~~*Questions*~~

" LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE:-"

1 - Extrait Certifié des Ordres du Jour Partie 11, de Valcartier, P.Q., en date du 9-7-42, portant le no.94, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2 - M.F.M. 216 - Certificat de Reddition - signé à Lauzon, P.Q., le 5 septembre 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-o-o-

17

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le voulïez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Rendre témoignage sous-serment.
(Voir pages D-3 et suivantes.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense ?

Réponse: Non monsieur.

16

Question à l'accusé. ~~Est-ce uniquement un témoin à l'appui de votre réputation ?~~

Réponse:

TEMOIN DE LA DEFENSE: L'accusé, matricule E-620887, Soldat P.E. BRUNEAU N.R.M.A., Att. No. 5 D.D., A.C., étant dûment assermenté,

est interrogé par l'officier défenseur: O

Q. Depuis quand étiez-vous dans l'armée avant de vous absenté?

R. Le 8 février 1942.

Q. Qu'est ce que vous faites chez-vous?

R. Mon père est cultivateur. J'ai resté chez nous pour la terre.

Q. Pourquoi n'aviez-vous pas d'uniforme?

R. Par ce que les polbes militaires sont venues le chercher chez nous.

Q. Les Provots sont allés chercher votre uniforme chez-vous?

R. Oui.

Q. A quelle date?

R. Je ne peux pas dire la date au juste.

Q. Maintenant, avez-vous des frères et des soeurs?

R. Deux frères et six soeurs monsieur.

Q. Maintenant, quel âge ont vos frères?

R. Un a 22 ans l'autre 16 ans.

Q. Est-ce qu'il avait 16 ans en 42?

R. Bien non ça fait trois ans de ça.

Q. Est-ce que vos deux frères sont en bonne santé?

R. Le plus vieux est malade au lit.

Q. Est-ce qu'il était malade en 42?

R. Non.

Q. Maintenant, est-ce que vos soeurs sont assez vieilles pour travailler?

R. Elles sont toutes mariées, il en reste juste une à la maison.

Q. Votre père est-ce qu'il est capable de travvailler?

R. Il est incapable.

Q. En 1942?

R. Oui.

Q. Où avez-vous travaillé?

R. Chez nous.

Q. Sur la terre?

R. Oui.

Q. Qui a soin de la terre actuellement?

R. Personne actuellement.

Q. Est-ce que vous avez essayé d'avoir un exemption?

R. Oui.

Q. A qui vous êtes-vous adressé?

R, A mon sergent.

Q. A qui vous a-t-il transferré?

R. A mon commandant etmon exemption a été refusée.

Q. Vous n'en avez pas eu?

R. Non.

Q. Durant que vous avez été absent,est-ce que vous avez essayé?

R. Oui en 1943. J'ai rempli des formules, ils m'avaient dit de venir me rapporter mais j'avais peur d'être puni, et je me me suis pas rapporté.

Q. C'est la seule foid que vous avez essayé?

R. Oui.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:-

Q. Est-ce que c'est vrai lorsque l'on dit que vousêtes absent depuis le 18 juin 1942 jusqu'au 5 septembre de cette année?

R. C'est exacté

Q. Quand vous êtes parti vous étiez à Valcartier?

R. Oui.

Q. Etes-vous parti en passe?

R. Sans passe.

Q. Où êtes-vous allé?

R. Chez nous.

Q. Est-ce que vous êtes resté là tout le temps?

14

R. Oui.

Q. L'été?

R. Oui.

Q. L'hiver?

R. Oui, j'ai fendu le bois de chauffage.

Q. Ou demeurez-vous?

R. A Saint-Moise.

Q. Comté de Matapédia?

R. Oui.

Q. Pendant votre absence, est-ce que vous avez eu la visite des M.P. chez-vous?

R. Oui, souvent.

Q. Les avez-vous vu?

R. Oui moi j'étais caché, je les ai vu mais ils ne me voyaient pas.

Q. Vous ne vouliez pas venir vours rapporter tout de suite?

R. Pas tout de suite.

Q. Quand vous êtes parti, vous n'aviez pas l'intention de revenir?

R. Je me suis rapporté.

Q. Pourquoi êtes-vous parti?

R. Je voulais faire les foins.

Q. Quand vous êtes parti, aviez-vous l'intention de revenir à Valcartier?

R. Je voulais revenir à Lauzon, au dépot.-

Q. Ca pris trois ans pour revenir?

R. Oui.

Q. N'est-il pas vrai que quand vous êtes parti de Valcartier en juin 1942 que vous n'aviez pas l'intention de revenir à Valcartier?

R. Je voulais revenir à l'automne ma mère était malade -je ne suis pas revenu, jesusi resté.

Q. Quand la police militaire est-elle allée chez-vous?

R. Plusieurs fois. Ils sont venus souvent.

L'OFFICIER DEFENSEURNE DESIRE PAS INTERROGER DE NOUVEAU:-

INTERROGE PAR LA COUR:

Q. Quand vous êtes parti, est-ce que vous aviez l'intention de revenir?

R. Oui à Lauzon, je voulais revenir à Lauzon.

Q.- Bon, vous avez eu toujours l'intention de revenir?

R. Je suis venu me rapporter, c'est signe que j'avais l'intention de revenir.-

DE L'AVIS DE LA COUR IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P .83 (B).

L'ACCUSE REPREND SON SIEGE.

LE PROCUREUR PRONONCE UNE PLAIDOIRIE ET L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Non monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

" F "

" MINUTE D'AJOURNEMENT ET DE REPRISE
D'AUDIENCE "

A 11.25 le dix-huitième jour de septembre 1945, la Cour s'est ajournée.

-o-o-o-o-o-

A 14.50 heures le dix-huitième jour de septembre 1945, la cour se rassemble.

LE PROCES SE POURSUIT:

10

"G"

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

ORDRES PARTIE II - FUSILIERS DU ST-LAURENT AC (A)

No. 94
d/9-7-42
Valcartier.

Par Le:

LT.-COL. PAUL H. L'HEUREUX - OFFICIER COMMANDANT
(D'ORDRE PARTIE II DERNIER No. 93 d/8-7-42)

"B" AUTRES RANGS.

9.- ABSENT SANS PERMISSION.

M-620887 Pte BRUNEAU, P.E. 2200 hrs. le 18-6-42.

Le sus-mentionné est absent depuis l'heure et la date indiquées à la suite de son nom et ne s'est pas encore rapporté pour devoir (21 jours absent (le 9-7-42)

(GILLES GAGNON) Capt. Adj.
Fusiliers du St-Laurent AC.
Camp Valcartier, P.Q.

CERTIFIED TRUE EXTRACTS.

(L. BOIS) Major
District Records Officer, MD. 5
17 Sep 45.

9

"H"

Pierre Decary

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10, 1940, and Order No. 127 1942.

(PIERRE DECARY) MAJOR
PRESIDENT, S. C. M.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel Paul MATHIEU O.C. NO 5 District Depot C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that E-620887 (Number) PTE. (Rank) BRUNEAU Paul-Emile (Name in full)

of the Attached to No 5 District Depot C.A. (Unit and attachment, if any)

Strike out words not applicable } ~~apprehended~~ (surrendered to) D-610313 (Number) PTE. (Rank)

LABONTE L.Pr (Name) att to No 5 D.D. C.A. (Unit or appointment)

at LAUZON P.Q. (Place) at 1400 (Hour)

on the 5th day of Sept. 19 45.

Strike out words not applicable } as a deserter ~~or absentee without leave~~; and that at the time of ~~apprehension~~ he was ~~wearing~~ ~~military~~ ~~uniform~~ (dressed in civilian clothes).

Dated at Lauzon, P.Q. this 5th day of Sept. 1945

Paul Mathieu
(Signature, Number, Rank, Unit or appointment)
(P MATHIEU) Colonel.
Commanding No 5 District Depot C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

8

Pierre Decary

"Y" (PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

M.F.B. 355
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
[illegible]	Pte.	BRUNEAU, F.E.	NRMA

1. The following is a fair and true summary of the entries in the field Service and General ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	A.A.Sec.15 AWL (2) 2 times
For	times	A.A.Sec.40 ~~(1)~~ 2 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

~~nil~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~nil~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act, or dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~nil~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for ..... ~~days in civil custody, and~~ 13 days in ~~military~~ Air Force custody, making a total of 13 days in custody, ~~of which ..... days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 25 years, 1 mth

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 8 Jan 42

7. ~~The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State any air force military decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of Sept. 1945.

Benoit Paschereau Lt.
Ass to Records Officer.
F.DD.Lauzon. PQ.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. E62083 Name BRUNEAU, P.E. Sqn., Battery, or Company } NRMA Corps Date of enlistment } 5jan42. YOB: 16aug20. G.C. Badges } Tradesmen's Rates of Pay } Character

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. one. Signature O.C. Company, etc. }

M.F.M. 6 (A.F.B. 122) 500M—11-41 (2496) H.Q. 1772-30-1552

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valo.	16-3-42	Pte.		Refus a un ordre	Sgt. Gaulet.	4. 3d. C.B.	16mar42	Maj. Brillant.	
"	4may42	Pte.		~~AWL 0600 5may42 to 0600 6may42~~	CSM Lepage.	1d. pay	6may42	"	F.R.&I.149 1d. pay
"	6jun42	"		~~AWL 2200 6jun42 to 0600hrs 8jun42~~	CSM Lepage.	7d. pay	9jun42	Capt. Morel.	F.R.&I.149 2d. pay
"	7jun42	Pte.		Cond. prej. a bon order et disc. mil.	Corporal Edward.	W. 5d. C.B.	9jun42	Capt. Morel.	

Certified true copy
Benoit Taschereau Lt.
acs to Records Officer.
5.DD Lavon. PQ.

PIERRE DECARY MAJOR
PRESIDENT, S.G.M.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No ~~E 620~~ 620 197 PE Brunson. P.E

of D D S is in a good state of health,

and fit to undergo Trial by Court martial.

Tibaulet, capt.
Medical Officer

Station Sayre Guard Room

Date 18 Sept 45

M. F. B. 246
50M—12-43 (3223)
H.Q. 1773-39-480

Medical Inspection Room D.D. M.D. No. 5 SEP 18 LAUZON, P.O.

Medical Inspection Room M.D. No. 6 SEP 18 1945 LAUZON, P.O.

5

RESUME DE LA PREUVE

Proces de E-620888 Fusilier Paul-Emile BRUNEAU, Les Fusiliers du St.Laurent, A.C., attache au Depot Regional No.5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No.
2. M.F.B. 375
3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

4

ORALE P-4888 CQMS LEBLANC, M. Liste Generale, A.C., attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son ecusson.

L O 1507 (8-9-45)

H.Q.C.55-B-1999 (JAG/D-7)
Your Q. 39-B-3731

28 Sep 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

K. 620887 Fus. Paul-Emile Bruneau,
Les Fus du St.-Laurent, C.A., att.
No. 5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/ JM

8M-7-45(M-188)

THIS COPY FOR: H.Q. 55-B-1999
M.D. 5 [illegible]

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. H-820897 Name Paul-Emile NADEAU

Rank Fus. Unit Les. Fus. de St. Laurent C.A. Att No. 5 D.D.

Charge AA 12 (1) (a) TOTAL DESERTION

Date of Crime 18-6-42

Date of Arrest 5-9-45 Charge Signed 14-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. 18-9-45

Sentence Detention 23 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39963

Date 27-9-45

MEMO Balance of sentence remitted by Conf. Auth. 12-6-46 2

N.D. 5

ASSENT

3 yrs. 2½ mos.

Les Fus. du Stl Laurent, Att No. 5 D.D. C.A.

SENTENCE

Det. 23 mos.

L. J. Ryan Col.
for Judge Advocate General

10M-8-45(M-189)

IN REPLY [illegible] QUOTE No.

Q:39-B-3731

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Sept. 24th. 1945.

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

C.55-B-1299

STANDING COURT MARTIAL

E/620887, Pte. Paul-Emile BRUNEAU.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

3996

NAT. DEF. B. 140
2500M-4-44-4321
H.Q. 1733-39-767

H.Q.C. 55-B-2000

CONFIDENTIAL

M.F.R. 1178
25M-2-45 (6697)
H.Q. 201-1-19

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BABIY, MIKE L.601614 PTE.

1089-72

CONFIDENTIAL
H.Q.C. 55-B-2000

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 2 - 1945				JAG	NEW FILE	CR	28-9-45
OCT 17 1945	16.10.45	PA	mm	JAG	Main Papers C.R. OCT 15 1945		
				Admin	Rehabilitation P.A. OCT 19 1945		
				SE(DG)	SE	WDS	23.10.45
				Admin			25.10.45
				AG(Cobra 3)	Wich minute	MBJ	29.10.45
						RMJ	30/10/45
NOV 3 - 1945				Admin			
				Admin	Edmn C.R. NOV - 6 1945		
				SE(DG)	SE	WDS	7.11.45
NOV 26 1945	26.11.45	P.A.	MBJ	Admin			21.11.45
NOV 28 1945	28.11.45	PA	WDS	Admin	PER B.F. NOV 27 1945		
				CMBR	Per Requested NOV 29 1945		
JAN 2 1946	23-3-46			Adm 3	Recommendation fol 39	WDS	DEC 19 1945
MAR 23 1946	22.2.46	PA		Admin	PER B.F. MAR 22 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE: 55-B-2000
OUR FILE: 22-B-2953

2

PART I

No. L.601614 ...Rank Private ...Name BABIY Mike

Unit No 11 District Depot CA

MAR 25 1946
File 6-55-B-2000
Chgd. to
Returned to

Part II

Date of Trial 24 Sep 45

Charge(s) Sec 12 (1)(a) A.A. Desertion

Sentence 18 months' detention and Cost of Apprehension and return to unit, $21.95.

Date of Sentence 24 Sep 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxx~~ balance of sentence of detention effective 12 Mar 46, ~~xxxxxxxxxxxxx~~.

Signed at Vancouver B.C. this 1st. day of Mar 46.

(E.C. FLOW) Brigadier
D.O.C. M.D. No. XI

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission (~~xxxxxxxxxxxxxxxxxxxx~~ promulgated and extracts taken at No XI DD.CA

Vancouver B.C. this 12th day of March 1946

Capt. Adjt.
Officer i/c Documents
(1) No. XI District Depot CA

(1) Unit, attachment and appointment to be stated.

Part V
Certified True Extract of Daily Orders Part II

No. L-601614 ...Rank Pte. ...Name BABIY M.

The sentence of 18 months detention and cost of apprehension and return to Unit $21.95 awarded by (Field General)(District)(Standing) Court-Martial on the 24th day of September 1945 has been been remitted the balance of said sentence effective on the 12th day of March 1946 by DOC MD XI

Certified true Extract of Daily Orders Part II of No. 11 District Depot, C.A.
No. 60 ...Place Vancouver BC ...Date 12 Mar 46

Capt., Adj.
No. 11 DD CA

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L.601614 (Number) Pte. (Rank) Mike BABIY, (Name in full)

No. 12 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 18 Months Detention & Cost of Appreh. & return to Unit, $21.95

on 24 September, 1945. at REGINA, Saskatchewan.

being served at No. 79 M.D.B. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 Years, 6 Months, 30 July, 1941.

Medical grade or category 20-1-1-1-1-1-2-1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... (date)) for reasons given in paragraph X.

Place .....

..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (~~which I hereby commute to~~ .....)

(~~of which I remit~~ .....) (~~be suspended~~) (be put into execution)

(and) be reviewed on 8 November, 1945.

Place Regina, Sask.

Date 11 October, 1945.

G.H. Trudeau
Superior Military Authority
(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-3196)
HQM—8-43 (1499)
H.Q. 1772-29-3015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
3 Nov 45	No remission or suspension. B.F. for review 1 May 46.	(G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.	
12 Mar 46	Bal of sentence remitted wef 12 Mar 46	(E.C. PLOW) Brigadier D.O.C. M.D. No. XI	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE - AWL from 2000 hrs, 24 Dec 44 until apprehended at Krydor District, Sask., at 1700 hrs, 10 Sep 45, by the Civil Power, dressed in plain clothes. The cost of his apprehension and return to his Unit, being $21.95.	24 Dec 44	24 Sep 45.

Lt.-Col.,
Signature of Officer making entry
(H.E.Murray) Commanding Officer, No.12 DD, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
7 October, 1945.	That sentence be carried out	Lt.-Col., (H.E. Murray) Commanding Officer, No. 12 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

COPY

VER V CV NR 130

FM COMMANDING PACIFIC VANCOUVER 081606U

TO THE SECTY NDHQ OTTAWA

GR 106 BT

PCA 1996F UNCLASSIFIED REF HQC 95-D-1190 ADM 3(a)3 REFERS L601623 PTE DONCHUK P STOP HQC 55-A-237 REFERS M104142 GNR ADAMS S C J STOP HQC 55-D-1249 REFERS K603930 PTE DURRANT F G STOP HQC 55-B-2000 REFERS L601614 PTE BABIY M STOP ALL ACK

Put to file

BT 081606U

BE 081708U B

HQC 55-B-2000
Adm 3(a)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario, 4 Jan 46.

GOC-in-C,
Pacific Command,
VANCOUVER, B.C.

L.601614 Pte BABIY M
CM Board of Review
85 MDB

Ref telegram AG 0267 d/18 Oct 45 Review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation:

"Release 23 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. Enclosed herewith XXXXXXX/ATM 288 for this soldier.

7. Acknowledgment by telegram requested.

(A. E. Walford)
Major-General
Adjutant-General

Enc: 1

GDB/MA

IN REPLY PLEASE QUOTE
22-B-2953
No.

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters Pacific Command
Vancouver BC 8 Dec 45 194

CENTRAL REGISTRY ARMY
CONF. SECT.

14708 C DEC 19 1945 2 nd
CMBR 29-11
Cm 8 Q

Secretary
NDHQ
Ottawa Ont

RE: L.601614 PTE BABIY, M.

Enclosed herewith MFM 288 and report on conduct in the m/n case as requested.

E.C. Pearkman
maj.

Encl.

Major General
GOC-in-C Pacific Command

N.D. 23
3006M—10-44 (5769)
H.Q. 1772-101-23

DEPARTMENT OF NATIONAL DEFENCE

D.H.Q. File No.R.1-B-733(AJAG)

TO: Commandant, No. 79 Military Detention Barracks, Regina, Sask.

1. Soldier under sentence: L.691614 - Pte. Mike BABIY.

2. PLEASE STATE:-

(1) Date of sentance: 24th.Sept.1945
(11) Sentence: 18 Months.
(111) Date you received soldier: 25th Sept.1945

(1V)(a)Can soldier read and write: yes
(b)Religion: R.C.
(c)Married, Widower, Single: Married
(d)What Army trade has soldier: None

(V)(a)Conduct of soldier: Good
(b)Industry of soldier Good
(c) Remission earned:-

(1) Number of days actually earned: 19 days.
(11)Number of days obtainable to date 19 days.

(VI) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill should state:-

(a)Whether detention will seriously aggravate soldier's condition. No.

(b)Whether further confinement is likely to prove fatal. No.

(VII)(a)Whether in your opinion conduct of soldier warrants suspension of sentence: Conduct very satisfactory to date.

(b) Moral effect confinement has had: Good

(c) If returned to Army is soldier likely to become a good soldier: Questionable.

78

(VIII) Date term will expire if all remission earned from now on. 23rd Sept.1946

Signature Geo Roy S.M.(W.O.I.)
~~Geo.Roy.Commandant.~~
No.79 Mil.Det.Bks.Regina,Sask.

Date of Report 1st.Nov.1945.

508. BOARDS OF OFFICERS:

(a) A Board of Officers, composed as under, will assemble at Regina, Sask., on 23rd May, 1943, for the purpose of qualification for the rank of Lieutenant Infantry (Rifle)(Reserve Force):

PRESIDENT: Lieut.-Col. C.R.J. LANCASTER,
No. 120 C.A. (B) T.C.

MEMBERS: Major Geo. WHELEN,
G.S.O. III (Adm), M.D. No. 12.

Captain D.G. MORTON,
G.S.O. III (W.T.), M.D. No. 12.

(R. 2-1-16-2)

(b) A Board of Officers, composed as under, will assemble at Indian Head, Sask., on 1st June, 1943, for the purpose of qualifying Officers of 76th (R) Field Battery, R.C.A.:

PRESIDENT: Lieut.-Col. R.A. COOKE,
No. 12 District Depot.

MEMBERS: Major Geo. WHELEN,
G.S.O. III (Adm), M.D. No. 12.

Captain W.J. BROWN,
40th (R) Fd. Regt., R.C.A.

(R. 2-1-16-5)

Geo. Whelen
Major,
G.S.O., M.D. No. 12.

MAC 55-B-2000 (CMRB-4)/BL
1 Dec 45

Case No [illegible]

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: L-601614 Pte. BABIY, M.

2. Unit at date of offence: Winnipeg Light Infantry, CA

3. Charge: AA 12(1)(a) DESERTION
(Absent from 24 Dec 44 until apprehended in plain clothes on 10 Sep 45 -- 8½ mos)

Plea: not guilty

4. Place and Date of Trial: The Armoury, Regina, Sask.
(~~FGCM~~ ~~DCM~~) (SCM) 24 Sep 45

5. Finding: guilty

6. (a) Sentence: 18 mos detention

(b) Date of Sentence: 24 Sep 45

7. Date of Confirmation: N/A

8. Date of Promulgation: N/A

9. Being served at: 85 MDB, Vernon, B.C. in MD Pac. Cmd.

(N.B. - Discharged under RO 1089( ) for
ref)

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	NIL		) In approx 3½ yrs) of service prior) to commission of) present offence
(ii) Courts-Martial:	NIL		
(iii) Summary Convictions:	5 minor AWL's		

(b) After Conviction: Good - expected d/ of release: 25 Sep 46

(c) Date of enrolment/~~enlistment~~: 30 Jul 41 Present Age: 25

12. Remarks: (Here note any Petition or Representation other than in Item 10, but if Item 10 has been omitted so state, and show here any mitigating circumstances)

1) Statement of Accused: "I have nothing to say".
2) Letter from wife requests 1) remission of sentence or that her allowance be restored as she and her 2 children are in need.
3) In reply to the wife the Military Secretary wrote as follows:
"With regard to your financial difficulties, I understand that the Dependant's Board of Trustees have been in touch with you and are prepared, should the Dependants' Advisory Committee in Saskatoon recommend such action, to consider giving you assistance for as long as Private Babiy is in detention and on the strength of the Canadian Army."
4) The accused was granted embarkation + special leave expiring on 24 DEC 44

13. Recommendations: (State by whom made, e.g. CMHQ, DOD, Reviewing Officer, etc.)

1) DOD: Reviewed case on 3 Nov 45; case to be reviewed again on 1 May 46
2) Rev.Offr: 1) This soldier is one of the 16,000 NRMA.
2) Recommend release after he has served 9 mos, viz. 24 Jun 46.

Reviewed by A.B. Gold
(A.B. Gold) Lt.

14. Recommendation of the Board: release on 23 ~~[illegible]~~ 46

Date DEC 19 1945

W. A. Stilwell (Maj)
Secretary
Courts-Martial Board of Review

9876
NOV 17 1945
File C.55-B-2800
Chgd. to
Referred to CMBR

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

22-B-2953

Headquarters, Pacific Command.
Vancouver, B.C.
13 Nov 1945

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks

L-601614 Pte. BABIY, M.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

NOTHERE
38

Headquarters,
Pacific Command.
(Attention C.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.BKS.

The transfer of the u/m S.U.S. has been completed with effect date stated hereunder;

No.	Rank	Name	Unit
L-601614	Pte.	BABIY, M.	No. 12 D.B.

Transferred from No. 79 M.D.Bks. at REGINA, Sask.

to No. 85 M.D.Bks. at VERNON, B.C.

with effect 9 Nov 45

H B Forster

(H.B. Forster), Commandant (Lieut)
No. 85 M.D.Bks.
VERNON, B.C.

submitted in duplicate.

G/ESE 35 Sqn 6

37

IN REPLY PLEASE QUOTE No. R.1-B-733(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 8 Nov 45.

Army
8699
NOV 12 1945
File 85-B-2000
Chgd. to
Referred to Admin
SE 89 871-45

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

L.601614 - Pte. BABIY, Mike

Reference HQC 55-B-2000 Adm 3(b)2 dated 2 November, 1945 and further to this Headquarters' radio R.1566 unclassified dated 5 November, 1945.

2. Advice has now been received from the R.C.M.P. to the effect that Wasyl Babychuk, father of the marginally named S.U.S., was charged on October 30th, 1945 with an offence under 31A Defence of Canada Regulations. He pleaded guilty to the charge.

3. For your further information this S.U.S. was today transferred to No. 85 M.D.B..

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

36

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1772-34-767

November 22, 1945.

AIR MAIL

Mrs. Elsie Babiy,
KRYDER, Saskatchewan.

Dear Mrs. Babiy,

Re: L-601614, Private Mike Babiy.

As promised in my letter of October 27th, I am now able to inform you of the results of the first review of your husband's sentence.

I regret that I must inform you that when his case was considered, the responsible officers, after reviewing it carefully and sympathetically, recommended that for the present no remission be granted. However, it is possible for a soldier under sentence to earn remission of up to one-third of his sentence for good conduct, and in addition there are arrangements for regular reviews of all sentences awarded by Court-Martial. You may be sure that when your husband's case is again considered it will be dealt with sympathetically with due regard to his interests.

With regard to your financial difficulties, I understand that the Dependents' Board of Trustees have been in touch with you and are prepared, should the Dependents' Advisory Committee in Saskatoon recommend such action, to consider giving you assistance for as long as Private Babiy is in detention and on the strength of the Canadian Army.

Yours very truly,

(H. L. Cameron), Colonel,
Military Secretary.

35

WHS/
m

MEMORANDUM

TO:

M.S.

Department of National Defence
(Army)

HQC 55-B-2000 Adm 3(b)2

OTTAWA, Ontario 7 Nov 45

S.E. 7473B/6684B d/30 Oct 45
Min File: 1039-72

L.601614 Pte BABIY, M

This soldier was tried by SCM 24 Sep 45 on a charge of desertion, having absented himself without leave from 24 Dec 44 until apprehended 10 Sep 45, dressed in civilian clothes.

2. He was found guilty and was sentenced to undergo detention for a period of 18 months.

3. The sentence awarded was reviewed 3 Nov 45 and it was directed that there be no remission but that the sentence be further reviewed 1 May 46.

(M Noel)
Brigadier
Acting Adjutant-General

FINAL

WOP:da

MILITARY SECRETARY NOV 10 1039-72 Gen.
MINISTERS OFFICE NOV 10 DEPT. N.D. OTTAWA

Dalton

RECEIVED
NOV 5 1945
A.D.M.I.(A)
3b 2

C.S.S.B. NATIONAL DEFENCE BLDG.
NOV 5 1945
OTTAWA
ARMY SIGNAL OFFICE

C 55 B 2000

VER V CIR NR 9 *****IMPORTANT******

FROM CMDG TWELVE REGINA SASK 051115T

TO SECRETARY DND OTTAWA ONT

GR 78 IMPT BT

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.S.O.

BRANCH	TIME	SIGNATURE

R 1566 UNCLASSIFIED

RELET HQC 55-B-2000 ADM 3(B)2 DATED 2 NOVEMBER 1945

REFERS L 601614 PTE BABIY M STOP SENTENCE REVEIWED 3 NOVEMBER AND DIARIZED FOR FURTHER REVIEW 1 MAY 1946 STOP PROPOSED TRANSFER THIS SUS TO 85 MDB DUE SHORTAGE ACCOMMODATION HERE UNLESS ADVISABLE THAT HE BE RETAINED HERE STOP ADVISE

55B 30R pw

BT GL 051121T HR

52850

33

HQC 55-B-2000
Adm 3(b)2

CONFIDENTIAL

OTTAWA, 2 Nov 45

District Officer Commanding,
Military District No 12,
REGINA, SASK.

L-601614 Pte BABIY, Mike

Ref R.1-B-733:-

2. May this HQ be infm, pls, the result of the first review of sentence herein, as soon as practicable following such review.

3. Special Enquiry - urgent.

(M Noel)
Brigadier,
Acting Adjutant-General.

NOP:OAJ

32

SPECIAL ENQUIRY

To: D: Admin

Date OCT 30 1945

No. ~~665~~ 7473B/6684

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

October 27th, 1945.

Mrs. Elsie Babiy,
Kryder, Sask.

Dear Mrs. Babiy:

Re: L.601614, Pte. Mike Babiy

As stated in my letter of 13 October, enquiries were made into the sentence awarded your husband, the above soldier, and a report has now been received.

I am advised that he was tried on 24 September on a charge of desertion, and on being found guilty was sentenced to 18 months detention. It is reported that a first review of sentence takes place 45 days following the award, which would be in approximately two weeks. I therefore expect that I will be able to advise you of the results of this first review about mid November.

Yours sincerely,

RECEIVED
OCT 31 1945
ADMIN.
352

(H.L. Cameron) Colonel,
Military Secretary.

A.G. (Co-ord 3) Min. File 1039-72

30

May advice be received, please, for the Minister's information, of the results of the first review.

Colonel,
M.S.

M.S.

MINISTERS OFFICE
OCT 25 1945
DEPT. N.D. OTTAWA.

C 55-B-2000 Adm 3(b)2

23 Oct 45

S.E. 6684B d/16 Oct 45
Min File: 1039-72

L.601614 Pte BABIY, M

This SUS was tried by SCM 24 Sep 45 on a charge of desertion, having absented himself without leave from 24 Dec 44 until apprehended by the civil authorities 10 Sep 45, dressed in civilian clothes.

2. He was found guilty of the offence and was sentenced to undergo detention for 18 months.

3. The first review of sentence will take place 45 days following the award.

(A E Walford)
Major-General
Adjutant-General

FINAL

WOP:da

MILITARY SECRETARY
1039-72
RECEIVED

29

.9-B-1784.

SPECIAL ENQUIRY

869B17B

To: D Admin

Date OCT 16 1945

No. 6684 B

Reply addressed to M.S. will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY H.Q. at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

AIR MAIL

13 October, 1945.

Mrs. Elsie Babiy,
Kryder,
Saskatchewan,

Dear Mrs. Babiy,

Re: L.601614. Pte. Mike Babiy

Your letter of October 6th, addressed to the Minister of Justice, has been referred to this office for attention.

The Minister does not feel that he would be justified in ordering the release of a soldier from detention except on the advice of the officers having jurisdiction over such matters. He has, however, instructed that your letter be brought to the attention of the appropriate officers of the Department, and as soon as I have a report on any review that may have been made of your husband's case I shall write to you again.

Yours very truly,

(H.L. Cameron) Colonel,
Military Secretary.

RECEIVED
OCT 17 1945
A.D.M.(Do-ord 3)
382

Min. File 1039-72

May the Minister be informed of the offence, sentance, and any review which may have taken place, please.

W. H. Griffiths
Colonel,
M.S.

MEMORANDUM

Minister of Justice

Ottawa, October 10, 1945.

Referred to: Miss Doris Bentley,
Private Secretary to the
Minister of National Defence,
OTTAWA, Ont.

MINISTERS OFFICE
OCT 11 1945
DEPT. N. D. OTTAWA.

(UNACKNOWLEDGED)

Private Secretary.

1039-72

Kryder, Saskatchewan.
6th October, 1945.

MILITARY SECRETARY
OCT 11 1945
RECEIVED

The Minister of Justice,
Parliament Buildings,
Ottawa.

Dear Sir,

Re L. 601614, Pte. Mike Babiy

The above, my husband was conscripted into the the army, and was with the armed forces for about three and a half years. He then deserted and was in hiding approximately 8 months before he was apprehanded, and has now been given 18 months in the Military Detention Barracks at Regina.

I was wholely depedant on the allowance I received from the army. This has now been cut off and I find myself in dire circumstances. We have two children, one 2 years old and another one year old. Unless my husband is released or the army allowance is restored to me, I fail to see how I can keep myself and the children from suffering and starvation

Will you please be good enough to look into this matter, and have either my husband released or the allowance for myself and the children restored.

I might also state that I can furnish sworn affidavits or declarations corroborating the facts outlined above.

Please let me hear from you at an early date.

Yours truly,

Mrs Elsie Babiy

(Mrs. Elsie Babiy)

25

H.Q.C.55-B-2000 (JAG/D)

16 Oct 45

The District Officer Commanding,
Military District No. 12, Regina, Sask.

STANDING Court-Martial
L. 691614 Pte. Mike BABIY,
No. 12 District Depot, C.A.

Receipt is acknowledged of your R.1-B-733 dated 11 Oct 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier
Judge Advocate-General.

MM

23

IN REPLY PLEASE QUOTE No. R.1-B-733(AJAG).

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 11 Oct 45.

2909
OCT 15 1945
File CJS-B-2000
Chgd. to
Referred to

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
L.601614 - Pte. Mike BABIY
No. 12 District Depot, C.A.

Reference HQC 55-B-2000 (JAG/D-8) dated 2 October, 1945 forwarding proceedings of the marginally noted Standing Court-Martial pursuant to C.A.R.O. 4565(12).

2. As the proceedings have now served their purpose they are returned herewith for custody.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

22

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask.,

on the 24th day of September, 1945, at 1000 hours,

for the trial of: L.601614 Pte. Mike BABIY,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major S.L. Waterman, E.D., President Courts-Martial, M.D. 12.

PROSECUTOR: Capt. P.W. McMeans, Prosecutor Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Capt. H. Goodfellow, No. 12 District Depot, C.A.
(See documents marked "C" and "H" attached.)
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, L.601614 Pte. Mike BABIY, No. 12 District Depot, C.A., is guilty of the charge.

SENTENCE: The Court sentence the accused, L.601614 Pte. Mike BABIY, No. 12 District Depot, C.A., to undergo detention for eighteen months and to be put under stoppages of pay until he has made good the sum of $21.95 in respect of the cost of apprehension and return to his Unit.

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Signed at Regina, Sask., this 24th day of September, 1945.

S.L. Waterman Major,
President,
Standing Court-Martial

Extracts entered as No. 39974 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 28 day of Sep 19 46

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-30-2208

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, D.W.Q. Sub-Staff, N.D. 12, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any)~~ ~~are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~ ?

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2" Swaterman
Major
President Scan

CHARGE SHEET

The accused, L.601614 Pte. Mike BABIY, No. 12 District Depot, CA, Regina, Saskatchewan an NRMA soldier of the Canadian Army placed on Active Service is charged with:

CHARGE
SECTION 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Winnipeg, Manitoba, at 2000 hours on the 24th December 1944 absented himself from the Winnipeg Light Infantry, CA until apprehended at Krydor District Saskatchewan at 1700 hours on the 10th September 1945 By the Civil Power, dressed in plain clothes, the cost of his apprehension and return to his Unit, being $21.95.

21 September, 1945
Regina, Saskatchewan.

(H.E. Murray) Lt.Col.
Officer Commanding,
No. 12 District Depot, CA

19

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

THE PROSECUTOR ADDRESSING THE COURT: Sir, I produce M.F.B. 375, M.F.M. 215, M.F.B. 1481 in the total sum of $6.48, M.F.B. 1481 in the total sum of $5.20, M.F.B. 1482 in the total sum of $8.49 and M.F.B.1482 in the total sum of $1.78.

The Defending Officer has no objection to any of the documents.

The documents are read and marked Exhibits "I" to "N" respectively, signed by the President and attached to the proceedings.

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The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. An unsworn statement. (See document marked "O" attached.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer declines to make a closing address.

The Prosecutor declines to make a closing address.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

17

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, through my Defending Officer.

THE DEFENDING OFFICER ADDRESSING THE COURT: The accused, sir, is a married man with children. His wife is alone on the farm and this fact has been a great worry to him during his whole life in the Army, which I think probably accounts for these minor cases of absence without leave, where he has gone home to check for himself to see how she is getting along. Any sentence passed on the accused at the present time will bring hardship onto his wife and his children.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

G. Swarman
Major
President. SCM

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DDR 6-0-1 (Legal)

Regina, Sask., 24 Sep 1945

Major S.L. Waterman, E.D.,
President, Courts - Martial,
Headquarters, M.D. No.12,
REGINA, Sask.

L.601614 Pte. BABIY M.
No.12 District Depot, C.A.
Standing Court - Martial

Capt. H. GOODFELLOW ..... No.12 District Depot, C.A., has been detailed to act as defending officer at the trial of the marginally named soldier.

for (H.E. Murray) Lt.Col.
Officer Commanding,
No.12 District Depot, C.A.

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"H"

Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q. There is a letter here (document marked "G") from the Officer Commanding, 12th District Depot, stating that Capt. Goodfellow--the officer on my left (indicating the Defending Officer)--has been detailed to act as your Defending Officer at this trial. Is that satisfactory to you?

A. Yes, sir.

Exhibit "1" Swearing map President Sim

17

Fort Osborne Barracks,

RECORD of the Declaration of a Court of Inquiry assembled at Winnipeg, Manitoba,

on the 9th day of February 1945, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-601 614 Private Mike BABIY,
No.10 District Depot, C.A.

DECLARATION

The Court declare that No. L-601 614 (Regt'l No.) Private (Rank) Mike BABIY, (Full Name)

No.10 District Depot, C.A. (Unit)

illegally absented himself without leave from Wimnipeg Light Infantry, C.A.

at Winnipeg, Manitoba (Place) at 2000 hours on the 24th day of December, 1944,

that he is still so absent, and that on the 24th day of December, 1944 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Anklets, web, prs	2	1.48	Attachments, brace	0	
Blouses, Battle Dress	2	13.00	Bags, ration	1	.04
Boots, ankle, prs	2	11.64	Belts, waist W.E. Pat '37	1	.67
Boots, leather high prs	0		Bottles, water	1	.62
Caps, field service	1	.70	Braces, W.E. right & left	2	.68
Caps, mechanic	0		Carriers, cartridge	0	
Drawers, cotton short prs	2	.84	Carriers, waterbottle	1	.37
Drawers, woollen, prs	2	2.80	Covers, messtin	1	.06
Gloves, woollen, prs	1	.66	Frogs, web, bayonet	1	.18
Greatcoats, drab	1	15.54	Haversack	1	2.29
Jersey, pullover	1	1.65	Helmet, steel	1	2.39
Overalls, combination	1	2.52	Net camouflage helmet	1	.26
Overalls, blouses denim	0		Packs	1	2.24
Overalls, trousers denim	0		Pouches, basic	2	2.06
Shirts, flannel khaki	2	3.26	Slings, rifle	1	.24
Shoes, canvas, prs	1	2.29	Straps, shoulder haversack	2	.62
Socks, prs	4	1.84	Straps, web supporting	2	.28
Trousers, Battle Dress	2	13.10	Tins, mess	1	.57
Shirts, woollen	2	2.40	Capes, anti-gas	1	4.70
Badges, cap	1	.09	Respirators A.G. c/w Hvsk	1	5.97
Bags, kit	1	1.27	Outfits, anti-dimming	1	.03
Braces, prs	1	.28	Ointment, A.G.	0	
Brasses, cleaning	1	.04	Eyeshields A.G. pkg of 6	1	.68
Brushes, button	1	.11	Detectors, individual prs	0	
Brushes, clothes	1	.17	Wallet, anti-gas	0	
Brushes, hair	1	.39	Mug, drinking	0	
Brushes, shaving	1	.42	Sheets, ground	1	2.38
Brushes, shoe polishing	1	.21	Covers, breech	0	
Brushes, tooth	1	.09	Belts, waist L.B./[illegible]	1	.35
Cap, comforter	1	.41	Buttons, G.S.	0	
Combs, hair	1	.04	Buckles, brass	0	
Dressing, field Mk.II	1	.21	Caps, winter melton	0	
Fork, table	1	.08	Coats, waterproof army	0	
Holdall	1	.22	Jackets, khaki drill	0	
Housewife, complete	1	.35	Jackets, serge drab O.C.	0	
Knife, clasp	0		Mitts, pullover leather prs	1	.93
Knife, table	1	.18	Muffler, khaki	0	
Razor, safety	1	.42	Neckties, black	1	.1[illegible]
Spoons	1	.08	Pins, collar safety	1	.0[illegible]
Towels, hand	2	.62	Puttees, prs	0	
Blacking, tins	1	.05	Rubbers, prs	0	
Bootd ressing, tins	1	.05	Overshoes, prs	0	
Bootlaces, prs	2	.06	Shirts, khaki cotton	2	3.[illegible]
Cleanser, khaki, tins	0		Shirts, under cotton	2	.[illegible]
Cleanser, W.E., tins	0		Shoes, leather black, prs	1	4.[illegible]
Implements, Entrenching	0		Socks, black, prs	2	.[illegible]
Slips, Pillow	0		Trousers, khaki drill prs	0	
Blankets, G.S.	0		Trousers, K.D. Short	1	1.[illegible]
Bonnets, tam-O'shanter	1	.83	Trousers, serge drab N.P.	0	
			At 75% Vocabulary Rate		$ [illegible]

Exhibit "1" Swarmman President Sim

RECORD of the Declaration of a Court of Inquiry assembled at Fort Osborne Barracks, Winnipeg, Manitoba, on the 9th day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-601 614 Private Mike BABIY, No.10 District Depot, C.A.

DECLARATION

The Court declare that No. L-601 614 (Regt'l No.) Private (Rank) Mike BABIY, (Full Name) No.10 District Depot, C.A. (Unit) illegally absented himself without leave from Winnipeg Light Infantry, C.A. at Winnipeg, Manitoba (Place) at 2000 hours on the 24th day of December, 1944, that he is still so absent, and that on the 24th day of December, 1944 he was deficient, and that he is still deficient of the following articles:—

A.R.Dahlstrom, Captain, No.10 District Depot, C.A. President
(Name) (Rank) (Unit)

Signed at Winnipeg, Manitoba, (Name) (Rank) (Unit) Member

this 9th day of February 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer C.M.Ackland (C.M.Ackland) Lieut.Colonel, No.10 District Depot, C.A.
(Rank) (Unit)

Certified true copy (W.Throne) Captain & Adjutant, No.10 District Depot, C.A.
(Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-357

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Exhibit "J" Affidavit of Major Bresident. SCM

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by [redacted] G.M.

Strike out words not applicable

A/Corporal.G. Mohr. RCMPolice
(Name of Peace Officer [redacted] G.M.)

at Krydor district, Sask. (Place) at 5 PM (Hour)

Strike out words not applicable

on the 10th day of September 19 45.

and at the time of arrest G.M. [redacted] he was w[redacted] (dressed in civilian clothes). G.M.

Regimental particulars of officer or soldier referred to above.

No. L601614.
Rank Pte.
Name RABIY Mike.
Unit W.L.I. #12 D.D. Regina.

Description

Age 25 yrs 9 months.
Height 5'7"
Complexion Fair.
Hair Lt. brown.
Eyes Blue.
Marks Scar on right eye-brow.

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

G. Mohr A/Corpl.
G. Mohr. RCMPolice.
(Peace Officer) G.M. [redacted]

Strike out words not applicable

M.F.M. 215
75M—12-43 (3178)
H.Q. 1772-39-1935

Exhibit "K" Summary map Fiscal SCM

2

M.F.B. 1481
135m—10-43 (2206)
H[illegible]772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. R. Handy, Officer i/c Saskatoon Detachment, No. 43 Provost Company, C.P.C.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (~~issued~~) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Saskatoon, Sask. (Place) to Radisson, Sask. (Place)

and return to Saskatoon, Sask. (Place) for the purpose of escorting

Full description of soldier being escorted — L-60614 (Number) Pte. (Rank) BADIY, Mike (Name in full)

W.I.I. No. 12 District Depot (Unit), Regina, Sask. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport ~~warrants~~ issued) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
10 Sept 45:	D.N.D. Vehicle No. 56-598 mileage, Saskatoon, Saskatchewan, to Radisson, Saskatchewan, and return to Saskatoon, Saskatchewan, 108 miles at .06¢ per mile $6.48	$6.48
	TOTAL	$ 6.48

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Dated at Saskatoon, Sask. this 11 th day of September A.D. 1945

R Handy
(R. Handy) Lieut,
Officer i/c Saskatoon Detachment
No. 43 Provost Company, C.ProC.

Signature, rank, unit, attachment (~~or~~) and appointment of officer (issuing ~~transport warrants~~) (authorizing transportation)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

Exhibit "L" Summary
President LCM

M.F.B. 1481
125M—10-43 (2206)
H[illegible]72-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieutenant (Rank) D.J. Sheridan (Name), T. & F.O., D.H.Q. Staff (Unit), M.D. No. 12 (RCASC)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from Saskatoon, Sask. (Place) to Regina, Sask. (Place) and return to Saskatoon, Sask. (Place) for the purpose of escorting

Full description of soldier being escorted — L.601614 (Number) Private (Rank) M. Babiy (Name in full) No. 12 District Depot, C.A. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) ~~(the transportation required)~~ and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
12 Sep 45	M.D. No. 12 Transport Warrant No. D 171742 covering: Three single second class fares from Saskatoon, Sask. to Regina, Sask. - for absentees. (One-third cost of this transportation chargeable to L.601614 Pte. M. Babiy)	$3.12
12 Sep 45	M.D. No. 12 Transport Warrant No. D 171743 covering: One second class fare from Saskatoon, Sask., to Regina, Sask. and return - for escort. (Three absentees escorted, therefore one-third cost of this transportation chargeable to L.601614 Pte. M. Babiy)	$2.08
	TOTAL	$ 5.20

Dated at Regina, Sask. this 12th day of September A.D. 19 45.

D.J. Sheridan Lieutenant
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorizing transportation)~~
(Strike out description not applicable)
T. & F.O., D.H.Q. Staff, M.D. No. 12 (RCASC)

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

Exhibit "M" Sworn summary re Presedent. SCM

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ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941.

(INCIDENTAL EXPENSES)

Complete description

I, L-110136 (No.) W O H (Rank) HILL, Walter Owen (Name), 43 Provost Company, C.P.R.C. (Unit).

Strike out words not applicable

as (escort) (commander of escort) consisting of L-110136 L/Cpl. HILL, Walter Owen

Members of escort

Saskatoon Detachment, No. 43 Provost Company, C.Pro.C.

detailed to proceed from Saskatoon, Sask. (Place) to Radisson, Sask. (Place)

Name and description of soldier escorted

to return L-601614 Pte. BARRY, Mike WLI #12 District Depot, Regina

alleged to be a deserter or absentee without leave, to Saskatoon, Saskatchewan. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
EXPENSES INCURRED BY THE R.C.M.P.	
10 Sept 45:	
Mileage police car Hafford-Krydor district and return	
56 miles @ .07½¢ per mile	$4.20
Mileage police car Hafford-Radisson and return. 44	
miles @ .07½¢ per mile	$3.30
1 Dinner Pris. @ .40¢	$0.40
Telegram to O/C R.C.M.Police Saskatoon.....	$0.59
	$8.49
EXPENSES INCURRED BY NO. 43 PROVOST COMPANY, C.PRO.C.	
NIL	
Total.....	$ 8.49

10

Dated at Saskatoon, Sask. this 11th day of September A.D. 19 45.

W O H Hill

L-110136 L/Cpl. HILL, Walter Owen.
Saskatoon Detachment
No. 43 Provost Company

(Signature and rank of commander of escort) (escort) W O H
Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1462
TAM—4-44 (1468)
H.Q. 1772-20-1550

Exhibit "N" to warrant President S.C.M.

27

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941.

(INCIDENTAL EXPENSES)

Complete description

Strike out words not applicable

Members of escort

Name and description of soldier escorted

I, L-110136 L/Cpl. Walter Owen HILL, Saskatoon Detachment, No.43 Provost Company, C.Pro.C.
(No.) (Rank) (Name)
as (escort) ~~xxxxxxxxxxxxxx~~ consisting of L-110136 L/Cpl. Walter Owen HILL, Saskatoon Detachment, No. 43 Provost Company, C.Pro.C.
detailed to proceed from Saskatoon, Sask. to Regina, Sask.
(Place) (Place)
to return L-601614 Pte. BABIY, M., Winnipeg Light Infantry.
alleged to be a deserter or absentee without leave, to Regina, Sask.,
(Place)
hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement		Amount
EXPENSES INCURRED BY NO.43 PROVOST COY.C.PRO.C.		
11 September, 1945.		
4 Dinners (Escort & 3 Absentees).	4.29	
12 September, 1945.		
1 Lunch (Escort).	1.07	
	5.36	
TO BE DIVIDED BETWEEN THREE (3) ABSENTEES.		1.78
	Total	$ 1.78

Dated at Saskatoon, Sask. this 12 th. day of September, A.D. 1945.

W O Hill

L-110136 L/Cpl. Hill, W.O. Signature and rank
Saskatoon Detachment, (escort) ~~xxxxxxxxxxx~~
No. 43 Provost Coy.C.Pro.C. Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1852
7534—4-44 (4468)
H.Q. 1775-39-1556

"O"

Swarman
Major,
President, Standing Court-Martial.

STATEMENT BY THE ACCUSED

I have nothing to say, sir.

8

"Y" Swarruma map President Case

M.F.B. 355
50M—9-43 (3952)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regt or~~ unit)
L.601614	Pte.	Mike BARIY	No. 12 District Depot, CA

1. The following is a fair and true summary of the entries in the Field ~~Service Regimental and Squadron, Battery or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	AWL	5 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ times

There are no entries in the conduct sheets ~~of the~~ accused.

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges for 0 days in civil custody and 15 days in ~~Air Force~~ military custody, making a total of 15 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of birth~~ enrolment form is ~~attested paper is~~ 25 years 8 Mos.

6. The date of his ~~enrolment~~ enrolment specified in his ~~second attestation~~ enrolment form ~~attestation paper~~ is 30 Jul 41

~~7. The service which the accused is already to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or in possession of or entitled to). State any air force decoration or reward.~~ military

10. (If the accused is a warrant officer.) ~~The accused before he was made a warrant officer last held the regimental rank of .....~~ Air Force

32

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Air Force Unit

Name.....of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24 day of September, 1945 J.M. Policha, Capt. Legal Officer No. 12 District Depot, Officer having charge of original records, No.12 Dist.Depot,

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

No. L. 60161 Name BABIY Mike Sqn., Battery, or Company } Corps C.I.C. Date of enlistment } 30 Jul 43 C. Badges } Tradesmen's Rates of Pay } P.P. 20¢ M.F.M. 6 (A.F.B.122) 750M—12-42 (7337) H.Q. 1773-39-1062

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. Signature O.C. Company, etc. } J.S. JAMES Character LT.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Calgary, Alta.	5-1-42	Pte.		AWL from 0600 hours 5-1-42 to 0600 hours 13-1-42. AA 15 (1)(a)	Doc Evid	Admonished	13-1-42		
Sidney, BC		Pte.		AWL 5 dyas 14 hrs 59 mins. AA 15(1) Doc. Evid					Forf. 8 dys pay under Art 149(1)(a) FR&I
Sidney, BC		Pte.		A A 15(1)(a) AWL 1 day 20 hrs 10 mins	Doc.	Stoppages of pay $8.13 (172)(8)			Forf. 8 dys pa FR&I 149(1)(a)
Terrace, BC	22 Jul 43	Pte.		AA 15(1) AWL from 2200 hrs 22 Jul 43 to 0345 hrs 28 Jul 43	Doc.	7 days C.B.	31 Jul 43		Forf 15 dys pay149 (2)
Prince George	24-3-44	Pte.		AWL from 0600 hrs 24-3-44 to 0430 hrs. 29-3-44 AA Sec 15(1)	Doc.	14 dyas GB	30-3-44	J.W. FREE MAJOR	Forf 6 dys pay FR&I L9((1) (a For 5 dys pay FR&I 149 (1)(a)

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY J.M. Policha (J.M. Policha) Capt. Legal Officer, No. 12 District Depot, CA Officer having charge of the original records, No. 12 District Depot, CA					

"Y" Squadron
Major
President Sen.

MEDICAL OFFICER'S REPORT

I certify that No. L.601614 Pte. BABIY M.

of _____ is in a good state of health,

and fit to undergo Trial by Court martial.

W. E. Gordner Capt
R.C.A.M.C. Medical Officer
Attto No. 12 District Depot, CA

Station Regina, Sask.

Date 24 September, 1945

M. F. B. 246

50M—9-44 (3437)
H.Q. 1772-39-480

5

PRECIS OF EVIDENCE

in the case of

L.601614 Pte. Mike BABIY, No. 12 District Depot, Regina, Saskatchewan.

CHARGE: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

To prove the charge, the following evidence is available:

DOCUMENTARY:

M.F.B.	375
M.F.M.	215
M.F.B.	1481(2)
M.F.B.	1482(2)

4

(J.M. Folicha) Capt.
Officer detailed to take the Precis of Evidence,
No. 12 District Depot, CA

21st September, 1945
Regina, Saskatchewan.

HQC 55-B-2000 (JAG/D-8)
Your File R.C. 1-B-733 (AJAG)

2 Oct 45.

District Officer Commanding,
Military District No. 12,
Regina, Sask.

STANDING COURT-MARTIAL

L.601614 Pte. Mike BABIY
No. 12 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

MO/ET

THIS COPY FOR: H.Q.C. 55-B-2000
M.D.R.C. 1-B-733 (AA

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. NRMA L.601614 Name BABIY, Mike

Rank Pte Unit No. 12 DD CA

Charge AA 12 (1)(a) WOAS Deserting.....

Date of Crime 24-12-44

Date of Arrest 10-9-45 Charge Signed 21-9-45

Orders for D.C.M.

Place and Date of Trial The Armoury 24-9-45

Sentence Det 18 mos Stoppages $21.95

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39974

Date 28-9-45

MEMO

MD 12	No. 12 DD CA
Absent	Sentence
Approx 9 mos	Det 18 mos

V

W. Olson, Capt.
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No. R.C.1-B-733 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 25 Sep 1945.

VIA AIRMAIL

CONFIDENTIAL

6.55-B-2050

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

L.601614 - Pte. Mike BABIY
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4566, I enclose herewith proceedings of the Standing Court-Martial held in connection with the marginally named soldier.

S.L. Waterman
(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl.

N.D. 23
3 Mil.—11-43 (2979)
H.Q. 1772-101-23

39974

H.Q.C. 55-B-2001 CONFIDENTIAL

M.F.M. 2078
HQ. 301-1-45

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BASTIEN, CLYDE MAXWELL A.21392 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2001

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 2 - 1945					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG	NEW FILE	CR	28-9-45
OCT 3 - 1945		PA3			OCT 6 - 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-2001 (JAG/D-5)

20th October, 1945.

District Officer Commanding,
Military District No. 3
Kingston, Ontario.
Standing

A.21392 Pte. Clyde Maxwell Bastien
1st Bn Royal Canadian Regt, C.A.
Court-Martial

K.55-5-1017 (JAG)

4 October 5

Receipt is acknowledged of your dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

LCC:jb

(F.J. Orde), Brigadier,

Judge Advocate-General.

HG

IN REPLY PLEASE QUOTE No. K.55-B-9517(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 4 Oct 45.

CENTRAL REGISTRY Army
CONF. SEC.
1384
OCT 6 1945
File C 55-B-2001
Chgd. to
Referred to

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
A.21392 Pte. Clyde Maxwell BASTIEN,
1st Bn. Royal Canadian Regiment, C.A.

Reference H.Q.C.55-B-2001 (JAG/D-8) dated 2 Oct 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

F.C. Finch Capt
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

NAT. DEF. B. 440
3000M - 12 - 41 (3243)
H.Q. 1772 (8-787)

MEDICAL OFFICER'S REPORT

J. Dowsley. Major
President, Standing Court-Martial

I certify that No. A-21392 Pte. BASTIEN, C.
of 1 Bn The R.C.R. is in a fit state of health,
and fit to undergo Trial by Court martial.

H.K. Hall Capt
Medical Officer

(H.K. Hall(Capt. RCAMC (CA)
C.A. Attached M.O.& E.M.E.T.C.

Station Barriefield, Ont.

Date 25 Sept. 45

M. F. B. 246
25M—6-41 (702)
H.Q. 1772-39 480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Kingston, Ontario,

on the 25th day of September, 1945, at 1430 hours,

for the trial of: A.21392 Private Clyde Maxwell BASTIEN,
Number Rank Full Name

1st Battalion, The Royal Canadian Regiment, C.A.
Unit Attachment, if any

PRESIDENT: Major J.E. Dowsley, E.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Captain J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~
~~OR~~ DEFENDING OFFICER: Captain R.W. Greenwood, 1st Bn., The R.C.R., CA.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty of the charge.

SENTENCE: To undergo detention for twenty days.

Signed at KINGSTON, Ontario, this 25th day of September, 1945.

J.E. Dowsley, Major
President
Standing Court-Martial.

M.F.R. 1772-33-2298
25M-9-44 (4820)
H.Q.

Entered as No. 39975 in the Courts-Martial kept in the office of the Judge Advocate-General this 28 day of Sep 1945.

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to an interpreter ?~~

Answer:

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC,CA, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon ~~each charge in~~ the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

G. Rowsley. Major
President, Standing Court Martial

CHARGE SHEET

The accused No. A 21392 Pte Clyde Maxwell BASTIEN, 1st Bn, CA, The Royal Canadian Regiment, a G.S. Soldier of the Canadian Army placed on Active Service is charged with:

CHARGE: ABSENTING HIMSELF WITHOUT LEAVE

Sec 15 (1)
Army Act

In that he at BARRIEFIELD CAMP, Ontario, on the 29th day of August 1945, absented himself from 1st Bn, CA, The Royal Canadian Regiment at 0615 hours on the said 29th day of August 1945, and remained so absent until surrendering himself to military authorities at 2310 hours on the 19th day of September, 1945.

Barriefield, Ontario.
21 September 1945.

W.W. Reid
.....
(W.W. Reid) Lt.Colonel
Comd.,The Royal Canadian Regiment

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

The Prosecutor makes a statement regarding the circumstances connected with the offence. (not attached)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

Statement by the accused:-

When I returned home that week-end my sister went to the hospital to have a baby. She was underweight and we didn't think she would pull through. She was having a pretty hard time of it and I wanted to stay to see how she made out. In the meantime I lost the return stub of my ticket to Kingston and I had to borrow money to get back. My father promised it to me on the next pay day, but the Ford plant went on strike and I couldn't get it. My wife is not very well. She has had quite a pull the last few years as she has had four children. I finally borrowed five dollars to get back, but it took me three days to get here.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. My Defending Officer will say something for me, sir.

DEFENDING OFFICER: Pte Bastien served in the Lincoln and Welland Regiment more than three years overseas. He joined the Army in 1939 and was boarded out in 1940. In 1943 he again volunteered for the Army, enlisted in January and was sent overseas in June.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

'Y'

J. Bowsley, Major
President, Standing Court Martial

M.F.R. 165
TM-3-43 (165)
H.Q. 1772-39-420
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A 21392	PTE	BASTIEN, CM	The Royal Canadian Regiment Barriefield, Ontario.

1. The following is a fair and true summary of the entries in the field

Conduct sheets of the accused, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	one time	one times
For	times	times
For	times	times
For	times	times

or,

~~2. The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial ~~or a civil~~ court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and dispensations with trial under ~~A.A. 73~~ A.F.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ ..... ~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in military custody, making a total of 87 days in custody,

5. The present age of the accused according to his attestation paper 30

6. The date of his attestation specified in his attestation paper 5 Jun 43

7. The service which the accused is allowed to reckon towards discharge is

8. ~~T~~

9. The accused ~~[illegible]~~ or is in possession of or entitled to). State any military decoration or reward. France & Germany Star. CVSM & Clasp

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ..... ~~Air Force~~

14/

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Air Force Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~24~~ 25th day of September 1945.

Kolf W. Greenwood, Lt
Officer having custody of regt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

SUPPLIMENTARY SHEET

No. A21392 Name BASTIEN, Clyde Maxwell

Sqn., Battery, or Company

Corps CIC

Date of enlistment

G.C. Badges

Tradesmen's Rates of Pay

Character

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Place and date of last drunk

W.F.M. 1 (A.F.B.123) 750M—12-42 (75577) H.Q. 1772-39-1023

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
London, Ont	14 Aug45	Pte		Sec. 15(1) AWL from 0830 hrs 14 Aug. 45 until 0800 hrs. 20 Aug45	Sgt Mace	Admonished	21 Aug45	Capt N.W. Foster	Forf.6 days pay FR&I 149 (1)(a)

TEMPORARY SHEET

Lieut., Adjt.
for Comd., The Royal Canadian Regiment

Officer having the custody of the documents.

(P.T.O.)

Presented, stamping or marking

17

G. Bowsley, Major
President, Standing Court Martial

Barriefield, Ontario,
21 September, 1945.

District Headquarters,
Military District No. 3,
KINGSTON, Ontario.

STANDING COURT MARTIAL - NOTIFICATION
A 21392 Pte Bastien, Clyde Maxwell.

1. The ~~m/n~~ soldier will be presented for trial by Standing Court Martial at the Armouries, Kingston, Ontario at 1000 hours 24 September, 1945.

2. May Capt. T. Goodman be nominated as Prosecutor, please.

WWR/jb

W.W. Reid
.....
(W.W. Reid) Lt.Col
Officer Commanding
The Royal Canadian Regiment
A21 C.O. E.M.E.T.C.

G. Bowley, Major
President, Standing Court-Martial

PRECIS OF EVIDENCE

in the case of:

A 21392 Pte BASTIEN, C.M.

CHARGE: Absence Without Leave.

The following evidence is available to prove the charge:

Verbal.....A28623 Sgt Leigh, D.E.
who will give evidence of having established the absence of the accused.
Also.....G3457 Cpl Archibald, W.
to whom the accused surrendered himself.

HQC 55-B-2001 (JAG/D-8)
Your File K.55-B-9517

2 Oct 45

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

STANDING COURT-MARTIAL
A.21392 Pte. Clyde M. BASTIEN
1st Bn. The Royal Canadian Regt., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

MO/ET

THIS COPY FOR: H.Q.C. 55-B-2001
M.D.K. 55-B-9517

STANDING

MEMORANDUM - DISTRICT COURT-MARTIAL

GS

No. A.21392 Name BASTIEN, Clyde Maxwell

Rank Pte Unit 1st Bn, CA RCR

Charge AA 15 (1) Awl

Date of Crime 29-8-45

Date of Arrest 19-9-45 Charge Signed 21-9-45

Orders for D.C.M.

Place and Date of Trial 25-9-45 The Armouries

Sentence det 20 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39975

Date 28-9-45

MEMO

MD 3	1st Bn CA RCR
Absent	Sentence
20 days	Det 20 days

MBolen, Capt.
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No.

K.55-B-9516
K.55-B-9517

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Confidential

Kingston, Ontario, 26th September, 1945.

The Judge Advocate-General,
Dept. of National Defence,
Central Chambers,
OTTAWA, Ontario.

C.55-B-2001

STANDING COURTS-MARTIAL
B.163031 Pte Simon Frank Joseph BISSONNETTE
A.21392 Pte Clyde Maxwell BASTIEN
1st Bn. The Royal Canadian Regt., C.A.

Herewith proceedings on the trial by Standing Court-Martial of the marginally named soldiers.

J.E. Dowsley, Major
(J.E. Dowsley) Major,
President of
Standing Court-Martial.

Encls.

NAT. DEF. B. 440
250694-4-44 (4320)
H.Q. 1772-39-767

54976

H.Q.C. 55-B-2002 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BILAWCHUK, MIKE L.608961 PTE.

CONFIDENTIAL H.Q.C. 55-B-2002

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 2 - 1945	Cancelled			JAG	NEW FILE	CR	28-9-45
OCT 17 1945	16-10-45	P.A.	mm	JAG	With Papers C.R. OCT 15 1945	OK	
				CMB	Not Registered C.R. NOV 16 1945		
JAN 7 1946	23-3-46	Cancelled		JAG	Recommendation Vol 24	was	DEC 19 1945
				JAG	With Papers C.R. MAR 19 1946	MC	
MAR 20 1946 MAR 21 1946	20.3.46	Pa	Z	Adm	to ask Dominion Pol	AB	19/3/46
				DRB	Not Registered C.R. AUG 8 1946		
OCT 24 1946	23 10 46	PA	MAS	DRB	Sum orders	DE	19 Aug 46

NOTICE

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2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CANADA

IN REPLY PLEASE QUOTE
No. 11/L.608961(JAG)
M.107891
11/M.478371(JAG)
L.607369

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ, Military District No. XI
VANCOUVER, BC 11 Mar 1946

The Secretary
NDHQ
Ottawa, Ontario

CENTRAL REGISTRY ARMY
CONF. SEC.
12869
MAR 18 1946
File C.J.-B-2000
Chgd. to
Referred to

L.608961 Pte. BILAWCHUK, M.
M.107891 Pte. MYRONIUK, S.
M.478371 Tpr. PARKER, L.V.
L.607369 Rfm. SWIDROVICH, W.

1. Enclosed herewith copy of Form of Remission and MFM 288 in each of the m/n cases, for custody.

for (E.C. PLOW) Brigadier
D.O.C. M.D. No. XI

N.D. 23
90M—10-44 (5769)
E.O. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE: 55-B-2002
OUR FILE: 22-B-10658

PART I

No. L.608961 ... Rank Private. Name BILAWCHUK Mike

Unit ... No. 11 District Depot CA

Part II

Date of Trial ... 24 Sep 45

Charge(s) ... Sec 12 (1)(a) A.A. Desertion

Sentence ... 18 months' detention

Date of Sentence ... 24 Sep 45

Confirmation (a) Authority ...
(b) Date ...

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~XXXXXXXXXXXXXXXX~~ balance of sentaace of detention effective 5 Mar 46, ~~XXXXXXXXXXXXXXX~~

Signed at Vancouver B.C. this 1st. day of Mar 46.

(E.C. PLOW) Brigadier
D.O.C. M.D. No. XI

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission (~~XXXXXXXXXXXXXXXXXXXXXXXX~~) promulgated and extracts taken at No XI DD.CA

Vancouver B.C. this 5th day of March 1946

G.H. Mortenson Capt. Adjt.
Officer i/c Documents
(1) No. XI District Depot.

(1) Unit, attachment and appointment to be stated.

Part V
Certified True Extract of Daily Orders Part II

No. L-608961 Rank Pte. Name BILAWCHUK Mike.

The sentence of 18 month's detention

awarded by (Field General) (District) (Standing) Court-Martial on the 24th day of September 1945 has been remitted the balance of the sentence on the 5th day of March 1946 by DOC MD XI

Certified true Extract of Daily Orders Part II of No. XI District Depot CA
No. 56 Place Vancouver B.C. Date 7 March 46

G.H. Mortenson Capt. Adj.
No XI District Depot.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L.608961 - Pte. Mike BILAWCHUK,
Number Rank Name in full

No. 12 District Depot, C.A.
Unit Attachment (if any)

Sentenced to 18 Months Detention.

on 24 September, 1945 at REGINA, Saskatchewan.

being served at No. 79 M.D.B.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 Years, 9 Months, 16 January, 1943.

Medical grade or category 22-1-1-1-1-1-1

FIRST TRIAL—PART II

To .....
Superior Military Authority

For details of offence see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on .....) for reasons given in paragraph X.
date

Place .....

Date .....
Confirming Authority

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (~~which I hereby commute to~~ .....)

(~~of which I recommend~~ .....) (~~be suspended~~) (be put into execution)

(and) be reviewed on 8 November, 1945.

Place Regina, Sask.,

Date 11 October, 1945.

Superior Military Authority
(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....
Confirming Authority

M.F.M. 288
(Army Form A-3104)
2M—6-43 (1809)
H.Q. 1773-30-3014

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
3 Nov 45	No remission or suspension. B.F. for review 24 Mar 46.	(C.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.	
5 Mar 46.	Bal of sentence remitted wef 5 Mar 46	(E.C. PLOW) Brigadier D.O.C. M.D. No. XI	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE - AWL from 2000 hrs, 24 Dec 44 until he voluntarily surrendered himself at Regina, Sask., at 2330 hrs, 12 Sep 45, to the Military Power.	24 Dec 44	24 Sep 45.

Lt.-Col.,
Signature of Officer making entry
(H.E.Murray) Commanding Officer, No.12 DD,CA.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
7 October, 1945	That sentence be carried out	Lt.-Col., (H.E.Murray) Commanding Officer, No. 12 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

copy

VER V CIV NR 131

FM COMMANDING PACIFIC VANCOUVER 081605U

TO THE SECTY NDHQ OTTAWA

GR 105 BT

PCA 1997F UNCLASSIFIED HQC 55-M-955 ADM 3(a)3 REFERS K608298 PTE HAMELIN J E G STOP HQC 55-B-1979 REFERS M601956 PTE BAILER E A STOP HQC 55-B-2002 REFERS L608961 PTE BILAWCHUK M STOP HQC 55-L-1548 REFERS L464788 RFN LENIUS F S STOP ALL ACK

Put to file

BT 081605U

BE 081709U B

HQC 55-B-2002
Adm 3(a)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario, 4 Jan 46.

GOC-in-C,
Pacific Command,
VANCOUVER, B.C.

L.608961 Pte BILANCHUK M
CM Board of Review
85 MDB

Ref telegram AG 0267 d/10 Oct 45 Review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation:

"**Release on 23 Mar 1946".**

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommendol remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. Enclosed herewith XXXXXXXX/ATM 258 for this soldier.

7. Acknowledgment by telegram requested.

Enc: 1

GDB/MA

(A. E. Walford)
Major-General
Adjutant-General

CANADA

IN REPLY PLEASE QUOTE
No. 22-B-10658

DEPARTMENT OF NATIONAL DEFENCE
ARMY

28 Nov 1945

The Secretary,
N.D.H.Q.,
Ottawa, Ont.

12816
DEC 3 1945
CMBR/4

L-608961 Pte. BILABCHUK, M.

1. Ref. HQC 55-B-2002 (CMBR/4) dated 20 Nov 45.

2. Enclosed herewith M.F.M. 288 and Report on Conduct re m/n soldier as requested.

for C.C. Pearkman maj.
Major General,
GOC in C.,
Pacific Command.

Encls.: 2

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

DEPARTMENT OF NATIONAL DEFENCE

D.H.Q. File No. R.1-B-1293(AJAG)

TO: Commandant, No. 79 Military Detention Barracks, Regina, Sask.

1. Soldier under sentence: L.608961 - Pte. Mike BILAWCHUK.

2. PLEASE STATE:-

(1) Date of sentance: 24th.Sept.1945
(11) Sentence: 18 Months.
(111) Date you received soldier: 25th.Sept.1945

(1V)(a)Can soldier read and write: yes.
(b)Religion: G.O.
(c)Married, Widower, Single: Single
(d)What Army trade has soldier: None.

(V)(a)Conduct of soldier: Good
(b)Industry of soldier Good
(c) Remission earned:-

(1) Number of days actually earned: 19 days.
(11)Number of days obtainable to date: 19 days.

(VI) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill should state:-

(a)Whether detention will seriously aggravate soldier's condition. No.

(b)Whether further confinement is likely to prove fatal. No.

(VII)(a)Whether in your opinion conduct of soldier warrants suspension of sentence: Conduct to date very satisfactory.

(b) Moral effect confinement has had: Good.

(c) If returned to Army is soldier likely to become a good soldier: Questionable.

(VIII) Date term will expire if all remission earned from now on. 23rd.Sept.1946

95

Signature Geo Roy S.M.(W.O.I.)
Geo.Roy.Commandant,
No.79 Mil.Det.Bks.Regina,Sask.,
Date of Report 1st.Nov.1945.

ADS/

DEPARTMENT OF NATIONAL DEFENCE
- Army -

R. 4-2-38

District Circular Letter No. 68

Officers Commanding,
All Active & Reserve Can. Army Units, M.D. No. 12.

TRANSPORTATION ON PREPAYMENT.
Routine Order No. 298

1. In accordance with further instructions which have been received from N.D.H.Q. the provisions of District Circular Letter No. 28 do not apply now and the letter in question is therefore cancelled.

2. It is now considered that transportation on prepayment may be provided for dependants, under Routine Order 298, in every case where a member of the Active Force is moved from one station to another and may now be taken to apply also for moves other than repostings.

3. All personnel should still be warned, however, that applications under Routine Order 298 should not be made to the transportation companies. All cases to which Routine Order 298 correctly applies should be referred to District Headquarters when warrants on prepayment will be issued.

Regina, Saskatchewan,
20th February, 1941.

(H.W. Lawrence) Captain,
D.S. & T.O., M.D. No. 12.

BWC 55-B-2002 (CMHQ -4) EL
Case No. 19 Nov 45

1544

REVIEW OF SENTENCE

BY

COURT MARTIAL PURSUANT TO NDA

1. Rank, No and Name: L-600961 Pte. SILAWCHUK, M.

2. Unit at date of offence: Winnipeg Light Inf., CA, Winnipeg, Man.

3. Charge: AA 12(1)(a) DESERTION (Absent from 24 Dec 44 until he surrendered on 12 Sep 45 -- 8½ mos)

Plea: not guilty

4. Place and Date of Trial: Armoury, Regina, Sask. - 24 Sep 45
(XXXX XXXX (SCM)

5. Finding: guilty

6. (a) Sentence: 18 mos detention

(b) Date of Sentence: 24 sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 85 MDB, Vernon, B.C. in MD 1 Pacific Command

(N.B. - Discharged under RO 1029( ) for
wof)

Case No.

PAGE 3

(a) Prior to enlistment — Offence — Date — Sentence

(1) Civil Convictions: NIL

(2) Court Martial: NIL

(3) Summary Conviction: NIL

(b) After Enlistment: Good (Expected d/ of release: 23 Sep 46)

(c) Date of enrolment: 16 Jan 43 — Present Age: 23

(d) Remarks: [illegible]

1) Statement by Accused:
"Well, when I was home on leave my parents didn't want me to go back. There was nobody at home, just me to do the work, and we had too much work to do so I stayed at home, like to do the spring work and for the summer; and then I came back myself. It was on the 12th of September I came back to Regina."

2) Defending Offr in Mitigation:
"I would like to draw the Court's attention to the accused. Although the accused is twenty-three years old, after having talked to him for some considerable time a few days ago I am convinced that his judgment of worldly actions is deficient, and that he is in this trouble today due to some undue bearing of his parents. That is all, sir."

3) The accused was granted embarkation + special leave expiring 24 DEC 44

1) Recommendations: [illegible]

Rev. Offr:
1) This soldier is one of the 16,000 NRMA recruits.
2) Recommend remission after he has served 9 mos of his sentence, viz 24 Jun 46.

(A.B. Gold) Lt.

Release on 23 MAY 46

Date DEC 19 1945

M.A. Stikwell maj
Secretary
Courts Martial Board of Review

24

CENTRAL REGISTRY
9874
NOV 17 1945
FILE
Chgd. to
Referred to CMBR

DEPARTMENT OF NATIONAL DEFENCE
- ARMY - 22-B-10658

Headquarters, Pacific Command.
Vancouver, B.C.
13 Nov 1945

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks

L-608961 Pte. BILAWCHUK, M.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

23

Headquarters,
Pacific Command.
(Attention C.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.BKS.

The transfer of the u/m S.U.S. has been completed with effect date stated hereunder

No.	Rank	Name	Unit
L-608961	Pte.	BILAWCHUK, M.	No. 12 D.D.

Transferred from No. 79 M.D.Bks. at REGINA, Sask.

to No. 85 M.D.Bks. at VERNON, B.C.

with effect 9 Nov 45

H B Forster

(H.B. Forster), Commandant (Lieut)

No. 85 M.D.Bks.
VERNON, B.C.

submitted in duplicate

22

H.Q.C.55-B-2002 (JAG/D-)

16 Oct 45

The District Officer Commanding,
Military District No. 12, Regina, Sask.

STANDING Court-Martial

L. 608961 Pte. Mike Bilawchuk,
No. 12 District Depot, C.A.

Receipt is acknowledged of your R.1-B-1293 dated 11 Oct 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Staning Court-Martial.

(R.J.Orde) Brigadier
Judge Advocate-General.

MM

IN REPLY PLEASE QUOTE No. R.1-B-1293(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 11 Oct 45.

CENTRAL REGISTRY Army
2910
OCT 15 1945
CJS-B-2002
JAG.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
L.608961 - Pte. Mike BILAWCHUK
No. 12 District Depot, C.A.

Reference H.Q.C.55-B-2002 (JAG/D-8) dated 2 October, 1945 forwarding proceedings of the marginally noted Standing Court-Martial pursuant to C.A.R.O. 4565(12).

2. As the proceedings have now served their purpose they are returned herewith for custody.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

19

NAT. DEF. B. 440
2500M-4-44-43211
H.Q. 1772-19-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask.,

on the 24th day of September, 1945, at 0900 hours,

for the trial of: L.608961 Pte. Mike BILAWCHUK,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major S.L. Waterman, E.D., President Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

PROSECUTOR: Capt. P.W. McMeans, Prosecutor Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Capt. H. Goodfellow, No. 12 District Depot, C.A.
(See documents marked "G" and "H" attached.)
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, L.608961 Pte. Mike BILAWCHUK, No. 12 District Depot, C.A., is guilty of the charge.

SENTENCE: The Court sentence the accused, L.608961 Pte. Mike BILAWCHUK, No. 12 District Depot, C.A., to undergo detention for eighteen months.

18

Signed at Regina, Sask., this 24th day of September, 1945.

S.L. Waterman Major,
President,
Standing Court-Martial.

M.F.B. 1486 Extracts entered as No. 39976 in the
25M-6-44 (4828) record of Courts-Martial kept in the
H.Q. 1772-39-2296 office of the Judge Advocate-General
this 28 day of Sep 1945

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter ?~~

Question to the accused. Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, D.H.Q. Sub-Staff, M.D. 12, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~ ?

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

17

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2" Guarantee mate President. LCM

5

CHARGE SHEET

The accused, L.608961 Pte. Mike BILAWCHUK, No. 12 District Depot, CA, Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service is charged with:

CHARGE:
SECTION 12(1)(a) ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he,

at Winnipeg, Manitoba, at 2000 hours on the 24th December, 1944 absented himself from the Winnipeg Light Infantry, CA until he Voluntarily Surrendered himself at Regina, Saskatchewan at 2330 hours on the 12th September 1945 to the Military Power.

(H.E. Murray) Lieut. Col.
Officer Commanding,
No. 12 District Depot, CA

20th September, 1945
Regina, Saskatchewan.

16

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

THE PROSECUTOR ADDRESSING THE COURT: Sir, I produce M.F.B. 375 and M.F.M. 216.

The Defending Officer has no objection to either of the documents.

The documents are read and marked Exhibits "I" and "J" respectively, signed by the President and attached to the proceedings.

15

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. An unsworn statement. (See document marked "K" attached.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer declines to make a closing address.

The Prosecutor declines to make a closing address.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, through my Defending Officer.

THE DEFENDING OFFICER ADDRESSING THE COURT: I would like to draw the Court's attention to the accused. Although the accused is twenty-three years old, after having talked to him for some considerable time a few days ago I am convinced that his judgment of worldly actions is deficient, and that he is in this trouble today due to some undue bearing of his parents. That is all, sir.

13

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" Swarsinski Major President. Sam

DDR 6-0-1 (Legal)

Regina, Sask., 24. Sep.....1945...

Major S.L. Waterman, E.D.,
President, Courts - Martial,
Headquarters, M.D. No.12,
REGINA, Sask.

L.608961 Pte. BILAWCHUK M.
No.12 District Depot, C.A.
Standing Court - Martial

.Capt..H..GOODFELLOW..... No.12 District Depot, C.A., has been detailed to act as defending officer at the trial of the marginally named soldier.

(H.E. Murray) Lt.Col.
Officer Commanding,
No.12 District Depot, C.A.

12

"H"

Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q. There is a letter (document marked "G") before the Court from the Officer Commanding, 12th District Depot, stating that Capt. Goodfellow--the officer on my left (indicating the Defending Officer)--has been detailed to act as your Defending Officer. Is that satisfactory to you?

A. Yes, sir.

11

Exhibit "1" Deserter Prisoner Resident LCM

17

Fort Osborne Barracks,

RECORD of the Declaration of a Court of Inquiry assembled at Winnipeg, Manitoba.

on the 9th day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-608 961 Private Mike BILAWCHUK, No.10 District Depot, C.A.

DECLARATION

The Court declare that No. L-608 961 (Regt'l No.) Private (Rank) Mike BILAWCHUK, (Full Name) No.10 District Depot, C.A. (Unit) illegally absented himself without leave from Winnipeg Light Infantry, C.A. at Winnipeg, Manitoba (Place) at 2000 hours on the 24th day of December, 1944; that he is still so absent, and that on the 24th day of December, 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Anklets, web, prs	1	.74	Attachments, brace	0	
Blouses, Battle Dress	2	13.00	Bags, ration	1	.04
Boots, ankle, prs	2	11.64	Belts, waist W.E. Pat '37	1	.67
Boots, leather high prs	0		Bottles, water	1	.62
Caps, field service	2	1.40	Braces, W.E. right & left	2	.08
Caps, mechanic	0		Carriers, cartridge	0	
Drawers, cotton short prs	2	.84	Carriers, waterbottle	1	.37
Drawers, woollen, prs	2	2.80	Covers, messtin	0	
Gloves, woollen, prs	1	.66	Frogs, web, bayonet	1	.18
Greatcoats, drab	1	15.54	Haversack	1	2.29
Jersey, pullover	1	1.65	Helmet, steel	1	2.39
Overalls, combination	1	2.52	Net camouflage helmet	0	
Overalls, blouses denim	0		Packs	1	2.26
Overalls, trousers denim	0		Pouches, basic	2	2.06
Shirts, flannel khaki	0		Slings, rifle	1	.24
Shoes, canvas, prs	1	2.29	Straps, shoulder haversack	2	.68
Socks, prs	4	1.84	Straps, web supporting	2	.28
Trousers, Battle Dress	2	13.10	Tins, mess	1	.57
Shirts, woollen	2	2.40	Capes, anti-gas	1	4.70
Badges, cap	1	.09	Respirators A.G. c/w Hvsk	1	5.97
Bags, kit	2	2.54	Outfits, anti-dimming	1	.03
Braces, prs	1	.28	Ointment, A.G.	1	.26
Brasses, cleaning	1	.04	Eyeshields A.G. pkg of 6	1	.66
Brushes, button	1	.11	Detectors, individual prs	1	.28
Brushes, clothes	1	.17	Wallet, anti-gas	0	
Brushes, hair	1	.39	Mug, drinking	0	
Brushes, shaving	1	.42	Sheets, ground	1	2.38
Brushes, shoe polishing	1	.21	Covers, breech	0	
Brushes, tooth	1	.09	Belts, waist XXX/Web 1½"	1	.25
Cap, comforter	1	.41	Buttons, G.S.	0	
Combs, hair	1	.04	Buckles, brass	0	
Dressing, field Mk.II	1	.21	Caps, winter melton	0	
Fork, table	1	.08	Coats, waterproof army	0	
Holdall	1	.22	Jackets, khaki drill	0	
Housewife, complete	1	.35	Jackets, serge drab O.C.	0	
Knife, clasp	0		Mitts, pullover leather prs	1	.23
Knife, table	1	.18	Muffler, khaki	1	.55
Razor, safety	1	.42	Neckties, black	1	.19
Spoons	1	.08	Pins, collar safety	1	.06
Towels, hand	2	.62	Puttees, prs	0	
Blacking, tins	1	.05	Rubbers, prs	0	
Bootd ressing, tins	1	.05	Overshoes, prs	0	
Bootlaces, prs	1	.03	Shirts, khaki cotton	3	4.62
Cleanser, khaki, tins	0		Shirts, under cotton	2	.86
Cleanser, W.E., tins	0		Shoes, leather black, prs	1	4.[illegible]
Implements, Entrenching	0		Socks, black, prs	2	.56
Slips, Pillow	0		Trousers, khaki drill prs	0	
Blankets, G.S.	2	8.14	Trousers, K.D. Short	1	1.[illegible]
			Trousers, serge drab N.P.	0	
					127.[illegible]
			At 75% Vocabulary Rate		$ 95.[illegible]

Exhibit "1" Guardroom Sgt President Scan

17

Fort Osborne Barracks,

RECORD of the Declaration of a Court of Inquiry assembled at Winnipeg, Manitoba.

on the 9th day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-608 961 Private Mike BILAWCHUK, No.10 District Depot, C.A.

DECLARATION

The Court declare that No. L-608 961 (Regt'l No.) Private (Rank) Mike BILAWCHUK, (Full Name) No.10 District Depot, C.A. (Unit) illegally absented himself without leave from Winnipeg Light Infantry, C.A. at Winnipeg, Manitoba (Place) at 2000 hours on the 24th day of December, 1944 that he is still so absent, and that on the 24th day of December, 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Anklets, web, prs	1 .74	Attachments, brace	0
Blouses, Battle Dress	2 13.00	Bags, [illegible]	

A.R.Dahlstrom, Captain, No.10 District Depot, C.A. President
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at Winnipeg, Manitoba,

Member
(Name) (Rank) (Unit)

this 9th day of February 1945

Signature of Commanding Officer C.M.Ackland Lieut.Colonel No.10 District Depot, C.A.
(C.M.Ackland) (Rank) (Unit)

Certified true copy W.Throp Captain & Adjutant, No.10 District Depot, C.A.
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

10

M.F.B. 375
A.F.B. 113
150M—10-43 (8530)
H.Q. 1772-39-257

Exhibit "J" Insurance Motor President Car

19

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(~~APPREHENSION~~ BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Lieut.Col. H.E.Murray, D.S.O.E.D. Commanding Officer, #12 D.D.
(Number) (Rank) (Name) (Unit)

hereby certify that L 608861 Pte. Bilawchuk, M.
(Number) (Rank) (Name in full)

of the Winnipeg Light Infantry
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended~~ surrendered by (surrendered to) L 22164 Cpl.
(Number) (Rank)

Barry, J.B. # 12 D.D.
(Name) (Unit or appointment)

at Regina, Sask. at 2330 hrs
(Place) (Hour)

on the 12th day of Sept. 19 45

Strike out words not applicable } ~~as a deserter~~ (or absentee without leave), and that at the time of his arrest he was wearing military (~~air force~~) uniform (~~dressed in civilian clothes~~)

Dated at Regina, Sask. this 13th day of Sept 19 45

H.E.Murray Lieut.Col.
(Signature, Number, Rank, Unit or appointment)
Commanding Officer,
No. 12 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

9

"X"

Swarman
Major,
President, Standing Court-Martial.

STATEMENT BY THE ACCUSED

Well, when I was home on leave my parents didn't want me to go back. There was nobody at home, just me to do the work, and we had too much work to do so I stayed at home, like to do the spring work and for the summer; and then I came back myself. It was on the 12th of September I came back to Regina.

THE COURT ADDRESSING THE ACCUSED: Is that all you wish to say?

THE ACCUSED ADDRESSING THE COURT: Yes, sir.

540

8

"Y" Government Motor President Hon

23

M.F.B. 355
50M—9-42 (5992)
H.Q. 1772-36-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
L.608961	Pte.	Mike BILAWCHUK	No12 District Depot, CA

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Law~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

~~Within last 12 months~~ ~~Since enlistment or appointment~~

For ..... times ..... times

For ..... times ..... times

For ..... times ..... times

For ..... times ..... times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

There are no entries in the conduct sheets of the accused.

~~Note.—If the charge is for drunkenness the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges for ..... days in civil custody, and 13 days in military custody, making a total of 13 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form is ~~attestation paper is~~ 23 years 5 mos.

6. The date of his ~~commission specified in his record of service~~ enrolment ~~attestation~~ is ~~enrolment form attestation paper~~ 16 Jan 43

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or bar) possession of or entitled to). State any air force decoration or reward.~~ military

10. (If the accused is a warrant officer) ~~The accused before he was made a warrant officer last held the regimental rank of .....~~ Air Force

24

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number .....Rank.....

Name .....of.....Regiment Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

J. M. Policha J.M. Policha, Capt.

Signed this 24 day of September, 1945 Legal Officer No.12 Officer having charge of original records No12 Dist.Depot, CA D.D. CA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

25

M.F.M. 6

Date of Birth 13 Apr 22

Reg. No. L. 608961 Name BILAWCHUK Mike Corps CIC Date of enlistment or enrolment 16 Jan 43

Signature O.C. Company, etc. (J.M. Policha) Capt. SHEET DESTROYED 15 Jul 45 Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY (J.M. Policha) Capt. Legal Officer, No. 12 District Depot, CA Officer having charge of original records, No. 12 District Depot, CA					

Swatuma Major President Scar (P.T.O.)

M.F.M. 6—500M—9-44 (5386)
H.Q. 1772-39-1652

MEDICAL OFFICER'S REPORT

I certify that No. L.608961 Pte. BILAWCHUK M.

of ..... is in a good state of health,

and fit to undergo Trial by Court martial.

J. E. Hodgson Capt

R.C.A.M.C. Medical Officer
Att. to No. 12 District Depot, CA

Station Regina, Sask.

Date 24 September, 1945

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

5

PRECIS OF EVIDENCE

in the case of

L.608961 Pte. Mike BILAWCHUK, No. 12
District Depot, Regina, Saskatchewan.

CHARGE: WHEN ON ACTIVE SERVICE DESERTING
HIS MAJESTY'S SERVICE

To prove the charge, the following evidence
is available:

DOCUMENTARY: M.F.B. 375
M.F.M. 216

(H.M. Policha) A/Capt.
Officer Detailed to take
the Precis of Evidence,
No. 12 District Depot, CA

20th September, 1945
Regina, Saskatchewan.

4

H.Q.C.55-B-2002 (JAG/D-8)
Your R.C.1-B-1293

2 Oct 45

The District Officer Commanding,
Military District No. 12, Regina, Sask.

STANDING COURT-MARTIAL

L. 608961 Pte. Mike Bilawchuk,
No. 12 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

MO/MM

3

THIS COPY FOR: H.Q.C. 55-B-2002
M.D.R.C. 1-B-1293 (A)

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

~~XXXX~~ NRMA

No. L.608961 Name BILAWCHUK, Mike

Rank Pte Unit No. 12 DD CA

Charge AA 12 (1)(a) WOAS Deserting.....

Date of Crime 24-12-44

Date of Arrest 12-9-45 Charge Signed 20-9-45

Orders for D.C.M.

Place and Date of Trial The Armoury 24-9-45

Sentence Det 18 mos

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39976

Date 28-9-45

MEMO. Balance of sentence remitted by Conf. Auth.

MD 2 No. 12 DD CA

Absent Sentence

Approx 9 mos Det 18 mos

10M-8-45(M-189)

M Osten, Capt.
for Judge Advocate-General

IN REPLY PLEASE QUOTE
No. R.C.1-B-1293 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 25 Sep 1945.

VIA AIRMAIL

CONFIDENTIAL

6.55-B-2102

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

L.608961 - Pte. Mike BILAWCHUK
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4566, I enclose herewith proceedings of the Standing Court-Martial held in connection with the marginally named soldier.

S.L. Waterman
(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl.

D. 23
1-43 (2979)
72-101-23

39976

H.Q.C. 55-B-2003 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BISSONNETTE, SIMON FRANK JOSEPH

B.163031 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2003

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")	INITIALS	DATE
OCT 2 - 1945				JAG	NEW FILE	CR	28-9-45
OCT 9 - 1945					OCT 6 - 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-2003 (JAG/D-5)

9th October, 1945.

District Officer Commanding,
Military District No. 3
Kingston, Ontario.
Standing

B-163031 Pte. Simon F.J. Bissonnette,
1st Bn. The Royal Canadian Regt. C.A.
.....Court-Martial

K.55-B-9516 (JAG)

4 October 5

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

(R.J. Orde), Brigadier,

LCC:jb

Judge Advocate-General.

HG IN REPLY PLEASE QUOTE No. K.55-B-9516(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 4 Oct 45.

CENTRAL REGISTRY Army
CONF. SEC.
1385
OCT 6 1945
File C55-B-2003
Chgd. to
Referred to

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B.163031 Pte. Simon F.J. BISSONNETTE,
1st Bn. The Royal Canadian Regt. G.A.

Reference H.Q.C.55-B-2003 (JAG/D-8) dated 2 Oct 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

W. C. Inch Capt.
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

NAT. DEF. B. 480
3000M—12-41 (3241)
H.Q. 1772-29-757

MEDICAL OFFICER'S REPORT

J. Bowsley. Major
President, Standing Court-Martial

I certify that No. B-163021 Pte. BISSONNETTE, S.F.
of A-21 CO&EMETC is in a fit state of health,
and fit to undergo Trial by Court martial.

H.K. Hall Capt
Medical Officer

(H.K. Hall) Capt. RCAMC (CA)
C.A. Attached C.O.& E.M.E.T.C.
Barriefield, Ont.

Station Barriefield, Ont.

Date 25 Sept.45

M. F. B. 246
25M—6-42 (4744)
H.Q. 1772-39 480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Kingston, Ontario,

on the 25th day of September, 1945, at 1420 hours,

for the trial of: B.163031 Private Simon Frank Joseph BISSONNETTE,
Number Rank Full Name

1st Battalion, The Royal Canadian Regiment, C.A.
Unit Attachment, if any

PRESIDENT: Major J.E. Dowsley, E.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Captain J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Captain R.W. Greenwood, 1st Bn., The R.C.R., C.A.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty of the charge.

SENTENCE: To undergo detention for thirty days.

Signed at KINGSTON, Ontario, this 25th day of September, 1945.

J.E. Dowsley Major
President,
Standing Court-Martial.

M.F.B. 1488
25M-6-44 (4826)
H.Q. 1772-33-2296

Extracts entered as No. 39977 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 28 day of Sep 19.45

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC,CA, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

J. Bowsley, Major
President, Standing Court-Martial

CHARGE SHEET

The accused No. B 163031 Pte Simon Frank Joseph BISSONNETTE, 1st Bn, CA, The Royal Canadian Regiment, a G.S. Soldier of the Canadian Army placed on Active Service is charged with:

CHARGE ABSENTING HIMSELF WITHOUT LEAVE

Sec 15 (1)
Army Act

In that he at BARRIEFIELD CAMP, Ontario, on the 21st day of August, 1945 absented himself from 1st Bn, CA, The Royal Canadian Regiment at 1200 hours on the said 21st day of August, 1945, and remained so absent until surrendering himself to military authorities at 0845 hours on the 19th day of September, 1945.

Barriefield, Ontario.
21 September, 1945.

W.W. Reid
.....
(W.W. Reid) Lt.Colonel
Comd. The Royal Canadian Regiment

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

The Prosecutor makes a statement regarding the circumstances connected with the offence. (not attached)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

Statement by the Accused:-

The reason I went absent without leave, my father couldn't get any help on the farm and I went down to give him a hand.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. I would like to have my Defending Officer speak for me, sir.

DEFENDING OFFICER: One thing Pte Bissonnette did not tell you in his statement was the fact that it was his foster father rather than his own father. Pte Bissonnette was an orphan taken from an orphanage by his foster father at four years of age. After V-J Day he felt in his own mind he should try to repay him as there was no one to help with the farm work during the harvest period except his foster mother.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"Y" 3

G. Rowsley, Major
President, Standing C.A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-163031	PTE	BISSONNETTE, S.F.	The Royal Canadian Regt. Barriefield, Ontario.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	one time	three times
For Neglect to the Prej	one time	times
For Conduct to the Prej	one time	times
For	times	times

or,

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a ~~court-martial or a civil~~ court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and dispensations with trial under ~~A.A. 73~~ A.F.A. 73 are set out in the Schedule ~~annexed to this~~ statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 6 days in military custody, making a total of 6 days in custody,

5. The present age of the accused according to attestation paper 19

6. The date of his attestation specified in his attestation paper 11 Jul 44

7. The service which the accused is allowed to reckon towards discharge is

8. Th[illegible] determining his [illegible].

9. The accused i[illegible] military military (or is in possession of or entitled to). State any military decoration or reward. Nil

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

14

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force ..... dated ....., and in his regiment (or corps) the rank of unit ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force Name ..... of ..... Regiment Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24 th day of SEPTEMBER ~~1945~~ 1945. Lt W. Lemmon Capt for officer having custody of regt. records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B.122)
750M—12-43 (7537)
H.Q. 1772-39-1632

No. B 163031 Name BISSONNETTE, Simon Frank Joseph

Sqn., Battery, or Company

No. and date of last drunk

Corps CIC

Period not reckoning towards freedom from extra fine

Date of enlistment 11 July 44

Sheet No.

G.C. Badges

Signature O.C. Company, etc.

Tradesmen's Rates of Pay

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ipperwash	31 Oct 44	Pte		AA Sec 40 Conduct to Prejudice of Good Order & Military Discipline failed to comply with an order.	Sgt Goodyear F.A.	3 days CB	1 Nov 44	Captain F. Watson	
Ipperwash	28 Dec 44	Pte		AA 15(1) AWL from 1200 hhrs 28 Dec 44 until 1430 hrs. 4 Jan 45 (7 days 2hrs 30 minutes.	Documentary	10 days pay 146 (2) (d)	4 Jan 45	A.Carrod Lt.Colonel	FOF 8 Days FrAI 149 (1)(a)
Vernon, BC	19 Jul 45	Pte		Neglect to the prejudice of good order and military discipline, did not appear at a place of parade appointed by and NCO.	Sgt Clements P.D. L/Cpl Brownell B	5 days CB	20 Jul 45	Captain F.Martin	

CERTIFIED TRUE COPY
Lieut, Adjt.
The Royal Canadian Regiment
Officer in custody of the documents

(P.T.O.)

15

P. Bewley, Major
President, Standing Court Martial

Barriefield, Ontario,
21 Sep 45.

District Headquarters,
Military District No. 3,
KINGSTON, Ontario.

STANDING COURT MARTIAL - NOTIFICATION
B 163031 Pte Bissonnette, Simon Frank Joseph.

1. The m/n soldier will be presented for trial by Standing Court Martial at the Armouries, Kingston, Ontario at 1000 hours 24 September, 1945.

2. May Capt. T. Goodman be nominated as Prosecuter, please.

WWR/jb

W.W. Reid
.....
(W.W. Reid) Lt.Col.
Officer Commanding
The Royal Canadian Regiment
A21 C.O. E.M.E.T.C.

G. Bowsley, Major
President, Standing Court-Martial

PRECIS OF EVIDENCE

in the case of:

B 163031 Pte BISSONNETTE, S.F.

CHARGE: Absence Without Leave.

The following evidence is available to prove the charge:

Verbal.....P3260 Sgt Hood, J.I.
who will give evidence of having established the absence of the accused.
Also.....D128593 Cpl Bednesky, D.
to whom the accused surrendered himself.

HQC 55-B-2003 (JAG/D-8)
Your File K.55-B-9516

2 Oct 45

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

STANDING COURT-MARTIAL

B.183031 Pte. Simon F.J. BISSONNETTE
1st Bn. The Royal Canadian Regt. C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

MO/ST

THIS COPY FO... H.Q.C. 55-B-2003
M.D.K.55-B-9516

GS

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. B.163031 Name BISSONNETTE, Simon Frank Joseph

Rank Pte Unit 1st Bn CA RCR

Charge AA 15 (1) AWL

Date of Crime 21-8-45

Date of Arrest 19-9-45 Charge Signed 21-9-45

Orders for D.C.M.

Place and Date of Trial The Armouries, 25-9-45

Sentence Det 30 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39977

Date 28-9-45

MEMO

MD 3 1st Bn CA RCR

Absent Sentence

29 days Det 30 days

10M-8-45(M-189)

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. K.55-B-9516
K.55-B-9517

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Confidential

Kingston, Ontario, 26th September, 1945.

C.55-B-2003

The Judge Advocate-General,
Dept. of National Defence,
Central Chambers,
OTTAWA, Ontario.

STANDING COURTS-MARTIAL
B.163031 Pte Simon Frank Joseph BISSONNETTE
A.21392 Pte Clyde Maxwell BASTIEN
1st Bn. The Royal Canadian Regt., C.A.

Herewith proceedings on the trial by Standing Court-Martial of the marginally named soldiers.

J.B. Dowsley Major
(J.B. Dowsley) Major,
President of
Standing Court-Martial.

Encls.

39977

NAT. DEF. B. 440
2500M-4-44 (4320)
H.Q. 1772-39-267

H.Q.C. 55-B-2004 CONFIDENTIAL

N.F.B. 3178
DM—2-45 (600)
H.Q. 301-1-44

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BODE, NORMAN L.532207 TPR.

CONFIDENTIAL
H.Q.C. 55-B-2004

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 2 - 1945				JAG	NEW FILE	CR	28-9-45
OCT 17 1945	16-10-45	O.A.	m.m.	WAD.	With Papers C.R. OCT 15 1945		
				JMBR	For Regulation C.R. NOV 16 1945		
JAN 7 1946	23-3-46			AQ 3	Recommendation	WAD.	DEC 17 1945
				JAS.	With Papers C.R. MAR 19 1946		
MAR 20 1946							
MAR 21 1946	20.3.46	Pa	4	Ulm	Trials dismissions file	KB	19/3/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE:
OUR FILE:

CONF. SEC.
MAR 18 1946
File No.
Chgd. to
Referred to

PART I

No. L.532207 Rank Tpr. Name BODE, Norman

Unit No. 12 District Depot CA

Part II

Date of Trial 24 September 1945

Charge(s) Sec 12 (1)(a) A.A. Desertion

Sentence 1 year detention; Stoppages of pay $28.05

Date of Sentence 24 September 1945

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~[illegible]~~ balance of sentence of detention effective 5 March 1946

Signed at Vancouver, B.C., this 1st. day of Mar 46.

(E. PNOW) Brigadier
D.O.C. M.D. No. XI
To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission ~~[illegible]~~ promulgated and extracts taken at XI DD CA.

Vancouver B.C. this 5th day of March 1946

Capt. Adjt.
Officer i/c Documents
(1) No XI District Depot.

(1) Unit, attachment and appointment to be stated.

Part V
Certified True Extract of Daily Orders Part II

No. L-532207 Rank Tpr. Name BODE N.

The sentence of 1 Year detention stoppage of pay $28.05

awarded by (Field General)(District)(Standing) Court-Martial on the 24th day of September 1945 has been remitted the balance of the sentence on the 5th day of March 1946 by D.O.C. MD. XI

Certified true Extract of Daily Orders Part II of No XI District Depot.
No. 56 Place Vancouver B.C. Date 7 March 46

Capt. Adj.
No XI District Depot.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L.532207 Pte. Norman BODE,
Number Rank Name in full

No. 12 District Depot, C.A.
Unit Attachment (if any)

Sentenced to 1 Year Detention & Cost of Apprehn. & return to Unit, $28.05.

on 24 September, 1945. at REGINA, Saskatchewan.

being served at No. 79 M.D.B.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 24 Years, 5 Months, 9 June, 1942.

Medical grade or category 18-1-1-1-1-1-2-1

FIRST TRIAL—PART II

To .....
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on .....) for reasons given in paragraph X.
date

Place .....

Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence ~~(which I hereby commute to~~ .....)

~~(of which I remit~~ .....~~) (be suspended)~~ (be put into execution)

(and) be reviewed on 8 Nov 45.

Place Regina, Sask.

Date 2 Oct 45.

Superior Military Authority
(G.A.H. Trudeau), Brigadier,
D.O.C., M.D. No.12.

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Confirming Authority

Date .....

M.F.M. 188
(Army Form A-2104)
25M—9-43 (1859)
H.Q. 1772-39-2013

Part V

I direct that the sentence (which I hereby commute to.....) (of which I remit.....) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) with the previous sentence of..... (and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
1 Nov 45	Reviewed. No remission or suspension. B.F'd for further review 24 March, 1946	(G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.	
5 Mar 46	Bal of sentence remitted wef 5 Mar 46	(E.C. PLOW) Brigadier D.O.C. M.D. No. XI	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE - AWL from 2100 hrs, 22 Jan 45, until apprehended at Sheho District, Sask., at 0100 hrs, 8 Sep 45, by the Military Power, dressed in plain clothes, the cost of his apprehension and return to his Unit being, $28.05.	22 Jan 45	24 Sep 45.

Lt.-Col.,
Signature of Officer making entry
(H.E. Murray) Commanding Officer, No. 12 DD, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
7 October, 1945	That sentence be carried out	Lt.-Col., (H.E. Murray) Commanding Officer, No. 12 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

COPY

VE V CIV NR 72

FM COMMANDING PACIFIC VANCOUVER 101152U

TO THE SECTY NDHQ OTTAWA

GR 137 BT

PCA 1905G UNCLASSIFIED YOUR HQC 55-D-1246 ADM 3(B)3 REFERS M477733 PTE DOWLER E G STOP HQC 55-D-1244 REFERS M607127 PTE DEGENSTEIN ØØ FF STOP HQC 55-G-1176 REFERS M601833 PTE GILES L G STOP HQC 55-P-1149 REFERS M478371 TPR PARKER L V STOP HQC 55-B-2004 REFERS L532207 TPR WODE N STOP ALL CMBR DATED 7 Jan 46 STOP ALL ACK

BT 101152U

BE 101240U B

In our file
7 Jan 46

HQC 55-B-2004
ADM 3(b)3

DEPARTMENT OF NATIONAL
DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario, 7 Jan 46.

GOC-in-C,
Pacific Command,
VANCOUVER, B.C.

L.532207 Tpr BODE N
CM Board of Review
92 MDB

Ref telegram AG 0267 D/18 Oct 45 Review.

2. The CM Board of Review has in the case of the a/m soldier made the following recommendation:

" Release on 23 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. Enclosed herewith ~~XXXXXXXXXX~~ MM 288 for this soldier.

7. Acknowledgment by telegram requested.

(H. G. Woods)
Major-General
Adjutant-General

Enc: 1

MEM/MA

IN REPLY PLEASE QUOTE
No. 22-B-8463

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

30 Nov 1945

The Secretary,
N.D.H.Q.,
Ottawa, Ont.

13253
DEC 5 1945
File CMBR 16-1
Origin. to CMBR

L-532207 Pte. BODE Norman

1. Ref. HQC 55-B-2004 (CMBR) dated 22 Nov 45.

2. Enclosed herewith M.F.M. 288 and Report on Conduct re m/n soldier as requested.

for C.C. Pearkman
Major General,
GOC in C. Pacific Command.

Encls.: 2

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

DEPARTME T OF NATIONAL DEFENCE

D.H.Q. File No. R.1-B-888(AJAG)

TO: COMMANDANT, No. 79 Mil. Det. Barracks, Regina, Sask.

1. Soldier under sentence: L.532207 - Tpr. Norman BODE, No. 12 D.D., C.A.

2. PLEASE STATE:-

(1) Date of sentance:	24th Sept. 1945
(11) Sentence:	1 year
(111) Date you received soldier:	25th Sept. 1945
(1V)(a) Can soldier read and write:	Yes
(b) Religion:	U.C.
(c) Married, Widower, Single:	Married
(d) What Army trade has soldier:	None
(V)(a) Conduct of soldier:	Good
(b) Industry of soldier	Good
(c) Remission earned:-	
(1) Number of days actually earned:	15
(11) Number of days obtainable to date:	15
(VI) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill should state:-	None
(a) Whether detention will seriously aggravate soldier's condition.	No
(b) Whether further confinement is likely to prove fatal.	No
(VII)(a) Whether in your opinion conduct of soldier warrants susbension of sentence:	Conduct very satisfactory since being admitted to Detention.
(b) Moral effect confinement has had:	Good
(c) If returned to Army is soldier likely to become a good soldier:	Yes
(VIII) Date term will expire if all remission earned from now on.	23rd June 1946

D. H. Q. 1-B-888
CHARGED TO
DATE
REC'D. CENTRAL REGISTRY
OCT 24 1945
REFERRED TO HJAG
C.R.

88

Signature Onkrug Q.M.S.(W.O.II)
V.D.(Geo.Roy) Commandant.

DEPARTMENT OF NATIONAL DEFENCE

D.H.Q. File No. R.1-B-888(AJAG)

TO: COMMANDANT, No. 79 Mil. Det. Barracks, Regina, Sask.

1. Soldier under sentence: L.532207 - Tpr. Norman BODE, No. 12 D.D., C.A.

2. PLEASE STATE:-

(1) Date of sentance:	24th Sept. 1945
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(1V)(a) Can soldier read and write:	Yes
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(c) Married, Widower, Single:	Married
(d) What Army trade has soldier:	None
(V)(a) Conduct of soldier:	Good
(b) Industry of soldier	Good
(c) Remission earned:-	
(1) Number of days actually earned:	15
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(VI) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill should state:-	None
(a) Whether detention will seriously aggravate soldier's condition.	No
(b) Whether further confinement is likely to prove fatal.	No
(VII)(a) Whether in your opinion conduct of soldier warrants susbension of sentence:	Conduct very satisfactory since being admitted to Detention.
(b) Moral effect confinement has had:	Good
(c) If returned to Army is soldier likely to become a good soldier:	Yes
(VIII) Date term will expire if all remission earned from now on.	23rd June 1946

D. H. Q. 1-B-888
CHARGED TO
DATE
REC'D. CENTRAL REGISTRY
OCT 24 1945
REFERRED TO AJAG
C.R.

88

Signature O'Leary Q.M.S.(W.O.II)
for (Geo.Roy), Commandant,

Date of Report 23rd October 1945

DEPARTMENT OF NATIONAL DEFENCE
-Militia Service-

R. 3-1-9.

REGINA - Sask., January 4th, 1941.

D.H.Q. CIRCULAR LETTER #7, 1941.

To: O.C's and Paymasters all C.A.Units,
O.C's and Paymasters all C.A.R. Tr. Centres.

Overpayment Veterans' Allowances.

1. It has been brought to notice by the Department of Pensions and National Health, that there are a number of cases where veterans' allowances which have been conceded are continued in payment after these men have enlisted in or been appointed to Active or Reserve Formations of the Canadian Army.

2. Arrangements have been made with the above mentioned Department when notification of such cases is received, that a compulsory assignment of pay may be instituted of an amount not exceeding $5.00 per month in refund of such overpayments, provided, however, if 20 days assignment of pay is not exceeded if there is an assignment already in force, under the provisions of Article 88, F.R. & I., C.A.S.F. and in no case should the recovery be in such a sum as would impose a hardship on the soldier.

3. Such assignments will be put into effect on M.F.M. 17 in the ordinary manner, except that the payee is to be shown as "Receiver General, Account of Department of Pensions and National Health."

A. R. Phillips, Lieut.
for (H. Whitfield), Major,
DISTRICT PAYMASTER, M.D. 12.

E.McE.

22-B-8463 10987

23 194

C.S.S. B-2004

CMBR

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Headquarters, Pacific Command.
Vancouver, B.C.
20 Nov 194 5

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks
L 532207 Pte. BODE, N.

In accordance with the provisions of C.A.R.O. 4667, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

DEPUTY ASST. PROVOST MARSHAL
H. Q.
M. D. No. 11
NOV 20 1945
B.C.
Canadian Provost Corps, C.A.A.

DEPUTY ASST. PROVOST MARSHAL
H. Q.
M. D. No. 11
NOV 20 1945
B.C.
Canadian Provost Corps, C.A.A.

Headquarters, B. C.
Pacific Command.
(Attention C.A.P.C.)

S.U.S. TRANSFER BETWEEN M.D.HQS.

The transfer of the u/m S.U.S. has been completed with effect date stated hereunder

No.	Rank	Name	Unit
L-532207	PTE.	BODE. N.	12 DISTRICT DEPOT REGINA.

Transferred from No. 79 M.D.Hqs. at REGINA. SASK.

to No. 92 M.D.Hqs. at CHILLIWACK. B.C.

with effect 17 Nov 45

Commandant
(J.M.JOHNSTON) CAPT.
No. 92 M.D.Hqs.

submitted in duplicate

NDC 55-B-2004(CMTS-4)/EL
19 Nov 45
Case No. 1355

REPORT OF SENTENCE

CONVENING AUTHORITY: [illegible]

1. Rank, No and Name: L-532207 Tpr. BODE, N.

2. Unit at date of offence: 31 Recce Reg't, CA, Debert, N.S.

3. Charge: AA 12(1)(a) DESERTION (Absent from 22 Jan 45 until apprehended in plain clothes on 8 Sep 45 -- 7½ mos)

Plea: not guilty

4. Place and Date of Trial: ~~XXXXX XXXXX~~ (SCM) Armoury, Regina, Sask. - 24 Sep 45

5. Finding: guilty

6. (a) Sentence: 1 year detention

(b) Date of Sentence: 24 Sep 45

7. Date of Confirmation:

8. Date of Commutation:

9. Being served at: ~~72 MDB, Regina~~ 92 MDB. In MD, ~~12~~ Pacific Command

(N.B. - Discharged under RO 1029( ) for wef)

26

Case No.----------

PAGE 3

CONDUCT

	Offence	Date	Sentence
11.(a) Prior to conviction			
(1) Civil Convictions:	NIL		
(2) Courts-Martial:	NIL		
(3) Summary Convictions:	5 minor NIL		

(b) After Conviction: Good (Expected d/ of release: 23 May 46)

(c) Date of enrolment: 9 Jun 42 Present Age: 27

12. Remarks: (Here note any exhibition or representation other than in item 10 but if item 10 has been omitted so state, and show here any mitigating circumstances.)

Statement by Accused:
"Well, sir, I realized that I was on draft and, being a married man, I went home and saw how my land was getting behind--taxes was piling up against it--and I decided to stay at home with my wife and family. My farm is four and a half miles from town and there is no well on the place and the wife is there alone and she has to carry water a half a mile; and there's no wood up, sir, for the winter.
And the reason I was in civilian clothes was because I was in the field working at the time, sir, and I didn't get no chance to change my clothes. And it is hard for the wife to bring groceries out from town at the present time.
That's all, sir."

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc)

Reviewing Offr: 1) This soldier is one of the 16,000 NRMA.
2) Considering that if he earns full remission for good conduct he will only serve 5 mos detention, recommend no extraordinary remission.

Reviewed by.....
(A. . Gold) Lt.

14. Recommendation of the Board: Release on 23 May 46

DEC 17 1945
Date-----19-----

N. A. Stickell Maj
Secretary
Courts Martial Board of Review

25

H.Q.C.55-B-2004 (JAG/D)

16 Oct 45

The District Officer Commanding,
Military District No. 12, Regina, Sask.

STANDING
.....Court-Martial
L.532207 Tpr. Norman Bode,
No. 12 District Depot, C.A.

Receipt is acknowledged of your R.1-B-888 dated 11 Oct 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier
Judge Advocate-General.

MM

23

LEZ

IN REPLY PLEASE QUOTE No. R.1-B-888(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGINA, Sask., 11 Oct, 1945.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

2912
OCT 15 1945
File CSM-B-2004
Copy to
Referred to JAG

Standing Court-Martial
L.532207 - Tpr. Norman BODE
No. 12 D.D., C.A.

Reference HQC 55-B-2004 (JAG/D-R) dated 2 October 1945, forwarding proceedings of the marginally named Standing Court-Martial pursuant to C.A.R.O. 4565(12).

2. As the proceedings have now served their purpose, they are returned herewith for custody.

(G.A.H. Trudeau), Brigadier,
District Officer Commanding,
M.D. No.12.

Att.

22

NAT. DEF. B. 440
2500M 6 44 (4305)
H.Q.-1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask., on the 24th day of September, 1945, at 1045 hours,

for the trial of: L.532207 Tpr. Norman BODE,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major S.L. Waterman, R.D., President Courts-Martial, M.D. 12.

PROSECUTOR: Capt. P.W. McMeans, Prosecutor Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Capt. H. Goodfellow, No. 12 District Depot, C.A. (See documents marked "G" and "H" attached.)
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, L.532207 Tpr. Norman BODE, No. 12 District Depot, C.A., is guilty of the charge with the exception that the cost of apprehension and return to his Unit is the sum of $28.05 instead of the sum of $28.13 as charged.

SENTENCE: The Court sentence the accused, L.532207 Tpr. Norman BODE, No. 12 District Depot, C.A., to undergo detention for one year and to be put under stoppages of pay until he has made good the sum of $28.05 in respect of the cost of apprehension and return to his Unit.

Signed at Regina, Sask., this 24th day of September, 1945.

S.L. Waterman Major,
President,
Standing Court-Martial.

M.F.R. 1486
25M-6-44 (4539)
H.Q. 1772-39-2198

Extracts entered as No. 39978 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 24 day of Sep 19 45

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, D.H.Q. Sub-Staff, M.D. 12, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. That's right, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not guilty.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2" Swarmman Major President Com.

5

CHARGE SHEET

The accused, L.532207 Tpr. Norman BODE, No. 12 District Depot, CA, Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service is charged with:

CHARGE:
SECTION 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he,

at Debert, Nova Scotia, at 2100 hours on the 22nd January, 1945, absented himself from the 31st Alta. Recce, CA until apprehended at Sheho District, Saskatchewan, at 0100 hours on the 8th September, 1945 by the Military Power, dressed in plain clothes, the cost of his apprehension and return to his Unit being, $28.13.

20th September, 1945
Regina, Saskatchewan.

(H.E. Murray) Lieut.Col.
Officer Commanding,
No. 12 District Depot, CA

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

THE PROSECUTOR ADDRESSING THE COURT: Sir, I produce M.F.B. 375, M.F.M. 216, M.F.B. 1481 in the total sum of $2.88, M.F.B. 1481 in the total sum of $11.27 and M.F.B. 1482 in the total sum of $13.90, making a total of $28.05 instead of $28.13 as alleged in the charge.

The Defending Officer has no objection to any of the documents.

The documents are read and marked Exhibits "I" to "M" respectively, signed by the President and attached to the proceedings.

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The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. An unsworn statement, sir. (See document marked "U" attached.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer declines to make a closing address.

The Prosecutor declines to make a closing address.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. No, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"G" Swarman Major
President SCM.

DDR 6-0-1 (Legal)

Regina, Sask., 24 Sep ....19.45..

Major S.L. Waterman, E.D.,
President, Courts - Martial,
Headquarters, M.D. No.12,
REGINA, Sask.

L.532207 Ppr. BOBE N.
No.12 District Depot, C.A.
Standing Court - Martial

Capt. H. GOODFELLOW..... No.12 District Depot, C.A., has been detailed to act as defending officer at the trial of the marginally named soldier.

(H.E. Murray) Lt.Col.
Officer Commanding,
No.12 District Depot, C.A.

15

"H"

S. Warriner
Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q. There is a letter here (document marked "G") from the Officer Commanding, 12th District Depot, stating that Capt. Goodfellow--the officer on my left (indicating the Defending Officer)--has been detailed to act as your Defending Officer. Is that satisfactory?

A. Yes, sir.

14

Exhibit "1" Sergeant Major President. SCM

17

RECORD of the Declaration of a Court of Inquiry assembled at No. 6 District Depot, C.A. on the 14 day of Feb. 1945 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiencies, if any in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-532207 Tpr. BODE, N. No. 6 District Depot, C.A.

DECLARATION

The Court declare that No. L-532207 (Regt'l No.) Tpr. (Rank) BODE, N. (Full Name) No. 6 District Depot, CC.A. illegally absented himself without leave from 31st Recce. (Alta) C.A. at Debert at 2100 hours on the 22 day of January 1945 that he is still so absent, and that on the 14 day of Feb. 1945 he was defficient and that he is still defficient the following articles:

ARTICLES		VALUE		ARTICLES		VALUE	
CLOTHING DIV "A"	1		56	Towels hand prs.	2		48
Anklets Web prs	1		79	SECTION "A-1"			
Cap W.M.C.	1		16	Attachments brace	2		24
Dressing F.F.	1		50	Belts waist	1		57
Gloves woollen prs.	1	11	66	Bottles water	1		47
Greatcoat Drab	1		70	Braces shoulder L.	1		27
Mitts leather	1-	1	89	Braces shoulder R.	1		25
Overalls Comb. pr.				Carrier water bottle	1		28
CLOTHING DIV "B"				Frogs bayonet	1		14
Blouses Serge E.D.	2	9	76	Haversack	1	1	73
Trousers Serge prs.	2	9	82	Pack	2	1	79
Boots ankle prs	2	8	74	Straps Shld. Hysk	2		48
Caps F.S.	1-		53	Straps Web supporting	1		22
Drawers prs cotton	2		64	Tins mess	1		43
Drawers woollen prs.	2	2	10	Covers breech	1		27
Jacket sweater	1	1	03	Sling rifle	1		18
Shirts flannel khaki	1	1	23	SECTION "A-2"			
Shirts under cotton	2		66	Respirator A/G & Haversack	1-	4	51
Shirts woollen	2	1	80	SECTION "J"			
Shirts khaki cotton	2	2	32	Sheets ground	1	1	85
Shoes canvas prs.	1	1	73	SECTION "K"			
Trousers K.D. shorts prs.	1		99	Mugs Enamel	1		12
Socks woollen	3	1	05	Rifle No.4 Mk. 1 No.16L8476		36	29
CLOTHING DIV "C"				Bayonet and scabbord	1	4	31
Bags kit	1		96	Pullthrough	1		10
Braces	1		21	Bottles oil	1		10
Brasses button	1		02				
Brushes boot polishing	1		16				
Brushes button	1		09	TOTAL		118	76
Brushes hair	1		30				
Brushes Cloth	1		13				
Brushes shaving	1		32				
Brushes tooth	1		07				
Cap comforter	1		31				
Comb hair	1		03				
Knife table	1		14				
Fork table	1		06				
Spoon table	1		06				
Holdall	1		17				
Housewife	1		27				
Razor safety	1		32				

The above Rifle has been turned in Auth. H.Q.

13

J.K. SULLIVAN (Name) (Lt) (Rank) No. 6 District Depot, President.

B.O.4633 Member.

B.O.4633 Member.

Signed at Halifax, N.S.
this 14 day of Feb. 1945
Signature of Commanding Officer: F.I.Andrew, Col, No. 6 D.D.

Certified true copy R.H.LeBlanc Capt. No. 6 District Depot.
(Signature of Officer having custody of original record)
(R.H.LeBlanc) Capt., Adjt., No. 6 District Depot, C.A.

MFB375
AFB115
150-M.10-42(6530
H.Q.1178-30-257

Exhibit "J" Swarzman Major President HCM

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY ~~[illegible]~~ SERVICE AUTHORITIES)

I, Major L.A. MALLESON, Officer i/c Regina Detachment, No.43 Provost Company, C.Pro.C.
(Number) (Rank) (Unit)

hereby certify that L.532207 Gunner BOIE, N.
(Number) (Rank) (Name in full)

of the No. 12 District Depot, C.A., Regina, Sask.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrender~~ L.55268 Sergeant
(Number) (Rank)

Frederick James GRIFFIN, Regina Detachment, No.43 Provost Company, C. Pro.C.
(Name) (Unit or appointment)

at Sheho District, Sask. at 0100
(Place) (Hour)

on the 8th day of September, 1945.

Strike out words not applicable } as a ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was ~~[illegible]~~ (dressed in civilian clothes).

Dated at Regina, Sask. this 10th day of September, 1945.

L.A. Malleson
(L.A. Malleson) Major,
(Signature, Number, Rank, Unit or appointment)
Officer i/c Regina Detachment,
No.43 Provost Company, C.Pro.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Exhibit "K"

Guarnieri
Major
President. NCM

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description / Strike out word not applicable / Complete

I, Major L.A. MALLESON, Officer i/c Regina Detachment, No.43 Provost
(Rank) (Name)
hereby certify that I ~~[illegible]~~ (authorized) the hereinafter itemized transportation for escort Company, C.Pro.C. (Unit)
to proceed from Sheho, Sask. (Place) to Sheho District, Sask. (Place)
and return to Foam Lake, Sask. (Place) for the purpose of escorting

Full description of soldier being escorted

L.532207 (Number) Gunner (Rank) BODE, N. (Name in full)
No. 12 District Depot, C.A., Regina, Sask. (Unit) (Attachment, if any)

Strike out phrase not applicable

alleged to be ~~[illegible]~~ deserter or an absentee without leave, the facts, date and particulars of (the ~~[illegible]~~ transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
8 Sept. 1945.	D.N.D. Vehicle 56-368 Mileage, Sheho, Sask. to Sheho District, Sask., to Foam Lake, Sask. 48 miles @.06¢ per mile.	2.88
	TOTAL	$ 2.88

Dated at Regina, Sask. this 10th day of Sept. A.D. 1945.

L.A. Malleson
(L.A. Malleson), Major,
Officer i/c Regina Detachment
No.43 Provost Company C.Pro.C.

Signature, rank, unit, attachment (if any) and appointment of officer ~~[illegible]~~ (authorizing transportation)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

Exhibit "L" Government President Sen

F.B. 1481
10-43 (2206)
H.Q. 1772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, A/Major H. Drinkwater, D.S. & T.O., M.D. No. 12 (RCASC)
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~(authorized)~~ the hereinafter itemized transportation for escort

Complete — to proceed from Saskatoon, Sask. (Place) to Wynyard, Sask. and Regina, Sask. (Place) and return to Saskatoon, Sask. (Place) for the purpose of escorting

Full description of soldier being escorted — L.532207 (Number) Gunner (Rank) N. Bode (Name in full)
31st (Alta) Recce. Regt. (Unit)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave (attachment, if any) the facts, date and particulars of (the transport warrants issued) ~~(the transportation reports)~~ and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
11 Sep 45	M.D. No.12 Transport Warrant No. D 171735 covering: Two single second class fares from Wynyard, Sask. to Saskatoon, Sask., for absentees (One-half cost of this transportation chargeable against L.532207 Gnr. N. Bode)	$2.52
11 Sep 45	M.D. No. 12 Transport Warrant No. D 171736 covering: Two single second class fares from Saskatoon, Sask. to Regina, Sask. - for absentees (One-half cost of this transportation chargeable against L.532207 Gnr. N. Bode)	$3.12
11 Sep 45	M.D. No. 12 Transport Warrant No.D171737 covering: One second class fare from Saskatoon, Sask. to Wynyard, Sask. and return - for escort L.1732 L/Cpl. W.C. Nayler. (Two absentees escorted, therefore one-half cost of this transportation chargeable against L.532207 Gnr. N. Bode)	$2.51
11 Sep 45	M.D. No. 12 Transport Warrant No.D171738 covering: One second class fare from Saskatoon, Sask. to Regina, Sask. and return - for escort, L.1732 L/Cpl. W.C. Nayler. (Two absentees escorted, therefore one-half cost of this transportation chargeable against L.532207 Gnr. N. Bode)	$3.12
	TOTAL	$ 11.27

Dated at Regina, Sask. this 11th day of September A.D. 19 45.

A/Major

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) ~~(authorizing transportation)~~
Strike out description not applicable
D.S. & T.O., M.D. No. 12 (RCASC)

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.
This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

Exhibit "M" Guarantee Mgr President Sem

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ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941.

(INCIDENTAL EXPENSES)

Complete description

I, L.1732 L/Cpl. William Carter NAYLER, Saskatoon Detachment, No. 43 Provost Company, C.Pro.C.

Strike out words not applicable

Members of escort

as (escort) ~~XXXXXXXXXXXX~~ consisting of L.1732 L/Cpl. William Carter NAYLER, Saskatoon Detachment, No.43 Provost Company, C.Pro.C.

detailed to proceed from Saskatoon, Sask. to Wynyard, Sask.

Name and description of soldier escorted

to return L.532207 Gunner Bode, N. No. 12 District Depot, CA

alleged to be a deserter or absentee without leave, to Regina, Sask.,

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement		Amount
EXPENSES INCURRED BY THE R.C.M.P.		
8 September, 1945.		
Expenses Hire of Day Guard	3.00	
Hire of Night Guard	3.00	
1 Breakfast, 1 Lunch, 1 Dinner, Absentee @.46¢	1.38	
9 September, 1945.		
Conveying prisoner to Wynyard per Police Car to meet escort. 38 miles @.15¢ per mile (one way)	5.70	13.08
EXPENSES INCURRED BY NO.43 PROVOST COMPANY, C.PRO.C.		
9 September, 1945.		
3 Dinners, Escort & two absentees.	1.63	
TO BE DIVIDED BETWEEN TWO ABSENTEES.		.82
Total		$ 13.90

Dated at Saskatoon, Sask. this 10th day of September, A.D. 1945.

L1732 L/Cpl. W.C. Nayler

L.1732 L/Cpl. W.C. Nayler, Saskatoon Detachment, No.43 Provost Company, C.Pro.C.

Signature and rank ~~XXXXXXXXXXXX~~ (escort)

Strike out if description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1482
75M—4-44 (4458)
H.Q. 1772-39-1856

"N"

Swarema
Major,
President, Standing Court-Martial.

STATEMENT BY THE ACCUSED

Well, sir, I realized that I was on draft and, being a married man, I went home and saw how my land was getting behind--taxes was piling up against it--and I decided to stay at home with my wife and family.

My farm is four and a half miles from town and there is no well on the place and the wife is there alone and she has to carry water a half a mile; and there's no wood up, sir, for the winter.

And the reason I was in civilian clothes was because I was in the field working at the time, sir, and I didn't get no chance to change my clothes.

And it is hard for the wife to bring groceries out from town at the present time.

That's all, sir.

8

"Y" Summary
President

M.F.B. 155
50M—9-42 (5002)
H.Q. 1772-26-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number L.532207 Rank Tpr. Name Norman BODE ~~Regiment (or~~ unit) No. 12 District Depot, CA

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For AWL	1 times	AWL	5 times
For	times		times
For	times		times
For	times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges for 1 days in civil custody, ~~Air Force~~ and 16 days in military custody, making a total of 17 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form ~~attestation paper is~~ is 27 years 8 months

6. The date of his ~~enrolment~~ enrolment specified in his ~~record of service~~ enrolment form ~~attestation~~ ~~attestation paper~~ is 9 Jun 42

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or has possession of or entitled to). State any air force decoration or reward.~~

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force ~~the regimental rank of~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps), the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number .....Rank..... Name .....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Sept 24 day of September, 1945 J.M.Policha, Capt. Officer having charge of original records No12Dist.Depot,CA Legal Officer,No12 District Depot, CA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

31

M.F.M. 6

Date of Birth

Reg. No. L.532207 Name BODE Norman Corps C.A.C. Date of enlistment or enrolment 9 Jun 42

Signature O.C. Company, etc. "J.M. Policha, Capt." SHEET DESTROYED 9 Dec 44

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Regina, Sask.	9-6-42	Pte.		AWL 2359 hrs 9-6-42 until 1520 hrs. 16-7-42 when apprehd by RCMP at Sheho, Sask. dressed in civilian clothes, expenses incurred $11.15 TOTAL TIME ABSENT 36 dys 15 hrs 21 mins. AA 15(1)	Doc. Evid.	Admonished	17-7-42	Lt.Col. B.A. Cooke	Aut. Stopp; 37 dys F&I 149(1)(a)
Regina, Sask.	18-7-42	Pte.		AWL 108 dys 9 hrs 10 mins.	Doc. Evid.	Admonished Cost of apprehn $20.29	9-11-42	Major E. Ross	

(P.T.O.)

M.F.M. 6—500M—8-44 (3186)
H.Q. 1772-39-1052

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Nanaimo,	14 Feb 43	Gnr.		AWL 2359 hrs 14 Feb 43 to 2130 hrs 15 Feb 43	Sgt.....	3 dys C.B.	16 Feb 43	Major J.A. MacDonald	Forf 1 dys pay FR&I 149(1)(a) Forf. 1 dys pay 46(2)(d)
Wainwright Alta	19-6-44	L/Bdr		AWL from 0700 hrs 19 Jun 44 until 0400 hrs 20 Jun 44 ABSENT 11 hrs Sec 15(1) AA	Sgt. L.A. MacKenzie	Admonished	20-6-44	Major... WA Reid	Forf 1 dys pay FR&I 149(1)(a)
Prince George	20 Oct 44	L/Bdr.		AWL from 0600 hrs 2 Oct 44 until 0330 hrs 17 Oct 44 Total ABSENCE 14 days 21 hrs 30 mins	Doc. Evid	Reverted to the rank of Gnr.	19 Oct 44	Major WA Reid	Forf 15 dys pay FR&I 149(1)(a)

CERTIFIED TRUE COPY

(J.R. Pollcha) Capt.
Legal Officer, No. 12 District Depot, CA
Officer having charge of original records,
No12 District Depot, CA

"A" Swatenna Major
President

MEDICAL OFFICER'S REPORT

I certify that No. L.532207 Tpr. BODE N.

of ..... is in a good state of health,

and fit to undergo Trial by Court martial.

R.C.A.M.C. Medical Officer
Att. to No. 12 District Depot, CA

Station Regina, Sask.

Date 24 September 1945

M. F. B. 246
80M—9-44 (5437)
H.Q. 1772-39-480

5

PRECIS OF EVIDENCE

in the case of

L.532207 Tpr. Norman BODE, No. 12 District Depot, CA., Regina, Saskatchewan.

CHARGE: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

To prove thecharge, the following evidence is available:

DOCUMENTARY: M.F.B. 375
M.F.M. 216
M.F.B. 1481 (2)
M.F.B. 1482

(J.M. Policha) Capt.
Officer detailed to take the Precis of Evidence,
No. 12 District Depot, CA

20th September, 1945
Regina, Saskatchewan.

H.Q.C.55-B-2004 (JAG/D-8)
Your R.C.1-B-838

2 Oct 45

The District Officer Commanding,
Military District No. 12, Regina, Sask.

STANDING COURT-MARTIAL
L. 532207 Tpr. Norman Bode,
No. 12 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

MO/MM

3

THIS COPY FOR: H.Q.C. 55-B-2004
M.D.R.C. 1-R-888 (AJAG)

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA
No. L.532207 Name BODE, Norman

Rank Tpr Unit No. 12 DD CA

Charge AA 12 (1)(a) WOAS Deserting.....

Date of Crime 22-1-45

Date of Arrest 8-9-45 Charge Signed 20-9-45

Orders for D.C.M.

Place and Date of Trial Armour, 24-9945

Sentence Det 1 year Stoppages $28.05

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39978

Date 28-9-45

MEMO Balance of sentence remitted by Conf. Auth.

MD 2 No. 12 DD CA

Absent Sentence

Approx 8 mos Det 1 year

2

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No. R.C.1-B-888 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 25 Sep 1945.

VIA AIRMAIL

CONFIDENTIAL

C.55-B-2004

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

L.532207 - Tpr. Norman BODE
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4566, I enclose herewith proceedings of the Standing Court-Martial held in connection with the marginally named soldier.

(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl.

N.D. 23
—11-43 (2979)
1772-101-23

39978

H.Q.C. 55-B-2005 CONFIDENTIAL

M.F.D. 30170
33M—2-45 (6469)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOUCHARD, JEAN-MAURICE D.143653 GNR.

CONFIDENTIAL
H.Q.C. 55-B-2005

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
SEP 29 1945				JAG	NEW FILE	CR	28-9-45
					With Papers C.R. OCT 19 1945		
OCT 22 1945	21 10 45	PA		Admin	To note explanation	E.A.M.	20.10.45
				CMBR	For Requisition C.R. NOV 15 1945		
JAN 9 1946	7/1/46	PA		Admin 3	Recommendation Fol 20		DEC 17 1945
JAN 17 1946	16-1-46	PA		Admin	For Requisition C.R. JAN 16 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

MEMORANDUM

TO: THE PRIVATE SECRETARY

Department of National Defence,

HQC 55-G-1194,
HQC 55-G-1163,
HQC 55-B-2005, Adm 3(b)2,

OTTAWA, Ont, 7 Jan 46.

S.E. 22110 d/4 Jan 46

D-132115 - Pte GAUTHIER P

1. This SUS was tried by SCM, 1 Oct 45 charged with AWL having absented himself without leave from 5 Oct 42 until 15 Aug 45. He was found guilty and sentenced to 18 months' detention.

2. Under present policy this case will not be reviewed by CMBR.

3. Report has, however, been requested from DOC, MD 4 regarding any action which may have been taken as a result of recent review.

I N T E R I M

D-615129 - Pte GASCON G

1. This SUS was tried by SCM, 5 Apr 45 charged with desertion, having absented himself without leave from 16 Jul 41 until 20 Aug 45. He was found guilty and sentenced to 22 months' detention.

2. Sentence was reviewed by CMBR, 17 Dec 45 and recommendation was made for his release on 4 Apr 46.

3. His release at that time will depend upon his good conduct during the interim.

F I N A L

D-143653 - Gnr BOUCHARD Jean-Maurice

1. This SUS was tried by SCM, 24 Sep 45 charged with AWL, having absented himself without leave from 29 Apr 44 until 7 Aug 45. He was found guilty and sentenced to 9 months' detention.

2. Sentence was reviewed by CMBR 17 Dec 45 and recommendation was made for his immediate release.

3. Report has now been received from DOC, MD 4 stating that this soldier's sentence was remitted wef 24 Dec 45.

F I N A L

GDB:6293:mw

(E G Weeks)
Major-General,
Adjutant-General.

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

File. M.1-B-16735 A(DIS)
MONTREAL QUE. 22nd December, 1945.

1712U

Secretary,
Department National Defence,
Ottawa Ontario.

REVIEW OF SENTENCES CM CARO 5913

D-143653 - Gnr. BOUCHARD, J.M.

Reference NCC 9039-1, Adm 3(b),3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Attached hereto MFM 288 duly completed in respect to the m/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(B.J.Renaud) Major-General,
DOC MD No. 4.

ENCL.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-143653 (Number) Gnr. (Rank) BOUCHARD, Jean Maurice (Name in full)

R.C.A., C.A., attached to No.4 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 9months detention

on 24th September, 1945. at Montreal South, Que.

being served at No.65 Military Detention Barracks, Longueuil, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18years and 8 months

Medical grade or category FULLEMS 111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~(not)~~ committed to undergo his sentence, which I recommend should ~~(not)~~ be (~~suspended~~) (put into execution) (~~reviewed on~~ ..... date) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 13th October 1945.

(Confirming Authority) (E.J. RENAUD) Major General, D.O.C., M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offences, see parts VIII. For C.O.'s remarks, see parts XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-2104)
1331—6-45 (441)
H.Q. 1772-30-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
6 Nov 45	Remission Recommended but at least 8 Feb 46	D Fletcher Capt for DOC MDD	
22 DEC 45	Sentence remitted wef 24 DEC 45	(E.J. RENAUD) Major-General, D.O.C., M.D. 4.	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15(1) Army Act.	ABSENTING HIMSELF WITHOUT LEAVE, in that he at Petawawa, Ont., at 2200 hrs on the 29th April, 1944, absented himself without leave from his unit A-2 CATC, C.A., until he surrendered to the Military Police at Montreal South, Que., at 1100 hrs on the 7th August 1945. (L.I. ADERBACK) Capt., General List, C.A., att'd to No.4 District Depot, C.A. Signature of Officer making entry	29thApr44	24Sep 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
10Oct 45	I do not recommend any remission of sentence in this soldier's case. (S. BOURNE) Colonel, Commanding No.4 District Depot, C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
13 Oct 45	Sentence considered fair and reasonable 1st review on 9th November 1945.	(E.J. RENAUD) Major General, D.O.C., M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

N. 8-1-20 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE

/ A R M Y /

MONTREAL, Quebec,
29 Dec 45.

17906
DEC 30 1945
File
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA

SOLDIERS UNDER SENTENCE:

Attached hereto Forms for Remission for the under-mentioned soldiers, duly completed.

D-625897	AUCLAIR, R.
D-645081	BOUCHARD, A.
D-143653	BOUCHARD, J.M.
D-625163	BOULANGER, J.
D-643004	BOUVIER, A.
D-607777	CARPENTIER, A.
D-651875	CHAGNON, J.
D-615354	CHAMBERLAND, C.
D-616519	CHARBONNEAU, S.
D-710059	CHENARD, G.
D-639642	COMPORTATI, J.
D-641455	COTE, R.
D-59367	COUTURE, J.N.
D-646019	DIGIOVANNI, M.
D-147273	DUROCHER, M.
D-636276	GERMAIN, E.
D-645089	HARPIN, P.E.
D-146377	HEON, J.M.R.
D-150170	LACHAPELLE, J.
D-132982	LAROCQUE, R.
D-636603	LECLER, D.
D-641835	LEVESQUE, L.
D-649131	McDERMOTT, J.C.
D-650621	MURRAY, H.
D-135551	OUELLETTE, R.
R-526584	PARIZEAU, E.
D-646187	POULIN, J.
D-615195	PRIZEAULT, M.
D-645370	PROVOST, E.G.
D-638134	RAYMOND, E.
D-655481	ROBILLARD, L.
D-652598	SISKA, P.
C- 48013	TURPIN, C.
H-22541	WESLEY, J.W.

(E.J.RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

Encl.

Com 3
17-12-45

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. 55-B-2005
District File No. M.1-5-16735 (A/DIS)

PART I

No. D.143653 Rank. Pte. Name. BOUCHARD, J.M.
Unit. 4 D.D.

PART II

Date of Trial. 24th September, 1945.
Charge(s). ABSENTING HIMSELF WITHOUT LEAVE
Sentence. Nine months detention
Date of Sentence. 24th September, 1945
Confirmation -- (a) Authority: D.O.C.M.D.4
(b) Date : 24th Sept. 45.

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit (~~commutation/mitigation~~)* sentence wef 24 Dec 45.

Signed at MONTREAL QUE. this 29 day of DECEMBER 1945.
(Appointment) (E.J. Renaud), Maj Gen, DOC MD No. 4.
To be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission (~~commutation~~)(~~mitigation~~)* promulgated and extracts taken at Montreal South Que. this 26th day of December 1945 (1)

Ass-Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C. C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-143653 Rank. Pte. Name. BOUCHARD, Jean Maurice
The sentence of 9 months detention awarded by ~~District~~ Court Martial on the 24th September, 1945 has been remitted on the 24 December, 1945 by D.O.C.
UNIT. Military District No.4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A. No. 309 Place Jacques Cartier Barracks, Montreal South, Que. Date 26th December, 1945
Adjutant

(J.M.N. CHARNEBOIS) Capt-Adjt. General List, C.A., att'd to No.4 District Depot, C.A.

*Strike out and initial words not applicable.

HQC 55-B-2005
Adm 3(b)2

CONFIDENTIAL

OTTAWA Ont 20 Dec 5

District Officer Commanding
Military District No 4
MONTREAL PQ

D.143653 Gnr BOUCHARD J M

19 Dec 45: Ref M-1-B-16735 A/DIS and Ranks 1538 dated

2. Returned herewith MFM 288 for this soldier.

G.D.B.

(A.E. Walford)
Major-General
Adjutant-General

Encl

GDB/jh

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: HQC 55-B-2005 Adm 3(a)

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 4
MONTREAL P Q

OTTAWA ONTARIO 19 DEC 45

RANKS 1538 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REFERS D 143653 GNR BOUCHARD J M (.)

OMER RECOMMENDS IMMEDIATE RELEASE (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: OMER

JAG

GDB/MA

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
Major-General Adjutant-General		IMMEDIATE	1650

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

H.Q.C. 55-B-2005
c (JAG/D-6)

Ottawa 21 November 5

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

D-143653 Bouchard, Jean Maurice

Receipt is acknowledged of your M-1-B-16735 A/DIS dated 20 Nov 45 under cover of which you forwarded to this Headquarters MFM 288 in connection with the m/n soldier.

E.L.M

for (R.J. Orde), Brigadier,
Judge Advocate-General.

ELM:jb

M-1-B-16735 A/DIS

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

MONTREAL, 20 Nov 1945.

CENTRAL REGISTRY Army
10405
NOV 21 1945
File 055-B-2005
Cmd. to
Reference to

Secretary,
Department of National Defence,
OTTAWA, Ontario.

D-143653 BOUCHARD, Jean Maurice.

Reference your HQC 55-B-2005 dated 16 Nov 1945.

2. Attached hereto M.F.M. 288, together with recent Report on Conduct in respect to the marginally named soldier duly forwarded as directed in N.D.H.Q. communication, under reference.

This Headquarters does NOT recommend suspension or remission prior to half of the sentence beingcompleted.

(E.J. RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

Encl.

M. -1-B-16735 ADIS

REPORT ON CONDUCT

District Headquarters,
Montreal, Que.
3 Nov. 45.

TO: COMMANDANT,
#65 Military Detention Barracks.

1.	Soldier under sentence	D-143543 BOUCHARD JEAN MAURICE
2.	PLEASE STATE:	
	(i) Date of sentence	24 Sep 45
	(ii) Sentence	9 months
	(iii) Date you received soldier	28 Sep 45
	(iv) (a) Can soldier read and write	Yes
	(b) Religion	R.C.
	(c) Married, Widower, Single	Single
	(d) What army trade has soldier?	None
	(v) (a) Conduct of soldier	Good
	(b) Industry of soldier	Good
	(c) Remission earned:-	Yes
	(i) Number of days actually earned	14 days
	(ii) Number of days obtainable to date	14 days
	(vi) Medical Officer or Surgeon's Report on physical and mental condition; if soldier is ill, should state:-	Fit
	(a) Whether detention will seriously aggravate soldier's condition	No
	(b) Whether further confinement is likely to prove fatal.	No
	(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence	Too soon to judge, refer back when half sentence completed, 8 Feb 46
	(b) Moral effect confinement has had	Good
	(c) If returned to Army, is soldier likely to become a good soldier?	No
	(viii) Date term will expire if all remission earned from now on.	11 Feb 46.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

C. Potter Major
(C.Potter) Major
Commandant
No. 65 Mil.Det. Brks

HQC 55- B-2005(MBR-4)/ EL
16 Nov 45
Case No.....

1531

REVIEW OF SENTENCE
BY
CENTRAL MILITARY BOARD OF REVIEW

1. Rank, No and Name: D-143653 Gnr. BOUCHARD, J.M.

2. Unit at date of offence: A-2, CATC, CA, Petawawa, Ont.

3. Charge: AA 15(1) AWL (from 29 Apr 44 until he surrendered on 7 Aug 45)
Length of absence: 15 mos)

Plea: guilty

4. Place and Date of Trial: 4 D.D. Montreal South, Que.
(~~GCM~~) (~~DCM~~ (SCM) 24 Sep 45

5. Finding: guilty

6. (a) Sentence: 9 mos detention

(b) Date of Sentence: 24 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 65 MDB in MD....4.....

1538

(N.B. - Discharged under RO 1029( ) for
wef)

21

CONDUCT

Case No----------

11. (a) Prior to conviction

Offence	Date	Sentence
(1) Civil Convictions: NIL		
(2) Courts/Martial: NIL		
(3) Summary Convictions: 2 minor AWL 1 minor Conduct to the Prejudice		

(b) After conviction Good (Expected D/ of release: 9 Feb 46

(c) Date of ~~enrolment~~/enlistment: 19 Nov 43 Present Age: 20

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

(1) Statement in Mitigation: Was placed on O/S draft in Apr 44 and given embarkation leave. His mother is very sick suffering from heart disease and he feared the shock of informing her of his being on draft would kill her. While home therefore he did not tell her that his leave was embarkation leave. On his return to camp he requested that he be retained in Canada for the reasons above mentioned. He personally had no fear of going O/S, in fact had enlisted Active Service voluntarily. It is only that he feels that his departure would cause such severe shock to his mother; it might easily bring about her death. He produces as an exhibit a certificate from one Dr. J.A. Larose which would tend to corroborate this evidence. While AWL he worked here and there, even in the woods.

(2) Defending Offr: When the accused enlisted Active Service he was told that he would stay in Canada because his mother was very sick. He is the sole support of his sick mother and while absent he gave her almost all his earnings.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr., etc.)

Rev.Offr: Considering his youth and because if his story is true there would appear to be mitigating circumstances. Recommend remission eff 24 Jun 46, ~~xxxxxxxxx~~.

Reviewed by... W. Gold
(W. Gold) Lt.

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14. Recommendation of the Board:

Immediate Release

Date DEC 17 1945

M a Stikwell Maj
Secretary
Courts Martial Board of Review

H.Q.C. 55-B-2005 (JAG/D-6)

20 October, 1945.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.

Standing
D-143653 Gnr. Jean Maurice Bouchard,
RCA, CA, attached to No. 4 D.D., CA.
.....Court-Martial

M.1-B-16735 (J)

13th October 5

Receipt is acknowledged of your
dated 194 under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

The explanation of delay in this case has been noted.

(R.J. Orde), Brigadier,

Judge Advocate-General.

BLM:jb

18

IN REPLY PLEASE QUOTE No. M.1-B-16735(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

OCT 18 1945

REGISTERED

R/158

Montreal, P.Q.,
16th October, 1945.

CENTRAL REGISTRY Army
CONF. SEC.
3774
OCT 18 1945
55-B-2005
Chgd. to
Returned to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
D-143653 Gnr. Jean Maurice BOUCHARD,
RCA, CA, attached to No. 4 D.D.,CA.

Reference your HQC.55-B-2005(JAG/D-7) dated 29 Sep 45.

2. Hereunder, for your information, an explanation as to why the accused spent 48 days in custody awaiting trial:

7 Aug 45	Surrendered to Military Authorities at No.4DD. Wire status requested.
14 Aug 45	Status received.
16 Aug 45	Docs and Part II's requested.
18 Aug 45	Docs. received.
21 Aug 45	Tracer Part II's.
23 Aug 45	Remanded for S.C.M.
30 Aug 45	Tracer for Part II's.
8 Sep 45	Tracer for Part II's.
15 Sep 45	Tracer for Part II's.
19 Sep 45	Part II's received
21 Sep 45	Proceedings forwarded.
22 Sep 45	Application for the marginally-noted Standing Court-Martial received at this H.Q. and trial of the accused scheduled to take place on 24 Sep 45.
24 Sep 45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

Enc.

Testimonium Capt.
for (E.J.Renaud),Major-General,
D.O.C., M.D. No. 4.

17

NAT. DEF. B. 440
2500M-4.44-4321
H.Q. 1772-29-767

MEDICAL OFFICER'S REPORT

I certify that No. D-143653 Gnr. BOUCHARD G.M.
of R.C.A., C.A., Att'd No. 4 DD is in a good state of health,
and fit to undergo Trial by Court martial.

C.H. Elshout
(C.H. Elshout) Lieut Medical Officer
No. 4 Dist. Coy R.C.A.M.C.
Att'd No. 4 Dist. Coy CA.

Station J:C. Bks. Montreal South, Que.

Date Sep. 24th 19 45

M. F. B. 246
50M—5-43 (254)
H Q. 1773-39-480

16

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A.

le vingt-quatrième jour de septembre 1945 à 1130 heures,

pour le procès de D-143653 (Matricule) Gunner (Grade) Jean-Maurice BOUCHARD (Nom et prénoms)

R.C.A., CA, (Unité) attached to No. 4 District Depot, C.A. (Détachement, le cas échéant)

PRÉSIDENT: Major L.-J.-E. BELLEAU, Quartiers-Généraux, District Militaire No.4

PROCUREUR: Capitaine (Grade) R.J.-E. BOUSQUET (Nom et prénoms)

Quartiers-Généraux, (Unité) District Militaire No. 4 (Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) J.-R. PANET-RAYMOND (Nom et prénoms)

C.I.C., CA, (Unité) att'd to No. 4 District Depot, CA (Détachement, le cas échéant)

VERDICT

La cour déclare l'accusé, D-143653, Gunner Jean-Maurice BOUCHARD, R.C.A., CA, attached to No. 4 District Depot, CA, coupable à l'égard du chef d'accusation.

SENTENCE:

La cour condamne l'accusé, D-143653, Gunner Jean-Maurice BOUCHARD, R.C.A., CA, attached to No. 4 District Depot, CA, à la détention pendant neuf mois.

15

Signé à Montréal-Sud, P.Q. ce 24e jour de septembre 1945.

L.J.E. Belleau

(L.-J.-E. BELLEAU) Major,

Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (8449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 39979 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 28 day of Oct 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. [redacted]

Réponse: [redacted]

Question à l'accusé. Vous opposez-vous à D-126762, S/M (NOI) Joseph La Rivière, No. 4 Det., C.M.S.C., CA, comme sténographe ?

Réponse: Non, monsieur.

Le sténographe [redacted] est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur [redacted] chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du [redacted] chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse: .....

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: .....

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: .....

14

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. E. Bellemare, Major, Pres. CMP

B2

CHARGE SHEET

The Accused, D-143653, Gunner Jean Maurice BOUCHARD, R.C.A., C.A., attached to No. 4 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15(1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Petawawa, Ontario, at 2200 hours on the 29th of April, 1944, absented himself without leave from his unit, (A2) C.A.T.C., C.A., until he surrendered to the Military Police at Montreal South, Quebec, at 1100 hours on the 7th of August, 1945.

Signed at
Montreal South, Quebec,
23rd August, 1945.

(S. Rohenberg) Colonel
Commanding No. 4 District Depot, C.A.

13

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

(voir la page CC-3 ci-jointe)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

Monsieur le président,

Je suis absent de l'armée active depuis la fin d'avril 1944. Après un entretien avec mon député, monsieur Lionel Bertrand, j'ai écouté son conseil et je me suis rapporté au camp. Monsieur Bertrand avait échangé, en avril, une correspondance avec l'honorable M. Ralston, concernant mon cas.

Je tiens à vous soumettre les quelques considérations suivantes:

a) Je fus mis sur une 'draft' pour outremer en avril 1944, et après un congé, je revins au camp de Petawawa, où je demandai d'être gardé au pays quelques mois additionnels, à cause du mauvais état de santé de ma mère, une cardiaque.

b) On ne prêta qu'une oreille distraite à ma demande, bien qu'à ce moment le bureau du ministre à Ottawa avait communiqué avec le camp, à la demande de monsieur Lionel Bertrand, député fédéral,

c) Ma mère est veuve depuis de nombreuses années. Elle est agée de 66 ans et elle souffre très largement du coeur. Je n'avais pas eu le courage de lui dire que j'étais sur mon congé d'adieu car elle était en très mauvais état de santé alors que j'étais en congé chez nous. Je savais que mon départ la tuerait et je n'ai pas voulu prendre ce risque.

d) Je ne suis pas un peureux. J'ai signé dans l'active parce que ça me plaisait. Mais à ce moment-là, j'ai reculé pour ma mère seulement. Si j'avais été seul, je serais parti sans sourciller.

e) Ma mère n'est pas en meilleure santée.

f) Je sais que j'ai désobéi aux règlements mais je tiens aussi à vous dire ces choses de la façon la plus sincère possible.

g) Je n'ai aucune objection à demeurer dans l'armée, et ma mère n'y aurait pas d'objection, je le crois, si j'étais appelé à servir dans quelque 'staff' ou dans quelque domaine militaire près de la maison ou à un endroit pas trop éloigné de façon qu'elle puisse me voir de temps à autres.

h) Je répète que seule la maladie de ma mère à été la cause de mon départ, et si le Ministère veut bien me confier un poste ou une charge dans le District de Montréal, dans les bureaux d'administration, dans la Prévôté etc., je suis bien prêt à l'accepter.

Depuis mon départ, j'ai travaillé ici et là, même dans les opérations forestières.

Je soumets le tout à votre considération. Je demande qu'on tienne compte des faits et des circonstances; je suis entré dans l'armée en novembre 1943 et j'ai tenté de faire mon possible. Je demande votre bonne indulgence.

Je soumets un certificat du docteur J.-A. Larose, de Ste-Thérèse-de-Blainville,P.Q., concernant l'état de santé de ma mère.

(Le document précité, est lu, marqué pièce CC-5, signé par le président et versé au dossier)

Téléphone: 113

Dr J.-A. Larose

14 rue St-Charles

Ste-Thérese de Blainville, P.Québec

CC-5

31 Juillet 1946

Je Dr J.A. Larose déclare que Madame Ed. Bouchard, mère du soldat Maurice Bouchard est malade et sous mes soins depuis plusieurs années. Madame Bouchard souffre de troubles cardiaques et de maladie nerveuse que l'éloignement de son fils a certainement aggravé. Mme Bouchard a besoin du produit du travail de ses enfants pour vivre, ce qui explique facilement l'aggravation de ses troubles à la suite de la privation de son fils Maurice ainsi que la privation des revenus qu'il lui donnait avant qu'il fut dans l'armée.

Dr J.A. Larose 10

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

(voir la page E-5 ci-jointe)

9

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

PLAIDOYER DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE

Monsieur le président,

Le soldat Bouchard s'est enrôlé dans l'armée active et lorsqu'il s'est enrôlé, l'officier en charge lui a dit qu'il resterait au Canada, à cause de sa mère qui était gravement malade.

L'accusé a soumis un certificat médical prouvant le mauvais état de santé de sa mère qui souffre de la maladie de coeur.

L'accusé est le seul soutien de sa mère et quand il a signé 'actif' on lui a dit qu'il resterait au Canada quand même, promesse qui n'a pas été gardée comme bien d'autres.

Pendant son absence, l'accusé a travaillé dans le bois à St-Janvier et à Chateauguay et faisait $60.00 par semaine desquels il donnait $50.00 à sa mère. Il a travaillé aussi pour le même salaire chez des cultivateurs. Il était obligé de travailler parce qu'il était soutien de famille.

Je ferais remarquer à la cour que l'accusé n'a pas peur de l'armée et il est prêt à rester dans l'armée en autant qu'on lui donne une charge près de chez lui vu que sa mère est gravement malade.

Il est venu se rapporter aux autorités militaires lui-même et il a déjà fait 50 jours en détention.

Je demanderais que la cour soit indulgente envers l'accusé vu la situation plutôt embarrassante pour sa mère.

8

DAILY ORDERS PART II

BY

COLONEL E.B. McPHERSON, E.D.

Commanding

A-2, C.A.T.C.

No. 121

Place Petawawa, Ont.

Date 22 May 44

(Last Order Issued No. 120 of 20 May 44

" B "

HOLDING ESTABLISHMENT

(2) OTHER RANKS (G.S.)

RECEIVED
SEP 19
CENTRAL
NO. A

16. ABSENTEES - THIRD NOTICE - 22 DAYS

D.143653 Gnr. BOUCHARD J. G.Bty 2200 hrs 29Apr44.

(Signed) W.W. Ralph Capt.
(W.W. Ralph) Capt.,
Adjutant,
A-2, C.A.T.C.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c Records NDHQ
DATE SEP 13 1945

Prepared by:
and
Checked by:

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG, Commanding No. 4 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-143653 Gnr. BOUCHARD, Maurice
(Number) (Rank) (Name in full)

of the R.C.A. att. T.C. A-2, Petawawa, Ont.,
(Unit and attachment, if any)

Strike out words not applicable } ~~apprehended by~~ (surrendered to) D-126460 Sgt.
(Number) (Rank)

PATENAUDE, G. No. 4 District Depot, C.A.,
(Name) (Unit or appointment)

at Montreal South, Que., at 1100
(Place) (Hour)

on the 7th day of August 1945

Strike out words not applicable } at ~~[illegible]~~ (or absentee without leave), and that at the time of his ~~arrest~~ SURRENDER he was wearing military ~~[illegible]~~ uniform ~~[illegible]~~ (~~[illegible]~~).

Dated at Montreal South this 7th day of August 1945

(S. ECHENBERG, Colonel,
Commanding No. 4 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
130M—2-44 (3730)
H.Q. 1772-39-1936

6

H. C. Bellear, Major,
Pres. CM

"Y" 21

M.F.B. 355
75M—5-43 (145)
H.Q. 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-143653	Gnr.	Jean Maurice BOUCHARD, R.C.A., C.A., att'd to	No. 4 D.D. C.A. Field

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery Conduct Sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	~~times~~	Cond. to the prej. 1 times
For	~~times~~	A.W.L. 2 times
For	~~times~~	~~times~~
For	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~ nil

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted nil

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3. The accused is not under sentence at the present time. nil

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 48 days in military ~~Air Force~~ custody, making a total of 48 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 20 years, 4 months. (29 March, 1925).

6. The date of his ~~completion~~ attestation specified in his ~~record of service is~~ attestation paper 19th November, 1943.

7. ~~The service which the accused is allowed to reckon towards discharge is .....~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, ~~or air force~~ military ~~reward (or is in possession of or entitled to). State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ..... Air Force~~

5

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Unit Regiment

Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

P. Paradis, Lieutenant,
R. de Mels, C.A., att'd to
No. 4 District Depot, C.A.,
Asst. Officer i/c Records,
No. 4 District Depot, C.A.

Signed this 24th Sept 1945 ~~[illegible]~~

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

19-3-44

M.F.M. 6 (A.F.B.122) 750M—12-42 (7537) H.Q. 1772-39-1052

No. D-143653 Name BOUCHARD Jean Maurice

Sqn., Battery, or Company

No. and date of last drunk

Corps RCA(FLD) CA N.R. Period not reckoning towards freedom from extra fine

Date of enlistment 19 Nov43

Sheet No.

G.C. Badges

Tradesmen's Rates of Pay 1.40

Signature O.C. Company, etc. (SgdP Wm. A. Wragg Major.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa Ont	4Jan44	Gnr.		Conduct to the prejudice etc.(dressed in civilian clothes without permission)	Documentary	Forfeits 3 days ord.pay.	8-1-44	Col.E.B. McPherson	Costs .24 cents.
Petawawa A-2	19Feb.	Gnr.		A.W.L. from 2200 hrs.19thFeb44 until 0630 hrs 20Feb44(8hrs30min)	Documentary	7 days C.B.	22ndFeb 44	MajorWm.A. Wragg.	Forfeits 1 days payFR&I
Petawawa Ont.	24Apr44	Gnr.		A.W.L. from 1800 hours 24Apr44 until 0600 hrs 28 Apr44(3dys12hrs)	Bdr. Smith BSM Campion	Forfeits 7 O.P. Awarded10 C.B.	28-4 -44	Lt. Col. E.J.Ketchum	Forfeits 4 days pay FR&I

CERTIFIED TRUE COPY

P.Paradis, Lieutenant
R. de Mais, C.A., att'd to
No. 4 District Depot, C.A.,
Ass't Officer i/c Records, No. 4 District Depot, C.A.

(P.T.O.)

H.Q.C.55-B-2005 (JAG/D-7)
Your M. 1-B-16735

29 Sep 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 143653 Gnr. Jean Maurice Bouchard,
R.C.A.,C.A.,att. No. 4 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 48 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

3

THIS COPY FOR: H.Q.C. 55-B-2005
M.D. M.1-B-16735

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. GS D-143653 Name BOUCHARD, Jean Maurice

Rank Gnr Unit RCA CA Att to No. 4 DD CA

Charge AA 15 (1) AWL

Date of Crime 29-4-44

Date of Arrest 7-8-45 Charge Signed 23-8-45

Orders for D.C.M.

Place and Date of Trial No. 4 DD CA 24-9-45

Sentence Det 9 mos

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39979

Date 28-9-45

MEMO

2

MD 4	No. 4 DD CA
Absent	Detention
Approx 16 mos	Det 9 mos

R. X. Ryan Lt

for Judge Advocate General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M.1-B-16735

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, P.Q.
September 25, 1945

Judge-Advocate General
National Defence Headquarters
OTTAWA, Ont.

C.55-B-2005

STANDING COURT-MARTIAL
D-143653, Gunner Jean-Maurice BOUCHARD
R.C.A., CA, att'd to No. 4 D.D., CA

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court

b) Medical Officer's Report, dated September 24, 1945.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E.BELLEAU)Major
Headquarters, Military District No.4
President, Standing Court-Martial

encl.

24

1

39979

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1772-39-757

H.Q.C. 55-B-2006 CONFIDENTIAL

M.F.B. 1070 25M—2-45 (6600) H.Q. 2014-49

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT FIELD GENERAL COURT-MARTIAL

BROWN, R.J. A.35101 SPR.

CONFIDENTIAL H.Q.C. 55-B-2006

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")							
OCT 10 1945	6 Oct 45			ADMIN	NEW FILE	CR	28-9-45
OCT 20 1945	6 Oct 45			Admin	With Papers C.R. OCT 18 1945		
NOV 6 - 1945	20 Oct			Admin	PER B.F. NOV 6 - 1945		
NOV 21 1945	4 Nov			Admin	PER B.F. NOV 20 1945		
DEC 4 - 1945	21 Nov			Admin	PER B.F. DEC 4 - 1945		
				LMBR	With Papers C.R. DEC 7 1945		
DEC 12 1945	13 Dec			Adm 3(b)3	To note —		12 Dec 45
				? LMBR	Done		13 Dec
DEC 14 1945	15 Dec 45			JAG	To note —		14 Dec 45
DEC 20 1945	20 Dec			D. Adm.	PER B.F. DEC 21 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

C.M.B.R. 7-12-45

File: L28-B-2089(DAPM)

HQ MD 1 London, Ont. Date: 5 Dec. 45.....

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

CONFIDENTIAL
CC 13786
DEC 7 1945
File 2.50-13 Vol 6
Chgd. to CMBR 7/12/45
Referred to admin

NFW 288 for Disposal.

Re: 35101 L/Cpl. Brown, R.J.

Herewith returned in accordance with HQC 9039-1 Adm. 3(b)3 d/8 Sep 45 (R852a) para 4, ~~XXXXXXXXXXX~~ AF A3104 concerning the m/n soldier, duly completed.

2. For disposal on remission ~~XXXXXXXXXXX~~ of sentence.

Notify soldier
DJW

for (P. Earnshaw) Brigadier,
D.O.C., M.D. 1.

Encl.-- 1

AR

Army Form A 3104

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

I.—Case of No. A-35101 L/Cpl. BROWN, R.J. Unit 1 Mech Eqpt Pk Coy RCE

Sentenced to undergo detention for 18 months on 7 Jan 45

Age on, and date, of enlistment 19 6/12 yrs. 19 Jun 40 Term of service 4 ½ yrs.

FIRST TRIAL

For details of offence, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI).

SECOND TRIAL

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

12,500 J 296. 9/44 24 H D P S S

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution).

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	Suspend wef 7 apr 45	A.G. Booth Brigadier D.A.G. Canadian Military Headquarters -2 APR 1945	RELEASED from the DETENTION BARRACK Canadian on 7 Apr 45. Sentence Suspended wef 7 Apr 45. Marks earned towards remission 728 COMMANDANT'S Initials
31 Aug 45	Balance of sentence Remitted	A.E. Mewburn Maj-Gen Comd 2 Cdn Inf Div	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. See attached sheet C.H. Greenwood Capt. Signature of Officer making entry.	27 Nov 44	7 Jan 45
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
1st Jan 45.	I recommend that H35101 L/Cpl Brown R.J. serve four months of the sentence and that the balance of fourteen months be suspended. Brown is not a bad character and this was the result of a drunken party.	C.H. Greenwood Capt.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
23 Jan 45	In view of this soldier's previous good conduct and his Commanding Officer's recommendation I recommend that sentence be suspended on completion of nine months detention.	(JRR Gough) Brig Comd A Tps Area First Cdn Army

IN REPLY PLEASE QUOTE No. L-28-B-2089 (DAPM)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Director of Records
A. G. Branch
DEC 7 1945
National Defence Hq.
Canada

HQ MD 1 London, Ontario, 6 Dec., 1945.

14346
DEC 10 1945
File
Original to
Referred to

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

A-35101--Spr. BROWN, R.J.

Ref. H.Q.C. 55-B-2006 (Adm 3(b) 3) d. 20 Oct., 45 and 4 Dec.,45, herewith enclosed is copy of Dist. Order 702 of 1945 showing an entry for information and action.

2. Appendix "G" to CARO 5913 in this case showing promulgation and extracts taken was forwarded to N.D.H.Q. on 5 Dec., 45 together with A.F.A. 3104.

(P. Earnshaw) Brigadier
D.O.C. M.D. No.1.

Encl. 1

DEF. B. 440
1-44 (4320)
72-39-767

First Charge AA Sec 41

When on Active Service committing a civil offence, that is to say, COMMON ASSAULT, in that he, at about 2100 hrs 27 Nov 44 in the Cafe Tafka, 339 Zwynaardeschesteenweg, Ghent, assaulted Alfred VanHOVE, by pointing a revolver at him.

Third Charge AA Sec 41

When on Active Service, committing a civil offence, that is to say, COMMON ASSAULT, in that he, at about 2115 hrs 27 Nov 44 assaulted Fermin KNOCKERT, in the Derbij Cafe, 245 Zwynaardeschesteenweg, Ghent, by pointing a revolver at him.

Seventh Charge AA Sec 41

When on Active Service committing a civil offence, that is to say, ASSAULT CONTRARY TO SECTION 47 OF THE OFFENCES AGAINST THE PERSON ACT, 1861, in that he, at about 2130 hrs. 27 Nov 44 in the Zwaan Cafe, Ghent, assaulted Mr. W. L. VERDONCK, 90 Heuvelstraat, Ghent, thereby occassioning him actual bodily harm.

Eighth Charge AA Sec 40

When on Active Service conduct to the prejudice of good order and military discipline, in that he, at about 2145 hrs 27 Nov 44 created a disturbance in the Cafe Zwaan, Ghent by threatening to throw a chair, breaking a buffet, glasses, a table, a valuable doll and a blind.

Ninth Charge AA Sec 19

When on Active Service, DRUNKENNESS, in that he, between 2100 hrs and 2330 hrs 27 Nov 44 was drunk.

OVERSEAS ROUTINE ORDER 4732

REPORT AND RECOMMENDATION OF COMMANDING OFFICER

While with this unit Brown served well. His conduct was very good. He is now on his way to Canada and will in all probability be discharged from the Army. Recommend remainder of sentence be remitted

23 Aug 45

T.B. Somerville
Capt 11 Cdn Fd Coy RCE

RECOMMENDATION BY THE OFFICER NEXT SENIOR IN COMMAND TO THE COMMANDING OFFICER HAVING THE POWER TO CONVENE F.G.C.M.

I concur with the recommendation of Coy Comdr.

28 Aug 45

W. Nillson
Major
A/CRE 2 Cdn Inf Div

DISTRICT ORDERS

BY

BRIGADIER F. EARNSHAW, DSO, MC

DISTRICT OFFICER COMMANDING

MILITARY DISTRICT NO. 1

Orders Nos 700
to 704
London, Ont
21 Nov 45

GENERAL STAFF

700--Qualifications--Offrs CA (Res)--26 Aug 45

Rank	Name	Unit	Qualification
P/2/Lt	J A M Stewart	2 (Res) Bn Can Fus of C	Q Syl C Inf MG (RF)
P/2/Lt	W H Haney	- do -	Q Syl C Inf MG (RF)
P/2/Lt	E S Speiran	- do -	Q Syl C Inf MG (RF)
P/2/Lt	J G Taylor	- do -	Q Syl C Inf MG (RF)
P/2/Lt	E G Spence	- do -	Q Syl C Inf MG (RF)
P/2/Lt	W R Franks	- do -	Q Syl C Inf MG (RF)
P/2/Lt	E W Barbour	- do -	Q Syl C Inf MG (RF)
P/2/Lt	D G Wallace	- do -	Q Syl C Inf MG (RF)
P/2/Lt	W O Freel	12 Inf (Res) Coy VG of C	Q Syl C Inf MG (RF)
P/2/Lt	E J Gignac	30 (Res) Recce Regt(ER)CAC	Q Syl C Recce (RF)
2/Lt	A B McVicar	1 (Res) Postal Unit CPC	Q Syl C Postal (RF)
Capt	H Risk	2 (Res) Bn HLI of C	Q Syl F (Gen) (RF)
Capt	D W Feader	- do -	Q Syl F (Gen) (RF)
P/2/Lt	A Dodds	100 (Res) Fd Bty RCA	Q Syl B Q Syl C Arty M (RF)
P/2/Lt	W Moore	- do -	Q Syl B Q Syl C Arty M (RF)
Lt	J S Clarke	Scots Fus of C (Res)	Q Syl D Inf R (RF)
Lt	R M Laing	- do -	Q Syl D Inf R (RF)
2/Lt	P D Hill	63 (Res) AA Bty RCA (2H)	Q Syl C HAA (RF)
Lt	S A Lorriman	2 (Res) Bn HLI of C	Q Syl D Inf R (RF)

(L.24-1-55)

701--Instructions Regarding Trade Tests
Trade Test Board
Driver Mechanics (UC)

1. A Trade Test Board as hereunder is authorized for the purpose of Trade Testing Driver Mechanics (UC) and will assemble at the call of the President.

President - Major E.T. McGrath - DEME MD 1 and OC, No. 1 Coy RCEME

Members - CARO 2089 para 4 (b)

2. Applications for Trade Test will be submitted as outlined in L.91-1-51 (TT) dated 21 Jul 44 (GS - 120).

3. Proceedings will be dealt with in accordance with CARO 2089 and 2093. MFM 103A will be completed by the Board.

4. District Order 88 dated 17 Feb 45 is hereby cancelled.

(L.43-2-1)

(W.G. Moogk) Lt-Col
for GSO 1 MD 1

ADMINISTRATIVE STAFF

HQ MD 1, London, Ont., 21 Nov 45.

702 - REMISSIONS OF SENTENCE BY F.G.C.M.

(a) A.4495 - Pte Gaidy, H.-
By sentence of a Field General Court Martial held overseas, the a/m soldier was awarded a sentence of eighteen months imprisonment with hard labour.

Under provisions of Section 57(2)a of the Army Act, the D.O.C.,M.D.#1 as prescribed officer, has now ordered remission of the balance of the sentence of imprisonment effective 1400 hrs 17 Nov 45.

L.28-G-1138

(b) A.32199 - Spr Palmer J.C.-
By sentence of a Field General Court Martial held overseas, the a/m soldier was awarded a sentence of eighteen months detention

Under provisions of Section 57(2)a of the Army Act, the D.O.C., M.D.#1 as prescribed officer, has now ordered remission of the balance of the sentence of imprisonment effective 1400 hrs., 15 Nov 45.

L.28-P-1143

HQ MD 1, London Ont 21 Nov 45.

702 - REMISSIONS OF SENTENCE BY F.G.C.M. (After suspension)

(c) A.35101 - L/Cpl Brown, R.J
Whereas by sentence of F.G.C.M. held in the field on 7 Jan 45 the a/m soldier was sentenced to undergo detention for a period of eighteen months and the said sentence was suspended WEF 7 Apr 45 by order of Brigadier G.S.Booth, D.A.G., Cdn Military H.Q. overseas and the balance of sentence remitted under date of 31 Aug 45 by Major-General A. Matthews Commanding 2nd Cdn. Infantry Division.

And whereas the appropriate entries in orders and the soldier's documents as to promulgation of the remission of sentence were not made before his dispatch to Canada from overseas the foregoing is published for information and action of all concerned.

(Auth: HQC 55-B-2006 Adm 3(b)3 d/20 Oct 45)
L.28-B-2039

703 - REMISSIONS OF SENTENCE BY S.G.M.

(a) B.627305 - Tpr BLAZETICH,N.S.-
By sentence of a Standing Court Martial held at Camp Borden Ontario, the a/m soldier was awarded a sentence of seven months imprisonment with hard labour.

Under provisions of Section 57(2)a of the Army Act, the D.O.C.,M.D.#1 as prescribed officer, has now ordered remission of the balance of the sentence of imprisonment effective 1400 hrs., 13 Nov 45.

L.28-B-1735

(b) B.635576 - Pte MOLINARO L.T.-
By sentence of a Standing Court Martial held at Camp Borden Ontario, the a/m soldier was awarded a sentence of ten months imprisonment with hard labour

Under provisions of Section 57(2)a of the Army Act, the D.O.C.,M.D.1, as prescribed officer, has now ordered remission of the balance of the sentence of imprisonment effective 1400 hrs 13 Nov 45.

L.28-M-1903

704 - Out-of-bounds--Cancellation

District Order No 18 dated 9 Jan., 43 placing the REX Cafe, 149 King St., London, Ont., out-of-bounds to Army personnel is hereby cancelled.

L.38-1-13

(W.M.King) Lt.-Colonel,
A.A. & Q.M.G. M.D.#1

~~405-B-32-247~~

CB
C55-B-2006

File: L28- B-2089 (DAPM)

HQ MD 1 London, Ont., Date: 5 Dec 45

13830
DEC 7 1945
C55-B-2006
6MBR

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

Appendix "G" to CARO 5913 (Remission, Etc., of Sentence by C.M.)

Re: A.35101 L/Cpl BROWN, R.J.

noted
8 Dec 45
Q.M.B. may
CMBR-5
Retain for data
file

Herewith forwarded for N.D.H.Q., files the m/n pro forma, concerning the m/n soldier, duly completed.

Director of Records
A. G. Branch
DEC 6 1945
Nat. Defence Hq.
Ottawa, Canada

for (P. Earnshaw) Brigadier,
D.O.C., M.D. 1.

(Appendix "G" to CARO 5913)

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY COURTS-MARTIAL

NDHQ File No. HQC 55-B-2006 Adm 3(b)3 District File No. 125-B-2069

PART I

No. A.35101 Rank L/Cpl Name BROWN, R.J.

Unit No. 1 D.D.

PART II

Date of Trial 7 Jan 1945.

Charge(s) A.A. Sec 41, A.A. Sec 19, A.A. Sec 40, etc.

Sentence 18 months detention Date of Sentence 7 Jan 45

Confirmation-(a) Authority J.H.H. Gough, Brig., Comd A Tps Area 1st Cdn. Army

(b) Date: 23 Jan 45

PART III
REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (~~XXXX

HQC 55-B-2006
Adm 3(b)4

OTTAWA, Ont. 4 Dec 45

District Officer Commanding,
Military District No 1,
LONDON, Ont.

A.35101 Spr BROWN, R J

May a reply be received pls to this HQ letter numbered as above and dated 20 Oct 45.

(A E Walford)
Major-General
Adjutant-General

RGW:sp

HQC 55-B-2006 Adm 3(b)3

CONFIDENTIAL

20 Oct 45

District Officer Commanding,
Military District No 1,
London, Ontario.

A.35101 Spr BROWN, R.J.

Enclosed herewith is AFA 3104 recording sentence awarded this soldier 7 Jan 45, which was suspended 7 Apr 45 and remitted effective 31 Aug 45.

2. CMHQ informs that this soldier was despatched to Cda before promulgation of the remission of sentence was made to him and before his documents were amended by Part II Order entries.

3. May the remission of sentence be promulgated in Part II Orders and this soldier's documents amended accordingly.

4. May AFA 3104 be returned to this HQ with your report.

for (A. E. Walford)
Major-General
Adjutant-General

Encl (1)

WBG:HD

Dis 23

BOMBER INTERCEPTION ENTERED

AIR MAIL

Quote No. 10/BROWN, RJ/1
A.G.REV(a)

CANADIAN MILITARY HEADQUARTERS

LONDON

10 Oct 45

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

000878 3713

OCT 18 1945
6-53-B-2.80
Chgd. to
Referred to admin

A.3E101 Spr Brown, R.J.

1. Ref your AG 12548 d/9 Oct 45.

2. Herewith AF A/104 as requested.

(E.G.WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

Enc.1.

INCLUDE SECURITY CLASSIFICATION AND ORIGINATOR'S NO. AS THE FIRST GROUPS IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: HQC 55-B-2006 Adm 3(b)3

PLACE: OTTAWA, CANADA

DATE: 9 OCT 45

CANMILITRY

AG 12548 (UNCLASSIFIED)

PARA ONE: RELET 10/BROWN RJ/1 (AG REV(A)) DATED 19 SEP 45 (.) FORWARD AFA 3104 CONTAINING ENTRY REMITTING BALANCE OF SUSPENDED SENTENCE

DEFENSOR

WBG/HB

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER

IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, CHECK BELOW.

DEGREE OF PRIORITY

TIME OF ORIGIN 1505

for (A.E. Walford) Maj-Gen
Adjutant-General

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER

CONFIRMATION COPIES MUST NOT BE SENT BY MAIL

SINGLE FORM FOR CIPHER MESSAGE

10/BROWN RJ/1
A.G. REV(a)

Res 4 2

CANADIAN MILITARY HEADQUARTERS,

2, COCKSPUR STREET,

TRAFALGAR SQUARE,

LONDON, S.W.1.

C.55-B-2006

The Secretary,
Department of National Defence,
OTTAWA,
Canada.

19 Sep 45

A.35101 Spr Brown, R.J.

007437

1. The m/n soldier was sentenced by FGCM 7 Jan 45 to 18 months detention. On 2 Apr 45 this sentence was suspended w.e.f. 7 Apr 45 by the DAG, CMHQ. On 31 Aug 45 the Comd, 2 Cdn Inf Div directed that the balance of the sentence in suspension, that is the unserved portion, be remitted.

2. This soldier was despatched to Canada on CD 226 MD1. Cdn Sec 1 Ech HQ Brit Army of the Rhine advise that the despatch of the soldier took place before the above direction remitting the remainder of his sentence was promulgated to the soldier and before his documents were amended by Part II Order entries.

no status

(E.G. WEEKS) Major-General
In charge of Administration
Canadian Military Headquarters.

H.Q.C. 55-B-2007 CONFIDENTIAL

M.F.R. 2078
20M—2-45 (C666)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT MARTIAL.

BOISSONNEAULT, MARCEL. E-610795 PTE

949-82

CONFIDENTIAL
H.Q.C. 55-B-2007

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute"		
OCT 1 1945	11/45			J. A. G.	NEW FILE	CR	29-9-45
OCT 18 1945	7.11.45			Admin	Per Requisition G.R. OCT 16 1945		
OCT 20 1945							
OCT 31 1945	31.10.45			J.A.G.	Per Requisition G.R. OCT 19 1945		
NOV 8 - 1945	20.11.45			J.A.G.	PER B.F. NOV 1 - 1945		
				Admin	PER B.F. NOV 7 - 1945		
				Admin	Per Requisition G.R. NOV 16 1945		
				SE(AG)			20.11.45
NOV 30 1945	30.11.45	P.A.		PMA			23.11.45
				J. A. G.	Per Requisition G.R. DEC 4 1945		
DEC 5 1945				UMBQ	To note file		
DEC 7 - 1945							
DEC 6 - 1945	6.12.45	P.A.		Admin 3(b)2	To note remissions		5/12/45.

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-2007
(JAG/D-6)

Ottawa 22 November 5

District Officer Commanding,
Military District No. 5
Quebec, Quebec.

E.810795 Pte. Marcel Boissonneault
Bert de St-Hyacinthe CA Att No. 5 DD CA

Receipt is acknowledged of your D. 39-B-3707 (JA) dated 15 Nov 45 under cover of which you forwarded to this Headquarters Form of Remission together with MFM 288 in connection with the m/n soldier.

E.L.M

for (R.J. Orde), Brigadier,
Judge Advocate-General.

ELM:jb

Notice to Cd.
D. Adj.
Pl. Cost
6 12/45

Noted. CMG cafs.
5 12/45 CMBR 3

IN REPLY PLEASE QUOTE No. Q. 39-B-3707 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 15 Nov 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY Army
OTTAWA, ONT.
9937
NOV 19 1945
File CJS. B.2007
Origin to Admin 7-11
Referred to JAG

REMISSION OF SENTENCE - SCM.

E-610795 Pte Marcel BOISSONNEAULT
Regt de St-Hyacinthe CA Att No.5 DD CA

1. Ref HQC. 55-B-2007 (JAG).

2. A remission of sentence in this case has been granted w.e.f. 31 Oct 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
250M 4-44 (4331)
H.Q. (772-39-75)

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q.File No. HQC. 55-B-2007(JAG)
District File No. Q-38-B-3707(JA)

PART I

No. E-610795 Rank Pte. Name BOISSONNEAULT, Marcel,
Unit Le Reg. de St. Hyacinthe (Att. No. 5 DD)

PART II

Date of trial 20 September, 1945.
Charges AA. Sec. 12(1)(a) -- Sec. 24(2)
Sentence 1 year detention & stopp: $13.94
Date of Sentence 20 September, 1945.
Confirmation - (a) Authority Standing Court Martial, MD No. 5.
(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E-610795, Pte. BOISSONNEAULT, Marcel, Le Reg. de St. Hyacinthe, (Att. No. 5 DD) effective 31 October, 1945.

Signed at QUEBEC, P.Q. this 23rd. day of October, 1945.

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon
this 10th day of Nov 1945

(W. G. LAROCHE) Capt.
RCCS att 5DD
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-610795 Rank Pte Name BOISSONNEAULT, Marcel
The sentence of one year detention and stopp $13.94
awarded by Court-Martial on the 20 Sep 1945
has been remitted
on the 31 Oct 1945 by Brig EDMOND BLAIS CBE MC
D.O.C. MD 5

Unit No 5 District Depot.
Certified true Extract of Daily Orders Part II of
No. 278 Place Lauzon Date 12 Nov 45.

(G. BONHOMME) Major
Regt de Levis att 5DD
Adjutant.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of M-610795 (Number) Pte. (Rank) BOISSONNEAULT. M. (Name in full)

Le Regiment de St-Hyacinthe. (Unit) Att No 5 D.D. (Attachment (if any))

Sentenced to 1 yr. Det.

on 20 Sep 45. at Lauzon, P.Q.

being served at Val Mil Det Brrks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 24 Yrs 11 mths. 8-1-42

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (xxx) committed to undergo his sentence, which I recommend should (xx) be ~~xxxx

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
30 Oct 45:	Remission of Sentence w.e.f. 31 Oct 45.	Edmond Blais (Edmond BLAIS) - Brigadier, D.O.C., M.D.No.5.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
A.A.SEC. 12 (1)(a) AWL. from 2200 hrs on 25 Nov 44 until he was app. a 0200 hrs on 4 Sep 45, uniform.	25 Nov44	20 Sep 45
A.A. SEC 24 (2) LOS BY NEGL HIS EQUI CLOTH AND REGT'L NEC for $ 13.94	8 Sep 45	20 Sep 45

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 Oct 45.	In view of this soldier's character it is requested taht his sentence be reviewed at a later date.	Paul Mathieu (PAUL MATHIEU) Colonel.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

MEMORANDUM

TO:

PMA

Department of National Defence,
HQC 55-B-2007, Adm 3(b)2,
OTTAWA, Ont, 20 Nov 45.

S.E. 6559B d/13 Oct 45

B-610795 - Pte BOISSONNEAULT M

1. This soldier has recently been discharged from the hospital.

2. He was admitted for extraction of teeth and these have now been removed and the gums well healed.

3. He complains of deafness in the right and left ear. This is confirmed by diagnosis. Membranes are retracted in both ears. He has been Pulhemized H4.

4. In other respects there is no apparent disease. Complete Pulhems -

P U L H E M S
1 1 1 4 1 1 1.

(A E Walford)
Major-General,
Adjutant-General.

FINAL

WOP:6293:mw

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE: H.C 55-D-2007
Adm 3(b)2

PLACE: Ottawa, Ontario

DATE: 7 Nov 45

District Officer Commanding,
Military District No 5,
[illegible],

[illegible] 2652 [illegible] .39-[illegible]-3707

[illegible] .610793 [illegible] [illegible] (.)

[illegible]

[illegible]

Regards

SE(AC)
S.E. 6559B d/13 Oct 45

P.M.A. to note.

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT, INCLUDING WIRELESS

DEGREE OF PRIORITY

TIME OF ORIGIN 1635

Brigadier

SIGNED

SINGLE COPY FORM FOR CLEAR MESSAGE

(THIS FORM IS TO BE USED FOR ADDITIONAL DISTRIBUTION)

HQC 55-B-2007 (JAG/D-6)

18 October, 1945

District Officer Commanding
Military District No 5
QUEBEC, PQ

Standing
.....Court-Martial
E-610795, Pte M BOISSONNEAULT
Le Regt de St-Hyacinthe CA
Att No 5 DL CA

Q. 39-B-3707 (JA)

Receipt is acknowledged of your dated 13 Oct 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J. Orde) Brigadier
Judge Advocate-General.

/jm

ar

CANADA

IN REPLY PLEASE QUOTE No. Q. 39-B-3707 (JA)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 13 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

3323
OCT 16 1945
File C-55-B-2007
Chgd. to Admin 16-10
Referred to RAG

STANDING COURT-MARTIAL

E-610795 Pte M. BOISSONNEAULT
Le Regt de St-Hyacinthe CA
Att No.5 DD CA.

1. Ref HQC. 55-B-2007 (JAG/D-7) dated 1 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. B. 440
2500M 4-44 43211
H.Q. 1372-39-767

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Dépôt Régional No. 5, A.C., Lauzon, P.Q.

le vingtième jour de septembre 1945 à 1130 heures,

pour le procès de E-610795 Soldat Marcel BOISSONNEAULT
Matricule Grade Nom et prénoms

Le Régiment de St. Hyacinthe, A.C., attaché Dépôt Régional No. 5, A.C.,
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Quartiers-Généraux, Région Militaire No.5

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms
Procureur Permanent, Quartiers-Généraux, Région Militaire No. 5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant G. DEMERLIS,
OU AVOCAT: Grade Nom et prénoms
Regiment de Maisonneuve, attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

" LA COUR DECLARE LE PREVENU:

E-610795- Soldat Marcel BOISSONNEAULT, Le Régiment de St. Hyacinthe, A.C., attaché au Dépôt Régional No. 5, A.C., coupable sous le premier chef d'accusation et coupable sous le deuxième chef d'accusation".

SENTENCE:

" LA COUR CONDAMNE LE PREVENU:

E-610795- Soldat Marcel BOISSONNEAULT, Le Régiment de St. Hyacinthe, A.C., attaché au Dépôt Régional No. 5, A.C., à subir une peine de un (1) an de détention et à une supression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, à savoir:- $13.94".

Signé à 5DD, A.C., Lauzon, P.Q. ce vingtième jour de septembre 1945.

Major,
Président de la cour martiale permanente.
Q.G., R.M. No. 5

M.F.B. 1486A
10M-1-45 (6449)
I.Q. 1772-39-2296
P. 26109

Extracts entered as No. 39995 in the Record of Courts Martial kept in the office of the Adjutant-General this 1 day of Oct 1945

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.* Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à Mademoiselle HELENE LAVOIE comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est dûment assermentés.

(POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir document marqué "P" ci-joint)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le deuxième chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

"B-2"

Pierre Decary
(PIERRE DECARY), MAJOR
PRÉSIDENT, S.C.M.

ACTE D'ACCUSATION

Le prevenu, E-610795 Soldat Marcel BOISSONNEAULT, Le Regiment de St.Hyacinthe, C.A., attache au Depot Regional No.5, A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(10(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE LE SERVICE DE SA MAJESTÉ,

en ce que,

a Sussex, N.B., a 2200 heures, le 25 novembre 1944, il s'est absente sans permission du Regiment de St. Hyacinthe, A.C., jusqu'a ce qu'il soit apprehende par les autorites militaires, a Quebec, P.Q., a 0200 heures, le 4 septembre 1945, en uniforme militaire.

DEUXIEME CHEF
Art. 24(2)
Army Act

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES, SES EFFETS D'EQUIPEMENT, D'HABILLEMENT ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Lauzon, P.Q., le 8 septembre 1945, il etait deficient des articles suivants:

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "A"		
1 Boots ankle pr	5.82	4.37
1 Dressing first field	.21	.17
HABILLEMENT DIVISION "B"		
1 Coat waterproof army	6.91	5.19
1 Drawer cotton short	.42	.32
1 Shirt under cotton	.43	.32
HABILLEMENT DIVISION "C"		
1 Brass button	.04	.02
1 Brush button	.11	.09
1 Comb hair	.04	.03
1 Necktie black	.19	.15
1 Pin collar safety	.06	.05
3 Socks army	1.04	.78
1 Sock black pr	.28	.21
1 Brace right	.35	.25
SECTION "A-1"		
1 Haversack	2.29	1.79
TOTAL:	$ 18.19	$ 13.94

Lauzon, P.Q.
12 septembre 1945

Pierre Taschereau
(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent 5e District Militaire.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse:

Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~*Premier témoin à charge.*~~

~~étant dûment asermenté, est interrogé par le procureur.~~

~~*Question.*~~

" LE PROCUREUR REMET AU PRESIDENT

LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE"

1.- Un extrait certifié des Ordres Partie II, Ordre No. 175 en date du 30 novembre, 1944, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2.- Une formule M.F.M. 216, en date du 4 septembre, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-o-o-

Le procureur n'a ~~plus~~ pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sous serment (voir pages D-3 et suivantes)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense ?

Réponse: Non, monsieur.

Question à l'accusé. ~~Est-ce uniquement un témoin à l'appui de votre réputation ?~~

Réponse:

TEMOIN POUR LA DEFENSE:-

L'accusé:- Mat. R-610795 Soldat Marcel BOISSONNEAULT, Le Régiment de St. Hyacinthe, A.C., attaché au Dépôt Régional No. 5, A.C.

étant dûment assermentée,

EST INTERROGE PAR L'OFFICIER DEFENSEUR:

Q.- Soldat Boissonneault, voulez-vous dire à la Cour depuis quand vous êtes dans l'armée?

R.- Depuis le 8 janvier 1942.

Q.- Où avez-vous servi pendant ce temps-là?

R.- Je suis entré à Lauzon. J'ai servi à Valcartier, Debert, Rimouski, Terre-Neuve, finalement à Sussex.

Q.- Vous étiez avec le Régiment de St.Hyacinthe, à Terre-Neuve, en dernier?

R.- Oui, monsieur.

Q.- Quand vous êtes parti des Fusiliers du St-Laurent pour aller à Sussex, c'est avec le Régiment de St. Hyacinthe?

R.- Oui, monsieur.

Q.- Est-ce que vous avez souffert de maladie quelconque dans l'armée?

R.- A Terre-Neuve j'ai eu un accident. Un accident de Bren Carrier; on a viré à l'envers, j'ai été gravement blessé. Il y a un télégramme disant que j'étais gravement blessé. On m'a envoyé à l'hôpital. Quand le régiment est parti pour Sussex ils m'ont sorti de l'hôpital. Ils m'ont envoyé à l'hôpital à Sussex, ils m'ont rien fait absolument.

Q.- Combien de temps avez-vous passé à l'hôpital à Terreneuve?

R.- Un mois et demie, je crois.

Q.- Quand vous êtes sorti de l'hôpital à Terre-Neuve est-ce que vous marchiez?

R.- Je marchais, mais j'avais de la misère de me "grouiller" le côté gauche.

Q.- Est-ce que vous étiez "excuse duty?"

R.- Oui, j'ai été une escousse "excuse duty".

Q.- A Sussex est-ce que vous êtes entré à l'hôpital immédiatement après votre arrivée?

R.- Pas immédiatement, à peu près dix jours après.

Q.- C'est vous-même qui avez demandé d'entrer à l'hôpital?

R.- Oui, monsieur.

Q.- Est-ce qu'ils vous ont traité?
R.- Ils m'ont rien fait, j'étais en "retaining".

Q.- Vous étiez en convalescence?
R.- Oui, monsieur.

Q.- Est-ce que vous vous considérez guéri?
R.- Je souffre à la tête.

Q.- Est-ce qu'on vous a fait subir des examens?
R.- Quand j'ai sorti de l'hôpital j'ai pas eu d'autre examen. On passait chez le Major, on passait à la course.

Q.- Pouvez-vous dire à la Cour pourquoi vous vous êtes absenté?
R.- Je me suis absenté pour aller me faire soigner. J'ai été chez un ramancheur à Québec; il m'a ramanché. J'avais deux côtes de cassées et le bras gauche.

Q.- Est-ce que vous êtes mieux maintenant?
R.- Je peux me "grouiller" le bras. D'une oreille je n'entends rien.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:

Q.- On dit que vous avez été absent du 25 novembre 1944 au 4 septembre cette année, est-ce exact?
R.- Oui, monsieur.

Q.- Vous étiez sorti de l'hôpital à ce moment?
R.- Je suis sorti le 19.

Q.- Le 19 novembre?
R.- Le 19 au matin, j'ai eu une passe pour aller chez-nous. J'ai téléphoné à un docteur; c'est le Docteur Lavallée qui est venu chez-nous. Il m'a envoyé en haut sur les Cove Fields. J'ai passé un examen. Il n'a pas voulu me traiter.

Q.- Pourquoi?
R.- Il disait que je n'appartenais pas à eux autres. Là-bas il n'y avait pas moyen de parler, c'était seulement de l'anglais.

Q.- Pendant votre absence est-ce que vous avez subi un Rayon-X?
R.- Oui, monsieur.

Q.- Pendant votre congé qu'est-ce que vous avez fait?
R.- J'ai envoyé un télégramme pour demander deux jours de surplus, j'ai pas eu de nouvelles.

Q.- Après cela?
R.- Ca fait à peu près deux mois que je "file" un peu.

Q.- Avez-vous vu un médecin civil?
R.- Non, monsieur.

Q.- Qu'est-ce que vous avez fait?
R.- J'ai travaillé un mois. J'ai un de mes cousins qui est menuisier.

Q.- Quelles étaient vos intentions au sujet du service militaire?
R.- J'étais pour me rapporter au commencement d'octobre. Même s'ils avaient marqué sur les journaux que ceux qui voulaient se rapporter avaient plus de chance je me serais rapporté.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

INTERROGE PAR LA COUR:

Q.- Aviez-vous l'intention de retourner à votre régiment au mois de novembre 1944?
R.- J'avais l'intention, puis pas l'intention, s'ils m'avaient soigné comme du monde je serais resté.

Q.- Je veux savoir si vous aviez l'intention de retourner au Régiment de St-Hyacinthe le 25 novembre 1944?
R.- (le témoin ne répond pas.

-o-o-o-o-o-o-o-o-o-o-o-o-o-

De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure83(b)

-o-o-o-o-o-o-

- LE TEMOIN REPREND SON SIEGE-

-o-o-o-o-o-o-

Le Procureur soumet la cause telle que prouvée et l'Officier-Défenseur prononce une plaidoirie.

-o-o-o-o-o-o-o-

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au deuxième - - - - - - - - - - - - chef d'accusation, il est déclaré coupable de ladite accusation.

LA COUR AU PROCUREUR:- " Avez-vous quelque chose à dire au sujet de la deuxième charge?"

LE PROCUREUR:- " Si l'accusé avait plaidé non coupable j'aurais établi à l'aide de la formule 375 et du témoignage du Quartier-Maître que le 8 septembre 45 l'accusé a été trouvé manquant des articles pour un montant de $13.94".

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d). Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: " Oui, monsieur", (l'accusé par son Officier-Défenseur, dit:)

" M. le Président, après un accident des plus sérieux, le soldat Boissormeault n'est pas encore guéri et souffre de côtes défoncées et se voit transféré de régiment et bientôt sans soin. Devant cette menace il ne voit qu'une seule issue, celle de s'absenter pour se faire soigner. Sur le chemin de la guérison il se préparait à se rapporter et pour cela je demande la clémence de la Cour".

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

"P"

"MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE"

" A 1132 heures, le vingtième jour de septembre, 1945, la Cour s'est ajournee".

-o-o-o-o-o-o-o-o-o-o-o-

" A1155 heures, le vingtième jour de septembre, 1945, la Cour se rassemble".

-o-o-o-o-o-o-o-o-o-o-o-

- LE PROCES SE POURSUIT -

"G"

DAILY ORDERS PART II

BY

LT-COL. R. HAMEL

Commanding

LE REGIMENT DE ST HYACINTHE, C.A.

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

No. 175

Place SUSSEX, N.B.

Date 30 Nov 44

(Last Order Issued No. 174 d/ 29 Nov 44)

"B" --- OTHER RANKS

1.- ABSENT WITHOUT LEAVE

b) Is Absent without leave since 2200 hrs 25 Nov 44
(First Publication)
E-610795 Pte BOISSONNEAULT, M. "SC"

(Signed) R. Laviolette, Capt.,
(R. LAVIOLETTE) Capt. & Adjt.
for (R. HAMEL) Lt-Col.,
Commanding
Le Regt. de St-Hyacinthe, C.A.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS
Rank & Appointment
Formation HQ
DATE SEP 17 1945

Prepared by:
and
Checked by:

"H"

Pierre Decary
(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Capt. J.M. Pelletier (Number) A/O.C. (Rank) 36 Coy., C. Pro. C. (CA) (Name) (Unit)

hereby certify that E-610795 (Number) Pte. (Rank) BOISSONNEAULT (Name in full) Marcel

of the Regt. St. Hyacinthe (CA) (Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~XXXXXXXXXX~~ M. E-104057 L/Cpl. E-100173 Cpl. (Number) (Rank)

B. Aubin 46 Coy., C. Pro. C. (CA)
L. Michaud 36 Coy., C. Pro. C. (CA)
(Name) (Unit or appointment)

at Quebec City, Que. (Place) at 0200 (Hour)

on the 4th day of September 1945

Strike out words not applicable } as ~~XXXXXXXX~~ M. absentee without leave), and that at the time of his arrest he was wearing military ~~XXXXXX~~ M. uniform (~~XXXXXXXXXXXXXX~~ M.

Dated at Valcartier, Que. this 4th day of September 1945

Marc Pelletier Capt
(J.M. Pelletier)-Capt.
(Signature, Number, Rank, Unit or appointment)
A/O.C. 36 Coy., C. Pro. C. (CA)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3750)
H.Q. 1772-39-1936

"Y"

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

M.F.B. 355
(1941) 41 (2274)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-610795	Private	BOISSONNEAULT M.	N.R.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 16 days in military custody, making a total of 16 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 24 years, 11 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 8-1-42

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in military possession of or entitled to). State any air force decoration or reward, military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank.....
Unit
Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of SEPTEMBER 1945.

(B. TASCHEREAU) Lieut
Ass. Records Officer
No.5 D.D. Lauzon, Que.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. 2-610796 Name BOISSONNEAULT Regimental No. Battery, or Company

Corps N.R.M.A. Date of enlistment 8-1-42 G.C. Badges Tradesmen's Rates of Pay

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. one Signature O.C. Company, etc. J.O. Collin Character

M.F.M. 6
(A.F.B. 122)
SCM—11-41 (2408)
H.Q. 1772-30-1452

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				NIL					

CERTIFIED TRUE COPY
(E. TASCHEREAU) Lieut
Ass. Records Officer
No. 5 E.D. Louzon, Que.

(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No E610795 Pte Boissonneault M
of D D S is in a good state of health,
and fit to undergo Trial by Court martial.

J Thibault Capt.
Medical Officer

Station Luzon Guard Room

Date

Medical Inspection Room
D.D.M.D. No. 5
SEP 20 1945
LUZON, P.O.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

RESUME DE LA PREUVE

Proces de E-610795 Soldat Marcel BOISSONNEAULT, Le Regiment de Ste.Hyacinthe, A.C. attache au Depot Regional No.5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No.175 d/ 30 novembre 1944, a Bussex, N.B.

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE P-48788 CQMS LEBLANC, Liste Generale, A.C. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (8-6-45)

HQC 55-B-2007
Adm 3(b)2

CONFIDENTIAL

17 Oct 45

District Officer Commanding,
Military District No 5,
QUEBEC, P Q

E.610795 Pte BOISSONNEAULT, M

Ref Q.39-B-3707:

2. Representations have been made regarding the physical condition of this soldier.

3. May medical report be obtained and forwarded to this HQ, pls.

4. This matter being a subject of a Special Enquiry, may it be treated as urgent, pls.

(A E Walford)
Major-General
Adjutant-General

WOP:da

aR

SPECIAL ENQUIRY CSS B 200

Date OCT 13 1945

To: D Admin

No. 6559B

Reply addressed to P.M.A will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY H D at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

OFFICE OF THE MINISTER OF NATIONAL DEFENCE

MEMORANDUM

MIN. FILE

H. Q. FILE

A.G.(Co-Ord. 3)

Re - Pte. BOISSONNEAULT, Marcel
E-610795.

Representations are being made regarding the health condition of the above-mentioned soldier, who has been sentenced to detention.

May I have a report on his medical status.

Maxwell Lapointe
Parliamentary Assistant.

10-10-45

RECEIVED
OCT 15 1945
ADMIN.
382

H.Q. 55-B-2007 (JAG/D-7)
Your Q.39-B-3707

1 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 610795 Pte. Marcel Boissonneault,
Le Regt de St.Hyacinthe, No. 5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

Judge Advocate General

LJR/MM

THIS COPY FO H.Q. C. 55-B-2007
M.D. Q:39-B-3707

STANDING

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA

No. E-610795 Name BOISSONNEAULT, Marcel

Rank Pte Unit Le Regt de St. Hyacinthe, Att No. 5 DD CA

Charge (1) AA 12 (1)(a) WOAS Deserting.....

(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 25-11-44 (2) 8-9-45

Date of Arrest 4-9-45 Charge Signed 12-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 DD CA 21-9-45

Sentence Det 1 year Stoppages $13.94

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39995

Date 1-10-45

MEMO Balance of sentence remitted by Conf. Auth. 31-10-45

MD 5	No. 5 DD CA
Absent	Sentence
Approx 10 mos	Det 1 year

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-B-3707

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Sept. 25th. 1945.

C.55-B - 2007

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

E/610795, Pte. Marcel BOISSONNEAULT.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

39995

NAT. DEF. B. 640
2900M-4-44-5221
H.Q. 1752-39-787

H.Q.C. 55-B-2008 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT MARTIAL.

BERNARD, ELMER JOHN. B-138668 CPL-L-SGT-

CONFIDENTIAL H.Q.C. 55-B-2008

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 2 - 1945	29.10.45			J. A. G.	NEW FILE	CR	29-9-45
OCT 7 - 1945	6 Oct 45	PA					
OCT 25 1945	11-11-45				OCT 4 - 1945		
OCT 27 1945	28.10.45	PA			PER B.F. OCT 29 1945		
OCT 30 1945	30.10.45	PA			Per Regulation C.R. OCT 29 1945		
NOV 10 1945	10.11.45	PA		J. A. G.	PER B.F. NOV 11 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-2008 (JAG/D-6)

30 October, 1945.

District Officer Commanding,
Military District No. 3
Kingston, Ontario.

Standing
B-138668 Cpl. (L/Sgt) Elmer John Bernard
3 Bn (48 Highrs) 1 CDN Inf Regt CA
.....Court-Martial

K.5-B-9519 (JAG)

26 October 5

Receipt is acknowledged of your covering cover of which you dated 194 , under returned to this office for custody the proceedings of the marginally noted Court-Martial.

E.L.M

for (R.J. Orde), Brigadier,

ELM:jb

Judge Advocate-General.

HC

IN REPLY PLEASE QUOTE No. K.55-B-9519(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 26 Oct 45

5346
OCT 27 1945
655-B-2008
GAG 29-10
JAG

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
H.138668 Cpl. (L/Sgt.) Elmer John BERNARD,
3 Bn. (48 Highrs) 1 Cdn Inf. Hqt. C.A.

Reference H.Q.C.55-B-2008 (JAG/D-8) dated 25 Oct 45.

2. Herewith returned proceedings of m/n Standing Court-Martial.

W. C. Inch Capt
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

NAT. DEF. B. 440
2500M 4-44 (4320)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Kingston, Ontario,

on the 25th day of September, 1945, at 1200 hours,

for the trial of: B.138668 Cpl. (L/Sgt) Elmer John BERNARD,
Number Rank Full Name

3 Bn. (48th Highrs) 1 Cdn. Inf. Regt., C.A.
Unit Attachment, if any

PRESIDENT: Major J.E. Dowsley, E.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Captain J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ FOR DEFENDING OFFICER: Lieut. R. Pascoe, 3 Bn.(48 Highrs) 1 Cdn.Inf.Regt.CA.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty of the charge.

The Judge-Advocate General having advised that the Sentence in these proceedings is invalid, I, being an authority mentioned in R.P.54(C) hereby substitute for the said invalid Sentence, the following Sentence:

To be Reprimanded.

Kingston, Ontario
October, 1945

(F.A. Armstrong) Brigadier,
District Officer Commanding
Military District No.3.

Minute 1.

Substitute sentence promulgated to B-138668 Cpl.(L/Sgt) Elmer John BERNARD at A-21 C.O.& E.M.E.T.C.,Barriefield Ontario, this twelfth day of October 1945, and ammended Proceedings with substitute sentence promulgated in Part 11 D.O. # 71 d/11 Oct.45.

Adj. C.O. & E.M.E., T.C. (A21)

SENTENCE:

To be reduced to the rank of Corporal, and to be reprimanded.

Extracts entered as No. 40494 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 20 day of Oct 19.45

Signed at KINGSTON, Ontario, this 25th day of September, 1945.

J.E. Dowsley, Major
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to the interpreter?~~

Answer:

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC,CA, as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B2"

16 cpl

J. Bowsley Major
President, Standing Court-Martial

CHARGE SHEET

The accused, B-138668 (L/Sgt) Elmer John BERNARD, 3 Bn (48 Highrs) 1 Cdn Inf Regt CA, a G.S. soldier of the Canadian Army placed on Active Service is charged with:

Charge
Army Act
Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he at Barriefield Camp, Ont. on the 20 Aug 45 absented himself without leave from 3 Bn (48 Highrs) 1 Cdn Inf Regt C.A. at 0615 hrs on the 20 Aug 45 and remained so absent until surrendering himself to Military Authorities at Barriefield Camp, Ont. dressed in Military uniform, at 1445 hrs 14 Sep 45.

Barriefield Camp, Ontario
19 Sep 45

J. Goodman
(J. Goodman) Capt
Prosecutor Courts-Martial
M.D. 3

PRECIS OF EVIDENCE

The following evidence available prove the charge against the accused.

VERBAL

(1) Capt. T.A. Forbes, A-21 CO&EMETC who will give evidence as to circumstances of absence.

(2) B-79673 Sgt. Bedding, A.E., 3 Bn 1 Cdn Inf Regt C.A. who will give evidence of continuity.

(3) B-147585 L/Sgt. St. John, H.F., 3 Bn 1 Cdn Inf Regt C.A. who will give evidence as to termination of absence.

NOTIFICATION OF TRIAL

HQ
MD 3
Kingston, Ont.

1. The above accused will be presented for Standing Court Martial at the Armouries, Kingston, Ont. at 1000 hrs ~~Friday~~, 21 Sep 45.

2. May Capt. J. Goodman be nominated as prosecutor, please.

Barriefield, Camp, Ont.
19 Sep 45

A.J.P. LaPrairie Lt-Col
(A.J.P. LaPrairie) Major
Officer Commanding
3 Bn 1 Cdn Inf Regt (48th Highrs)

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

The Prosecutor makes a statement regarding the circumstances connected with the offence. (not attached)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

Statement by the Accused:-

Sir, on August 8th I reported to Barriefield Camp from Toronto. On August 9th I received a telegram from home stating my father had been killed. I was granted a ten-day pass to go home. The pass expired on the 20th of August. When I arrived home I found my mother was not well and my father's affairs were in a mess. Five days before my leave expired I knew I would need more time to straighten the affairs out so I wrote in for an extension of leave. Dr. D.W. MacKenzie of Victoria Harbour also wrote and stated the condition in which my mother was and recommended an extension of my leave.

(Letter dated August 15th, 1945, is received for what it is worth and attached to the proceedings)

Mr J.A. Mundell of Orillia, Ontario, our undertaker, also wrote in explaining the conditions at home regarding father's business, insurance, compensation and asked that I be given an extension to assist my mother.

(Letter dated 18th September, 1945, is received for what it is worth and attached to the proceedings)

Our Parish Priest from Victoria Harbour also wrote in stating the conditions at home and recommended that I be released from the Army.

(Letter dated 17th September, 1945, is received for what it is worth and attached to the proceedings)

Mr Grigg of the Tay Telephone Company also wrote a letter explaining the conditions at home and stated that I was needed at home to support my mother.

(Letter dated 12th September, 1945, is received for what it is worth and attached to the proceedings)

Less than two years ago I had a brother accidentally killed at home. Shortly after that my mother received

news that my two brothers overseas had been wounded. This gave her quite a shock and when my father was killed her condition was quite serious and the doctor had to give her sleeping tablets for about a week after the funeral. I was needed at home to attend the inquest of my father's death and to look after the compensation and insurance as my mother wasn't able to look after it herself. Also, there was quite a bit of correspondence to be done with both these companies as to the death of my father. All this business, sir, had to be handled when the accident occurred and both companies were out of town--one five miles from Victoria Harbour and the other in Detroit, Michigan.

After straightening the affairs as much as possible I returned back to Camp on September, 14th, sir.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. My Defending Officer will speak for me, sir.

(for address by Defending Officer, see document marked "G")

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

G. Bowsley. Major
President, Standing Court-Martial

Address by the Defending Officer,-

Mr President, I submit this as a plea in mitigation of sentence in the case of B.138668 L/Sgt Elmer John Bernard who has pleaded guilty to being absent without leave, but under very exceptional circumstances.

L/Sgt Bernard joined the Army as a volunteer on the 14th of January, 1943, after the enlistment of two older brothers in his family, one in the engineers and one in the artillery.

L/Sgt Bernard went overseas with the confirmed rank of Corporal, but while in England voluntarily reverted to the rank of private to go on draft to the holding unit in Africa of the 48th Highlanders of Canada.

He served as a private from January 1944 until June 1944 in Italy with The Scouts and Snipers Platoon of the 48th, when he volunteered for The Special Service Force and served with them in Italy and southern France from June until December, 1944, when they disbanded.

He returned to the 48th in Italy where he was promoted Lance-Corporal and then to Corporal in February of this year. While with the Regiment in Holland he was again promoted to the rank of L/Sgt in April and he served with the Regiment until June 1945 when he left them to return to Canada, having volunteered for C.F.E.F.

Unfortunately there is no one present who has served in action with L/Sgt Bernard that we can call as a witness, but the fact that he served in the Scout Platoon and the fact that his M.F.M.6 is absolutely clean classes him as a good soldier.

L/Sgt Bernard completed his disembarkation leave on the 6th August, 1945. He reported to his District Depot and proceeded on draft, arriving in Barriefield on the night of the 7th of August, 1945. The next evening he received a telegram informing him of the accidental death of his father. He received leave from the 9th to the 20th of August. The telegram came to the Camp Adjutant. Capt Forbes took Sgt Bernard to the officers' mess where hetold Bernard of the accident. Captain Eady, unable to get hold of the Officer Commanding 48th Highlanders, instructed Capt. Forbes to grant him the ten-day pass. Capt. Eady also felt it warranted him going to the trouble to get the Paymaster after hours so that Sgt Bernard could leave on the next train.

On his arrival at home he found his mother suffering from shock and in very poor health. Her condition was serious. This, climaxing the accidental death of one son less than two years ago and the news that both her other sons overseas had been wounded, was almost too much for her to bear. The presence of Sgt Bernard at home was essential. His younger brother who was working could not carry out the correspondence necessary to settle the family affairs. His mother was helpless without him. Soon he perceived he would require an extension of leave and wrote in for same, enclosing letters from the local undertaker and the doctor to the effect that an extension of Sgt Bernard's leave was essential. Unfortunately, due to the unsettled condition of this Camp at the time, that letter was never answered. L/Sgt Bernard, positive that his leave would be granted due to the circumstances surrounding the request, and also because he felt his family's need of him was greater than the Army's for the moment, remained at home to

conduct the business that had to be carried on between the family and the compensation board, the insurance company, the funeral parlour and the C.P.R.

After his mother's health started to improve and after the family affairs were considerably straightened out, he considered that his duty at home was fulfilled and returned to Camp.

In view of the circumstances mentioned above and also this N.C.O's previous record in the Army, it is felt that this Court should show all leniency in their decision on this case and also recommend an immediate discharge for L/Sgt Bernard whose family is still in dire need of his services.

"Y"

Bowsley, Major
President, Standing Court Martial

M.F.B. 154
Form 5-13 (143)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-138668	Cpl. (L/Sgt.)	BERNARD, Elmer John	3 Bn 1 Cdn Inf Regt. (48th Highrs)

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery Conduct sheets or of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

or,

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 0 days in military custody, making a total of 0 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 21

6. The date of his attestation specified in his attestation paper 14 Jan 43

7.

8.

9. CVSM & clasp, Italy Star, 39-45 Star, France Germany Star

10.

22

11. [redacted]

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— 30 Dec 44 Date of promotion.

In the rank of L/Cpl 1½ months xxx

In the rank of Cpl 2 months xxx

In the rank of L/Sgt 5 months xxx

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of September 1945

Adjutant for Regt 3 Bde 40th Regt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

D. W. MacKenzie, M.D.
Victoria Harbour, Ontario

J. Bowsley Major
President, Standing Court-Martial

Victoria Harbour,
Aug 18th/40.

C.O. 48th Highlanders,
Barriefield,
Ont.

Dear Sir -

am writing you asking for extension of leave of Sgt. J. Brennand of Victoria Harbour. Brennand's mother suffered a great shock in sudden death of her husband. I think it advisable for Brennand to remain home for awhile until she somewhat recovers from the shock.

Yours respectfully
D. W. MacKenzie M.D.

J. A. MUNDELL
FUNERAL SERVICE
79 WEST STREET NORTH - PHONE 126
ORILLIA, ONT.

25

C. Rowley, Major
President, Standing Court-Martial

September 18th.1945

To Whom it may concern.

Re- B.138668 L/Sgt. Bernard,E.J.
48th.Highlanders of Canada

This is to certify, that the above Sgt. Bernard,E.J. was absent,for about 4 or 5 weeks,to assist his Mother in clearing up his Fathers buisness,& during this time was in to see me several times,regarding Insurance,Compensation etc.

Sgt. Bernard's Father was killed through accident on the C.P.Railway Aug.8/45. Shortly after his Fathers death August 9th.or 10 th. I wrote a letter to the Commanding Officer,asking for extension of leave so that he may assist his Mother in cleaning up his Fathers affairs.

Apparently this letter must of went astray, and on Sgt. Bernard's behalf,I can assure you,he had taken it for granted,this letter had reached the proper authorities or he would of reported at an earlier date.

I have known this family for several years,& trust you can see your way clear to releive him of any penalty, for his absence.

Yours very truly.

J. A. Mundell

St. Mary's Rectory
Victoria Harbour,
Ontario.
Sept. 17/45.

J. Dowdey, Major
President, Standing Court-Martial

To whom it may concern:

I am personally acquainted with conditions at the home of L/Sgt. Bernard, E. J. (B. 138663). His father was accidentally killed in August this year. This, following on the sudden death of L/Sgt. Bernard's brother, Herbert, less than two years ago, has been such a shock to his mother that her health is seriously impaired. She has been ordered by the doctor to do no work. I would strongly recommend L/Sgt. Bernard's release from the Army. His presence at home would, I feel, greatly assist in Mrs. Bernard's recovery. At the same time he will be able to have work, and to offer financial assistance to his family.

I remain sincerely yours,

(Rev.) J. B. Loftus, Assistant Priest.

Victoria Harbour, Ont.,
Sept. 12/45

G. Crossley, Major
President, Standing Court-Martial

The Commanding Officer,
48th Highlanders of Canada,
Barrierfield, Ontario.

Re; B-138668, L-Sgt. Bernard, E.J.

Dear Sir:

This letter is to certify that the above-named soldier is needed at his home since his father was accidentally killed to help in support and comfort of his mother who is in poor health.

It is also to certify that there is a job waiting for him immediately upon his discharge, and I would strongly recommend that he be granted his discharge as soon as possible. The nature of the work he would be doing would be carpenter work.

Yours very truly,

Wm Grigg

William Grigg,
Tay Telephone Co.

MEDICAL OFFICER'S REPORT

G. Donaley, Major
President, Standing Court-Martial

I certify that No. B-138668 L/Sgt. BERNARD, E.J.
of 48th Highrs.CA, is in a fit state of health,
and fit to undergo Trial by Court martial.

H.K. Hall Capt.
Medical Officer

(H.K. Hall) Capt. RCAMC
(C.A.) Attached C.O.& E.M.E.T.C.

Station Barriefield, Ont.

Date Sept. 25 1945

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

H.Q.C.55-B-2008 (JAG/D-8)
Your K. 55-B-9519

25 Oct 45

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

STANDING COURT-MARTIAL

B.138668 Cpl.(L/Sgt) Elmer John Bernard,
3 Bd.(48 Highrs) 1 Cdn Inf.Regt., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

MO/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2008
M.D.K. 55-B-9519

MEMORANDUM - STANDING COURT-MARTIAL

G.S.

No. B-138668 Name Elmer John BERNARD

Rank (L/Sgt.) Unit 3Bn. (48 High's) 1 C.I.R. C.A.

Charge AA Dn. (1) AWL

Date of Crime 20-8-45

Date of Arrest -9-45 Charge Signed 19-9-45

Orders for D.C.M.

Place and Date of Trial The Armouries, Kingston 25-9-45

Sentence To be Reduced to the rank of Cpl. and to be reprimanded.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40494

Date 20-10-45

MEMO Conf. Auth. substitutes sentence to read "To be reprimanded."

M.D. 3

Absent
25 days.

3.Bn. (48 High's) 1 C.I.B. C.A.

Sentence
Reduced to rank of Cpl.
Reprimanded.

for Judge Advocate-General

10M-9-45(M-189)

HG

IN REPLY PLEASE QUOTE No. K.55-B-9519(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 17 Oct 45.

CENTRAL REGISTRY Army
COURT SEC.
3696
OCT 18 1945
C55-B-2008
Jab.

The Secretary
Department of National Defence
OTTAWA, Ontario.

Standing Court-Martial
B.138668 Cpl. (L/Sgt.) Elmer John BERNARD,
3 Bn. (48th Highrs.) 1 Cdn. Inf. Regt., C.A.

Reference H.Q.C.55-B-2008 (JAG/D-8) dated 6 Oct 45.

2. Herewith returned proceedings of Standing Court-Martial in respect of the m/n soldier with Minute attached as requested in your above mentioned letter.

for W. C. Duck Capt
(F.L.Armstrong) Brigadier
District Officer Commanding,
Military District No.3.

Encl.

40494

NAT. DEF. B 440
2500M 4 44 (3291)
H.Q. 1772-39-767

HQC 55-B-2008 (JAG/D-8)
Your K.55-B-1519

6 Oct 45

The District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

STANDING COURT-MARTIAL
B.136663 Cpl (L/Sgt) Elmer John BERNARD
3 Bn (48th Highrs) 1 Cdn Inf Regt., CA

1. Receipt is acknowledged of your K.55-B-9519 dated 3 Oct 45, with proceedings of the m/n Standing Court-Martial. The said proceedings are returned herewith.

2. The accused Cpl. (L/Sgt) Elmer John Bernard was charged with being AWL under AA15(1). He pleaded Guilty to the Charge and the Court sentenced the accused as follows:

"To be reduced to the rank of Corporal and to be reprimanded"

3. Lance and acting rank is not cognizable in the sentence of a Court-Martial and therefore a sentence of reduction from or to lance rank is inoperative. AA183 footnote 6; also AA44 footnote 13.

4. The latter part of the sentence herein, namely "to be reprimanded" is legally regular.

5. It will therefore be necessary for a valid sentence to be substituted for the invalid sentence. This may be effected by attaching to the proceedings a Minute signed and dated by you setting forth the new sentence. The Minute may be in the following form:

"The Judge-Advocate-General having advised that the Sentence in these proceedings is invalid, I, being an authority mentioned in R.P.54(C) hereby substitute for the said invalid Sentence, the following Sentence:

To be Reprimanded

(Date) _____Signature"

6. The above Minute must be reflected in Unit Orders, promulgated to the accused and the accused's documents amended accordingly.

7. When this has been completed, may the proceedings be returned to this office.

(R.J.Orde) Brigadier,
Judge Advocate-General.

MO/ET

IN REPLY PLEASE QUOTE
No. K.55-B-9519

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Confidential

Kingston, Ontario, 3rd October, 1945.

The Judge Advocate-General,
Dept. of National Defence,
Central Chambers,
OTTAWA, Ontario.

NATIONAL HEADQUARTERS
872
OCT 4 1945
C55-B-2008
Referred to JAG

STANDING COURT-MARTIAL
B.138668 Cpl(L/Sgt) Elmer John BERNARD
3 Bn (48th Highrs) 1 Cdn Inf Regt., CA

Reference your HQC.55-B-2008(JAG/D-3) dated 2nd October, 1945.

1. Herewith returned proceedings on the trial by Standing Court-Martial of the marginally named non-commissioned officer.

(J.E. Dowsley) Major,
President of Standing Court-Martial,
Military District No. 3.

Encl.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

HQC.55-B-2008 (JAG/D-3)
Y

2 Oct 45

District Officer Commanding,
Military District No. 3,
KINGSTON, Ontario.

STANDING COURT-MARTIAL
B.138668, Cpl.(L/SGT) Elmer John BERNARD
3 Bn (48 Highrs) 1 Cdn Inf Regt., C.A.

Receipt is acknowledged of your K.55-B-9518, K.55-B-9519 dated 26 Sep 45 with proceedings of the m/n Standing Court-Martial.

2. Pursuant to telephone conversation of 28 Sep 45 between Major J.E. Dowsley E.D. and Major L.C. Carroll, the proceedings are returned herewith in accordance with Major Dowsley's request.

(R.J. Orde), Brigadier,
Judge Advocate-General.

MO/AB

1s

IN REPLY PLEASE QUOTE No. K.55-B-9518
K.55-B-9519

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Confidential

Kingston, Ontario, 26th September, 1945.

The Judge Advocate-General,
Dept. of National Defence,
Central Chambers,
OTTAWA, Ontario.

C.55-B-208

STANDING COURTS-MARTIAL
B.135772 Sgt Arthur John BAKER
B.138668 Cpl.(L/Sgt) Elmer John BERNARD
3 Bn (48 Highrs) 1 Cdn Inf Regt., C.A.

Herewith proceedings on the trials by Standing Court-Martial of the marginally named soldiers.

J.E. Dowsley - Major

(J.E. Dowsley) Major,
President of
Standing Courts-Martial.

Encls.

39994

NAT. DEF. B. 440
2500M - 4-44 (4320)
H.Q. 1772-39-767

H.Q.C. 55-B-2009 CONFIDENTIAL

N.F.B. 5078
2M—2-45 (5690)
H.Q. 301-1-59

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT
STANDING COURT MARTIAL.

BEGIN, EDOUARD. E-601329 PTE

CONFIDENTIAL
H.Q.C. 55-B-2009

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 1 1945				J. A. G.	NEW FILE	CR	29-9-45
OCT 13 1945		P.A.	E.O.		With Papers C.R. OCT 16 1945		
DEC 26 1945	26/12/45	P.A.			With Papers C.R. NOV 19 1945		
JAN 8 1946	7/1/46	P.A.	E.L.M.		With Papers C.R. DEC 30 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. Q:-39-B-7489 (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE 28 DEC 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

17841
DEC 30 1945
File
Chgd. to
Referred to

REMISSION OF SENTENCE

E 601329 Pte BEGIN Edouard
RCOC (Att No 5 DD)

1. Ref HQC. 55-B-2009 (JAG/D-7) 1 OCT 45.

2. A remission of sentence in this case has been granted w.e.f. 22 DEC 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
(300M-4-44-1321)
H.Q. 1772-39-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQ 8055-B-2009 (JAG/DZ)
District File No. 39-B-7489 (RA)

PART I

No. E.601329 Rank Pte. Name BEGIN, Edouard

Unit RCOC (Atta. No. 5 DD)

PART II

Date of trial 20 SEP 45

Charges Sec. 12(1)(a) AA Sec. 24(2) AA

Sentence 8 months detention & stoppages of pay for $5.80

Date of Sentence 20 SEP 45

Confirmation - (a) Authority SCM

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E.601329 Pte. BEGIN Edouard

22 DEC 45

Signed at QUEBEC, P.Q., this 27th day of DEC 45.

Edmond Blais
(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon

this 24th day of December 194 5

Bernard Taschereau Lieut.
(B. TASCHEREAU) Lieut.
R 22 e R att. 5DD
Officer i/c Documents (1)

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-601329 Rank Pte Name BEING E.

The sentence of 8 months detention and stoppp 5.80

awarded by Court-Martial on the 20 Sep 194 5

has been remitted

on the 22 Dec 194 5 by Brig Edmond Blaid CBE MC

D.O.C. Md. 5

Unit No. 5 District Depto

Certified true Extract of Daily Orders Part II of

No. 816 Place Lauzon Date 26 Dec 45

(J. A. BACHU) Lieut.
Gen List att 5-DD
Adjutant.

39-13-7489

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-601329 (Number) Pte. (Rank) HEGIN E. (Name in full)

R.C.O.C. A.C. (Unit) att No 5 D.D. (Attachment (if any))

Sentenced to 8 mths Det.

on 20 Sep 45. at Lauzon Que.

being served at Val Mil Det Brrks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 yr. 7 months. 24-2-44

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~XX~~) committed ~~to~~ undergo his sentence, which I recommend should (not) be ~~XXXXXXXXXXXXXXXXXX~~ (reviewed on 20 Jan. 46.) for reasons given in paragraph X.

Place QUEBEC QUE

Date 13 Oct 45.

(Edmond BLAIS) - Brigadier
D.O.C., MD No.5,
(Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offence, see para. VIII For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

(Confirming Authority)

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
28 DEC 45.	Remission of sentence granted effective		22 DEC 45.
		(EDMOND BLAIS) Brigadier District Officer Commanding Military District No 5	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
A.A. Sec 12 (1)(a) AWL. from 0900 hrs on 27 Dec 44 until he surr at 1015 hrs on 7 Sep 45, uniform.	27-Dec44	20 Sep 45
A.A. 24 (2) LOS BY NEGL HIS EQUIP CLOTH AND REGT'L NEC for $5.80	14 Sep 45	20 Sep 45.

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 Oct 45	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	(PAUL MATHIEU) Colonel.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

IN REPLY PLEASE QUOTE
No. Q: 39-B-7489 (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE 20 DEC 45 194

CENTRAL CLAIMS Army
OTTAWA

The Secretary
Department of National Defence
OTTAWA ONT

DEC 21 1945

C 3859-11-45

E 601329 Pte HEGIN Edouard

Ref HQC 55-B-2009 (CMHR-3) EMA dated 18 DEC 45.

2. The mn has been granted remission of sentence wef 22 DEC 45.

(EDMOND BLAIS) Brigadier
District Officer Commanding
Military District No 5

N.D. 23
2 Mil.—5-43 (321)
H.Q. 1772-101-23

HQC 55-B-2009(JAG/D6)

17th October 1945

District Officer Commanding,
Military District No. 5,
Quebec, P.Q.

Standing Court-Martial.

Receipt is acknowledged of your No.89-B-7489(JA) dated 17th October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

for (R.J.Orda) Brigadier,
Judge Advocate-General.

LCC:VJ

23

IN REPLY PLEASE QUOTE No. Q. 39-B-7489 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 13 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

3303
OCT 16 1945
File C55-B-2009
Chgd to
Referred to JAG

STANDING COURT-MARTIAL

E-601329 Pte Edouard BEGIN
RCOC CA, Att No.5 DD CA

Ref HQC. 55-B-2009 (JAG/D-7)

1. dated 1 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

JAC/C.

22

NAT. DEF. B. 540
2500M-4-44-4321
H.Q. 1772-39-787

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Dépôt Régional No.5,A.C.,Lauzon,P.Q.

le -- vingtième-- jour de - - - septembre - - - 1945-- à - - 1130 - - - heures,

pour le procès de - - - - - E-601329- Soldat Edouard BEGIN - - - - - - - - - - - - - - -
Matricule Grade Nom et prénoms

R.C.O.C., A.C., attaché au Dépôt Régional No. 5, A.C., - - - - - - - - - - - - - - -
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Quartiers-Généraux, R.M. No. 5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms
Procureur Permanent, Quartiers-Généraux, R.M. No. 5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR OU AVOCAT: Lieutenant G. DEMELIS,
Grade Nom et prénoms
Régiment de Maisonneuve, attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

" LA COUR DECLARE LE PREVENU:-

E-601329- Soldat Edouard BEGIN, R.C.O.C., A.C., attaché au Dépôt Régional No. 5, A.C., innocent de l'accusation de désertion mais coupable d'absence sans permission sous le premier chef d'accusation et coupable sous le deuxième chef d'accusation".

SENTENCE:

" LA COUR CONDAMNE LE PREVENU:-

E-601329- Soldat Edouard BEGIN, R.C.O.C., A.C., attaché au Dépôt Régional No. 5, A.C., à subir une peine de huit (8) mois de détention et à une supression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, à savoir $5.80".

21

Extracts entered as No. 39993 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 1 day of Oct 1945

Signé à 5BD,A.C., Lauzon,P.Q. ce vingtième jour de septembre 1945.

Pierre Decary - Major,
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6429)
H.Q. 1772-39-2296
K.P. 26109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.* Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à Mademoiselle HELENE LAVOIE comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermentés.

(POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir document "F" ci-joint)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

~~*Question à l'accusé.* Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

20

(L'accusé s'étant avoué coupable sur le deuxième chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

"B-2"

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT. S. C. M.

ACTE D'ACCUSATION.

Le prevenu E-601329 Soldat Edouard Begin ~~Inf.Gard.~~ R.C.O.C.(CA) attache au Depot Regional No 5 A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF.
Art. 12 (R)(a)
Army act.

D'AVOIR EN ACTIVITE DE SERVICE
DESERTE LE SERVICE DE SA MAJESTE.

en ce que

A Montreal P.Q. a 0900 heures le 27 decembre, 1944, il s'est absente sans permission du L.P.O. D., R.C.O.C. (CA) jusqu'a ce qu'il se livre aux autorites militaires a Lauzon; P.Q. a 1015 heures le 7 septembre, 1945. en uniforme militaire.

DEUXIEME CHEF.
Art. 24(2)
Army act.

D'AVOIR PERDU PAR NEGLIGENCE SES
ARMES SES EFFETS D'EQUIPEMENT
D'HABILLEMENT ET AUTRES EFFETS
REGIMENTAIRES.

en ce que

A Lauzon, P.Q. le 14 septembre, 1945, il etait deficient des articles suivants:.

	C.A.R.O.	Moins 25% C.A.R.O.
HABILLEMENT DIVISION "B".		
1 Pr mitts leather.	2.62	3.64
2 Drawers woollen pr.	.93	.69
1 Moffle Khaki.	2.80	2.10
1 Shirt. Flannel Khaki.	.93	.69
1 Shirt. Woollen.	1.63	1.22
HABILLEMENT DIVISION "C".	1.20	.90
1 Comb Hair.	.04	.03
1 Lang yard knife.	.02	.01
1 Pin collar. safety.	.06	.04
SECTION "A-2"		
1 Mug Drinking.	.16	.12
Tot:	7.77	5.80

19

Lauzon, P.Q.
14 septembre, 1945.

Pierre Taschereau
(Pierre Taschereau) Capitaine.
Procureur Permanent, ~~Nord~~ District ~~Regional~~ militaires

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~*Premier témoin à charge.*~~

~~étant dûment assermenté, est interrogé par le procureur.~~

~~*Question.*~~

" LE PROCUREUR REMET AU PRESIDENT

LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE"

1.- Une formule M.F.B. 375, en date du 18 janvier, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2.- Une formule M.F.M. 216, en date du 7 septembre, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-o-

18

Le procureur n'a ~~plus~~ pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sans serment. (voir page D-3 et suivantes)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense ?

Réponse: Non, monsieur.

17

~~*Question à l'accusé.* Est-ce uniquement un témoin à l'appui de votre réputation ?~~

~~*Réponse:*~~

TEMOIN POUR LA DEFENSE:-

L'accusé:- Mat. E-601329- Soldat Edouard BEGIN, R.C.O.C., A.C., attaché au Dépôt Régional No. 5, A.C.

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR:

Q.- Quel âge avez-vous Bégin?
R.- Vingt-un ans, monsieur.

Q.- Depuis quand êtes-vous dans l'armée?
R.- Ca fait depuis le 21 février 1944.

Q.- En quelle qualité avez-vous servi dans l'armée?
R.- Dans le Service Corps et dans l'Ordonnance.

Q.- Quand vous vous êtes absenté vous étiez encore dans l'Ordonnance?
R.- Oui, monsieur.

Q.- Pourquoi vous êtes-vous absenté?
R.- C'était pour aider à chez-nous, à mon père qui était malade, qui était encore malade dans le temps que j'étais en congé.

Q.- Votre père est tombé malade pendant que vous étiez en congé?
R.- Oui, monsieur.

Q.- Vous avez des frères?
R.- Deux frères, un overseas.

Q.- Ceux qui sont chez-vous sont plus jeunes?
R.- Oui, monsieur.

Q.- Est-ce que vous avez fait des demandes pour exemption?
R.- J'en ai parlé à mon officier de peloton, il m'a dit de laisser faire.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:-

Q.- On dit que vous avez été absent du 27 décembre 1944 au 7 septembre 1945, est-ce vrai?
R.- Oui, monsieur.

Q.- Qu'est-ce que vous avez fait pendant ce temps?
R.- J'ai travaillé dans le bois.

Q.- Combien de temps?
R.- J'ai été six mois à travailler.

Q.- Est-ce que c'est cela que vous faisiez dans la vie civile?
R.- Non, monsieur.

Q.- Qu'est-ce que vous faisiez?
R.- Je peinturais.

Q.- Pourquoi avez-vous choisi cela?
R.- Parce-que je n'étais pas capable de travailler dans mon métier.

Q.- Qu'est-ce qu'il fait votre père?
R.- Il est imprimeur.

Q.- Est-ce qu'il a encore son imprimerie?
R.- Il travaille dans une imprimerie.

Q.- Est-ce qu'il travaille encore?
R.- Il travaille, mais perd beaucoup de temps.

Q.- Dans le temps des fêtes est-ce qu'il travaillait
R.- Pas dans le temps des fêtes.

Q.- Depuis quand travaillait-il pas?
R.- Deux mois.

Q.- Depuis quand travaille-t-il?
R.- Depuis le mois de février.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

- INTERROGE PAR LA COUR-

Q.- Quand vous êtes parti du Dépôt de l'Ordonnance le 27 décembre, est-ce que vous aviez l'intention de revenir?
R.- Oui, monsieur j'avais l'intention de revenir.

Q.- Vous êtes parti pourquoi?
R.- Parce-que mon père travaillait pas, je voulais gagner sa vie.

Q.- Pourquoi n'êtes-vous pas revenu avant?
R.- Je croyais que la guerre finie je serais dischargé.

Q.- Si la guerre n'avait pas été finie est-ce que vous seriez revenu?
R.- Je serais revenu pareil, mon frère était parti.

-o-o-o-o-o-o-o-o-o-o-o-o-

15

De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

-o-o-o-o-o-o-o-o-o-o-o-o-

- LE TEMOIN REPREND SON SIEGE -

Le Procureur soumet la cause telle que prouvée et l'Officier Défenseur prononce une plaidoirie.

-o-o-o-o-o-o-o-o-o-o-o-

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au deuxième - - - - - - - - - - - chef d'accusation, il est déclaré coupable de ladite accusation.

LA COUR AU PROCUREUR:_ " Avez-vous quelque chose à dire au sujet du deuxième chef?"

LE PROCUREUR:- " Si l'accusé avait plaidé non coupable j'aurais établi au moyen de la formule 375 et du témoignage du quartier-maître que le 14 septembre 1945 l'accusé a été trouvé manquant d'effets pour un montant de $5.20".

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ? 14

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur. (l'accusé par son Officier Défenseur, dit:-)

" M. le Président, j'aimerais attirer l'attention de la Cour sur le jeune âge du soldat Bégin. Si jeune il se voit déjà confié la tâche de la famille. Une telle responsabilité l'a un peu affolé au point qu'il a jugé qu'il devait s'absenter. Je demande à la Cour d'user de clémence".

13

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

"F"

"MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE"

" A 1132 heures, le vingtième jour de septembre, 1945, la Cour s'est ajournée".

-o-o-o-o-o-o-o-o-o-o-o-o-

" A1422 heures, le vingtième jour de septembre, 1945, la Cour se rassemble".

-o-o-o-o-o-o-o-o-o-o-o-o-

- LE PROCES SE POURSUIT-

12

"G"

Pierre Decary (PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at L.P.O.D., Montreal, Que. on the 18th day of January 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-601329-Pte-BEGIN, E.

DECLARATION

The Court declare that No. E-601329 (Regt'l No.) Private (Rank) BEGIN, Edouard (Full Name) L.P.O.D., R.C.O.C. (CA) (Unit) illegally absented himself without leave from L.P.O.D., R.C.O.C. (CA) at Montreal, Que. (Place) at 0900 hours on the 27th day of December 1944 that he is still so absent, and that on the 18 January 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
AS PER ATTACHED LIST			

(C.V.Pettoplaso) Capt., LPOD., RCOC (CA) President
(Name) (Rank) (Unit)

Signed at Montreal, Que. (A.M.Fraser) Lieut., LPOD., RCOC (CA) Member
(Name) (Rank) (Unit)

this 18th day of January 19 45 (R.N.A.Kerr) Lieut., LPOD., RCOC (CA) Member
(Name) (Rank) (Unit)

Signature of Commanding Officer Brigadier L.Patrick O.C., LPOD., RCOC (CA)
(Name) (Rank) (Unit)

Certified true copy (P.V.Salvanoschi) Lieut & Adjt., LPOD., RCOC (CA)
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-257

STATEMENT OF ARTICLES DEFICIENT IN THE KIT

OF E:610329 PTE BRUIN, E.

Article	Amt.	Value 100%	Value 75%
CAT SEC. "A"			
Anklets, Web, Prs	1	.74	.56
Caps, Winter, Melton	1	1.05	.79
Dressings, First Field	1	.21	.17
Gloves, Winter, Khaki	1	.66	.50
Greatcoats, Serge, Drab	1	15.54	11.66
Mitts, Pullover, Leather	1	.93	.70
Overalls, Combination	1	2.52	1.89
Overshoes, 4 Buckle	1	2.04	1.53
TOTAL:		$23.69	$17.80
CAT SEC. "B"			
Battle Dress Blouse	2	13.00	9.76
Battle Dress Trousers	2	13.10	9.82
Boots, Ankle	2	11.64	8.72
Caps, Field, Service	2	1.40	1.05
Drawers, Cotton, Short	2	.84	.62
Drawers, Woollen	2	2.80	2.10
Jackets, Sweater	1	1.37	1.03
Mufflers, Khaki	1	.93	.70
Shirts, Flannel, Khaki	2	3.26	2244
Shirts, Undercotton	2	.86	.65
Shirts, Khaki Cotton	3	4.62	3.45
Shirts, Woollen	2	2.40	1.80
Shoes, Canvas	1	2.29	1.72
Socks, Woollen	4	1.84	1.38
Trousers, Khaki Drill Short	1	1.31	.98
TOTAL:		$61.66	$46.22
CAT SEC. "C"			
Bags, Kit	1	1.27	.95
Braces, Prs	1	.28	.21
Brasses, Button	1	.04	.03
Brushes, Button	1	.11	.08
Brushes, Cloth	1	.17	.13
Brushes, Hair	1	.39	.29
Brushes, Shoe Polishing	1	.21	.16
Brushes, Shaving	1	.42	.32
Brushes, Tooth	1	.09	.07
Caps, Comforter	1	.41	.31
Combs, Hair	1	.04	.03
Forks, Table	1	.08	.06
Holdalls	1	.22	.16
Housewives	1	.35	.26
Knives, Clasp	1	.99	.74
Knives, Table	1	.18	.14
Lanyards, Knives	1	.02	.01
Neckties, Black	1	.19	.14
Pins, Collar, Safety	1	.06	.05
Razors	1	.42	.31
Spoons, Table	1	.08	.06
Towels, Hand	2	.62	.46
Belts, Waist Leather Brown	1	.35	.26
TOTAL:		$6.99	$5.23
CAT SEC. "D"			
Badges, Cap	1	.05	.04

Statement of Articles deficient in the Kit

of B610329 PTE BRUIN, E.

Article	Amt.	Value 100%	Value 75%
CAT SEC. "I-A"			
Bags, Ration	1	.04	.03
Belts, Waist W.E. Patt 37	1	.67	.50
Bottles, Water	1	.62	.46
Braces, Right	1	.33	.25
Braces, Left	1	.35	.26
Carriers, Waterbottle	1	.37	.28
Haversacks	1	2.29	1.71
Helmets Steel Complete	1	2.39	1.79
Picks,	1	2.26	1.69
Pouches, Basic	2	2.06	1.55
Straps, Shoulder, Haversac, L.& R.	2	.62	.48
Straps, Wek, Supporting	2	.28	.22
Tins, Mess, Rectangulary	1	.60	.45
TOTAL:		$12.88	$9.67
CAT SEC. "2/A"			
Capes, Anti Gas	1	4.43	3.32
Respirators Light Complete	1	3.80	2.85
Outfit Anti Dimming	1	.03	.02
Ointment Anti Dim #2	2	.52	.40
Eyeshields, Anti Gas Pkts of 6	1	1.04	.78
Detectors Sleeves, Pre	2	.56	.42
TOTAL:		$10.38	$7.79
CAT SEC. "I-J"			
Sheets, Ground	1	2.38	1.78
CAT SEC. "K"			
Mugs, Drinking	1	.16	.12

SUMMARY1/

CAT SEC. "A"	23.69	17.80
CAT SEC. "B"	61.66	46.22
CAT SEC. "C"	6.99	5.23
CAT SEC. "D"	.05	.04
CAT SEC. "I-A"	12.88	9.67
CAT SEC. "2-A"	10.38	7.79
CAT SEC. "I-J"	2.38	1.78
CAT SEC. "K"	.16	.12
TOTAL:	$118.19	$88.65

FINAL TOTAL: $88.65

17th January 1945.

(G.E. Tisdale) Captain
Quartermaster
Longue Pointe Ordnance Depot.

"H"

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel Paul MATHIEU O.C. NO 5, D.D. C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that E-601329 PTE. BEGIN Edouard.
(Number) (Rank) (Name in full)

of the Attached to No 5 D.D. C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXXXXXX~~ (surrendered to) D-610313 PTE.
(Number) (Rank)

LABONTE L.P.
(Name) Att. to No5 D.D. C.A.
(Unit or appointment)

at LAUZON P.Q.
(Place) at 1015
(Hour)

on the 7th day of Sept 1945

Strike out words not applicable } as a deserter ~~XXXXXXXXXX~~ without leave, and that at the time of ~~XXXXXXX~~ he was wearing military ~~XXXXXX~~ uniform (~~XXXXXXXXXXXXXX~~).

Dated at Lauzon, P.Q. this 7th day of Sept 45

Paul Mathieu
(Signature, Number, Rank, Unit or appointment)
(Paul MATHIEU) Colonel.
Commanding No 5 D.D. C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

8

"Y"

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

M.R.R. 355
75M—5-43 (145)
M.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-601329	Private	BEGIN Edouard	N.P.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Station Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 days in military custody, making a total of 13 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 21 years, 7 months.

6. The date of his ~~conscription~~ attestation specified in his ~~record of service is~~ attestation paper 24-2-44

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Air Force Unit

Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(D. TASCHEREAU)
Ass. Records Office
No. 5 PD Lauzon, P.Q.

Signed this 20th day of SEPTEMBER 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

L-601329 BEGIN Edouard

No. Name | Sqn., Battery, or Company | Corps N.D.H.A. | Date of enlistment 24-2-44 | G.C. Badges | Tradesmen's Rates of Pay | Character

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. one | Signature O.C. Company, etc. R. DERY Lieut.

M.F.M. 6 (A.F.R. 122) 500M—11-41 (2498) H.Q. 1773-39-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				-- N I L --					

(Hal Roche Capt)
(R. MACDONALD, LIEUT.)
Act. Records Officer
No 5 D.D. Lauzon, P.Q.

(PIERRE DECARY) MAJOR
PRESIDENT S.C.M.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. E601329 PIE Begis E.
of U. D. S. is in a good state of health,
and fit to undergo Trial by Court martial.

J. Ribault, capt.
Medical Officer

Station Guard Room

Date Sept 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

MEDICAL INSPECTION ROOM
O. D. M. D. No. 5
SEP
LUZON, P.O.

5

. . . .

RESUME DE LA PREUVE

Proces de E-601329 Pte Edouard. Begin. L.P.O.D. R.C.O.C. (CA) attache au Depot Regional No 5 A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P. No II 306 d/ 29 decembre, 1944. a Montreal, P.Q.

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE: E-30500 SQMS. Annett G. Liste Generale, A.C., attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L 0 1507 (9-6-45)

4

H.Q.C.55-B-2009 (JAG/D-7)
Your Q. 39-B-7489

1 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 601329 Pte. Edouard Begin,
RCOC.,CA.,att. No. 5 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

THIS COPY FOR: H.Q.C. 55- B-2009
M.D. ~~Q-39-B-7489~~

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA
No. E-601329 Name BEDIN, Edouard

Rank Pte Unit RCOC CA Att No. 5 DD CA

Charge (1) AA 12 (1)(a) WOAS Deserting....
(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 27-12-44 (2) 14-9-45

Date of Arrest 7-9-45 Charge Signed 14-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 DD CA 21-9-45

Sentence Det 8 mos Stoppages ~~$x~~ $5.80

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39993

Date 1-10-45

MEMO Guilty AWL Balance of sentence [illegible] with 22-12-45

MD 5
Absent
Approx 10 mos

No. 5 DD CA
Sentence
Det 8 mos

2

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-B-7489

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Sept. 25th. 1945.

C:55-B-2409

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

E/601329, Pte. Edouard BEGIN.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

39993

NAT. DEF. B. 440
2500M-4-44-4321
H.Q. 1772-38-767

H.Q.C. 55-B-2010 CONFIDENTIAL

M.F.R. 3078
25M—2-45 (6002)
H.Q. 201-1-40

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT MARTIAL.

BEDARD, LUCIEN. E-462275 PTE-L-CPL.

CONFIDENTIAL
H.Q.C. 55-B-2010

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes"		
OCT 1 1945				J. A. G.	NEW FILE	CR	29-9-45
OCT 1 2 1945	7/10/45	P.A.	E.J.	Jas	With Papers OCT 16 1945		
DEC 5 - 1945	5/12/45	P.A.			Re requisition G.R. NOV 1 9 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2010
(JAG/D-6)

OTTAWA, 3 December, 5

District Officer Commanding
Military District No 5
QUEBEC, Que

E-462275, Pte BEDARD, Lucien
Fus du St L (Att No 5 DD CA)

Receipt is acknowledged of your Q.39-B-1321 (DA) dated 26 Nov 45, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

E.L.M.

for (R J Orde) Brigadier
Judge Advocate General

/jm

C.M.B.R.

The attached papers are sent to you to note and P.A. on the file which is charged to you and in use at your office.

E.L.M.
for J.A.G.

4-12-45

List amended
Capt
5-4/45. CMBR-3

IN REPLY PLEASE QUOTE No. Q:-39-B-1321. (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE 26 NOV 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

11793A
NOV 27 1945
File CMBR 19
Chg.
Referred to JAG

H&C-55-B-2010

REMISSION OF SENTENCE

E 462275 Pte BEDARD Lucien
Fus du St L (Att No 5 DD)

1. Ref HQC. 55-B-2010 (JAG/D-5) 17 OCT 45.

2. A remission of sentence in this case has been granted w.e.f. 20 NOV 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
250UM-4-44-4041
H.Q. 1772-38-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC. 55-B-2010(JAG/[illegible]
District File No. Q.39-B-1321

PART I

No. E.462275 Rank Pte Name BEDARD Lucien

Unit Fus.du.St. L (Att.No.5.DD)

PART II

Date of trial 18.SEP.45

Charges Sec.12(1)(a) AA Sec.24(2) AA

Sentence 18 months of detention & stoppages of pay for $1.31

Date of Sentence 18.SEP.45

Confirmation - (a) Authority SCM

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E.462275 Pte.BEDARD.Lucien, Fus.du.St L(Att.No.5.DD) 20 NOV 45

Signed at QUEBEC, P.Q., this 13th day of NOV. 45

Edmond Blais
(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon

this 21th day of NOV 194 5

(W. G. LAROCHE) Capt.
RCCS att 5DD
Officer i/c Documents (1)

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-462275 Rank Pte Name BEDARD Lucien

The sentence of 18 mnths. detention and stopp. $1.31

awarded by Court-Martial on the 18 Sep 194 5

has been remitted

on the 20 Nov 194 5 by Brig. EDMOND BLAIS CBE MC

D.O.C. MD 5

Unit No 5 District Depot.

Certified true Extract of Daily Orders Part II of

No. 287 Place Lauzon Date 22 Nov 45

(M. R. DEDOUX) Capt.
Gen List att 5DD
Adjutant.

39.13.1321

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-462275 (Number) Pte. (Rank) BEDARD. L. (Name in full)

Les Fusiliers du St-Laurent. (Unit) Att No 5 D.D. (Attachment (if any))

Sentenced to 18 months Det.

on 20 Sep 45 at Lauzon, Que.

being served at Val Mil Det Brrks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 25 yrs 5 months. 8-1-42

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~xxx~~) committed to undergo his sentence, which I recommend should (~~xxx~~) be (~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~) (reviewed on 20 Jun 46.) for reasons given in paragraph X.

Place QUEBEC QUE

Date 13 Oct 45.

Edmond Blais (Edmond BLAIS) - Brigadier D.O.C., MD No.5, (Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-3104)
153M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
26 NOV 45.	Remission of sentence granted effective	20 NOV 45.	
		Edmond Blais (EDMOND BLAIS) Brigadier District Officer Commanding Military District No 5	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
A.A. Sec 12 (1)(a) AWL. from 0600 hrs on 9 Jan 44 until he surr at 1500 hrs on 7 Sep 45, uniform.	9 Jan 44	18 Sep 45.
A.A. SEC 24 (2) LOS BY NEGL HIS EQUIP CLOTH AND REGT'L NEC for $ 1.31	13 Sep 45	18 Sep 45.

Frederic Pariens Capt.
Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

.....
Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 Oct 45	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	Paul Mathieu (PAUL MATHIEU.) Colonel.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2010(JAG/D-5)

17th October 1945

District Officer Commanding,
Military District No. 5,
Quebec, P.Q.

Standing Court-Martial
B-462273, Pte. L.Bedard.

Receipt is acknowledged of your 55-B-1511(JAG)
dated 12th October 1945, under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:MS

IN REPLY PLEASE QUOTE No. Q. 39-B-1321 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 12 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

CENTRAL REGISTRY Army
HQ
3353
OCT 16 1945
File 55-B-2010
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL

E-462275, Pte Lucien BEDARD
Fus du St-Laurent CA Att No.5 DD CA

1. Ref HQC. 55-B-2010 (JAG/D-7) dated 1 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5915.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. B. 490
250CM-4-44-4321
H.Q. 1772-16-767

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non Monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à~~

Réponse: ~~[illegible]~~

Question à l'accusé. Vous opposez-vous à Mlle Thérèse Leclerc comme sténographe ?

Réponse: Non Monsieur.

Question au procureur. Le sténographe ~~[illegible]~~ est dûment assermenté (Minute d'ajournement et de reprise d'audience, voir document "F" ci-joint.)

Réponse: L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Non Monsieur.

Question à l'accusé. L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Réponse: Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Question à l'accusé. Oui Monsieur.

Réponse: Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Question à l'accusé. Non coupable.

Réponse: Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Question à l'accusé. Coupable.

Réponse: ~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable ~~[illegible]~~ d'accusation, les prescriptions de ~~[illegible]~~

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au dépôt régional No.5,A.C.,LAUZON /P.Q.

le 18ème jour de septembre 1945 à 1120 heures,

pour le procès de E-462275 Sdt.(L/Cpl.) Lucien BEDARD, Les Fusiliers du St-Laurent, A.C., att. dépôt régional No. 5, A.C.
Matricule — Grade — Nom et prénoms — Unité — Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY, Président Permanent, C.M.P., Q.G., R.M. No.5.

PROCUREUR: Capt. TASCHEREAU, Pierre
Grade — Nom et prénoms

Procureur Permanent, Q.G., R.M. No.5.
Unité — Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. MARTINEAU, F.
~~DÉFAVOCAT~~
Grade — Nom et prénoms

R. 22e R., A.C., att. dépôt régional No.5, A.C.
Unité — Détachement, le cas échéant

VERDICT: La Cour déclare le prévenu non coupable de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation.

SENTENCE: La Cour condamne le prévenu à la détention pendant DIX-HUIT (18) mois, et à une suppression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, savoir: $1.31.

Extracts entered as No. 39992 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 1 day of Oct 1945

Signé à LAUZON, P.Q. ce 18ème jour de septembre 1945.

Pierre Decary -Major
Président de la cour martiale permanente.
Q.G., R.M. No.5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

"B2"

(PIERRE DESMARAIS) MAJOR
PRÉSIDENT, C.S.T. 44

ACTE D'ACCUSATION

Le prevenu, E-462275 (Lance-Caporal) Lucien BEDARD, Les Fusiliers du St.Laurent, A.C., attache au Depot Regional No.5, A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE LE SERVICE DE SA MAJESTE,

en ce que,

a Prince George, B.C., a 0600 heures, le 9 janvier 1944, il s'est absente sans permission des Fusiliers du St.Laurent, A.C., jusqu'a ce qu'il se livreaux autorites militaires, a Lauzon, P.Q., a 1500 heures, le 7 septembre 1945, en uniforme.

DEUXIEME CHEF
Art. 24(2)
Army Act

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES, SES EFFETS D'EQUIPEMENT, D'HABILLEMENT ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Lauzon, P.Q., le 13 septembre 1945, il etait deficient des articles suivants:

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "B"		
1 Jacket sweater	1.38	1.03
HABILLEMENT DIVISION "C"		
1 Braces pr	.32	.24
1 Pin collar safety	.06	.04
TOTAL:	$ 1.76	$ 1.31

Lauzon, P.Q.
14 septembre 1945

(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent, 5e District Militaire

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non Monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

Les procureurs procèdent à l'appel des témoins.

Témoins à charge.

étant dûment assermenté, est interrogé par le procureur.

Question

LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE.

- - - - -

1° MFB 375, en date du 5 février 1944, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier."

2° MFM 216A, en date du 7 septembre 1945, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier."

Le procureur n'a ~~xxx~~ pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, Monsieur. (Voir page D-3 et suiv.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non Monsieur.

~~xxxxxxxx xxxxxx~~ ~~Exxxxxxxxxxxxxxxxxxxxxx l'appui de votre réponse?~~

~~xxxxxx:~~

TEMOIN DE LA DEFENSE: L'accusé, E-462275, Sdt (L/Cpl.) Lucien BEDARD, Les Fusiliers du St. Laurent, A.C., att. dépôt régional No. 5, A.C., étant dûment assermenté, est interrogé par l'Officier Défenseur:

Q. Depuis quand êtes-vous dans l'Armée?

R. 8 janvier 1942.

Q. Quel âge avez-vous?

R. 23 ans.

Q. Est-ce que vos parents vivent?

R. Mon père est mort.

Q. Où reste votre mère?

R. Loretteville.

Q. Qu'est-ce qu'elle fait?

R. Rien, elle est trop vieille pour travailler.

Q. Quel âge a-t-elle?

R. 62 ans.

Q. Avez-vous des frères?

R. 3 frères.

Q. Qu'est-ce qu'ils font?

R. 3 frères de mariés, seulement un reste à la maison.

Q. Est-ce que votre frère est capable de travailler?

R. Il est capable maintenant, mais il a été refusé dans l'Armée.

Q. Qui fait vivre votre mère?

R. C'est l'allouance de l'Armée et ce n'était pas suffisant.

Q. L'allouance que vous avez signée?

R. Ma mère recevait $25.00 et j'ai signé la moitié de ma paye.

Q. Quel grade avez-vous obtenu dans l'Armée?

R. L/Cpl.

Q. Au moment de votre absence quel grade aviez-vous?

R. L/Cpl.

Q. Quelle était votre intention quand vous êtes parti de Prince George?

R. C'était de revenir à l'Armée. Je suis parti dans l'intention de revenir. J'ai arrivé chez nous en passe. Ca allait mal. Ma mère était obligée de travailler en journée pour vivre.

Q. Avez-vous essayé dávoir une exemption?

R. J'ai demandé conseil à un sergent, il a dit: "Ca sert à rien".

Q. Où étiez-vous dans le temps?

R. Dans l'Ouest.

Q. Est-ce que votre mère se plaignait dans la correspondance de manque d'argent?

R. Oui Monsieur. Elle disait que tout allait mal.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:

Q. On dit que vous avez été absent du 9 janvier 1944 au 7 septembre cette année, est-ce exact?

R. Oui Monsieur.

Q. Qu'est-ce que vous avez fait pendant ce temps-là?

R. J'ai travaillé.

Q. Où?

R. Dans le bois.

Q. Tout le temps?

R. Oui Monsieur.

Q. Vous n'êtes pas revenu chez vous?

R. Non Monsieur.

Q. Qu'est-ce que vous faisiez-là?

R. J'ai travaillé comme commis et dans un moulin à scie.

Q. Votre mère reste à Québec?

R. Loretteville.

Q. Vous avez été dans le bois tout ce temps-là?

R. Oui, j'envoyais mon argent chez nous.

Q. Combien envoyiez-vous à votre mère?

R. $70.00 par mois.

Q. Régulièrement?

R. Oui Monsieur, tous les mois.

Q. Vous êtes venu ici en furlough?

R. En passe des Fêtes, Monsieur.

Q. Quand vous êtes-vous rendu dans le bois?

R. Au milieu de Janvier. Ma passe finissait le 8, je suis parti une semaine après.

Q. Qui vous a employé?

R. Un nommé Perron, Levesque.

Q. Pour quelle compagnie?

R. Des pa rticuliers, pas de compagnie. Il avait un moulin à scie à Rivières aux Pins.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER À LA R.P. 83(B).

L'ACCUSE REPREND SON SIEGE.

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE.

L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au deuxième chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

PAR LE PROCUREUR:

Si l'accusé avait plaidé non coupable, la Poursuite aurait établi, à l'aide de la 375 et du témoignage du Quartier-Maître, qu'à la date du 13 septembre 1945, il manquait à l'accusé des effets militaires pour un montant de $1.31.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable?

Réponse: Non Monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine?

Réponse: Non Monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation?

Réponse: Non Monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

(PIERRE DECARY), MAJOR
PRÉSIDENT, C.C.M.

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: L'accusé, par son Officier Défenseur, dit: "Nous avons ici un jeune homme qui a servi dans l'Armée avec une certaine distinction puisque finalement à un moment donné on lui a donné une promotion. Sa feuille de conduite est absolument propre ainsi que son record civil. Il est venu se promener, voir sa mère qui était malade et c'est certainement sur les instances de sa mère malade qu'il a cédé, sa mère lui ayant conseillé de rester chez lui pour fournir de l'aide, il est finalement resté ici dans la Province de Québec. Comme il l'a dit sous serment, il fournissait durant son absence et fournit une aide efficace à sa mère. Je demande la clémence de la Cour dans son cas. Je crois en toute sincérité que beaucoup de soldats auraient fait autant ou peut-être plus que le L/Cpl. Bédard dans son cas."

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

"F"

(PIERRE DECARY) MAJOR
PRÉSIDENT, C.M.M.

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - -

A 1125 heures le 18 septembre 1945.

la Cour s'est ajournée.

A 1547 heures le 18 septembre 1945

la Cour se rassemble.

LE PROCES SE POURSUIT

"G"

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

Record of the Declaration of a Court of Inquiry assembled at Nanaimo, B. C. on the 5th day of February 1944 for the porpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-462275 L/Cpl BEDARD, Lucien Fusiliers du St-Laurent C.A.

DECLARATION

The Court declare that No. E-462275. L/CPL. BEDARD, Lucien .....1st.Bn..Fusiliers.du.St-Laurent.C.A..... illegally absented himself without leave from.Fus..du St-Laurent at...Prince George, B.C. at 0600 hrs. on the..9th.... day of .....January.1944..., that he is still so absent, and that on the .5th.day.of.February.44 he was deficient, and that he is still deficient of the following articles:

ARTICLES	Value			ARTICLES	Value		
Clo. Div. A				Clo. Div. "D"			
Caps Winter, M.C.	1	1	06	Badges cap F.St-L.	1	0	09
Greatcoat, drab	1	17	22	Pins collar safety	1	0	06
Clo. Div. B							
Battle dress, blouse	1	5	25	TOTAL:		27	32
Cap field service	1	0	70				
Drawers cotton short	1	0	36				
Jacket sweater	1	1	38				
Shirts, under cotton	2	0	78				
Clo. Div. "C"							
Blacking tin	1	0	05				
Bootlaces, prs.	1	0	03				
Braces, prs.	1	0	32				
Brass button,	1	0	02				

....Capt..C..D'Anjou...President
Fusiliers du St-Laurent C.A.

Signed at..Nanaimo,.B.C.. ....Lieut. L. Laperrière Member
Fus. du St-Laurent C.A.

this.5th..... day of .....Lieut..C..L..Turgeon Member
Fusiliers du St-Laurent C.A.

...February.....1944. 19

Signature of Commanding Officer (P.-U. L'Heureux) Lt-Col.
1st Bn. Fus. du St-Laurent CA

M.F.B. 375

Certified true copy.....
P. J. Lemieux Capt.-Adj.
Fus. du St-Laurent C. A.

"H"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

CERTIFICAT en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 1942, tel que publié dans l'O.S.C. 1877 et dans l'ordre général 127 de 1942.

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné Colonel Paul MATHIEU O.C. NO 5 D.D. CA.
(Matricule) (grade) (nom) (unité)

certifie par les présentes que E462275 (Matricule) PTE. (Grade)

BEDARD Lucien
(Nom au complet)

de Attache au Depot Regional No 5 AC.
(Unité et détachement, s'il y a lieu)

Biffer les mots inutiles } XXXXXXXXXX (s'est livré à) E-602390 (Matricule) CPL. (Grade)

BOURGAULT L. (Nom) Att au Depot Reg No 5 AC (Unité ou emploi)

à LAUZON P.Q. (Lieu) à 1500 (Heure)

le 7ieme jour de Sept 19 45

Biffer les mots inutiles } comme déserteur (XXXXXXXXXX) et qu'au moment XXXXXXXXXX il portait l'uniforme de l'armée (XXXXXXXXXX)

Donné à Lauzon, P.Q. ce 7heme jour de sept 19 45

(Signature, Matricule, Grade, Unité ou emploi)
(PAUL MATHIEU) Colonel.
Commanding No 5 D.D. C.A.

NOTE—Si le militaire, qui a été arrêté ou s'est livré, est détenu par un autre ou un [illegible] ce certificat doit porter la signature du commandant de cette unité ou de cette formation, et non celle d'un autre officier en son nom.

Si le militaire, qui a été arrêté ou s'est livré, est détenu par un détachement du Corps de Prévôté canadien, A.C., ce certificat doit porter la signature de l'officier, sous-officier breveté ou sous-officier en charge de ce détachement.

M.F.M. 216A.
Q.G. 1772-39-1936
10M-4-43 (9776)

"Y"

Pierre Decary

(PIERRE DECARY) ~~MAJOR~~ M.F.B. 358 (2273)
PRÉSIDENT, S. C. M. H.Q. 1772-39-620 M.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E462275	Pte.	BEDARD, U.	NWA.

1. The following is a fair and true summary of the entries in the Field. ~~Regimental~~ Service and General ~~Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or ~~a Civil Court,~~ ~~Air Force~~ Army Act ~~Act~~ and of cases in which trial has been dispensed of summary awards under Section 47 of the with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement~~ ~~Air Force Act or A.F.A. 73~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ~~~~or~~ .....~~

4. The accused has been in confinement awaiting trial on the present charges, for ..... ~~days in civil custody, and~~ 11 days in military ~~Air Force~~ custody, making a total of 11 days in custody, ~~of which ..... days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 25 years, 5 mths

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 8 Jan 42

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State any air force decoration or reward. military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force or the regimental rank of ~~ .....

11. ~~(In the case of an officer.) The accused holds~~ In the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Name.....of.....Regiment Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Benoit Taschereau Lieut.
Asst. Records Officer.
5 DD Luzon, P.Q.

Signed this 18th day of Sept 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. E46227 Name BEDARD, L. Sqn., Battery, or Company | Corps NRMA | Date of enlistment 8Jan42 YOB: 29may20

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. one | G.C. Badges | Signature O.C. Company, etc. | Tradesmen's Rates of Pay | Character

M.F.M. 6 (A.F.B. 122) 500M—11-41 (2498) H.Q. 1772-30-1032

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
XXXX

MEDICAL OFFICER'S REPORT

I certify that No. E 42275 PE Bidard L.

of U S S is in a Good state of health,

and fit to undergo Trial by Court martial.

Gibson, capt.
Medical Officer

Station Kenyon Guard Room

Date 18 Sept 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-30-480

18 SEP
LAUZON, P.Q.

RESUME DE LA PREUVE

Proces de E-462275 Lance-Caporal Lucien BEDARD, Les Fusiliers du St.Laurent, A.C., attache au Depot Regional No.5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No.4 d/ 18 janvier 1942 a Prince George, B.C.

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE P-48788 CQMS LEBLANC, M. Liste Generale, A.G. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (9-6-45)

H.Q.C.55-B-2010 (JAG/D-7)
Your Q. 39-B-1321

1 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 462275 Pte. (L/Cpl) Lucien Bedard,
Les Fus du St.Laurent, C.A., att. No.
5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2010
M.D.Q: 39-B-1321

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

NRMA

No. E-462275 Name BEDARD, Lucien

Rank Pte (L/Cpl) Unit Les Fus du St. Laur. Att No. 5 DD CA

Charge (1) AA 12 (1)(a) WOAS Deserting....
(2) AA 24 (2) Neglect to the prejudice...

Date of Crime (1) 9/1/44 (2) 13-9-45

Date of Arrest 7-9-45 Charge Signed 14-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 DD CA 18-9-45

Sentence Det 18 mos Stoppages $1.31

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39992

Date 1-10-45

MEMO Guilty AWL

MD 5	No. 5 DD CA
Absent	Sentence
Approx 21 ms	Det 18 mos

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-B-1321

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Sept. 25th. 1945.

C.55-B-2010

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

E/462275, Pte.(L/Cpl.) Lucien BEDARD.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

39992

NAT. DEF. B. 440
2500M-4-44-4321
H.Q. 1772-39-767

H.Q.C. 55-B-2011 CONFIDENTIAL

M.F.D. 347B
25M—2-45 (6659)
H.Q. 300-1-18

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL.

BEAUPRE, JEAN-RENE E-627842 PTE

CONFIDENTIAL
H.Q.C.
55-B-2011

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 4 1945				J. A. G.			
OCT 18 1945					With Papers C.F. OCT 16 1945		
DEC 13 1945	13/12/45	P.A.3		CMGR	For information only DEC 10 1945		
				JAG	With Papers C.R. DEC 14 1945		
DEC 19 1945	19/12/45	P.A.3		CMBR	Re note pls		19.12.45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-5-2011
(JG/D-6)

OTTAWA, 17 December, 5

District Officer Commanding
Military District No 5
QUEBEC, Que

E-627842, Pte BEAUPRE, JR
RCOC (Att No 5 DD CA)

Receipt is acknowledged of your Q.39-B-5812 (DA) dated 12 Dec 45, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

E K M

for (R J Orde) Brigadier
Judge Advocate General

/jm

Noted.
ADG
CMJ

19/12/45. CMJR-3

IN REPLY PLEASE QUOTE No. Q:-39-B-5612. (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE 12 DEC 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

15120
DEC 14

REMISSION OF SENTENCE

E 627842 Pte BEAUPRE J R
ROOC (Att No 5 DD)

1. Ref HQC.55-B-2011 (JAG/D-5) 17 OCT 45.

2. A remission of sentence in this case has been granted w.e.f. 10 DEC 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-E-2011(JAG/D/5)
District File No. Q.39-B-5613

PART I

No. E.627842 Rank Pte. Name BEAUPRE Jean René

Unit RCOC (Att No. 5 DP)

PART II

Date of trial 20 SEP 45

Charges Sec.12(1)(a) AA Sec.24(2) AA

Sentence 8 months detention & stoppages of pay for $30.25

Date of Sentence 20 SEP 45

Confirmation - (a) Authority SCM

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E.627842 Pte BEAUPRE Jean René

10 DEC 45

Signed at QUEBEC, P.Q., this 3rd day of DEC 45

Edmond Blais

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at No.5 District Depot this 11th day of Dec 1945.

W.G. Laroche

(W.G. LAROCHE) Capt.,
R.C.O.S. ATT'D No.5 DD
Officer i/c Documents (1)

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No E/627842 Rank Pte Name BEAUPRE, Jean René

The sentence of 8 months detention

awarded by Court-Martial on the 20 Sep 45 194

has been remitted

on the 10 Dec 45 194 by Brigadier Edmond Blais, CBE MC DOC MD 5

Unit

Certified true Extract of Daily Orders Part II of

No. 302 Place LAUZON Date 11.12.45

M.R. Ledoux Capt

(M.R. LEDOUX) Capt.,
R.C.O.S. ATT'D No.5, D.D.
Adjutant. No.5, D.D.

39. B. 5612

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B-627842 (Number) Pte. (Rank) BEAUPRE. J. R. (Name in full)

R.C.O. C. A.C. (Unit) Att No 5 D.D. (Attachment (if any))

Sentenced to 6 Mths Det.

on 20 Sep 45 at Lauzon, P.Q.

being served at Val Mil Det Brrks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 yrs 1 mth. 14-1-43

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences, see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be ~~suspended (put into execution)~~ (reviewed on 20 Dec 45.) (date) for reasons given in paragraph X.

Place QUEBEC QUE

Date 13 Oct 45.

Edmond Blais
(Edmond BLAIS) - Brigadier,
D.O.C., MD No.5.
(Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-3104)
HM—4-43 (441)
H.Q. 1772-30-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

..... (and) be reviewed on .....

Place.....

..... Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
12 DEC 45.	Remission of sentence granted effective 12 DEC 45.	Edmond Blais (EDMOND BLAIS) Brigadier District Officer Commanding Military District No 5	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
A.A SEC. 12 (1)(a) AWL from 0900 hrs on 27 Dec 44 until he surr at 1010 hrs on 29 Aug 45, civil.	27 Dec44	20 Sep45.
A.A.SEC. 24 (2) LOS BY NEGL HIS EQUIP CLOTH AND REGT'L NEC for $30.25	4 Sep 45	20 Sep 45.

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 Oct 45.	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	Paul Mathieu (PAUL MATHIEU) Colonel.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-D-2011 (JAG/D-5)

17th October 1945

District Officer Commanding,
Military District No. 5,
Quebec, P.Q.

Standing
~~E-Office~~, Courts Martial, re.

Receipt is acknowledged of your 55-D-2012(JA)
dated 15th October 1945, under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

LCC:MJ

(R.J.Orde) Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE No. Q. 39-B-5612 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5.
QUEBEC QUE 13 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

3344
OCT 16 1945
C55-B-2011
Referred to: DAG

STANDING COURT-MARTIAL

E-627842 Pte Jean-René BEAUPRE
RCOC CA, Att No.5 DD CA.

1. Ref HQC. 55-B-2011 (JAG/D-7) dated 1 Oct 45.

2. The proceedings of the SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. B 440
(500M 4-44 4621)
H.Q. 1772-38-767

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Dépôt Régional No. 5, A.C., Lauzon, P.Q.

le vingtième jour de septembre 1945 à 1130 heures,

pour le procès de E-627842 Soldat Jean-Rene BEAUPRE,
Matricule Grade Nom et prénoms

R.C.O.C., A.C., attaché au Dépôt Régional No. 5, A.C.,
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Quartiers-Généraux, Région Militaire No.5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms
Procureur Permanent, Quartiers-Généraux, Région Militaire No. 5
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR OU AVOCAT: Lieutenant J.Y.BERNIER,
Grade Nom et prénoms
R.C.E., attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

"LA COUR DECLARE LE PREVENU:-

E-627842- Soldat Jean-Rene BEAUPRE, R.C.O.C., A.C., attaché au Dépôt Régional No. 5, A.C., innocent de l'accusation de désertion mais coupable d'absence sans permission sous le premier chef d'accusation et coupable sous le deuxième chef d'accusation".

SENTENCE: "LA COUR CONDAMNE LE PREVENU:-"

E-627842- Soldat Jean-Rene BEAUPRE, R.C.O.C., A.C., attaché au Dépôt Régional No. 5, A.C., à subir une peine de huit (8) mois de détention et à une suppression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, à savoir:-$30.25".

Signé à 5ND, A.C., Lauzon, P.Q., ce vingtième jour de septembre 1945.

Pierre Decary Major.
Président de la cour martiale permanente
Q.G., R.M. No. 5

M.F.R. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2295
K.P. 26109

Extracts entered as No. 39991
Record of Courts-Martial Kept in the office of the Judge Advocate-General this 1 day of Oct 1945

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.*~~ ~~Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à Mademoiselle HELENE LAVOIE comme sténographe ?

Réponse: Non, monsieur.

(POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir document marqué "P" ci-joint)

Le sténographe ~~et l'interprète (le cas échéant)~~ est ~~sont~~ dûment assermentés.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, Monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.*~~ ~~Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le deuxième chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

Pierre Decary

(PIERRE DECARY) ~~MAJOR~~
PRÉSIDENT ~~C.G.C.M.~~

ACTE D'ACCUSATION

Le Prevenu, E-627842 Soldat Jean-Rene BEAUPRE, ~~Longue Pointe Ordnance Depot~~, R.C.O.C., A.C., attache au Depot Regional No.5, A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE LE SERVICE DE SA MAJESTE,

en ce que,

a Montreal, P.Q., a 0900 heures, le 27 decembre 1944, il s'est absente sans permission du Longue Pointe Ordnance Depot, R.C.O.C., A.C., jusqu'a ce qu'il se livre aux autorites militaires, a Lauzon, P.Q., a 1010 heures, le 29 aout 1945, en tenue civile.

DEUXIEME CHEF
Art. 24(2)
Army Act

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES, SES EFFETS D'EQUIPEMENT, D'HABILLEMENT ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Lauzon, P.Q., le 4 septembre 1945, il etait deficient des articles suivants:

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "A"		
1 Anklets web pr	.74	.56
1 Mitts pullover	.93	.70
HABILLEMENT DIVISION "B"		
1 Battle dress blouse	6.50	4.88
1 Boots ankle pr	5.82	4.36
1 Cap field service	.70	.53
2 Drawers woollen	2.80	2.10
2 Shirts woollen	2.40	1.80
1 Shoes canvas pr	2.29	1.72
2 Battle dress trousers	13.10	9.82
1 Trouser K.D. short	1.31	.98
1 Socks woollen pr	.46	.35
HABILLEMENT DIVISION "C"		
1 Belt waist leather brown	.35	.26
1 Blackint tin	.05	.04
1 Boot laces pr	.03	.02
1 Braces pr	.28	.21
1 Fork table	.08	.06
1 Housewive	.35	.26
1 Knife clasp	.99	.74
1 Knife table	.18	.14
1 Lanyard knife	.02	.01
1 Necktie black	.19	.14
1 Pin collar	.06	.05
1 Spoon table	.08	.06
2 Towels hand	.62	.46
TOTAL:	$ 40.33	$ 30.25

Lauzon, P.Q.
12 septembre 1945

Cimeles Tascheau

(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent, 5e District Militaire

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~*Premier témoin à charge.*~~

~~étant dûment assermenté, est interrogé par le procureur.~~

~~*Question.*~~

" LE PROCUREUR REMET AU PRESIDENT

LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE"

1.- Un extrait certifié des Ordres Partie II, Ordre No. 306, en date du 29 décembre, 1944, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", digné par le Président et versé au dossier.)

2.- Une formule M.F.M. 216A, en date du 29 août, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-o-o-

Le procureur n'a ~~plus~~ pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sous serment. (voir page D-3 et suivantes)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense ?

Réponse: Non, monsieur.

Question à l'accusé. ~~Est-ce uniquement un témoin à l'appui de votre réputation~~ ?

Réponse:

TEMOIN POUR LA DEFENSE:-

L'accusé: Mat. E-627842- Soldat Jean-René BEAUPRE, R.C.O.C., A.C., attaché au Dépôt Régional No. 5, A.C.

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR:-

Q.- Voulez-vous dire à la Cour quel est votre âge?
R.- Vingt-deux ans, monsieur.

Q.- Depuis quand êtes-vous dans l'armée?
R.- Depuis le 14 janvier 1943.

Q.- Est-ce que vos parents vivent encore?
R.- Oui, monsieur.

Q.- Est-ce que votre père est en bonne santé?
R.- Non, monsieur.

Q.- Qu'est-ce qu'il a qui ne va pas avec lui?
R.- Il souffre de rhumatismes.

Q.- Est-ce qu'il vous a déjà demandé d'aller lui aider?
R.- Oui, monsieur.

Q.- De votre côté est-ce que vous avez demandé des exemptions de service militaire?
R.- Oui, monsieur.

Q.- Est-ce que vous en avez eu?
R.- Non, refusé.

Q.- Est-ce que vous en avez demandé seulement une fois?
R.- Oui, monsieur.

Q.- On vous accuse d'absence sans permission, qu'est-ce que vous avez fait pendant votre absence?
R.- J'ai travaillé chez-nous, monsieur.

Q.- Qu'est-ce que vous faisiez?
R.- Je travaillais dans le bois pour mon père.

Q.- Est-ce que votre père fait le commerce du bois?
R.- C'est-à-dire c'est des lots privés.

Q.- Est-ce que pendant tout le temps que vous avez été absent que vous avez travaillé?

- PAR LE PROCUREUR-

Objecté.

- OBJECTION MAINTENUE PAR LA COUR -

Q.- Qu'est-ce que vous avez fait pendant que vous étiez absent?

R.- J'ai travaillé chez-nous.

Q.- Lorsque vous êtes parti quelles étaient vos intentions au sujet au service militaire?

R.- J'avais l'intention de revenir.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:-

Q.- Qu'est-ce que vous faisiez à l'Ordnance Depot à Montréal?

R.- "driver" et"motor transport".

Q.- On vous accuse d'avoir été absent du 27 décembre 1944 au 29 août, 1945, est-ce que c'est exact?

R.- Oui, monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

-o-o-o-o-o-o-o-o-o-o-

- LE TEMOIN REPREND SON SIEGE -

-o-o-o-o-o-o-o-o-o-o-

Le Procureur soumet la cause telle que prouvée et l'Officier Défenseur prononce une plaidoirie

-o-o-o-o-o-o-o-o-o-o-

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au deuxième chef d'accusation, il est déclaré coupable de ladite accusation.

LA COUR AU PROCUREUR:- " Avez-vous quelque chose à dire au sujet de la deuxième charge?"

LE PROCUREUR:- " Si l'accusé avait plaidé non coupable j'aurais établi au moyen de la formule 375 et du témoignage du quartier-maître que le 4 septembre 45 l'accusé a été trouvé manquant pour des articles au montant de $30.25".

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur. (L'accusé par son Officier Défenseur, dit:)

"M. le Président, durant le temps que le soldat Beaupré a été dans l'armée sa conduite a été très bonne, la seule chose c'est une absence de quelques heures. J'ai entendu son témoignage sous serment, il a parlé de l'état maladif de son père. L'impossibilité pour ce dernier à avoir de l'aide à son entreprise. Beaupré a demandé une exemption, il n'a jamais rien eu. Alors, l'accusé est parti pour aller aider à son père qui avait grandement besoin de lui. Evidemment, aux yeux de la Cour il n'a pas suivi les "proper channels", il se rend compte qu'il a mal agi. Je le recommande à la clémence de la Cour".

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

"P"

" MINUTE D'AJOURNEMENT ET DE REFUSE D'AUDIENCE"

" A 1132 heures, le vingtième jour de septembre, 1945, la Cour s'est ajournée".

-o-o-o-o-o-o-o-o-o-o-o-o-

" A 1135 heures, le vingtième jour de septembre, 1945, la Cour se rassemble".

-o-o-o-o-o-o-o-o-o-o-o-o-

- LE PROCES SE POURSUIT -

"G"

Pierre Decary
(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

DAILY ORDERS PART II

No. 306

BY

Place Montreal, Que.

BRIGADIER L. PATRICK

Commanding

Date 29 Dec 44

LONGUE POINTE ORDNANCE DEPOT.

(Last Order issued No. 305 of 28 Dec 44

STRENGTH

"B" OTHER RANKS

9. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0900 hrs. 27 Dec 44

E-627842 Pte. BEAUPRE J.R.

(Signature Illegible)
for (L. Patrick) Brigadier
Officer Commanding
Longue Pointe Ordnance Depot

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of
Regimental PART II ORDERS
kept by the Officer i/c
Records N.D.H.Q.
DATE SEP 17 1945

Prepared by:
and
Checked by:

"H"

(PIERRE DECARY) MAJOR

CERTIFICAT en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 1942, tel que [illegible] 1877 et dans l'ordre général 127 de 1942.

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné Lt-Col. G.L. TASCHEREAU T/O.C. No 5 D.D. C A.
(Matricule) (grade) (nom) (unité)

certifie par les présentes que E-627842 PTE.
(Matricule) (Grade)

BEAUPRE Jean Rene.
(Nom au complet)

de Attache au Depot Regional No 5 A.C.
(Unité et détachement, s'il y a lieu)

Biffer les mots inutiles | XXXXXXXXXX (s'est livré à) D-610313 PTE.
(Matricule) (Grade)

LABONTE L.P. att au Depot Regional No 5 AC.
(Nom) (Unité ou emploi)

à LAUZON P..Q. (Lieu) à 1010 (Heure)

le 29ieme jour de aout 19 45

Biffer les mots inutiles | comme déserteur XXXXXXXXXXXXX et qu'au moment XXXXXXXXXXXX

"Y"

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

M.F.B. 355
(3273)
H.Q. 1-1-1-50-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-627842	Private	BEAUPRE Jean-Rene	N.R.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Audit~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	A.A. Sec 15(1)	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispositions with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time. ~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 21 days in military ~~Air Force~~ custody, making a total of 21 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 22 years, 1 month.

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 14-1-43

7. ~~The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ ~~air force~~ military decoration, ~~or air force reward (or is in military possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank..... Unit Name ..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(E. TASCHEREAU) Lieut
Ass. Records Officer
No. 5 D.D. Lauzon, PQ

Signed this 20th day of SEPTEMBER 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. E-627842 Name BEAUPRE Jean-Rene Sqn., Battery, or Company

Corps N.R.M.A.

Date of enlistment 14-1-43 G.C. Badges

Tradesmen's Rates of Pay

M.F.M. 6 (A.F.B. 133) 500M—11-41 (2498) H.Q. 1773-30-1052

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Montmagny, PQ	24-2-43		nil	AA Sec1F(1) AWL from 0600hrs 24-2-43 until 1935hrs 24-2-43.	Documentary		27-2-43	O.C.	Forf 1 day' pay.
				CERTIFIED TRUE COPY (R. TASCHEREAU) Lieut Asc. Records Officer No 5 D.D. Lauzon, Que.					

(P.T.O.)

PIERRE DECARY (?) MAJOR PRESIDENT, S.C.M.

MEDICAL OFFICER'S REPORT

I certify that No E627842 P/E Beaupre J. R.
of U D S is in a good state of health,
and fit to undergo Trial by Court martial.

J. Tibaudet, capt.
Medical Officer

Station Lauyon Guard Room.

Date

Medical Inspection Room
D. E. M. D. No. 8
SEP 20 1945
LAUZON, P.Q.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

RESUME DE LA PREUVE

Proces de E-627842 Soldat Jean-Rene BEAUPRE, Longue Pointe Ordnance Depot, R.C.O.C., attache au Depot Regional No.5, AC.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No. 306 d/ 29 decembre 1944 a Longue Pointe, Montreal.

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE: [illegible] : Liste Generale, [illegible] A.G. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (8-6-45)

H.Q.C.55-B-2011 (JAG/D-7)
Your Q. 39-B-5612

1 Oct 45

The District Officer Commanding,
Military District No. 5, Que c, Que.

STANDING COURT-MARTIAL

E. 627842 Pte. Jean-Rene Beaupre,
RCOC., CA., att. No. 5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

Judge Advocate General

LJR/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2011
M.D. 5 30-B-56212

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA

No. E-627842 Name BEAUPRE, Jean-Rene

Rank Pte Unit RCOC CA Att No. 5 DD CA

Charge (1) AA 12 (1)(a) WOAS Deserting.....

(2) AA 24 (2) Neglect to the prejudice....

Date of Crime (1) 27-12-44v (2) 4-9-45

Date of Arrest 29-8-45 Charge Signed 12-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 DD C** 21-9-45

Sentence Det 8 mos Stoppages $30.25

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39991

Date 1-10-45

MEMO Guilty AWL

Balance of sentence remitted by Conf. Auth.

MD 5

Absent

Approx 9 mos

No. 5 DD CA

Sentence

Det 8 mos

R. J. Ryan Lt.
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q.39-B-5612

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Sept. 25th. 1945.

C.55-B-2011

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

E/627842, Pte. Jean-Rene BEAUPRE.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

39991

H.Q.C. 55-B-2012 CONFIDENTIAL

N.F.B. 1978
25M—2-43 (9862)
H.Q. 861-1-48

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT
STANDING COURT MARTIAL.

BAKER, ARTHUR JOHN. B-135772 SGT.

CONFIDENTIAL
H.Q.C. 55-B-2012

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					If purpose for which referred cannot be expressed on one line, add minute to file and refer here. With Minute		
	OCT 2 - 1945			J. A. G.	NEW FILE	CR	29-9-45
	5-10-45						

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2012 (JAG/D-5)

5th October 1945

District Officer Commanding,
Military District No. 2,
Kingston, Ontario.

Standing Court-Martial
B-135772, Pte. A.J. Baker.

K.55-B-9518(JAG)

Receipt is acknowledged of your dated 4th October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:EJ

IN REPLY PLEASE QUOTE No. K.55-B-9518(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ont., 4 Oct 45

CONFIDENTIAL

GENERAL SECRETARY Army
CORRESPONDENCE
1174
OCT 5 1945
File C55-B-2012
Chapter
Referred to JAG.

The Secretary,
Dept of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B.135772 Sgt. Arthur John BAKER
3 Bn(48 Highrs) 1 C.I.R., C. A.

1. Ref your HQC.55-B-2012 (JAG/D-8) dated 2 Oct 45.

2. Returned herewith m/n Court-Martial proceedings which have been reviewed at this HQ.

W. P. Finch
Capt
for. F. L. Armstrong, Brigadier,
District Officer Commanding,
Military District No. 3.

Encl/s

NAT. DEF. B. 440
2000M-12-43 (3283)
H.Q. 1772-JP 767

MEDICAL OFFICER'S REPORT

J.B. Dondy Major
President, Standing Court-Martial

I certify that No. B-135772 Sgt. Baker, A.J.

of 48th Highrs.CA, is in a fit state of health,

and fit to undergo Trial by Court martial.

H.K. Hall Capt.
Medical Officer
(H.K.Hall) Capt. RCAMC
C.A. Attached C.O.& E.M.E.T.C.

Station Barrie field, Ont.

Date 25 Sept. 45

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Kingston, Ontario,

on the 25th day of September, 1945, at 1145 hours,

for the trial of: B.135772 Sergeant Arthur John BAKER,
Number Rank Full Name

3 Bn. (48th Highrs) 1st Cdn. Inf. Regt., C.A.
Unit Attachment, if any

PRESIDENT: Major J.E. Dowsley, E.D., Headquarters M.D. No. 3, C.A.

PROSECUTOR: Captain J. Goodman, Headquarters M.D. No. 3, C.A.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut. R. Pascoe, 3 Bn.(48 Highrs) 1 Cdn Inf.Regt.CA.
Rank Full Name Unit Attachment, if any

FINDING:

Guilty of the charge.

SENTENCE: To be severely reprimanded.

Extracts entered as No. 39990 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 1 day of Oct 1945

Signed at KINGSTON, Ontario, this 25th day of September, 1945.

J. E. Dowsley Major
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to be interpreter ?~~

Answer:

Question to the accused. Do you object to C.28866 S.M.(WO.I) Lloyd Stringer, CMSC,CA, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: Remanded for Standing Court-Martial, sir.

The accused is arraigned upon ~~each charge~~ the in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

'B2'

CHARGE SHEET

G. Rowsley Major
President, Standing Court-Martial

The accused, B-135772 Sgt. Arthur John BAKER, 3 Bn (48 Highrs) 1 Cdn Inf Regt CA, a G.S. soldier of the Canadian Army placed on Active Service is charged with:

Charge
Army Act
Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he at Barriefield Camp, Ont. on the 5 Sep 45 absented himself without leave from 3 Bn (48th Highrs) 1 Cdn Inf Regt C.A. at 0600 hrs on the 5 Sep 45 and remained so absent until surrendering himself to Military Authorities at Barriefield Camp, Ont. dressed in Military uniform, at 1000 hrs 13 Sep 45.

Barriefield Camp, Ontario
19 Sep 45

J. Goodman
(J. Goodman) Capt
Prosecutor Courts-Martial
M.D. 3

PRECIS OF EVIDENCE

The following evidence available prove the charge against the accused.

VERBAL

(1) Lieut R.C. Treusch, 3 Bn 1 Cdn Inf Regt C.A. who will give evidence as to circumstances of absence.

(2) B.79673 Sgt Bedding, A.E. 3 Bn 1 Cdn Inf Regt C.A. who will give evidence as to continuity.

(3) B.148762 Cpl Miller, J.H. 3 Bn 1 Cdn Inf Regt C.A. who will give evidence as to termination of absence.

NOTIFICATION OF TRIAL

HQ
MD 3
Kingston, Ont.

1. The above accused will be presented for Standing Court Martial at the Armouries, Kingston, Ont. at 1000 hrs ~~Friday~~ 25 Sep 45.

2. May Capt. J. Goodman be nominated as prosecutor, please.

Barriefield Camp, Ont
19 Sep 45

R. Treusch Lt & Adjt
for (A. J. P. LaPrairie) Major
Officer Commanding
3 Bn 1 Cdn Inf Regt (48th Highrs)

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

The Prosecutor makes a statement regarding the circumstances connected with the offence. (not attached)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes, sir.

(Statement of the accused to be recorded on a separate page.).

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. Yes, sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

Statement by the Accused:-

My father had two serious operations in a short while for hernia and he has a farm of 200 acres, mixed farming. He cannot do heavy work. I was granted a 96-hour pass and when I went home I found him in the middle of the harvest with no help, so I carried on and helped him do his work, get in the crop which amounted to about one thousand dollars. If I hadn't stayed at home he would have lost that.

FIRST WITNESS FOR THE DEFENCE) B.147542 Sergeant R. DUROCHER, 3 Bn. (48th Highrs) 1 Cdn. Inf. Regt., C.A., being duly sworn, is examined by the Defending Officer:-

Q. Sgt Durocher, what can you tell us as to the character of the accused? Were you in action with him?

Yes, sir, I was.

Q. Did you know him while you were in action?

I knew him ever since the 12th of June, 1944.

Q. Will you give us some insight as to his abilities and what unit were you with in action?

Queen's Own Rifles.

Q. What unit was the accused with?

He was with the same unit, the Queen's Own Rifles.

Q. Did you go into action on "D" Day?

No, sir, I was a reinforcement.

Q. You have known the accused since June of 1944?

June 12th, 1944.

Q. Having served with the accused, will you tell us something about him?

In August, 1944, Sgt Baker was recommended for the

Military Medal, but he never got it.

Q. He was recommended for the Military Medal?

Yes, sir, but it never came through.

Q. Was he ever recommended for anything else?

Last winter he was mentioned in dispatches.

Q. To your knowledge was the accused ever absent without leave or conduct himself unlike an N.C.O. when in action?

He was well liked by everybody in the Company and he was one of the oldest men in our Company. He was one of the first to volunteer for the Pacific and I volunteered with him and we came back to Canada.

Q. Was he a good N.C.O.?

Yes, sir. Everyone liked him.

CROSS-EXAMINED BY THE PROSECUTOR

Q. How long have you known the accused?

Ever since June 12th, 1944.

Q. Yet you didn't know him in civil life?

No, sir.

The Defending Officer declines to re-examine.

The witness withdraws.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. My Defending Officer will speak for me, sir.

(for address by Defending Officer, see document marked "G")

x

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

15

J. Donsley Major
President, Standing Court-Martial

Address by the Defending Officer,-

Mr President, I submit this as a plea of mitigation in the case of B.135772 Sgt Arthur John Baker, who has entered a plea of Guilty to being absent without leave.

Sgt Baker joined the Army as a volunteer on the 10th day of November, 1942. He went overseas in May 1943 as a reinforcement to the Queen's Own Rifles and went into action on "D" Day with his regiment.

In August of the same year he was promoted to Corporal and four months later attained the rank of Sergeant. In this rank he was confirmed early in March of this year. Sgt Baker fought with the Queen's Own Rifles through France, Belgium and Holland, and into Germany. From there he proceeded on draft to England to join the C.F.E.F. force.

As this N.C.O's Platoon Officer is not in Camp at present it is impossible to call him as a witness, but through conversations I have had with his officer I am convinced of the excellent record of this soldier in the field. This can be confirmed to a certain extent by the nil entries on his M.F.M.6.

After Sgt Baker had completed his 30-day leave and reported back to his District Depot, he proceeded on draft to Barriefield. He was subsequently granted a 96-hour pass. On his arrival at home he discovered that his family were in the midst of harvesting and the work was too heavy for his father who had recently undergone a second operation for hernia. Extra labour not being available, Sgt Baker felt it his duty to assist in the harvesting.

... 2

Sgt Baker's only brother who has been in the Air Force for the past five years is at present stationed on Vancouver Island.

If it had not been for the accused's assistance in harvesting this year's crop on his father's 200 acre mixed farm his father would have assuredly had to sell the farm and may still have to sell due to his inability to carry on alone in his condition.

Due to these extenuating circumstances and the fact that Sgt Baker, since his return, has carried out his duties as a Platoon Sergeant in an efficient and able manner, it is felt that this court should show leniency towards this senior N.C.O. in their decision.

"Y"

J. Downsley, Major
President, Standing Court-Martial

M.F.R. 3557
Court-Martial
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 298

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-135772	Sgt.	BAKER, Arthur John	3 Bn 1 Cdn Inf Regt (48th Highrs)

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery Conduct sheets or of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

or,

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 0 days in military custody, making a total of 0 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper 21

6. The date of his attestation specified in his attestation paper 10 Nov 42

7.

8.

9. CVSM & clasp, 39-45 Star, France Germany Star, Defence Medal

10.

20

11. [redacted]

unit

[redacted]

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

15 Jul 44 Date of promotion.

In the rank of L/Cpl 4 days xxx.

In the rank of Cpl. 3 Months xxx.

In the rank of Sgt. 11 Months xxx.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of September 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Y signed by the president, and annexed to the proceedings.

H.Q.C.58-B-2012 (JAG/D-8)
Your K. 55-B-9513

2 Oct 45

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

STANDING COURT-MARTIAL

B. 135772 Sgt. Arthur John Baker,
3 Bn (48 Highrs) 1 C.A.R., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(H.J. Friel) Brig-Gen
Judge Advocate-General.

MO/MM

8M-7-45(M-188)

THIS COPY

H.Q.C. 55-B-2012
M.D.K. 55-B-9518

STANDING

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. GS B_135772 Name BAKER, Arthur John

Rank Sgt Unit 3 Bn (48 Highrs) 1 CIR CA

Charge AA 5 (1) AWL

Date of Crime 5-9-45

Date of Arrest 13-9-45 Charge Signed 19-9-45

Orders for D.C.M.

Place and Date of Trial Armouries, 25-9-45

Sentence Severely reprimanded

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 39990

Date 1-10-45

MEMO

MD 3	3 Bn (48 Highrs) 1 CIR CA
Avsent	Sentence
8 days	severely reprimanded

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. K.55-B-9518
K.55-B-9519

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Confidential

Kingston, Ontario, 26th September, 1945.

The Judge Advocate-General,
Dept. of National Defence,
Central Chambers,
OTTAWA, Ontario.

C.55-B-2012

STANDING COURTS-MARTIAL
B.135772 Sgt Arthur John BAKER
B.138668 Cpl.(L/Sgt) Elmer John BERNARD
3 Bn (48 Highrs) 1 Cdn Inf Regt., C.A.

Herewith proceedings on the trials by Standing Court-Martial of the marginally named soldiers.

J.E. Dowsley, Major
(J.E. Dowsley) Major,
President of
Standing Courts-Martial.

Encls.

37990

NAT. DEF. B. 440
2500M-4-44 (4320)
H.Q. 1772-39-767

H.Q.C. 55-B-2014 CONFIDENTIAL

M.F.R. 2578 25M—2-45 (6680) H.Q. 201-1-49

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BAKER, FREDERICK L.609452 RFN.

CONFIDENTIAL H.Q.C. 55-B-2014

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 4 1945				JAG	NEW FILE		CR 1-10-45
OCT 18 1945	17-10-45	Pt B	pm	Gall	With Papers C.R. OCT 16 1945		
				CMBR	For Consideration C.R. NOV 16 1945		
JAN 7 1946	27-2-46			Admin 3	Recommendation		DEC 17 1945
JAN 14 1946	14-1-46	Pa		Admin	With Papers C.R. JAN 12 1946		
JAN 15 1946	15-1-46	Pa		Admin	For Consideration C.R. JAN 15 1946		
FEB 27 1946	26-2-46	Pa		Admin	PER B.F. FEB 27 1946		
MAR 4 - 1946				JAG	With Papers C.R. MAR 1 1946		
MAR 1 - 1946	2-3-46	Pa		Admin	To note Remission Disc		11/3/46
				JRB	For Consideration C.R. AUG 8 1946		
OCT 24 1946	23-10-46			DRB	Disc 1 Dec		19 Aug 46

NOTICE

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2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CANADA

L-609452(JAG
K-4144

IN REPLY PLEASE QUOTE
No. M-610374(JAG)
L-608287

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ, Military District No. XI
VANCOUVER, BC 23 Feb 1946

The Secretary
NDHQ
Ottawa, Ontario

CENTRAL REGISTRY Army
CONF. SEC.
9895
FEB 28 1946
File L-55B-2014
Chgd. to
Referred to

L.609452 Pte. BAKER, F.
K.4144 Pte. CRESSWELL, C.W.W.
M.610374 Pte. MELIN, W.S.
L.608287 Pte. MOLYMOK, W.

1. Enclosed herewith copy of Form of Remission and MFM 288 in each of the m/n cases, for custody.

Sydney Penny
for (E.C. PLOW) Brigadier
D.O.C. M.D. No. XI

N.D. 23
2000M—10-44 (5769)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE: 55-B-2016
OUR FILE: 22-B-5807

B.

PART I

No. L.609452 Rank Rifleman Name BAKER, Frederick

Unit No 11 District Depot CA

Part II

Date of Trial 28 Sep 45

Charge(s) Sec 12 (1)(a) AA Desertion

Sentence 18 mos detention

Date of Sentence 28 Sep 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~commutation/mitigation~~ balance of sentence of detention effective 27 Feb 46, by AG direction.

Signed at Vancouver, B.C., this 18th. day of Feb 46

(E.C. PLOW) Brigadier
DOC, Military District No. XI
To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission (Commutation) (Mitigation) X promulgated and extracts taken at No. XI District Depot C.A.

Vancouver B.C. this 27th day of February 1946

Capt Adjt.
Officer i/c Documents

(1) Unit, attachment and appointment to be stated.

(1) No. XI District Depot C. A.

Part V
Certified True Extract of Daily Orders Part II

No. L-609452 Rank Rfn. Name BAKER Frederick

The sentence of 18 Months detention

awarded by (Field General) (District) (Standing) Court-Martial on the 28 day of September 1945 has been

on the 27th day of February 1946 by DOC Military District No XI

No. XI District Depot C. A.

Certified true Extract of Daily Orders Part II of
No. 49 Place Vancouver B.C. Date

Capt. Adj.

No. XI District Depot C. A.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L.609452 (Number) Rfn. (Rank) Fredrick BAKER, (Name in full)

No. 12 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 18 Months Detention.

on 28 SEPTEMBER, 1945 at REGINA, Saskatchewan.

being served at No. 80 M.D.B. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 Years, 1 Month, 3 February, 1943.

Medical grade or category 21-1-1-1-1-1-1.

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... (date)) for reasons given in paragraph X.

Place .....

..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (~~which I hereby commute to~~ .....) (~~of which I remit~~ .....) (~~be suspended~~) (be put into execution) (and) be reviewed on 12 November, 1945.

Place Regina, Sask.

Date 12 October, 1945.

(For action on review, see Part VI)

G.A.H. Trudeau

Superior Military Authority

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-2104)
25M—9-43 (1869)
H.Q. 1772-39-3013

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
8 Nov 45	Reviewed. No suspension or remission. B.F'd for further review 28 Mar 46.	(G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.	
27 Feb 46	Bal of sentence remitted wef 27 Feb 46	(E.C. PLOW) Brigadier DOC, Military District No. XI	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE - AWL from 2359 hrs, 1 Feb 45, until he voluntarily surrendered himself at Regina, Sask., at 2020 hrs, 25 Sep 45, to the Military Power.	1 Feb 45	28 Sep 45.

Lt.-Col.,
(H.E.Murray) Commanding Officer, No.12 D.R.
Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
10 October, 1945.	That sentence be carried out.	Lt.-Col., (H.E.Murray) Commanding Officer, No.12 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

ARMY MESSAGE

ADDRESS QUERIES LOCAL ARMY SIGNAL

ROYAL CANADIAN SIGNALS
West Blk
OTTAWA
JAN 9 1946
Phone
L
Army Signal Off

THIS IS AN ACTION COPY
IF INCORRECT, DELIVERED, OR INCOMPLETE
BELOW AND RETURN TO A.S.O. WOODS

BRANCH	TIME	SIGNATURE

VR V CIR NR 53

FM: CMMDG TWELVE REGINA SASK 091700T JAN

TO: THESECTY DEPT OF NAT DEF OTTAWA ONT

GR 41 BT

R3801 UNCLAS YOUR HQC 55-B-2016 ADM, 3(A)3 DATED 4 JANUARY 1946 RE L

609452 RFN BAKER F ACKNOWLEDGED

C.55-B-2014

BT 091700T

IJ 091740T

B

JAN 9 1946

3A3

1030 10 Jan

Not Baker file number

CENTRAL REGISTRY Army
PERS. SVC.
JAN 12 1946

R.1-B-2879(AJAG).

TD/MG

Regina, Sask., 9 Jan 46.

CENTRAL REGISTRY Army
1786
JAN 12 1946
CJJ-B-2014
Referred to Admin

~~G.O.C.-in-C.~~,
Pacific Command,
VANCOUVER, B.C.

The Secretary,
Department of National Defence, (For information).
OTTAWA, Ontario.

L.609452 - Rfn. BAKER, F.

Herewith, for action as therein directed, copy of N.D.H.Q. letter HQC 55-B-2016 Adm 3(a)3 dated 4 Jan 46, together with M.F.M. 288 for the m/n soldier.

2. Rfn. Baker was transferred to No. 92 M.D.B. on 6 Dec 45.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

HQC 55-B-2014
Adm 3(a)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario, 4 Jan 46.

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

L.609452 Rfn BAKER F
CM Board of Review
80 MDB

Ref telegram AG 0267 d/28 Oct 45 refer.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation:

"Release on 27 Feb 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. Enclosed herewith XXXXXXXX/NEW 288 for this soldier.

7. Acknowledgment by telegram requested.

(A. E. Walford)
Major-General
Adjutant-General

Enc: 1

GDB/MA

IN REPLY PLEASE QUOTE

No. R.1-B-2879(AJAG).

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CANADA

AIR MAIL

Regina, Sask., 3 Dec 1945.

Adjutant General's Branch Army
13084
DEC 4 1945
File
Check to CMBR 16-11
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

L.609452 - Rfn. BAKER, F.

Reference HQC 55-B-2014 (CMBR-4) dated 20 Nov 45.

2. Herewith as requested M.F.M. 288, Review Sheet and latest Report on Conduct relative to the marginally noted soldier.

3. This soldier's sentence was reviewed on 8 Nov 45 and the case B.F'd for further review on 28 Mar 46.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

CLERK, Army
16304
DEC 20 1945
Rec. 3-3-: 8-2014
Chgd. to
Referred to

DEPARTMENT OF NATIONAL DEFENCE
- ARMY - 22-B-5807

Headquarters, Pacific Command,
Vancouver, B.C.
14 Dec 45

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks
L 609542 Rfn BAKER F

In accordance with the provisions of C.A.R.O. 4667, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

ADMIN. TO NOTE & R. A.

DEC 21 1945

Secretary
Courts - Martial Board of Review

Major-General.
G.O.C. in C., Pacific Command.

Head quarters,
Pacific Command.

[illegible]

[illegible] SOLDIER BURIAL [illegible]

[illegible]

No.	Rank	[illegible]	[illegible]
L.60[illegible]548	Pte.	BAKER [illegible]	NO. 12 D.R.

Transfer [illegible] [illegible] BRUDERN SASK

[illegible] No. [illegible] [illegible] SHILLNAGH, B.C.

[illegible] 8 Dec 45

[illegible]

[illegible]

REVIEW OF SENTENCE

First review due: 12 Nov 45

Second review due:

Date: 29 Sep 45

File: R.1-B-2879

1. No. Rank and Name: L.609452 Rfn. Fredrick BAKER

2. Unit at Date of Offence: No. 12 District Depot, Regina, Sask.

3. At Present on Strength of: No. 12 District Depot, Regina, Sask.

4. Date of Sentence: 28 Sep 45

5. Award: Detention for fifteen months

6. Confirmed Sentence:

7. Being Served at: No. 80 M.D.B., Dundurn, Sask.

8. OFFENCES: Desertion 1 Feb 45 to 25 Sep 45

(a) Present Age: 24 years 9 months

9. Previous Conduct:

1 AWL (1 day)

10. Conduct While Under Sentence:

Satisfactory

11. Earliest Date of Release: 27 Feb 46

12. Recommendation of:

Commanding Officer:

That sentence be carried out.

Confirming Officer:

Commandant or Governor:

Staff Officer Preparing Review Sheet: 8 Nov 45

No remission or suspension

BF 28 MAR 46

859. ECONOMY IN OFFICES

"All dictators of correspondence in Government offices will now discontinue the ordinary peacetime practice of acknowledging routine correspondence, by personal dictation, by form letter, or by duplicated or printed forms."

2. It will be noted that the above refers to routine correspondence. The instructions must not be construed as forbidding the acknowledging of correspondence when same requires a reply, and it is not possible to give the full information immediately. Communications which request an acknowledgement should receive same.

3. It has been noted that official letters frequently ask for an acknowledgement, although they deal with matters of minor importance or routine. Acknowledgement should only be called for when it may be necessary to show that the addressee has actually received same.

4. When acknowledgements are required, it is often possible to economize on stationery by "subjoining" a form of receipt which may be torn off the bottom of the original letter and returned to the sender. (R.1-1-17-2)

860. BINOCULARS NO.1546022 HANDED OVER TO THE DEPT. OF NATIONAL DEFENCE

1. A pair of binoculars handed over to the District Headquarters, Military District No. 4, by a civilian in response to the radio appeal for such items subsequently disappeared. The following is a description of same:-

Carl-Zeiss-Jena-Dekarem, 10 x 50, No. 1546022 in brown leather case marked with the initials L.F.M., approximate value $140.00.

2. In the event of the binoculars being located or information concerning them being brought to light, it is requested that District Headquarters be notified. (R.4-4-14)

861. SUBSISTENCE ALLOWANCE

(a) Authority is granted for the undermentioned personnel to draw Subsistence Allowance under the provisions of Art. 199(1) F.R. & I. (Canada) and Para. 162 C.W.A.C. Regulations, effective dates shown:

District Headquarters Staff		
Major E.T. SCOTT, D.A.P.M.	6-10-42.	
Major A. DRIVER, G.S.O.III (Trades Trng.)	26-5-42.	(R.3-1-9-167)
District Recruiting Detachment		
A/Capt. S. WOROBETZ	15-10-42	
Lieut. J. BROOK	3-7-42.	
2/Lieut. T.F. PICKERING	1-10-42	
L.27766 Sgt. DENT, J.	21-10-42	
L.41450 A/Cpl. PROUSE, J.L.	21-10-42	(R.3-1-9-180)
No. 12 Ordnance Depot Coy., RCOC		
Lieut. J.G. BARBER	15-10-42	
Lieut. H.N.W.D. HODGINS	8-10-42	
L.93494 Pte. SPENCE, C.E.	19-10-42	
L.93495 Pte. LEE, C.D.	20-10-42	(R.3-1-9-122)

REPORT ON CONDUCT

ICM - B

Department of National Defence
OTTAWA 5 NOVEMBER 1945

To: Commandant - NO. 80 DUNBURN MILITARY DETENTION BARRACKS

1. Soldier under Sentence	L.609452 Pte. BAKER, F.
2. Please State:	
(i) Date of Sentence	28 Sep 45
(ii) Sentence	15 months
(iii) Date youx received soldier	1 Oct 45
(iv) Can soldier read & write?	Yes
(b) Religion	United Church
(c) Married, Widower, Single	Single
(d) What army trade has soldier?	Nil
(v) (a) Conduct of soldier	Satisfactory
(b) Industry of soldier	Fairly Good
(c) Remission earned:-	
(i) Number of days actually earned	12 days
(ii) Number of days obtainable to date	12 days
(vi) Medical Officer's report on Physical & Mental Condition; is soldier is ill, should state:-	n/a
(a) Whether detention will seriously aggravate condition.	n/a
(b) Whether further confinement is likely to prove fatal.	n/a
(vii)(a) Whether in your opinion conduct of soldier warrants	
(i) Remission	Up to the present conduct is good and if continued will warrant suspension of sentence
(ii) Suspension	
(b) Moral effect confinement has had?	Indifferent
(viii) Date term will expire if all remission marks earned from now on.	27 Jul 46

CERTIFIED
COPY OF MFM 6 ATTACHED:

..... S.M.
(J.R.Cross) W.O.1 i/c.
No. 80 Mil. Det'n Bks.

Date of Report 5 Nov 1945

EWC 55-B-2014(CMBF -4/ EL
19 Nov 45
Case [illegible]

REPORT OF TRIAL BY
GENERAL COURT MARTIAL

1. Number and Name: 1-609452 Rfn. BAKER, F.
2. Unit at date of offence: #12, D.D., CA, Regina, Sask.
3. Charge: AA 12(1)(a) DESERTION (Absent from 1 Feb 45 until he surrendered on 25 Sep 45 - 7⅔ mos)

Plea: not guilty

4. Place and date of trial: Armoury, Regina, Sask. - 28 Sep 45
~~(XXXX~~ ~~XXXX~~ ~~(XXX~~
5. Findings: guilty
6. (a) Sentence: 15 mos detention
(b) Date of sentence: 28 Sep 45
7. Date of Confirmation: [illegible]
8. Date of Promulgation:
9. Being served at: 30 MDB, Dundurn in MD.....12.....

10 S. - Discharged under RO 1029( ) for
wef)

CONDUCT

Case No.

11. (a) Prior to enrolment in [illegible]

	Offence	Date	Sentence
(1) Civil convictions	NIL		
(2) Court martials	NIL		
(3) Summary [illegible]	1 minor AWL		

(b) Record in [illegible] Good (Expected d/ of release: 26 Jul 46)

(c) Date of [illegible] //////////// 3 Feb 45 Present Age: 24

12. Remarks: (Here note any [illegible] representation other than in Item 10 not [illegible] been [illegible] stated, and show here any [illegible] circumstances.)

1) Statement by Accused: "Well, I haven't much to say for myself, sir. The only reason I had, when I was at home on my leave there was sickness in the family and I wrote in for a leave, and wired them and told them that due to sickness in the family I couldn't be up there. And so they sent me some papers down for compassionate farm leave and I filled them out to the best of my ability and sent them in.
And then they sent them back and said they weren't filled in correctly and so I filled them in again and sent them in again. And I didn't hear any more for practically two weeks--that must have been about the end of January as far as I could think--and then they told me to, or sent a telegram to report at once.
And there was no wood at home and it had to be hauled about eight miles; and there was no water for the stock and my Dad wasn't feeling too good after my uncle--that is his brother--died. So therefore I stayed for two weeks before I left home and as far as they knew I was on my way back to Regina.
And I was on my way back to the Depot and I changed my mind and went away.
That is all I have to say."

13. Recommendations:
Rev. Offr: Considering there were no aggravating circumstances surrounding the offence, recommend release at half-sentence, viz 12 May 46

(A.E. Gold) Lt.

14. [illegible] Release on 27 Feb 46

Date DEC 17 1945

R. A. Stilwell Maj
Secretary
Courts Martial Board of Review

HQC 55-B-2014 (JAG/D-6)

17 October, 1943

District Officer Commanding
Military District No12
REGINA, Sask
Standing

L-309452 - Rfn Fredrick BAKER
No 12 District Depot CA
Court-Martial

N. 1-B-2879(AJAG)

12 Oct 5

Receipt is acknowledged of the letter dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

(R.J. Orde) Brigadier

/jm

Judge Advocate-General.

20

IN REPLY PLEASE QUOTE No. R.1-B-2879(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Regina, Sask., 12 Oct 45.

CENTRAL REGISTRY
CO
3156
OCT 16 1945
File C55-B-2014
Origt.
Referred to JAG

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
L.609452 - Rfn. Fredrick BAKER
No. 12 District Depot, C.A.

Reference H.Q.C.55-B-2014(JAG/D-8) dated 4 October, 1945 forwarding proceedings of the marginally noted Standing Court-Martial pursuant to C.A.R.O. 4565(12).

2. As the proceedings have now served their purpose they are returned herewith for custody.

(G.A.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

19

NAT. DEF. B. 440
2500M-4-44-4321
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask.,

on the 28th day of September, 1945, at 1100 hours,

for the trial of: L.609452 Rfn. Fredrick BAKER,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major S.L. Waterman, E.D., President Courts-Martial, M.D. 12.

PROSECUTOR: Capt. P.W. McMeans, Prosecutor Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Capt. H. Goodfellow, No. 12 District Depot, C.A.
(See documents marked "G" and "H" attached.)
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, L.609452 Rfn. Fredrick BAKER, No. 12 District Depot, C.A., is guilty of the charge.

SENTENCE: The Court sentence the accused, L.609452 Rfn. Fredrick BAKER, No. 12 District Depot, C.A., to undergo detention for fifteen months.

Signed at Regina, Sask., this 28th day of September, 1945. 18

S.L. Waterman Major,
President,
Standing Court-Martial

M.F.B. 1484
25M 6-44 (4626)
H.Q. 1772-39-2296

Extracts entered as No. H0051 in the Record of Courts-Martial kept in the Office of the Judge Advocate General this 2 day of Oct 1945

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter?~~

Question to the accused. Do you object to L-25640 SM (A/M.Q.I) W.H. Matthews, D.H.Q. Sub-Staff, M.D. 12, as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~?

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2" Swearing Maj President GCM

5

CHARGE SHEET

The accused, L.39452 Rfn. Fredrick BAKER, No. 12 District Depot, CA Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service is charged with:

CHARGE:
SECTION 12(1)(a) ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Regina, Saskatchewan, at 2359 hours on the 1 February, 1945 absented himself from the No. 12 District Depot, CA until he voluntarily surrendered himself at Regina, Saskatchewan at 2020 hours on the 25th September, 1945 to the Military Power.

27th September, 1945
Regina, Saskatchewan.

(H.E. Murray) Lieut.Col.
Officer Commanding,
No. 12 District Depot, CA

16

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

THE PROSECUTOR ADDRESSING THE COURT: Sir, I produce M.F.B. 375 and M.F.M. 216.

The Defending Officer has no objection to either of the documents.

The documents are read and marked Exhibits "I" and "J" respectively, signed by the President and attached to the proceedings.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement, sir.
(See document marked "K" attached.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer declines to make a closing address.

The Prosecutor declines to make a closing address.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. No, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

13

13

"G" Waterman Major President. Court

DDR 6-0-1 (Legal)

Regina, Sask. 24 Sep 1945

Major S.L. Waterman, E.D.,
President, Courts - Martial,
Headquarters, M.D. No.12,
REGINA, Sask.

L 609452 Pte. BAKER F.
No.12 District Depot, C.A.
Standing Court - Martial

CAPT. H. GOODFELLOW ..... No.12 District Depot, C.A., has been detailed to act as defending officer at the trial of the marginally named soldier.

for (H.E. Murray) Lt.Col.
Officer Commanding,
No.12 District Depot, C.A.

12

"H"

Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q. There is a letter (document marked "G") before the Court from the Officer Commanding, 12th District Depot, stating that Capt. Goodfellow--the officer on my left (indicating the Defending Officer)--has been detailed to act as your Defending Officer. Is that satisfactory?

A. Yes, sir.

Section "A"		100 %	75 %
A-250 Anklets	1 pr.	.74	.56
A-13000 Gloves	1 pr.	.66	.50
A-13700 Greatcoat	1	15.54	11.66
A-24000 Overalls	1	2.52	1.89
A-21450 Mitts	1 pr.	.93	.70
A-9420 Dressings		.22	.16

Section "B"			
B-450 Blouses	2	13.00	9.76
B-700 Boots	2 pr.	11.64	8.74
B-1850 Caps	2	1.90	1.44
B-3300 Drawers	2	.84	.64
B-6400 Sweater	1	1.65	1.24
B-8700 Shoes	1 pr.	2.29	1.72
B-10200 Trousers	2	13.10	9.84
B-8600 Vests	2	2.40	1.80
B-7950 Shirts	4	6.16	4.64
B-8350 Shirts	2	.86	.64
B-10500 Trousers	1	1.31	.98

Section "C"			
C-100 Bags	2	2.54	1.90
C-650 Braces	1 pr.	.28	.21
C-2250 Brass Cleaning	1	.04	.03
C-800 Brush	1	.11	.08
C-850 Brush	1	.17	.13
C900 Brush	1	.39	.29
C-950 Brush	1	.42	.32
Boot Laces	1 pr.	.03	.02
C-200 Belt	1	.35	.26
C-750 Brush	1	.21	.16
C-1000 Brush	1	.09	.07
C-1050 Cap Comforter	1	.41	.31
C-1100 Comb	1	.04	.03
C-1300 Fork	1	.08	.06
C-1350 Holdall	1	.22	.17
C-1400 Housewives	1	.35	.26
C-1500 Knife	1	.18	.14
C-1650 Razor	1	.42	.32
C-2200 Spoons	1	.08	.06
C-2400 Towels	2	.62	.46
C-1650 Necktie	1	.19	.14
C-1700 Pin	1	.06	.05
C-2100 Socks	2 Pr.	.56	.42

Section 1-A			
1A1450 Bag	1	.04	.03
1A2500 Belt	1	.76	.57
1A3300 Bottles	1	.62	.47
1A3500 Brace	1	.33	.25
1A3450 Brace	1	.35	.26
1A6950 Carriers	1	.37	.28
1A11100 Covers	1	.36	.27
1A14700 Frogs	1	.18	.14
1A15800 Haversack	1	2.29	1.72
Helmet	1	2.39	1.79
1A23600 Packs	1	2.26	1.70
1A24800 Pouches	2	2.06	1.54

Anti-Gas Equipment Section A-5

Capes A/G	1	4.43	3.33
Resperator Face piece	1	2.60	1.95
Container	1	1.60	1.20
Haversack	1	1.27	.95
Outfit A/D	1	.03	.02
Ointment	1	.26	.20
Eyeshields 1 Pkg. of 6		1.34	.75
Detectors	1	.28	.21
1J18900 Sheets		2.38	1.79
Section "D"			
Badges Cap	1	.09	.07
Buttons	8	.06	.08
TOTAL		$111.14	$83.78

.....
for quartermaster.

1A29300	Straps	1		
1A29350	Straps	1	.31	.23
1A29500	Straps	2	.31	.23
1A30300	Tins	1	.28	.22
			.57	.43

Anti-Gas Equipment Section A-5

Capes A/G	1		
Respirator Face Piece	1	4.43	3.33
Container	1	2.60	1.95
Haversack	1	1.60	1.20
Outfit A/D	1	1.27	.95
Ointment	1	.03	.02
Eyeshields 1 Pkg. of	6	.26	.20
Detectors	1	1.04	.75
		.28	.21
1J18900 Sheets		2.38	1.79

Section "D"

Badges Cap	1		
Buttons	8	.09	.07
		.08	.08

TOTAL	$111.14	$83.78

Exhibit "1" Swarmer Motor President SCM

17

RECORD of the Declaration of a Court of Inquiry assembled at Regina, Sask.

on the 21st day of May 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L.609452 Rfn. BAKER, F. No.12 District Depot, C.A.

DECLARATION

The Court declare that No. L. 609452 Rfn. BAKER, F. No.12 District Depot, C.A. illegally absented himself without leave from No.12 District Depot, C.A. at Regina, Sask. at 2359 hours on the 1st day of February, 1945, that he is still so absent, and that on the 2nd February, 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE

"E.G.Lee" Lieut. President
No.12 District Depot, C.A.

Member

Member

Signed at Regina, Sask.

this 21st day of May 19 45

Signature of Commanding Officer "H.M.Reid" Maj. No.12 District Depot, C.A.

Certified true copy (J.M.Policha) Capt. Legal Officer, No.12 D.D. No.12 District Depot, C.A. Signature of Officer having custody of original record

M.F.R. 375
A.F.B. 115
10MM—4-42 (6527)
H.Q. 1771-39-337

10

Exhibit "J" Swearing President Sim

19

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(~~[illegible]~~ OR SURRENDER TO SERVICE AUTHORITIES)

I, Lieut. Col. (Number) H.E.Murray (Rank) No.12 District Depot (Name) C.A. (Unit)

hereby certify that L-609452 (Number) Pte. (Rank) Baker F. (Name in full)

of the Oxford Riflas. Nanimo. B.C. (Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) L-111605 (Number) Cpl. (Rank)

Uhren P. (Name) No.12 District Depot. (Unit or appointment)

at Regina Sask. (Place) at 2020 (Hour)

on the 25TH day of September 1945

Strike out words not applicable } ~~in a deserter's~~ absentee without leave), and that at the time of his arrest he was wearing military (~~his issue~~) uniform (~~dressed in civilian clothes~~).

Dated at Regina Sask. this 25 day of September 1945

(Signature, Number, Rank, Unit or appointment)
H.E. Murray Lieut. Col.
C.O. No. 12 District Depot C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-46 (3730)
H.Q. 1772-39-1936

9

"K"

Guardman

Major,
President, Standing Court-Martial.

STATEMENT BY THE ACCUSED

Well, I haven't much to say for myself, sir. The only reason I had, when I was at home on my leave there was sickness in the family and I wrote in for a leave, and wired them and told them that due to sickness in the family I couldn't be up there. And so they sent me some papers down for compassionate farm leave and I filled them out to the best of my ability and sent them in.

And then they sent them back and said they weren't filled in correctly and so I filled them in again and sent them in again. And I didn't hear any more for practically two weeks--that must have been about the end of January as far as I could think--and then they told me to, or sent a telegram to report at once.

And there was no wood at home and it had to be hauled about eight miles; and there was no water for the stock and my dad wasn't feeling too good after my uncle--that is his brother--died. So, therefore, I stayed for two weeks before I left home and as far as they knew I was on my way back to Regina.

And I was on my way back to the Depot and I changed my mind and went away.

That is all I have to say.

"Y" Guarding Maps President SCM

23

M.F.B. 355
50M—9-42 (3692)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or~~ unit)
L.609452	Rfn.	Fredrick BAKER	No. 12 District Depot, CA

1. The following is a fair and true summary of the entries in the Field ~~Service, General, Regimental and Squadron, Battery,~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL	1	times	AWL	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

~~Note. If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 4 days in military custody, making a total of 4 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form is ~~attestation paper is~~ 24 years 9 mos.

6. The date of his ~~enlistment~~ enrolment specified in his ~~record of service~~ enrolment form is ~~attestation paper~~ 3 Feb 43

~~7. The service which the accused is allowed to reckon towards discharge is —~~

~~8. The accused is entitled to reckon as for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no military decoration, or military reward ~~(or is not possession of or entitled to). State any air force decoration or reward.~~

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force ~~the regimental rank of~~

7

24

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28 day of SEPTEMBER 1945 J.M. Policha, Capt. Legal Officer, No. 12 District, CA

Officer having charge of original records, No. 12 Dist. Depot CA District Depot, CA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

25

No. L.609452 Name BAKER Fredrick Sqn., Battery, or Company 21st Bty A/A Bty R.C.A. CA. Corps Date of enlistment 3 Feb 43 G.C. Badges Tradesmen's Rates of Pay

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. One Signature O.C. Company, etc. SINGLE Character Good

M.F.M. 6 (A.F.B.123) 750M—12-42 (7537) H.Q. 1773-39-1252

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE (Last Sheet Destroyed 3 Feb 45).	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lyanscur, B.C.	16 Oct. 44	Gnr.		AWL from 1730 hrs, 16 Oct 44 to 0800 hrs, 17 Oct 44(Sec. 15(1) AA.	K.15574 Sgt SULL/ ICAN L F F	3 Dys Pay Art 149(2) FR&I (Can).	17 Oct 44	Lt. R.K. TOWN	Forf 1 Dys Pay FR&I 149(1)(a).

CERTIFIED TRUE COPY

(W.M. Policha) A/Capt.,
Legal Officer, No. 12 District Depot, CA,
Officer having charge of original
records, No. 12 District Depot, C.A.

Major
President.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. L.609452 Pte. BAKER F.

of No. 12 District Depot CA is in a good state of health,

and fit to undergo Trial by Court martial.

W E Gordner Capt

R.C.A.M.C. Medical Officer
Att No. 12 District Depot, CA

Station Regina, Sask.

Date 28 Sep 45

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-38-480

5

PRECIS OF EVIDENCE

in the case of

L.609452 Rfn. Fredrick BAKER, No. 12
District Depot, CA, Regina, Saskatchewan.

CHARGE: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

To prove the charge, the following evidence is available:

DOCUMENTARY: M.F.B. 375
M.F.M. 216

(J.M. Policha) A/Capt.
Officer detailed to take
the Precis of Evidence,
No. 12 District Depot, CA

27th September, 1945
Regina, Saskatchewan.

4

H.Q.C.55-B-2014 (JAG/D-8)
Your R.C.1-B-2879

4 Oct 45

The District Officer Commanding,
Military District No. 12, Regina, Sask.

STANDING COURT-MARTIAL

L. 80[illegible]452 Rfn Fredrick Baker,
No. 12 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

Judge Advocate General.

JO/MM

3

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2014
M.D. R.C. 1-B-2879 (AJAG

STANDING

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA

No. L.609452 Name BAKER, Fredrick

Rank Rfn Unit No. 12 DD CA

Charge AA 12 (1)(a) WOAS Deserting

Date of Crime 1-2-45

Date of Arrest 25-9-45 Charge Signed 2799-45

Orders for D.C.M.

Place and Date of Trial The Armoury 28-9-45

Sentence Det 15 mos

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40051

Date 2-10-45

MEMO Balance of sentence remitted by Conf. Auth.

MD 12 No. 12 DD CA

Absent	Sentence
Approx 7 mos	Det 15 mos

2

M. Ben, Capt
for Judge Advocate-General

45(M-189)

IN REPLY PLEASE QUOTE
No. R.C.1-B-2879 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 29 Sep 1945.

VIA AIRMAIL

CONFIDENTIAL

6.55-B-2114

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

L.609452 - Rfn. Fredrick BAKER
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4566, I enclose herewith proceedings of the Standing Court-Martial held in connection with the marginally named soldier.

S.L. Waterman

(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl.

40051

1

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

H.Q.C. 55-B-2015

CONFIDENTIAL

M.F.R. 5078
SM—2-45 (1000)
H.Q. 300-1-5

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BEAUDRY, HUBERT E.615681 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2015

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 3 - 1945	3/11/45	[illegible]	[illegible]	JAG	NEW FILE	CR	1-10-45
OCT 18 1945	17/10/45	P.A.	E.G.	Jag	With Papers C.R. OCT 16 1945		
	29/10/45	P.A.	E.L.M.	J.A.G.	With Papers C.R. OCT 27 1945		
NOV 20 1945	20/11/45	P.A.	a.c.	E.M.B.P.	For Information C.R. NOV 19 1945		

(If purpose which referred cannot be expressed on one line, add minute to file and enter here "With Minutes")

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-2014
(JAG/D-6)

OTTAWA 29 October 5

District Officer Commanding,
Military District No. 5
Quebec, Quebec.

R-615681 Pte. Hubert Beaudry
GL CA Att No. 5 DD CA

Receipt is acknowledged of your Q. 39-B-3513 (JA) dated 25 Oct 45 under cover of which you forwarded to this Headquarters Form of Remission together with MFM 288 in connection with the m/n soldier.

E.L.M.

for (R.J. Orde), Brigadier,
Judge Advocate-General.

ELM:jb

IN REPLY PLEASE QUOTE No. Q. 39-B-3513 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5.
QUEBEC QUE 25 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

5369
OCT 27 1945
File 655-B-2015
Chgd. to
Referred to JAG

REMISSION OF SENTENCE - SCM.

E-615681 Pte Hubert BEAUDRY
GL CA Att No.5 DD CA.

1. Ref HQC. 55-B-2015 (JAG).

2. A remission of sentence in this case has been granted w.e.f. 20 Oct 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1772-39-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

M.D.H.Q.File No. HQC. 55-B-3015(JAG)
District File No. Q.39-B-3513(JAG).

PART I

No. E-615681 Rank Private Name Hubert BEAUDRY
Unit General List, CA, Att No. 5 District Depot CA.

PART II

Date of trial 18 Sept. 45
Charges 44 Sec. 18(1)(a) -- Sec. 24.(2)
Sentence 7 months detention & Stoppl. $7.80
Date of Sentence 18 Sept. 45.
Confirmation - (a) Authority Standing Court-Martial MD No. 5.
(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E-615681, Pte. Hubert BEAUDRY, GL CA, Att. No. 5 District Depot Ca, effective 20th. October 1945.

Signed at QUEBEC, P.Q. this 16th. day of October 1945.

Edmond Blais
(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at No.5, District Depot LAUZON this 22nd day of October 1945.

(W.G. LAROCHE) - Capt.,
ATT'D No.5, D.D.
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E/615681 Rank PTE Name BEAUDRY, Hubert
The sentence of 7 Months detention
awarded by Court-Martial on the 18th day of September 194 5
has been remitted
on the 20th day of October 194 5 by Brigadier Edmond Blais, CBE MC DOC MD 5

Unit
Certified true Extract of Daily Orders Part II of
No. 261 Place LAUZON Date 23-10-45

(M.R. LEDOUX) - Captt.,
GEN. LIST. ATT'D No.5, D.D.
Adjutant. No.5 D.D.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-615681 (Number) PTE (Rank) HUBERT BEAUDRY (Name in full)

General List A.C. (Unit) Att No 5 D.D. C.A. (Attachment (if any))

Sentenced to 7 Months detention

on 18 Sep 45 at Lauzon, P.Q.

being served at Valcartier Military Detention Barracks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 27 years 9 months 30 Oct 41.

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended (put into execution)~~) (reviewed on 20 Dec 45. (Date)) for reasons given in paragraph X.

Place QUEBEC QUE

Date 13 Oct 45.

Edmond Blais
(Edmond BLAIS) - Brigadier,
D.O.C.,MD No.5.
(Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit.....) (be suspended) (be put into execution)

(and) be reviewed on.....

Place.....

Date..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place.....

Date..... (Confirming Authority)

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-39-2015

HQC 55-D-2015 (JAG/D-6)

17th October 1945

District Officer Commanding,
Military District No. 5,
Quebec, P.Q.

Re: [illegible] Court-Martial.

[illegible]-D-5011 (JA)

Receipt is acknowledged of your dated [illegible] 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

(M.J.Orde) Brigadier,
Judge Advocate-General.

JOC:[illegible]

CANADA

IN REPLY PLEASE QUOTE No. Q. 39-B-3513 (JA)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 13 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

3314
OCT 16 1945
File 55-B-2015
Check
Referred 8/48

STANDING COURT-MARTIAL

E-615681 Pte Hubert BEAUDRY
GL CA Att No.5 DD CA

1. Ref HQC. 55-B-2015 (J G/D-7) dated 3 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à u Depot Regional No.5, A.C.,

le 18ieme jour de septembre 19 45 à 10.20 heures,

pour le procès de E-015681, Soldat HUBERT BEAUDRY
Matricule Grade Nom et prénoms

Liste Generale, A.C., Attache au Depot Regional No.5, A.C., Lauzon, P.Q.,
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
President Permanent, Q.G.,R.M.No.5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent,Q.G.,R.M.No.5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant F. MARTINEAU,
~~OU AVOCAT~~ Grade Nom et prénoms

Royal 22ieme Regiment,A.C.,Att.Depot Regional No.5, A.C.
Unité Détachement, le cas échéant

LA COUR DECLARE LE PREVENU INNOCENT DE L'ACCUSATION DE DESERTION MAIS COUPABLE D'ABSENCE SANS PERMISSION -SOUS LE PREMIER CHEF D'ACCUSATION ET COUPABLE SOUS LE DEUXIEME CHEF D'ACCSATION SAUF QUE LA VALEUR DES EFFETS PERDUS EST DE $ 7.80 AU LIEU DE $ 12.98."-

SENTENCE: LA COUR CONDAMNE LE PREVENU A SUBIR UNE PEINE DE SEPT (7) MOIS DE DETENTION ET A UNE SUPPRESSION DE SOLDE JUSQU'A CE QU'IL AIT REMBOURSE LA VALEUR DES EFFETS PERDUS, A SAVOIR $ 7.80.

Signé à Lauzon, P.Que., ce 18ieme jour de septembre 1945.

(PIERRE DECARY) Major,
Président de la cour martiale permanente.
Q.G.,R.M.No.5.-

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 40052 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 1 day of Oct 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non monsieur.-

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à~~ xxxx

"B-2"

Pierre Decary

(PIERRE DECARY) MAJOR
PRESIDENT, G.C.M.

ACTE D'ACCUSATION

Le prevenu E-615681 soldat Hubert BEAUDRY, Regiment de Joliette, A.C. attache au Depot Regional No. 5 A.C. un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:-

PREMIER CHEF
Art. 12 (1) (a)
Army Act.

D'AVOIR EN ACTIVITE DE SERVICE,
DESERTE LE SERVICE DE SA MAJESTE

en ce que

a Valcartier, P.Q. a 0830 heures, le 3 janvier 1945, il s'est absente sans permission du Regiment de Joliette, A.C. jusqu'a ce qu'il se livre aux autorites militaires a Lauzon, P.Q. a 1145 heures le 5 septembre 1945 en tenue civile.

DEUXIEME CHEF
Art. 24 (2)
Army Act.

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES,
SES EFFETS D'EQUIPEMENT, D'HABILLEMENT
ET AUTRES EFFETS REGIMENTAIRES.

En ce que

a Lauzon, P.Q. le 13 septembre 1945, il etait en deficit des articles suivants:-

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "A"		
1 Anklet web	.74	.55
1 Coat waterproof	6.91	5.18
1 Gloves woollen prs.	.66	.49
1 Overall Blouse	2.59	1.94
1 Overall Trouser	2.23	1.67
HABILLEMENT DIVISION "B"		
1 Cap field serv.	.70	.52
HABILLEMENT DIVISION "C"		
1 Blacking tin	.05	.04
1 Boot dressing tin	.05	.04
1 Brush boot pol	.21	.16
1 Brush cloth	.17	.13
1 Brush hair	.39	.29
1 Fork table	.08	.06
1 Knife table	.18	.13
1 Pin collar	.06	.04
2 Socks black	.56	.42
1 Spoon table	.08	.06
1 Necktie black	.19	.14
SECTION "A-1"		
1 Knife clasp	.99	.74
1 Badge cap ass.	.09	.07
SECTION "A-2"		
1 Outfit A.D.	.15	.11
1 Wallet A.G. Cam.	.27	.20
TOTAL	$ 17.35	$ 12.98

Pierre Taschereau

Lauzon, P.Q.-
15 septembre 1945

(PIERRE TASCHEREAU) Capitaine
Procureur Permanent, 5e District Militaire.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~Le témoin assermenté est interrogé par le procureur.~~

"LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE."

---

1 - Extrait Certifie des Ordres du Jour Partie 11 - pontant le No. 3, de Valcartier, P.Q., le 5 janvier 1945, se rapportan t a l'accuse.

(Ce document est lu par la Cour, marque "G", signe par le President et verse au dossier.)

2 - M.F.B. 375 - Resultat d'une Cour d'Enquete tenue a Lauzon, P.Q., le 7 fevrier 1945, se rapportant a l'accuse.

(Ce document est lu par la Cour, marque "H", signe par le President et verse au dossier.)

3 - M.F.M.216 - Certificat de Reddition signé à Valcartier, P.Q., le 5 septembre 1945, se rapportant a l'accuse.

(Ce document est lu par la Cour, marque "I" signe par le President et verse au dossieur.)

- -

LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS.

PREMIER TEMOIN POUR LA POURSUITE:- P-48788, C.Q.M.S. M. LeBlanc, L.G., Att. Depot Regional No.5, A.C., étant dument assermenté, est interroge par le Procureur:-

Q. Quelles sont vos fonctions?

R. Quartier-maitre au Depot de Lauzon.

Q. Est-ce que vous connaissez l'accuse?

R. Oui monsieur. C'est celui qui est entre les deux escortes.

Q. Pouvez-vous dire son nom?

R. Hubert Beaudry.

Q. Avez-vous eu l'occasion de faire l'inventaire de son kit-bag?

R. Oui monsieur le 13 septembre 1945 il s'est presente au quartier-maitre du depot et j'ai constate qu'il avait rapporte des articles pour le montant de $ 66.83 mais qu'il lui manquait d'apres sa 375 les articles suivants:-

1 anklet web	.74
1 coat waterproof	6.91
1 gloves wollen pr	.66
1 overall blouse	2.59
1 overall trouser	2.23
1 cap field service	.70
1 blacking tin	.05
1 boot dressing tin	.05
1 brush boot pol	.21
1 brush cloth	.17
1 brush hair	.39
1 fork table	.08
1 knife table	.18
1 pin collar	.06
1 socks black pr	.56
1 spoon table	.08
1 necktie black	.19
1 knife clasp	.99
1 badge cap ass .	.09
1 outfid A.D.	.15
1 Wallet A.G.Cam	.27

Cela forme untotal de $ 17.35 et moins 25% selon C.A.R.O. 3464, il y a un deficit de $ 12.98.

Q. Sur quoi vous etes-vous base?

R. Sur la 375 monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT.

DE L'AVIS DE LA COUR IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 03 (B).

LE TEMOIN SE RETIRE:

LA POURSUITE N'A PLUS D'AUTRES TEMOINS A APPELER.

LA POURSUITE EST CLOSE:

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, sous serment. (Voir pages D-3 et suivantes.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non monsieur.-

Question à l'accusé. Citez uniquement un témoin à l'appui de votre réputation.

Réponse:

TEMOIN DE LA DEFENSE: L'Accuse, matricule E-615681, Soldat Hubert BEAUDRY, L.G., Attache Depot Regional No5, A.C., etant dument assermente, est interroge par l'officierdefenseur:-

Q. Est-ce que ca fait longtemps que vous etes dans l'armee?

R. Depuis le 3 octobre 1941.

Q. Vous faisiez partie du regiment de Joliette?

R. Je faisais partie de la 24ieme Batterie, j'ai ete transferre au regiment de Joliette apres mon absence.

Q. Ou etiez-vous au moment de votre absence?

R. A Valcartier monsieur.

Q. Vous etes parti avec une pass e?

R. Oui monsieur.-

Q. Ou demeurez-vous?

R. Aux Iles de la Madeleine.

Q. Est-ce que les moyens de communication sont faciles?

R. Non monsieur. Ca depend de la temperature.-

Q. Quel est le mode de transport?

R. On voyage seulement que par avions.

Q. Est-ce que le service est regulier?

R. Non monsieur, ca depend du temps qu'il fait.

Q. Maintenant, lorsque vous etes alle aux Iles de la Madeleine, estce que la temperature permettait a l'avion de revenir?

R. Non monsieur.

Q. Est-ce que vous etes alle prendre l'avion?

R. Oui mais elle n'arrivait pas cette journee la.

Q. Combien de jours a-t-elle ete "grounde"?

R. Quatre a cinq jours monsieur.

Q. Quand vous etes parti, qu'est ce que vous aviez fait avec votre equipement?

R. Je l'avais tout paquete dans mon bag, dans mon couvre-matelas, je l'avais rapporte au quartier-maitre.

Q. Ca c'est l'organisation de la 24ieme compagnie?

R. Oui monsieur.

Q. Vous avez mis ce linge la avec les autres?

R. Avec les autres, checke.

Q. Qui etait en charge de checker ca?

R. Je ne me rappelle pas, c'etait un sous-officier.

Q. Savez-vous le nom du quartier-maitre?

R. C'etait un sergent, je ne me souviens pas.

Q. Qu'est ce que vous avez fait chez-vous?

R. J'ai ete chez nous et j'ai travaille.

Q. Ou?

R. Pour la peche, les travaux de peche.

Q. Pour votre pere?

R. Pour nous autres memes.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:-

Q. Beaudry, quand est-ce etes-vous parti de Valcartier en conge?

R. Le 15 decembre.

Q. Pour combien de temps?

R. Pour 11 jours. Il me semble que c'est ca.

Q. Vous etes parti le 13 decembre?

R. Le 15 monsieur.

Q. Vous dites que c'etait un conge de 11 jours ?

R. Oui monsieur.

Q. Est-ce que le temps pour voyager etait compris -la-dedans?

R. Oui monsieur.

Q. Onze jours, c'est tout ce que vous aviez?

R. Oui monsieur.

Q. Vous ao

Q. Vous souvenez-vous de la date qui etait marquee?

R. Le 27 decembre.

Q. 1944?

R. Oui monsieur.

Q. Comment de temps ca vous prend pour revenir des Iles de la Madeleine a Valcartier.-

R. Ca depend de la communication monsieur.-

Q. Combien d'avions font le service par semaine?

R. Deux avions.

Q. A quelle date avez-vous essaye de prendre l'avion pour revenir?

R. Le 23.

Q. A quell e date est-elle partie?

R. Elle est partie vers le 28.

Q. Est-ce que vous l'avez pris le 28?

R. Non monsieur.-

Q. Pourquoi?

R. Parce que je me trouvais deja en retard et je me suis mis a retarder tout le temps

Q. Quand vous avez vu le 23 que vous ne pouviez pas prendre l'avion, est-ce que vous avez envoye un message a votre unite?

R. Non monsieur.

Q. Est-ce que vous saviez que vous etiez transferre au Joliette?

R. Non monsieur.

Q. Quand vous ete sparti, est-ce que vous etiez au courant que vous etie z pour etre transferre?

R. Non monsieur, je ne le savais pas, du moins je n'etais pas certain.

Q. Est-ce que vo us vous en doutiez?

R. Pas beaucoup.

Q. Le 3 janvier, cette annee, vous etiez absent?

R. Oui.

Q.

Q. On dit que vous avez ete absent jusqu'au 5 septembre, est-ce exact?

R. Oui.

Q. Vous avez travaille a la peche?

R. Oui monsieur

Q. A partir de quand?

R. A partir du mois d avril, apres ca, j'ai travaille pour les organisateurs de peche.

Q. C'est une compagnie ca?

R. C'est pour nous autres memes.

Q. Qu'est ce que vous faisiez?

R. La peche. On arrangeait les filets de peche.

Q. Quand vous etes parti, ou vous aviez remis votre equipement au quartier-maitre?

R. Oui monsieur.-

Q. Quand vous etes parti vous etiez habille en militaire?

R. Oui monsieur.

Q. Qu'est ce que vous avez fait de cet equipement la?

R. Je l'ai rapporte ici quand je suis revenu. Le great coat je suis certain de l'avoir mis dans mon kit-bag.

Q. Les anklets?

R. Je ne le sais pas.

Q. La paire gants de laine?

R. Je ne me souviens pas.

Q. Les overalls?

R. Je ne me souviens pas.

Q. Le cap field service?

R. Je ne me souviens pas.

Q. La graisse a chaudsures?

R. Non plus.

Q. Les seule articles dont vous vous souvenez avoir remis au quartier- maitre, c'est votre

R. Oui monsieur.-

Q. Est-ce qu'il y a des articles que vous n'avez pas rapporte de chez vous?

R. Non monsieur.

Q. Est-ce que l'on vous a donne une raison pour que vous remettiez des articles au quartier-maitre?

R. Non monsieur.

Q. C'etait au bureau de la 24ieme batterie ca?

R. Oui monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU:

INTERROGE PAR LA COUR:

Q. La brosse a bottes?

R. Je ne l'ai pas.

Q. La brosse a linge?

R. J'en avais pas.

Q. La brosse a cheveux?

R. J'en avais pas.

Q. Votre fourchette?

R. Je ne l'avais pas.

Q. Votre couteau?

R. J'en avais pas.

Q. Votre epingle a cravate?

R. Non plus.

Q. Deux paires de bas noirs?

R. Non.

Q. Une cuillere?

R. J'en avais pas.

Q. Une cravate noire?

R. Je l'ai ici ?

Q. Ou?

R. Au campmonsieur,ici.-

Q. Votre couteau de poche?

R. J'en ai pas.

Q. Votre cap badge?

R. Non plus.

Q. Est-ce que vous avez eu un exemption de conge?

R. N on monsieur, mon conge finissait le 27 decembre.

Q. Le 28 decembre,est-ce que vous auriez pu revenir?

R. Le 28 ou le 29.

Q. Est-ce que vous aviez l'intention de revenir a votre regiment?

R. Oui monsieur.

Q. Pourquoi n'etes-vous pas revenu avant?

R. Parce que je n'etais pas capable de revenir a date alors c'est pour ca que je tardais a venir me rapporter.

DE L'AVIS DE LA COUR IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

L'ACCUSE REPREND SON SIEGE:

"LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE ET L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE."

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non monsieur.-

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: L'OFFICIER DEFENSEUR DIT:" Dans ce cas-ci je demande a la Cour de considerer le fait que l'accuse est reste chez lui parce qu'il avait peur d'une punition, il est reste chez lui -par ignorance du droit militaire je demande donc a la cour d'etre clemente envers lui."

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

" F "

" MINUTE D'AJOURNEMENT ET DE
REPRISE D'AUDIENCE."

- - - - - - - - - - - - - - - -

"A 10.25 heures le dix-huitieme jour de septembre 1945, la cour s'est ajournee.

-o-o-o-o-o-

"A 1600 heures le dix-huitieme jour de septembre 1945, la cour se rassemble.-

" LE PROCES SE POURSUIT."

"G"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

DAILY ORDERS PART II
BY
LIEUT-COL. R.P. BOULAY,
Commanding
LE REGIMENT DE JOLIETTE, C.A.
(Last Order issued No. 2 d/4 Jan 45)

Order No. 3
d/5 Jan 45
Valcartier, Que.

"B" OTHER RANKS.

7.- ABSENT WITHOUT LEAVE.

i) A.W.L. from 0830 hres le 3 Jan 45 (1st publication)

x x x x x x x x x x x x x x

E-615681 Pte BEAUDRY, H.

x x x x x x x x x x x x x x

(J.J.M. COTE) Lieut.-A/Adjt.,
Le Régiment de Joliette, CA.

CERTIFIED TRUE EXTRACTS.

(L. BOIS) Major,
District Records Officer,
Military District No. 5.
17 Sep 45.

Pierre Decary

"H"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

RECORD of the declaration of a Court of Inquiry assembled at Lauzon, PQ on the 7th day of February 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Regimental Necessaries, or Clothing of No. E-615681 PTE BEAUDRY H Regt de Joliette

DECLARATION

The Court declare that No. E-615681 PTE BEAUDRY H R. de Joliette illegally absented himself without leave from Regt de Joliette at Valcartier C. at 0830 hours on the 3rd day of January 45 that he is still so absent, and that on the 7th February 45 he was t deficient, and that he is still deficient of the following articles:-

ARTICLES		VALUE	ARTICLES		VALUE
Ankleta Web	1	74	Cover messtin Rect.	1	08
Coat Waterproof Army	1	6.91	Outfits Anti-dimming	1	15
Gloves Woolen Khaki	1	66	Wallet A.G. Camouflage	1	27
Greatcoat drab	1	15.54			
Overalls Blouse	1	2.59			
Overall Trousers	1	2.23	TOTAL		84.18
Battle Dress Blouse Serge	1	6.50	75%		63.13
" " Trousers "	1	6.55			
Boot Ankle	1	5.82			
Cap Field Service	2	1.40			
Drawers woolen	2	2.80			
Jacket serge drab	1	10.80			
Muffler khaki	1	[illegible].93			
Shirts khaki cotton	2	3.08			
Shirts woolen	2	2.40			
Shoes leather black	1	4.84			
Socks woolen prs	3	1.38			
Trousers serge drab N.P	1	4.33			
Blacking tins	1	05			
Boot dressing tin	1	05			
Boot laces	1	03			
Brass Button	1	04			
Brush Boot polishing	1	21			
Brush Button	1	11			
Brush coth	1	17			
Brush Hair	1	39			
Brush shaving	1	42			
Brush tooth	1	09			
Comb Hair	1	04			
Fork table	1	08			
Housewives	1	35			
Knife clasp	1	99			
Knife table	1	18			
Necktie black	1	19			
Pin Collar safety	1	06			
Socks black	2	56			
Spoon table	1	08			
Badge Cap ass.	1	09			

J.A.M. CARON MAJOR 5 D.D. ..... President

R. DESMEULES LIEUT 5. D.D. ..... Member

Y LORTIE Lieut 5 D.D. ..... Member

Signed at Lauzon, P.Q.

this 7th day of February 1945.

Signature of Commanding Officer (Jean La Fontaine)
Col. Maj. OC No.5 D.D.

Certified true copy Marcel Lebeau
(Signature of officer having custody of original record)
RECORDS OFFICE
No.5 District Depot
Lauzon, Que.

M.B. 375

"J"

Pierre Decary

CERTIFI[redacted] en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 194[illegible] publié dans l'O.S.C. 1877 et dans l'ordre général 127 de 1942.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné Colonel (Matricule) PAUL MATHIEU (grade) O.C. (nom) No. 5 D.D. (unité) C.A.

certifie par les présentes que E-615681 (Matricule) Pte. (Grade)

BEAUDRY, Hubert. (Nom au complet)

de attache au Depot Regional No. 5 A.A.C. (Unité et détachement, s'il y a lieu)

Biffer les mots inutiles } ~~XXXXXXXXXXXX~~ (s'est livré à) D-610313 (Matricule) Pte. (Grade)

LABONTE, L.P. (Nom) attache au Depot Regional No. 5 A.C. (Unité ou emploi)

à Lauzon, P.Q. (Lieu) à 1145 (Heure)

le 5ieme jour de Sep. 19 45

Biffer les mots inutiles } comme déserteur ~~XXXXXXXXXXXXXXXX~~ (préciser) et qu'au moment ~~XXXXXXXXXXXXXXX

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

M.F.B. 155
H.Q. 1772-39-620 (3273)
M.F.B. 290

" Y "

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E615661	Pte.	BEAUDRY, H.	AEMA

1. The following is a fair and true summary of the entries in the Field Service and General ~~Regimental pay Squadron Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial ~~or a Civil Court under the Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ....~~

4. The accused has been in confinement awaiting trial on the present charges, for ..... ~~days in civil custody and~~ 12 days in ~~Air Force~~ military custody, making a total of 12 days in custody, ~~of which ..... days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 27 years, 9 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 30 Oct 41

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State any air force military decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Regiment Name ..... of .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Benoit Teschereau Lt.
Ass to Records Officer
5 OD Lancaster, P.Q.

Signed this 18th day of Sept 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. E61565 Name BEAUDRY. H. Sqn., Battery, or Company } Corps NRMA Date of enlistment } 30oct41 YOB: 3dec17. G.C. Badges } Tradesmen's Rates of Pay } M.F.M. 8 (A.F.B. 122) 500M—11-41 (2498) H.Q. 1773-39-1533

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. on, e Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet two Destroyed 30apr44.					
				Certified true copy. Benoit Teschereault. Cas ic Record s Officer. J. DD Lauzon. T.C					

PIERRE DECARY MAJOR
PRESIDENT S.C.M.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. E615681PE Beaudry. H.
of D D S is in a good state of health,
and fit to undergo Trial by Court martial.

J. Thibault, capt.
Medical Officer

Station Laym Guard Room

Date 18 Sept 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

Medical Inspection Room
D.B. M.D. No. 3
SEP 18 1945
LAUZON, P.Q.

RESUME DE LA PREUVE

Proces de E-615681 soldat Hubert BEAUDRY, Regiment de Joliette, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1- Extrait certifie des O.P. II No 3 date a Valcartier le 5 janvier 1945.

2- M.F.B. 375

3- M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1- M.F.B. 375

ORALE: P-48788 CQMS LeBlanc, M. Liste Generale, A.C. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (5-6-45)

H.Q.C.55-B-2015 (JAG/D-7)
Your Q. 39-B-3513

3 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

K. 615681 Pte. Hubert Beaudry,
Regt de Jol., C.A., att. No. 5
District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R. J. Orde) Brigadier
Judge Advocate General.

LJR/MM

8M-7-45(M-189)

THIS COPY FOR: H.Q. C. 55-B-2015
M.D. 9:39-R-3513

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. NRMA E-615681 Name BEAUDRY, Hubert

Rank Pte Unit Regt de Jol. Att No. 5 DD CA

Charge (1) AA 12 (1)(a) WOAS Deserting.....
(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 3-1-45 (2) 13-9-45

Date of Arrest 5-9-45 Charge Signed 15-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 DD CA 18-9-45

Sentence Det 7 mos Stoppages $7.80

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40052

Date 2-10-45 Balance of sentence remitted by Conf. Auth. 20-3-45

MEMO Guilty AWL

MD 5	No. 5 DD CA
Absent	Sentence
Approx 8 mos	Det 7 mos

C.J. Ryan Lt.
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-B-3513

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Sept. 27th. 1945.

C.55-B-2015

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

E/615681, Pte. Hubert BEAUDRY.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

40032

NAT. DEF. B 440
2500M-4-44 (431)
H.Q. 1772-39-267

H.Q.C.55-B-2016 CONFIDENTIAL

M.F.H. 2870
22M—3-45 (6539)
H.Q. 303-1-69

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BEITEL, ALBERT ZACHARIAN L.607359 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2016

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "See Minute")					
OCT 4 - 1945				JAG	NEW FILE	CR	1-10-45
OCT 13 1945	7.10.45	PA		Jag	With Papers C.R. OCT 16 1945		
	27-3-46			CMGR	NOV 16 1945		
JAN 7 1946	22-2-46			Adm 3	Recommendation	MAS	DEC 17 1945
JAN 15 1946	14-1-46	Pa		Admin	For Resolution C.R. JAN 14 1946		
JAN 21 1946	21 Jan 46	PA		Admin	For Resolution C.R. JAN 19 1946		
				JAG	With Papers C.R MAR 19 1946		
MAR 20 1946	21.3.46	Pa		Adm	To note Admission Adm	RB	14/3/46
MAR 21 1946	26.3.46	Pa		Adm	PER C.R. MAR 27 1946		
MAR 27 1946							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE

11/L.607359(JAG) No. 11/K.608298
L.532207 L.610231
L.610767

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

HQ, Military District No. XI
VANCOUVER, B.C. 11 Mar 1946

CENTRAL REGISTRY ARMY
CONF. SEC.
12650
MAR 18 1946
File CWS-B-2016
Chgd. to
Referred to JAG

The Secretary
NDHQ
Ottawa, Ontario

L.607359 Pte. BEITEL, A.Z.
L.532207 Pte. BODE, N.
L.610767 Pte. HAWRELKO, M
K.608293 Pte. HAMELIN, J.E.G.
L.610231 Pte. OBUCH, A.

1. Enclosed herewith copy of Form of Remission and MFM 288 in each of the m/n cases, for custody.

(E.C. PLOW) Brigadier
D.O.C. M.D. No. XI

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE: 55-B-2016
OUR FILE: 22-B-5090

PART I

No. L.607359 Rank Private Name BEITEL Albert Zacharian

Unit No 11 District Depot CA

Part II

Date of Trial 28 Sep 45

Charge(s) Sec 12 (1)(a) AA Desertion (2 charges)

Sentence 18 mos detention; stoppage of pay in amount of $9.05

Date of Sentence 28 Sep 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~XXXXXXXXXXXXXXXX~~ a balance of sentence of detention effective 5th Mar 46, ~~XXXXXXXXXXXXXXXX~~

Signed at Vancouver, B.C. this 1st day of Mar. 46.

(E.C. PLOW) BRIGADIER, DOC MD NO. 11.

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission (~~XXXXXXXXXXXXXXXXXXXXXX~~ promulgated and extracts taken at No XI DD.CA.

Vancouver B.C. this 5th day of March 1946

Capt. Adjt.
Officer i/c Documents
(1) No. XI District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

Part V
Certified True Extract of Daily Orders Part II

No. L-607359 Rank Pte. Name BEITEL A.Z.

The sentence of 18 months detention stoppage of pay in amount of $9.05

awarded by (Field General)(District)(Standing) Court-Martial on the 28th day of September 1945 has been remitted the balance of the sentence on the 5th day of March 1946 by DOC MD XI

Certified true Extract of Daily Orders Part II No X1 District Depot.
No. 56 Place Vancouver B.C. Date 7 March 46

Capt. Adj.
~~No XI District Depot CA.~~

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of L.607359 (Number) Pte. (Rank) Albert Zacharian BEITEL, (Name in full)

No. 12 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 18 Months Det'n & Cost of Apprehension & return to Unit, $9.05.

on 28 SEPTEMBER, 1945 at REGINA, Saskatchewan.

being served at No. 80 M.D.B. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 Years, 7 Months, 11 November, 1942.

Medical grade or category 22-1-1-1-1-1-1-1.

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... (date)) for reasons given in paragraph X.

Place ..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence ~~(which I hereby commute to~~ ..... ~~) (be suspended)~~ (be put into execution) ~~(of which I remit~~ .....

(and) be reviewed on 12 Nov 45.

Place Regina, Sask.

Date 11 Oct 45 (Superior Military Authority) (G.A.H. Trudeau), Brigadier, D.O.C., M.D. 12.

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority) and sentenced

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and I have directed that he shall (not) be committed to ..... to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place ..... (Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-2104)
35M—9-45 (18698)
H.Q. 1773-28-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
8 Nov 45	Reviewed. No suspension or remission. B.F'd for further review 28 Mar 46.	(G.A.H. Trudeau), Brigadier, D.O.C., M.D. No. 12.	
5 Mar.46	Balance of sentence of detention remitted effective today.	(E.C. PLOW) Brig. DOC MD No.11	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE - AWL from 1200 hrs, 4 Jan 45, until apprehended at Bayard District, Sask., at 0900 hrs, 28 Feb 45, by the Civil Power, dressed in Civilian Clothes. The cost of apprehension and return to his Unit being $9.05.	4 Jan 45	28 Sep 45
WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE - AWL from 2359 hrs, 9 Mar 45 when in arrest, until he voluntarily surrendered himself at Regina, Sask., at 1100 hrs, 10 Sep 45, to the Military Power, dressed in Civilian Clothes.	9 Mar 45	28 Sep 45.

Signature of Officer making entry

(H.E.Murray) Lt.-Col., Commanding Officer, No.12 DD, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
10 October, 1945	That sentence be carried out.	(H.E.Murray) Lt.-Col., Commanding Officer, No. 12 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

C.A.A.

CENTRAL REGISTRY Army
P.E.C. O.C.
JAN 12 1946
File
Chgd. to
Referred to

R.1-B-3054(AJAG).

TD/MG

Regina, Sask., 9 Jan 46.

~~G.O.C.-in-C.,~~
Pacific Command,
~~VANCOUVER, B.C.~~

The Secretary,
Department of National Defence, (For information).
OTTAWA, Ontario.

L.607359 - Pte. BEITEL, A.Z.

Herewith, for action as therein directed, copy of N.D.H.Q. letter HQC 55-B-2016 Adm 3(a)3 dated 4 Jan 46.

2. Pte. Beitel was transferred to No. 92 M.D.B. on 17 Dec 45.

(G.R.H. Trudeau),
Brigadier,
D.O.C., M.D. No. 12.

Att:

Delir

JAN 9 1946

3A3

ROYAL CANADIAN SIGNALS
Army Signal Office

VER V CIR NR 52

FM: CMMDG TWELVE REGINA SASK 091700T JAN

TO: THE SECTY DEPT OF NAT DEF OTTAWA ONT

GR 42 BT

R3802 UNCLAS YOUR HQC 55-B-2016 ADM 3(A)3 DATED 4 JANUARY 1946 RE ~~L60735~~ L607359

PTE BEITEL A Z ACKNOWLEDGED

Pa on file 1/10-1-46

BT 091700T

IJ 091732T

B

1030 10 Jan

ARMY MESSAGE - ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE - ARMY MES

HQC 55-B-2016
Adm 3(a)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario, 4 Jan 46.

District Officer Commanding,
Military District No. 12,
REGINA, Sask.

L.607359 Pte BEITEL A Z
CM Board of Review
80 MDB

Ref telegram AG 0267 2/CS Oct 45 Review.

2. The CM Board of Review has in the case of the m/n soldier made the following recommendation:

"Release on 27 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be info of action taken.

6. XXXX

HQ 869-B-10,478,
Adm 3(b)2.

19 Dec 45.

Dear Madam:

This will acknowledge receipt of your letter of 10th December with regard to your husband, L-607359, Pte Beitel A Z.

I am informed by the appropriate officers of this Department that this soldier was tried by Standing Court-Martial on 28th September, 1945, charged with desertion, having absented himself without leave from 4th January 1945 until apprehended on 28th February 1945, dressed in civilian clothes and a further absence without leave from 9th March 1945 until 10th September, 1945. He was found guilty of both charges and sentenced to undergo detention for eighteen months.

It is not the desire of the military authorities that a soldier shall be held in custody any longer than is necessary in the interests of military discipline. Accordingly, sentences are subject to periodical reviews with a view to effecting remission where circumstances warrant.

Your husband's case has been reviewed during December by the Courts-Martial Board of Review. The Board has made recommendation for remission of his sentence about the beginning of April. Remission at that time will, of course, be entirely dependent upon his good conduct in the interim.

Yours truly,

Deputy Minister,
(Army).

Mrs Theresa Beitel,
Spring Valley,
Saskatchewan.

GDB:mw

HQC 55-B-2016
19 Nov 45.

(CMBR-4/e

Case No----------1546

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW.

1. No, Rank and Name: L.607359 Pte BEITEL, A.Z.

2. Unit at date of offence: Midland Regt, Toronto, Ont.

3. Charge: AA Sec 12(1)(a) DESERTION: (Absent from 4 Jan 45 until apprehended in civilian clothes 28 Feb 45. Time absent: 45 days.)

AA Sec 12(1)(a) DESERTION: (When in arrest at #12 DD Regt CA, absented himself 9 Mar 45 until surrendering dressed in civilian clothes 10 Sep 45. Time absent: 6 months.)

Plea: Not guilty both charges.

4. Place and Date of Trial: ~~Armouries, Regina~~, Armouries, Regina -28 Sep 45 (SCM)

5. Finding: Guilty both charges.

6. (a) Sentence: 18 months detention.

(b) Date of Sentence: 28 Sep 45.

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: No 80 M.D.B. in M.D. 12.

(N.B. - Discharged under R.O. 1029 ( ) for wef).

CONDUCT

	Kind of Punishment	Offence	Date	Sentence
(i)	[illegible]	Nil		
(ii)	Court-Martial	Nil		
(iii)	Summary Convictions	1 minor AWL 1 Cond.to the Pred.		

(7) Last Conduct Sheet: Good. Expected date of release: 28 Sep 46

(8) Date of enrolment ~~[illegible]~~ 11 Nov 42 Present Age: 23

12. Remarks (Here note any Petition of Representation other than in Item 10 but if Item 10 has been omitted, so state and know here any mitigating circumstances.)

(a) Item 10 has been omitted.
(b) Statement by accused: Father was classed as enemy alien. Accused when drafted requested postponement as father had been injured. Was refused. Requested Spring leave in 1943 which wasn't granted. Requested Spring leave in 1944 which was also refused. Requested harvest leave in 1944 and this was granted him. Returned from harvest leave in Oct 44. ~~[illegible]~~ " And at Xmas time they wanted us to go O/S , so it was against my cience to go O/S."

Reason for 2nd offence: "I got married in 1943 and the wife was expecting a baby during summer of 1945, so I thought it my duty was to stay back here with her."

13. Recommendations (State by whom made, e.g. CMHQ, DOC, Reviewing Offr., etc.)

Rev Offr: 1: This soldier is one of the 16000 NRMA.
2: Consider in addition that his 2nd absence commenced when in arrest, recommend no remission other than that earned by good conduct.

Signed by

A.B. GOLD, Lieut.

Release on. 27 Mar 46

Date DEC 17 1945

M. A. Stilwell : mj
Secretary
(Court-Martial) Board of Review

HQC 55-B-2016 (JAG/D-6)

17 October, 1945

District Officer Commanding
Military District No 12
REGINA, Sask
Standing

L-307359 - Pte A Z BRIDEL
No 12 D. C Court-Martial

R. 1/B-3054(AJAG)

12 Oct, 5

Receipt is acknowledged of your Standing dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

(R.J. Orde) Brigadier

/jm

Judge Advocate-General.

28

LEZ

IN REPLY PLEASE QUOTE No. R.1-B-3054(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGINA, Sask., 12 Oct, 1945.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

3169
OCT 16 1945
File 55-B-2016
Chgd. to
Referred to JAG

Standing Court-Martial
L.607359 - Pte. A.Z. BEITEL
No. 12 D.D., C.A.

Reference H.Q.C. 55-B-2016 (JAG/D-8) dated 4 October, 1945, forwarding proceedings of the marginally named Standing Court-Martial, pursuant to C.A.R.O. 4565(12).

2. As the proceedings have now served their purpose, they are returned herewith for custody.

(G.A.H. Trudeau), Brigadier,
District Officer Commanding,
M.D. No.12.

Att.

27

NAT. DEF. B. 440
250OM-4-44 (4321)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armoury, Regina, Sask.,

on the 28th day of September, 1945, at 0900 hours,

for the trial of: L.607359 Pte. Albert Zacharian BEITEL,
Number Rank Full Name

No. 12 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major S.L. Waterman, E.D., President Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

PROSECUTOR: Capt. P.W. McMeans, Prosecutor Courts-Martial, M.D. 12.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Capt. H. Goodfellow, No. 12 District Depot, C.A. (See documents marked "G" and "H" attached.)
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, L.607359 Pte. Albert Zacharian BEITEL, No. 12 District Depot, C.A., is guilty of both the charges.

SENTENCE: The Court sentence the accused, L.607359 Pte. Albert Zacharian BEITEL, No. 12 District Depot, C.A., to undergo detention for eighteen months and to be put under stoppages of pay until he has made good the sum of $9.05 in respect of the cost of apprehension and return to his Unit.

Signed at Regina, Sask., this 28th day of September, 1945.

S.L. Waterman, Major,
President,
Standing Court-Martial.

Extracts entered on the Record of Proceedings in the office of the Judge Advocate General this 2 day of Oct 1945

40053

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to L-25640 SM (A/W.O.I) W.H. Matthews, D.N.S. Sub-Staff, H.D. 12, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~ ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

25

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

"B2" Swarsman
President. SCM.

5

CHARGE SHEET

The accused, L.607359 - Pte. Albert Zacharian BEITEL, No. 12 District Depot, CA. Regina, Saskatchewan, an NRMA soldier of the Canadian Army placed on Active Service is charged with:

FIRST CHARGE: SECTION 12(1)(a) ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

at Toronto, Ontario, at 1200 hours on the 4th of January, 1945 absented himself without leave from 1st Bn. Midland Regt., until apprehended at Bayard District, Saskatchewan, at 0900 hours on the 26th of February, 1945, by the Civil Power, dressed in Civilian Clothes. The cost of apprehension and return to his Unit being $9.05.

SECOND CHARGE: SECTION 12(1)(a) ARMY ACT

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

At Regina, Saskatchewan, at 2359 hours on the 9th of March 1945 when in arrest, absented himself without leave from No.12 District Depot, CA until he voluntarily surrendered himself at Regina, Saskatchewan, at 1100 hours on the 10th of September, 1945 to the Military Power, dressed in Civilian Clothes.

H.E. Murray

(H.E. Murray) Lt.Col.
Officer Commanding,
No. 12 District Depot, CA

26th September, 1945
Regina, Saskatchewan.

21

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor declines to make an opening address.

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

~~being duly sworn, is examined by the Prosecutor.~~

Question

THE PROSECUTOR ADDRESSING THE COURT: Sir, in support of the first charge I produce a certified extract of After Order No. 7, dated 23rd March 1945, of the 1st Battalion Midland Regiment, issued by the Directorate of Records; certified extract of After Order No. 8, dated 24th March 1945, of the 1st Battalion Midland Regiment, issued by the Directorate of Records; certified extract of Part II Order No. 32, dated 2nd February 1945, of the No. 2 District Depot, C.A.; M.F.M. 215; M.F.B. 1481 in the total sum of $2.30 and M.F.B. 1482 in the total sum of $6.75. In support of the second charge, a certified true extract of Guard Report, M.F.B. 237, dated the 10th March 1945; M.F.B. 375 and M.F.M. 216.

The Defending Officer has no objection to any of the documents.

The documents are read and marked Exhibits "I" to "Q" respectively, signed by the President and attached to the proceedings.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement, sir.
(See document marked "R" attached.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer declines to make a closing address.

The Prosecutor declines to make a closing address.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. No, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

21

"G" Swarmore Major President, S.C.M.

13

DDR 6-0-1 (Legal)

Regina, Sask., 28 Sep 1945.

Major S.L. Waterman, E.D.,
President, Courts - Martial,
Headquarters, M.D. No.12,
REGINA, Sask.

L.607359 Pte. BEITEL A.Z.
No.12 District Depot, C.A.
Standing Court - Martial

CAPT. H. GOODFELLOW ..... No.12 District Depot, C.A., has been detailed to act as defending officer at the trial of the marginally named soldier.

for (H.E. Murray) Lieut.Col.
Officer Commanding,
No.12 District Depot, C.A.

20

"H"

Major,
President, Standing Court-Martial.

MINUTE REGARDING DEFENDING OFFICER

QUESTION BY THE PRESIDENT TO THE ACCUSED

Q. There is a letter (document marked "G") before the Court from the Officer Commanding, 12th District Depot, stating that Capt. Goodfellow--the officer on my left (indicating the Defending Officer)--has been detailed to act as your Defending Officer. Is that satisfactory to you?

A: Yes, sir.

Exhibit "1" Swarmon Maj. President. SCM

17

AFTER ORDER

ISSUED BY DIRECTORATE OF RECORDS

SUPPLEMENT TO DAILY ORDER 6 DATED 9 JAN 45

1ST BN MIDLAND REGT. C.A.

N D H Q
Ottawa

No.7
23 Mar.45

Last Part II Order, "After Order" No 6 d/ 22 Mar 45

"B" OTHER RANKS

1. ABSENCE WITHOUT LEAVE

(a) AWL from 1200 hrs 4 Jan 45

L.607359 Pte. BEITEL, A.Z.

(Signed) C.L. Laurin
C.L. LAURIN, COLONEL,
DIRECTOR OF RECORDS,
NDHQ.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of
Regimental PART II ORDERS
kept by the Officer i/c
Records N.D.H.Q.
DATE SEP 20 1945

Prepared by: JCH
and
Checked by:

18

Exhibit "J" Swarmman Precedent Case

19

AFTER ORDER

ISSUED BY DIRECTORATE OF RECORDS

SUPPLEMENT TO DAILY ORDER NO 6 DATED 9 JAN 45

1ST BN MIDLAND REGT., C.A.

N D H Q
Ottawa

No. 8
24 Mar.45

Last Part II Order, "After Order" No 7 d/ 23 Mar 45

"B" OTHER RANKS

1. STRENGTH DECREASE

(a) S.O.S. to No.2 District Depot whilst AWL 5 Jan 45

L 607359 Pte BEITEL, A.Z.

(Signed) R.T.E. Hicks-Lyne
C.L. LAURIN, COLONEL,
DIRECTOR OF RECORDS,
NDHQ.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c Records N.D.H.Q.
DATE SEP 20 1945

Prepared by:
and
Checked By:

17

Exhibit "K" Sworn Major President. Sen

21

DAILY ORDERS PART II

No. 32

BY

Place Toronto, Ont.

LT-COL. G.M. ALEXANDER, M.C. V.D.

Commanding

Date 2 Feb 45

NO. 2 DISTRICT DEPOT, C.A. (A)

(Last Order Issued No. 30 of 1 Feb 45

SECTION "F" - MIDLAND REGIMENT

41. ABSENT WITHOUT LEAVE
(Reinforcement Wing)
(c) Absent without leave from 1200 hrs 4 Jan 45.
Still absent at 1200 hrs 25 Jan 45 (21st day).

L.607359 Pte. BEITEL A.Z.

(Signed) J.J. Eyles Capt.
Adj't..No.2 District Depot, C.A.(A)

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of
Regimental PART II ORDERS
kept by the Officer i/c
Records N.D.H.Q.
DATE SEP 20 1945

Prepared by: JCH
and
Checked by:

16

Exhibit "L" Sworn Witness President KCM

23

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN ROUTINE ORDER 1877, AND IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by [redacted]

Strike out words not applicable

Cst. S. J. LAWTON RCMP
(Name of Peace Officer or Constable)

at Bayard District, Sask., at 9.00 AM
(Place) (Hour)

on the 28th day of February 1945

Strike out words not applicable

and at the time of arrest [redacted] he was [redacted] (dressed in civilian clothes).

Regimental particulars of officer or soldier referred to above.

No. L-607359
Rank L/C
Name Albert Zacharias BEITEL
Unit MID REGT. TORONTO

Description

Age 22 years
Height 5' 11½"
Complexion ruddy
Hair dark brown
Eyes blue
Marks Nil

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

[redacted]

Cst.
L. Patterson 12670
1/C Avonlea Detachment
R.C.M.P.
(or Officer in Charge of Police Station)

(Strike out words not applicable)

M.F.M. 215
50M—2-43 (8516)
H.Q. 1772-39-1935

Exhibit "M" Swarmann - Supt - President Serv.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — Strike out word not applicable — Complete — Full description of soldier being escorted — Strike out phrase not applicable

I, Lieut. R.H. Johnson, (Rank) S. & T.O., D.H.Q. Sub-Staff, M.D.#12 (Name) (Unit) hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort to proceed from Rouleau, Sask. (Place) to Regina, Sask. (Place) ~~and return to~~ (Place) for the purpose of escorting L.607359 (Number) L/Cpl. (Rank) A. Beitel (Name in full) Midland Regiment (Unit) (Attachment, if any) alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

	PARTICULARS	COST
1 Mar 45	M.D. No.12 Transport Warrant No. C 900095, covering -	
	One single second class fare from Rouleau, Sask., to Regina, Sask., for absentee -----	$1.15
1 Mar 45	M.D. No.12 Transport Warrant No. C 900096, covering -	
	One single second class fare from Rouleau, Sask., to Regina, Sask., for escort ------ (L.64679 L/Cpl. Pawlak, L.W.)	$1.15
	TOTAL	$ 2.30

Dated at Regina, Sask. this 1st day of March, A.D. 19 45

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)

Lieut.
S. & T.O., D.H.Q. Sub-Staff, M.D. No. 12 RCASC.

Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(20M—10-42 (6462))
H.Q. 1773-99-1651

15

Exhibit "N" Swarzman
Mafr
President Sim

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ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941.

(INCIDENTAL EXPENSES)

Complete description

Strike out words not applicable

Members of escort

Name and description of soldier escorted

L.64679 L/Cpl. Lewis Walter PAWLAK, Regina Detachment, No.43 (No.) (Rank) Provost Company, C.Pro.C. (Unit) as (escort) XXXXXXXXXXXXX consisting of L.64679 L/Cpl. Lewis Walter PAWLAK, Regina Detachment, No.43 Provost Company, C.Pro.C.

detailed to proceed from Rouleau, Sask. (Place) to Regina, Sask. (Place)

to return L.607359 L/Cpl. BEITEL, A.Z. 1st Bn. Midland Regt.

alleged to be a deserter or absentee without leave, to Regina, Sask. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
EXPENSES INCURRED BY THE R.CMP. 28 February, 1945. Mileage, per Police Auto, Code No.8426 from Avonlea to Bayard District to Avonlea to Rouleau to Avonlea, 90 miles round trip @.07½¢ per mile.	6.75
EXPENSES INCURRED BY NO. 43 PROVOST COMPANY, C.PRO.C. NIL.	
Total	$ 6.75

Dated at Regina, Sask. this 1st day of March, A.D. 1945.

L.64679 L/Cpl. L. W. Pawlak.
Regina Detachment,
No.43 Provost Company, C.Pro.C.

Signature and rank (escort) XXXXXXXXXXXX Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1492
75M—4-44 (4428)
H.Q. 1772 29-1550

Exhibit "O" Accompanies map President. Com

DETAIL					SENTRIES		ARTICLES IN CHARGE OF GUARD																								
Officers	Sergeants	Bombardiers or Corporals	Lance-bombardiers or Lance-corporals	Acting Lance-bombardiers or Acting Lance-corporals	Trumpeters or Buglers	Troopers, Gunners, Privates, etc.	Tables	Forms	Fire Shovels	Hair Brooms	Bulbs, electric	Water Pails	Lotig Scrubbers	Hand Scrubbers	Lanterns	Mops	Coal Tray	Sentry Boxes	Locks and Keys	Pokers	Fenders	Padlocks	Water Cans	Arm Racks	Accoutrements, etc.	Boards of Orders	Handcuffs	Urine Tubs	Inventory Boards	Coal Box	Stretchers	Ladders
							BROKEN OR DAMAGED																								
							By whom						When														Remarks				
Parole																															
Countersign																															

CERTIFICATE

I Relieved ..... at ..... o'clock.
Previously to the old Guard marching off, I inspected the several articles in charge of the Guard, and found them correct according to the above list, the Guard Room clean, and the Board of Orders legible. Immediately after the old Guard marched off, I read the orders to the Guard, and again to the sentries first posted, after they had been relieved, after which I visited the Sentries and found them properly posted and acquainted with their orders, and the Board of Orders hung up in the Sentry Boxes and complete. I inspected all Reliefs both going out and coming in, and found them regular. I also visited the Sentries frequently during my Guard and found them alert and on their posts and correct in their orders. The Guard was under arms at Retreat, Tattoo and Reveille sounding when all were present and sober. I inspected the Kits of the men on Guard and found them .....

Visited by the Field Officer ..... o'clock by Day, and at ..... o'clock by Night

" Captain at ..... o'clock by Day, and at ..... o'clock by Night

" Subaltern at 1015 ..... o'clock by Day, and at 2115 ..... o'clock by Night

Report by Guard Commander of any special occurrences during tour of duty (attached if necessary):—

"I.C.Paton" Sjt. *Commanding Guard*

TIME AND POST ROLL

Regtl. No.	NAME	Corps	Sandfort, Bagotville or Longstey	Post	Time From	Time To	Time From	Time To	Time From	Time To	Time From	Time To	Time From	Time To	Time From	Time To	REMARKS

M. F. B. 257
20M—9-44 (3871)
H.Q. 1772-99-171

Commanding Guard
(OVER)

13

30

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RETURN of Offenders Confined to the Guard Detention Room at No.12 District Depot,CA. Regina, Sask. on 10th March 19 45

No.	Regt. No.	RANK AND NAME	Corps	When Confined	Date of Offence	CHARGE	EVIDENCE	DECISION	REMARKS Here insert particulars of arrest or surrender, the actual time, date and place, by whom arrested or to whom surrendered (name and unit), and whether in uniform or in civilian clothes.
L.607359		L/Cpl Reitel A.Z.	Mid.Regt	2220 hrs 28 Feb/45		A A Sec 15(1)			Absent without leave from 2359 hours,9 March/45

"I.C.Paton" Sjt.

Commanding Guard

(OVER)

CERTIFIED TRUE EXTRACT

(J.M.Policha)Capt. Legal Officer,No.12 D.D.

Officer having ~~charge~~ XXXXX charge of original records,No.12 District Depot,CA

Officer having charge of original Re...

Exhibit "P"
Discussion
President Sec.

RECORD of the Declaration of a Court of Inquiry assembled at Regina, Sask., on the 5 th day of April 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L.607359 Pte. BEITEL, A.Z., No. 12 District Depot, CA

DECLARATION

The Court declare that No. L.607359 Pte. BEITEL, A.Z., No. 12 District Depot, C.A., Regina, Saskatchewan, illegally absented himself without leave from No. 12 District Depot, C.A., at Regina, Sask., at 2359 hrs on the 9 th day of March, 1945, that he is still so absent, and that on the 10 th day of March, 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
No. M.F.C. 800 available.			

Major H.N. McKENZIE, MM ED, No. 12 District Depot, CA. — President

..... Member

Signed at Regina, Saskatchewan, ... Member

this 5 th day of April 1945

Signature of Commanding Officer Lieut-Col. P.A. Cooke, No. 12 District Depot, CA

Certified true copy (J.C. Peters), Capt & Adjt, No. 12 District Depot, C.A. — Adjt of Officer having custody of original record

M.F.B. 375
A.F.B. 115
100M—4-42 (4337)
H.Q. 1773-38-257

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Exhibit "Q" Evidence of President Alex

35

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(~~APPREHENSION~~ BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Lieut. Col. H. E. Murray. D.S.O. E.D. Commanding No. 12 D.D. C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that L.607359 Pte. BEITEL, A.Z.
(Number) (Rank) (Name in full)

of the No. 12 District Depot, C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) L.18565 Sgt.
(Number) (Rank)

ROBERTON, W.H. No. 12 District Depot, C.A.
(Name) (Unit or appointment)

at REGINA, Sask. at 1100
(Place) (Hour)

on the 10th day of September, 19 45

Strike out words not applicable } as a deserter (~~or absentee without leave~~), and that at the time of his arrest he was wearing ~~military (air force) uniform~~ (dressed in civilian clothes).

Dated at Regina, Sask. this 10th day of September, 19 45.

H.E. Murray Lt.-Col.
(Signature, Number, Rank, Unit or appointment)

(H.E. Murray) D.S.O. E.D. Commanding Officer, No. 12 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
106M—11-42 (6900)
H.Q. 1772-39-1936

10

"R" (Sheet 1)

Major,
President, Standing Court-Martial.

STATEMENT BY THE ACCUSED

In the spring of 1942 I tried to buy a .22 rifle and we had to have permits for it--a registered permit to carry firearms. I left the rifle with the Municipality--with our Municipal Secretary, and he said he would see the Royal Canadian Mounted Police the first chance he got so I could get this permit.

Time dragged on so I was going to see one night if I could buy the rifle--and I had already paid for it--or when I could take it for my purpose and he said he had never seen the Mounted Police yet and said he would see them as soon as he could. Time dragged on again, and a few months later we get a letter from the Mounted Police stating that they could charge dad for wanting to buy this rifle as he is classed as an enemy alien. This was in the spring of 1942. So that wasn't very good on my part. Dad did not have no intentions of buying this weapon as he knew he was an enemy alien at that time; but they turned around and accused him of wanting to buy the weapon and I was the man that wanted to buy it.

So then in the fall, in October--around the 20th October--I got my medical. I answered my medical and it was barely three weeks later I received my second call to report for training. That was the 10th November 1942. I reported for duty and signed for the Army, so I thought it was my duty to fulfil this in Canada. I thought I would be willing to take my country here in Canada as being a Canadian.

And I also in this time--from the time I had my medical to the second time I got a call to report--we had an accident with the threshing machine and almost put dad through the machine; and he was laid up for two months--two weeks, sir. So, after that I came to Regina and asked for a postponement. No, sir; I had no luck and was told to report for duty on the 10th November 1942. I did that, sir.

So then I tried to get spring leave for 1943; without any results. It wasn't granted. I tried for harvest leave 1943; and dad was trying everything back home to get leave for me. No, sir; nothing was granted. So in 1944 I tried again in the spring, with the same results. Nothing granted. In 1944 in our unit we stood a good chance of going out harvesting. All we needed was one recommendation letter from the municipality stating we was needed at home. So I got that and went home on harvest leave.

"R" (Sheet 2)

Major,
President, Standing Court-Martial.

I come back on the 24th October 1944 and at Christmas time they wanted us to go overseas; so it was against my conscience to go overseas. That is for the first charge.

The second charge: I got married in 1943 and the wife was expecting a baby during the summer so I thought my duty was to stay back here with her.

And that is all I have to say, sir.

"Y" Guarding Maj. President. Sen

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M.F.B. 355
SFM—9-42 (3992)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name ~~(Regiment or~~ unit)
L.607359	Pte.	Albert Zacharian BEITEL, No.12 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act ~~Air Force Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	AWL	1 times
For		times	Conduct to the Prejudice	2 times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 29 days in military ~~Air Force~~ custody, making a total of 29 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~regimental service~~ enrolment form is ~~attestation paper~~ is 23 Yrs, 5 Months.

6. The date of his ~~commission~~ enrolment specified in his ~~regimental service~~ enrolment form is ~~attestation paper~~ is 11 Nov 42

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to). State any air force decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ..... Air Force~~

7

42

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the [redacted]k of~~
Permanent Force
.....dated....., and in his regiment (or corps), the rank of
unit
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number .....Rank.....
Army
Name .....of.....Regiment
Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28 day of Sept, 1945 (J.M. Policha) Legal Officer, No. 12 District Depot, C.A. A/Capt.,
Officer having charge of original records, No. 12 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

M.F.M. 6

Reg. No. L.607359 Name BEITEL, Albert, Z. Corps C.I.C. Date of enlistment or enrolment 11 Nov 42 Date of Birth 21 Apr 22

Signature O.C. Company, etc. "J.M.Policha" Capt.

Sheet destroyed 11 May 45

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Vernon, B.C.	30May 43			A.W.L. from 0700 30 May 43 to 2125 hrs. 30 May 43(T.T.A. 14 hrs. 25 mins) AA Sec. 15(1)	Documentary	10 Dys C.B.	31 May 43	R.Wild Maj.	Forf. 1 dys pay FR&I 149(1)(a).
Oyster River B.C.	23May 44	L/Cpl		Conduct to the prejudice of good Order and Military discipline. Gave Pte. Nazar A.L. permission to operate a D.N.D. motorcycle when he had no auth. to do so	Sgt. Moan	Admonished	25May44	Lieut.J. Linton	
Vernon, B.C.	24Mar 43			Gave Blood transfusion to K.605409 Pte. WADDEN,(3rd Irish Fus.)					

M.F.M. 6—500M—6-44 (3388)
H.Q. 1772-39-1032

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
TERRACE	22Jan 44	L-Cpl.		Conduct to the prejudice of good order under Sec. 40AA	Documentary	Severe Reprimand	22 Jan45	Major R.W. McMillan	

CERTIFIED TRUE COPY.

(J.M.Policha)A/Capt., Legal Officer,
No. 12 District Depot, CA,
Officer having charge of original records,
No. 12 District Depot, CA.

N.J. Swakman
Major
President SCM

MEDICAL OFFICER'S REPORT

I certify that No. L.607359 Pte. BEITEL A.Z.
of No. 12 District Depot C.A is in a good state of health,
and fit to undergo Trial by Court martial.

W. E. Goodman Capt
R.C.A.M.C. Medical Officer
Att. to No. 12 District Depot, CA

Station Regina, Sask.

Date 28 Sep 45

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

5

PRECIS OF EVIDENCE

IN THE CASE OF

L.607359 Pte. Albert Zacharian BEITEL, No. 12 District Depot, CA, Regina, Saskatchewan.

FIRST CHARGE: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

SECOND CHARGE: WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

To prove the charge, the following evidence is available:

DOCUMENTARY: Certified True Extract Directorate of Records After Order:
(i) No. 7 d/23 Mar 45
(ii) No. 8 d/24 Mar 45

Certified True Extract No. 2 District Depot, CA Part II Order No. 32 d/2 Feb 45.

Certified True Extract M.F.B. 237 d/10 Mar 45.

M.F.B. 215
M.F.B. 1481
M.F.B. 1482
M.F.B. 375
M.F.M. 216

26 September, 1945
Regina, Saskatchewan

(J.M. Policha) A/Capt.
Officer detailed to take the Precis of Evidence, No.12 District Depot, CA

H.Q.C.55-B-2016 (JAG/D-8)
Your R.C.1-D-3084

4 Oct 45

The District Officer Commanding,
Military District No. 18, Regina, Sask.

STANDING COURT-MARTIAL

L.607359 Pte. Albert Zacharian Beitel,
No. 12 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

MO/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q. 55-B-2016
M.D. No.1-B-3054

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. L-807259 Name Albert Zacharian SMITH

Rank Pte. Unit No. 12 D.D. G.A.

Charge (1) AA 12 (1) (a) WOAS DESERTION

(2) AA 12 (1) (a) WOAS DESERTION

Date of Crime 4-1-45 (2) 8-8-45

Date of Arrest (1) 28-2-45 (2) 10-8-45 Charge Signed 20-9-45

Orders for D.C.M.

Place and Date of Trial The Armoury, Regina 18-9-45

Sentence Detention 18 mos. stoppages 18.00

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40053

Date 1-10-45

MEMO Balance of sentence remitted by Conf. Auth. 5-3-46

1.D. 12	No. 12 D.D. G.A.
ABSENT	SMITH
45 days.	Det. 18 mos.
6 mos.	

Albert, Capt
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No. R.C.1-B-3054 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Regina, Sask., 29 Sep 1945.

VIA AIRMAIL

CONFIDENTIAL

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

L.607359 - Pte. Albert Zacharian BEITEL
No. 12 District Depot, C.A.

1. Pursuant to the provisions of paragraph 39 of C.A.R.O. 4566, I enclose herewith proceedings of the Standing Court-Martial held in connection with the marginally named soldier.

S.L. Waterman

(S.L. Waterman), Major,
President, Courts-Martial, M.D. 12.

Encl.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

H.Q.C. 55-B-2017

CONFIDENTIAL

M.F.R. 3078
25M—2-45 (0699)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BISCI, ANTHONY B.635465 GNR.

CONFIDENTIAL
H.Q.C. 55-B-2017

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					If purpose for which referred cannot be expressed on one line, add minute to file and enclose "With Minutes"		
OCT 4 - 1945				JAG	NEW FILE	CR	1-10-45
OCT 13 1945	17 10 45				With Papers C.R. OCT 16 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2017 (JAG/D)

17 October, 1945

District Officer Commanding
Military District No 2
TORONTO, Ontario

Standing

B-635465 - Gnr Anthony BISCI
(RCA) No 2 District Depot, CA
Court-Martial

T-20-B-17591(AJAG)

15th October, 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

(R.J. Orde) Brigadier

/jm

Judge Advocate-General.

IN REPLY PLEASE QUOTE No. T-20-B-17591 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
15th October, 1945.

JUDICIAL ADVOCATE ARMY
CONFIDENTIAL
3212
OCT 16 1945
File C.55-B-2017
Chgd. to
Referred to P.A.S.

CONFIDENTIAL

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-635465 - Gnr. Anthony BISCI,
(RCA) No. 2 District Depot, C.A.

Reference H.Q.C.55-B-2017 (JAG/D-9) dated 3rd October, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. With respect to H.Q. 55-1-41 F.D. 74 (Adm) dated 16th January, 1945, it is advised that there is no administrative action considered necessary.

for (A. E. Potts)
Major-General

D.O.C. M.D. 2.

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 15th day of September, 19 45 at 1015 hours,

for the trial of: B.635465, Gnr. Anthony BISCI
Number Rank Full Name

(RCA) No. 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major W. P. McClemont, E.D. (A&SH) H.Q., M.D.2.

PROSECUTOR: Capt. J. L. Downey, H.Q., M.D.2.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ DEFENDING OFFICER: Capt. W. J. Hines (RCASC) No. 2 DD, CA.
Rank Full Name Unit Attachment, if any

FINDING: Not guilty of desertion, but guilty of absence without leave.

SENTENCE: To undergo detention for 90 days.

Signed at Toronto, Ontario, this 15th day of September, 194 5.

W. P. McClemont (Major)
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as Proceedings of Court Martial in the office of the Judge Advocate General this 3 day of Oct 1946
10054

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~If so, do you object to an interpreter ?~~

Answer:

Question to the accused. Do you object to M.36367, SM R. Gostick, No. 2 Det., CMSC CA HQ MD2, acting as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or ~~Court-Martial ?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the ~~fourth~~ charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2 65
W. M. McClement
Pres SCM Major

CHARGE SHEET

The accused, No. B-635465, Gunner Anthony BISCI, (RCA) No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

CHARGE
Sec. 12 (1) (a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:

- in that he -

at Petawawa Military Camp, Ontario, on the 7th day of February, 1945, absented himself from the A-1, C.A.T.C. C.A., at 0600 hours, on said 7th day of February, 1945, until he voluntarily surrendered himself to the Military Authorities at Hamilton, Ontario, at 1005 hours, on the 28th day of August, 1945, dressed in military uniform.

R. H. Holmes Colonel.
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario.
10th September, 1945.

W.M.C.

C

Proceedings on Plea of Not Guilty

Question to accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B.58203, L/Cpl. R. N. HEWER, H.W.E., No. 2 DD, CA,

being duly sworn, is examined by the Prosecutor.

Question

Q Cpl. Hewer, what is your position in No. 2 District Depot?

A Sir, I am an N.C.O. of the Home War Establishment.

Q Do you know the accused?

A I recognize Gnr. Bisci, sir.

Q Have you any information to give the Court regarding the accused?

A Yes, sir. I produce M.F.B. 375, being a certified true copy of the record of the declaration of a court of inquiry assembled at Petawawa Military Camp, Ont., on the 1st day of March, 1945, signed by Lieut. S. S. Bard, officer having custody of original record.

Q To whom does that document refer?

A To the accused, sir.

THE PROSECUTOR: Will you hand that to the President, please.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No, sir.

(Certified true copy of MFB 375 sgnd at Petawawa Military Camp, Ont., 1 Mar 45, is marked Exhibit "F," sgnd by the Pres., pertinent portions read, and att'd to the proceedings.)

Q Carry on, please.

A I further produce M.F.B. 216, being certificate of surrender, signed by Cpl. T. Temple, N.C.O. in charge, No. 2 Detachment, No. 31 Company, Canadian Provost Corps, Hamilton, Ont.

Q To whom does that document refer?

A To the accused, sir.

THE PROSECUTOR: Will you present it to the Court, please.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No, sir.

(MFM 216 dated at Hamilton, Ont., 28 Aug 45, is marked Exhibit "G," sgnd by the Pres., read, and att'd to the proceedings.)

Q Have you anything else, Corporal?

A I have no further evidence, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:--

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I would like to make an unsworn statement, sir.

(See following page.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer and Prosecutor make closing addresses which are recorded but not transcribed.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

THE ACCUSED:

Well, sir, during my basic training and advanced training, I tried twice for compassionate leave on account of my father and mother were pretty heavily debted, and mother was pretty ill as a result of two car accidents she was in, and I was refused twice for compassionate leave. So, when I went home on furlough I found out things were really bad, and I decided to stay and help with them. I was all set to come back two months ago, and my kid brother got rheumatic fever, so I had to stay and help them out.

THE PRESIDENT: Anything else?

THE ACCUSED: No, sir.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer.

THE DEFENDING OFFICER: Sir, before awarding sentence to Pte. Bisci, I think there are several things which should be taken into consideration: Firstly, his clean record up to the time he went absent without leave; secondly, the cirdumstances at home which are difficult, and his eagerness to help out in every way he can at home and enable the family to get along; and, thirdly, his age -- he is a very youthful soldier, and I think that this one offence, while ill advised, was made with good intention, and a long sentence would not serve a good purpose.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

F.
W. W. McClement. Pay. S.C.M.
Major

VOL.6. PAGE 328.

RECORD of the Declaration of a Court of Inquiry assembled at PETAWAWA MILITARY CAMP ONT

on the 1 st day of MARCH 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-635465 Gnr Bisci A.
"G" T/S BTY A-1, C.A.T.C. C.A.

DECLARATION

The Court declare that No. B-635465 (Regt'l No.) GUNNER (Rank)
BISCI A. (Full Name) "G" T/S BTY A-1, C.A.T.C. C.A. (Unit)
illegally absented himself without leave FROM A-1, C.A.T.C. C.A.
at PET.MIL.CAMP (Place) at 0600 hours on the 7 th day of FEBRUARY 45
that he is still so absent, and that on the 1 st day of March 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	
SECTION CLO DIV "A"			
ANKLET WEB	1		74
GLOVE WOOLLEN	1		66
GREATCOAT DRAB	1	15	54
CAP WINTER MELTON	1	1	06
SECTION CLO DIV "B"			
BATTLE BLOUSES	1	5	50
" DRESS TROUSERS	1	6	55
BOOTS ANKLE PRS	1	5	82
CAP FIELD SERVICE	1		70
DRAWERS WOOLLEN	2	2	80
JACKET SWEATER	1	1	37
SOCKS PRS	1		46
SHIRT WOOLLEN	1	1	20
" C/K	2	3	08
		$46.48	

ARTICLES		VALUE	
BROUGHT FORWARD		$46.48	
SECTION CLO DIV "C"			
BARCE PRS	1		28
BRASS CLEANING	1		04
RAZORS SAFETY SETS	1		42
TOWELS HAND	1		31
SECTION "A-1"			
BRACE LEFT	1		35
HAVERSACK	1	2	29
SECTION CLOTHING "D"			
BADGE CAP R.C.A.	1		06
TOTAL.....		$50.23	
25% Deduction R.O. 3464...		$12.56	
		$ 37.67	

"S.S.Bard" Lieut R.C.A. (Name) A-1, C.A.T.C. (Unit) C.A. President

(Name) (Rank) (Unit) Member

Signed at PET.MIL.CAMP.ONT.

(Place) (Rank) (Unit) Member

this 1 st day of MARCH 19 45

"R.P.Drummond ED" Lt/Colonel R.C.A.
A/COMMANDANT A-1, C.A.T.C. C.A.
(Name) (Rank) (Unit)

Signature of Commanding Officer

PETAWAWA MILITARY CAMP ONTARIO.
(Place)

Certified true copy of ORIGINAL ENTRY IN MB. 88.

(Rank) (Unit)
(Signature of Officer having custody of original record)

(S.S.Bard). Lt.RCA.
Officer i/c Records. A-1.CATC.
Petwa. Mil Camp, Ont.

M.F.B. 375
A.F.B. 115
(50M—10-42 (6530)
H.Q. 1772-39-257

BROUGHT FORWARD		$37.67
SECTION "B-1"		
COVER BREECH	1	35
SLING	1	20
BOTTLE OIL	1	07
PULLTHROUGH	1	25
GRAND TOTAL.....		$38.54

"C"

W. K. McClement Major Pres. SCM

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, B-97745 (Number) Cpl. (Rank) T. Temple (Name), No. 2 Det., 31 Coy., C.PRO.C., HAMILTON, Ontario. (Unit)

hereby certify that B-635465 (Number) Gnr. (Rank) BISCI, Anthony (Name in full)

of the G. RTY., A-1 C.A.T.C., PETAWAWA, Ontario. (Unit and attachment, if any)

Strike out words not applicable } ~~apprehended by~~ T.T. (surrendered to) B26827 (Number) L/Cpl. (Rank) LOWES, C. No. 2 Det.,

31 Coy., C.PRO.C., HAMILTON, Ontario. (Name) (Unit or appointment)

at H.Q. No. 2 Det., C.A.T.S. HAMILTON, Ontario. (Place) at 1005 Hrs. (Hour)

on the 28 day of August 1945.

Strike out words not applicable } as a ~~certain~~ T.T. absentee without leave), and that at the time of his ~~arrest~~ Surrender T.T. he was wearing military ~~service~~ T.T. uniform ~~dressed in civilian clothes~~ T.T.

Dated at HAMILTON, Ontario, this 28 day of August 1945.

T. Temple

B-97745 T. Temple, Cpl.
(Signature, Number, Rank, Unit or appointment)

NCO I/C No. 2 Det., 31 Coy., C.PRO.C., HAMILTON, Ontario.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

21

W. P. McClement
Pres & M Maj

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment (or unit)

B-535465, Gunner Anthony BISCI, (RCA) No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges for Nil days in civil custody, and 13 10 18 days in military custody, making a total of 13 10 18 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his paper enrolment is 19 years, 9 months.

6. The date of his paper enrolment specified in his paper enrolment is 15th August, 1944.

22

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Air Force Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~19th~~ ~~18th~~ ~~14th~~ 15th day of September, 1945.

Lt. A/Adj.
No. 2 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B.123)
750M—12-42 (7537)
H.Q. 1773-39-1052

No. B-635465 Name BISCI, Anthony

Sqn., Battery, or Company } Corps RCA

No. and date of last drunk } Period not reckoning towards freedom from extra fine

Date of enlistment } 15 Aug 44 G.C. Badges }

Sheet No. One

Signature O.C. Company, etc. } T.Parker Major

Tradesmen's Rates of Pay }

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY

Lt. & A/Adj.
No. 2 District Depot, C.A.

(P.T.O.)

W.S. McClemont
Pte S.C.M. Major

MEDICAL OFFICER'S REPORT

I certify that No. B-635465 Gnr. Anthony BISCI

of No.2 D.D. is in a good state of health,

and is fit to undergo Trial by Court martial.

A Stubbings Capt. Capt.
R.C.A.M.C.
Medical Officer
attached to No.2 District Depot, CA(A)
Toronto, Ontario.

Station Exhibition Barracks,
No.2 District Depot, CA(A)

Date 15th Sept. 1945

W.P. McClement
Major

M. F. B. 246
15M—10-42 (6503)
H.Q. 1772-39-480

H.Q.C.55-B-2017 (JAG/D-9)
Your T.20-B-17592

3 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B.6354.5 Gnr. Anthony Bisci,
(RCA) No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

RMM/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q.C.55-2-2017
M.D. 2-20-2-17591

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. B-658455 Name JAMESON, J.T.

Rank Gnr. Unit (R.C.A.) R.A.A.D.

Charge 6A 12 (1) (a) Rules Disciplinary

Date of Crime 7-8-45

Date of Arrest 28-8-45 Charge Signed 10-9-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks, 13-9-45

Sentence Detention 90 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40054

Date 2-10-45

MEMO Guilty / 1

M.D. 2

ARMNT

6 2/3 mos.

(RCA) No. 2 D.D. C.A.

SENTENCE

Det. 90 days.

10M-8-45(M-189)

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. T-20-B-14591 (AIA-5)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
27th September, 1945

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.R.-B-2017

STANDING COURT-MARTIAL

B-635465, Gnr. Anthony BISCI,
(RCA) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
Permanent President
Standing Courts-Martial.

NAT. DEF. B. 449
2500M-4-44-4321
H.Q. 1772-39-767

H.Q.C.55-E-2018

CONFIDENTIAL

M.F.B. 2078
25M—2-45 (6669)
H.Q. 301-1-55

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOUCHER, JOSEPH AURELE REAL B.634192

PTE.

CONFIDENTIAL
H.Q.C. 55-B-2018

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 4 - 1945				JAG	NEW FILE	CR	1-10-45
OCT 21 1945	20-10-45	PA	JB		Both Papers C.W. OCT 19 1945		
					NOV 13 1945		
				Adm 3	Recommendation	WAS	DEC 18 1945
				JAG	request return		
JAN 15 1946				JMR	to make the return to Adm 3		14-1-46
JAN 16 1946	16-1-46	PA		Adm3	Returned	RMA	15 Jan 46

NOTICE

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3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. T-20-B-16392(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
21st December, 1945. 17122

c.55-B-2018
admin 19-12
admin 45

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Remission of Sentence
B-634192, Pte. Joseph Aurele Real BOUCHER,
No. 2 District Depot, C.A.

Retel RANKS 1557 RESTRICTED dated 20th December, 1945.

2. Receipt of the abovementioned teletype is hereby acknowledged.

3. The District Officer Commanding, M.D. 2 did on the 28th November 1945 remit the balance of the sentence of Detention awarded the above-named soldier such remission to be effective the 13th day of December 1945.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

RECEIVED
DEC 26 1945
A.D.M.I.N.

PA on file
55-B-2018

NAT. DEF. B. 449

DEPARTMENT OF NATIONAL DEFENCE
ARMY

T-20-B-16392 (AJAG)

Headquarters, Military District No.2,
14, Jay Street, Toronto, Ontario,

17th December, 1945.

The Secretary,
Department of National Defence,
Ottawa, Ontario.

162322
DEC 20 1945
Reference

CMBR 15/1
JAG

Re:Legion of Honour
B-634192 - Pte. Joseph Aurele Real BOUCHER
No. 2 District Depot, C.A.

Reference H.Q.C. 55-B-2018 (JAG/D-6)
dated 20th October, 1945.

1. Herewith completed Appendix "B" to
C.A.R.O. 1211.

2. Also enclose herewith [illegible]
with respect to the captioned-named, for [illegible]
please.

noted
15 Jan 46
AMJ
CMBR-5

[illegible]
(A. E. Potts)
Major-General
D.J.A.G. M.D. 2.

AR

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY C.S.M.

FILE NO. H.Q.C. 55-B-2018
AUTH. File No. T-20-B-16392

B-634192 Rank Private No. 2 District Depot, C.A. Joseph Aurele Real BOUCHER

Date of Trial 14th September, 1945
(*) Desertion - Sec. 22(1)(a)
Sentence Detention - 6 months Stoppages
Date of Confirmation 14th September, 1945 (annreh)
Confirmation - (a) Authority S.C.
(b) Date

I, the undersigned, being the officer empowered to confirm, in the exercise of my authority under Section 57(2) of the Army Act (xxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B.634192 - Pte. BOUCHER, Joseph Aurele Real
(Number, Rank, Name in full)

(RCAMC) No. 2 District Depot, C.A.
(Unit, Attachment (if any))

Sentenced to Six months detention; stoppages of $45.37

on 14th day of September 1945 at Stanley Bks., Toronto, Ontario

being served at No. 61 Detention Barracks, Brampton, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years of age; Enlisted 18 Feb 44

Medical grade or category YOB 22 P U L H E M S 1 1 1 1 1 1 1 - 17 Sep 45.

STATE OF TRAINING

The documents show that, B.634192 - Pte. BOUCHER, J.A., has no record of any training what-so-ever.

recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority

M.F.M. 288
(Army Form A-3104)
15M—5-43 (441)
H.Q. 1772-89-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

..... (and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
28 Nov 45	Remit effective 13 December 1945	Arthur E Potts A. E. POTTS, Maj.-Gen. D.O.C. M.D.No. 2	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE Sec.12(1)(a) Army Act.	B.634192 - Pte. BOUCHER,J.A.R., an N.R.M.A., soldier of the C.A.,placed on Active Service,is charged with:-WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:-in that he:-absented himself from the Vancouver Military Hospital, R.C.A.M.C., Vancouver, B.C. at 2359 hrs 14 Nov 44 until apprehended by Military Police at Val Gagne,Ont., at 0400 hrs 26 Aug 45 dressed in civilian clothes, cost of apprehension and returnto No. 2 District Depot, C.A., being $45.37. Capt.Adj., Signature of Officer making entry (J.J.Eyles) No. 2 District Depot, C.A.	14 Nov 44	14 Sep 45.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
	Consideration for remission or suspension of sentence is not recommended in this case. On completion of sentence to be made available for routine duties.	Commanding Officer

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
18 Oct 45	Review 13th December, 1945.	Arthur E Potts A. E. POTTS, Maj.-Gen. D.O.C. M.D.No. 2

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: HQC 55-D-1275
55-G-1477
55-A-501
55-B-2018
55-B-872
55-P-1215

PLACE

NATS 55-M-2000
55-U-37
55-D-1273
55-L-1640
55-G-1113
55-O-287
55-F-588
55-G-1164

Adm 3(a)

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 2
TORONTO ONT

OTTAWA ONTARIO 20 DEC 45

RANKS 1557 RESTD

REVIEW REF AG 0267 D/18 OCT 45 (.) CMBR RECOMMENDS IMMEDIATE RELEASE OF THE FOLLOWING SUS (.) B 630338 PTE DUPUIS M O B628319 PTE CRITELLI L D B625835 PTE ADAMS H J B634192 PTE BOUCHER J A R B45740 PTE BROWN H W B631871 PTE PETRUZZELLA C B90422 PTE McMAIN H A B634263 PTE UGUCIONI A A B628585 PTE DONOFRIO J B136839 PTE LAFRAMBOISE J L C35949 PTE GIBSON L E B630438 PTE OLAR A B625471 GR FALCIONI J B126288 PTE GUILLEMETTE U A J (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPIES TO: CMBR

JAG

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED Major-General Adjutant-General		IMMEDIATE	1116

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER — CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

MGO 55- B-2018 (CMBR-7)/ MGT
28 Nov 45
Case No [illegible]

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1 No. Rank and Name: B-634192 Pte BOUCHER J.A.R. (NDMA soldier)

2 Unit at date of offence Vancouver Military Hospital RCAMC CA

3 Charge: AA 12(1)(a) - DESERTION : At Vancouver, B.C., on 14 Nov 44, absenting himself from 2359 hours until apprehended by Military authorities at Val Gagne, Ont., at 0400 hours on 26 Aug 45 dressed in civilian clothes. (Total absence 9 months 12 days).

Plea Not guilty

4 Place and Date of Trial: Stanley Barracks, Toronto, Ont.
(~~XXXXX~~ ~~XXXXX~~ (SCM) 14 Sep 45

5 Finding Guilty

6 (a) Sentence 6 months detention

(b) Date of Sentence: 14 Sep 45

7 Date of Confirmation:

8 Date of Promulgation:

9 Being served at: 61 MDB in MD 2

(N.B. - Discharged under RO 1029( ) for
Ref)

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CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil convictions	Assault	16 Nov 44	$10.00 fine and costs.
(ii) Courts-Martial	NIL		
(iii) Summary Convictions	NIL		

(b) After conviction Fair. Expected date of release - 13 Jan 46.

(c) Date of enrolment xxxxxxxxxx 18 Feb 44 Present Age: 23

---

12. Remarks: (Give note any petition or representation other than in Item 10 hereof. Note if accused is a political prisoner, and also note any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) The Defending Officer addressed the Court as follows:- The accused is a French Canadian who worked at logging operations and was placed for work in the Medical Corps, for which he had no talent. This caused him to be mentally worried and accounts for his absence.

13. Recommendations: (State by whom made, e.g., CMHQ, DOJ, Reviewing Officer, etc.)

Reviewing Officer: Recommend remittance after serving one-half of sentence.

Reviewed by A.D. Crowe
(A.D. CROWE) Capt

---

14. Recommendation of the Board:

Immediate Release

Date DEC 1 8 1945

R.A. Stilwell Maj.
Secretary
Courts-Martial Board of Review

22

H.Q.C. 55-B-2018 (JAG/D-6)

District Officer Commanding,
Military District No. 2
Toronto Ontario.

20 October, 1945.

Standing
B-834192 - Pte. Joseph Aurele Real Boucher
(RCAMC) No. 2 District Depot, C.A.
.....Court-Martial

T-20-B-16392 (AJAG)

Receipt is acknowledged of your dated 18th Oct 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

LM:jb

(R.J. Orde), Brigadier,

Judge Advocate-General.

20

IN REPLY PLEASE QUOTE No. T-20-B-16392 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
18th October, 1945.

CONFIDENTIAL

3887
OCT 19 1945
File C55-B-2018
Chkd. to
Referred to RAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-634192 - Pte. Joseph Aurele Real BOUCHER,
(RCAMC) No. 2 District Depot, C.A.

Reference H.Q.C.55-B-2018 (JAG/D-9) dated 3rd October, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O.4567(7)(C)(e).

3. With respect to H.Q. 55-1-41 F.D. 74 (Adm) dated 16th January, 1945, it is advised that there is no administrative action considered necessary.

for (A. E. Potts)
Major-General
D.O.C. M.D. 2.

19

NAT. DEF. B. 440
250M-4-44 (4321)
H.Q. 1772-39-757

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 14th day of September, 19 45 at 1030 hours,

for the trial of: B.634192, Pte. Joseph Aurele Real BOUCHER,
Number Rank Full Name

Unit Attachment, if any

PRESIDENT: Major W. P. McClemont, E.D. (A&SH) H.Q., M.D.2.

PROSECUTOR: Capt. J. L. Downey, H.Q., M.D.2.
Rank Full Name Unit Attachment, if any

~~CONVENED~~ DEFENDING OFFICER: Capt. A. W. Burnard (RCASC) No. 2 DD, CA.
Rank Full Name Unit Attachment, if any

FINDING: Guilty.

SENTENCE: To undergo detention for six months, and to be put under stoppages of pay until he has made good the sum of $45.37 in respect of the cost of apprehension and return to his corps.

16

Signed at Toronto, Ont., this 14th day of September, 1945.

W P McClemont Major
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. (772-39-2298)

Entry entered as No. 40055 in the Court Martial kept in the Office of the Judge Advocate General this 3 day of Oct 1945

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer:

Question to the accused. Do you object to M.36367, SM R. Gostick, No. 2 Det., CMSC CA HQ MD2, acting as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or by the Court-Martial ?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2
W. McClement
Pres B.C.R. Major

CHARGE SHEET

CHARGE
Sec. 12 (1) (a)
Army Act.

The accused, No. B-634192, Private Joseph Aurele Real BOUCHER, (RCAMC) No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:
- in that he-
at Vancouver B.C. on the 14th day of November, 1944, absented himself from the Vancouver Military Hospital, R.C.A.M.C., at 2359 hours, on said 14th day of November, 1944, until he was apprehended by the Military Authorities at Val Gagne, Ontario, at 0400 hours, on the 26th day of August, 1945, dressed in civilian clothes, costs of apprehension and return to No. 2 District Depot, C.A., being Forty-Five Dollars and Thirty-Seven Cents, ($45.37)

R.H. Roberts Colonel.
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario.
11th September, 1945.

W.D.Mc

16

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B.58203, L/Cpl. R. N. HEWER, H.W.E., No. 2 D.D., C.A., being duly sworn, is examined by the Prosecutor.

Question

Q Cpl. Hewer, what is your position in No. 2 District Depot?

A Sir, I am an N.C.O. of the Home War Establishment.

Q Do you know the accused?

A I recognize Pte. Boucher, sir.

Q Have you any information to give the Court regarding the accused?

A Yes, sir. I produce a certified true copy of the record of the declaration of a court of inquiry assembled at Vancouver, B.C., on the 26th day of January, 1945, signed by Lt.-Col. F. E. Coy, officer having custody of original record.

Q To whom does that document refer?

A To the accused, sir.

THE PROSECUTOR: Will you hand that to the President of the Court, please.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No, sir.

((MFB 375 is marked Exhibit "F," sgnd by the Pres., pertinent portions read, and att'd to proceedings.)

THE WITNESS: (cont'd) I further produce M.F.M. 216, being certificate of apprehension signed by Cpl. Smith, P. A., N.C.O. in charge, No. 2 Detachment, No. 32 Company, Canadian Provost Corps, Timmins, Ont.

15

Q To whom does that document refer?

A To the accused, sir.

THE PROSECUTOR: Hand that to the President of the Court, please.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No, sir.

(MFM 216 dated at Timmins, Ont., 26 Aug 45, is marked Exhibit "G," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: (cont'd) I further produce M.F.B. 1481, being certificate of transportation in the amount of $36.72, signed by Lieut. W. A. Cain, officer issuing transport warrants.

Q To whom does that document refer?

A To the accused, sir.

THE PROSECUTOR: Hand that to the President of the Court, please.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No, sir.

(MFB 1481 dated at Toronto, Ont., 28 Aug 45, is marked Exhibit "H," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: (cont'd) I further produce M.F.B. 1482, being certificate of incidental expenses in the amount of $8.62, signed by Sgt. Erskine, G., escort.

Q To whom does that document refer?

A The accused, sir.

THE PROSECUTOR: Hand it to the President.

THE PRESIDENT: (To Def. Off.) Have you any objection?

THE DEFENDING OFFICER: No, sir.

(MFB 1482 dated at Toronto, 31 Aug 45, is marked Exhibit "I," sgnd by the Pres., read, and att'd to the proceedings.)

Q Anything else, Cpl. Hewer?

A I have no further evidence, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

W.P.M.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. No statement at all, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Prosecutor and Defending Officer make closing addresses which are recorded but not transcribed.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President,,are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer.

THE DEFENDING OFFICER: Sir, the accused is single. He enrolled the 18th February, '44. His PULHEMS is 1 across the board. He is a French-Canadian who worked at logging operations, and was placed for work in the Medical Corps for which he had no talent. This caused the accused to be mentally worried, and accounts for his absence. And the second factor is that he has a clear M.F.M. 6 as far as the Army is concerned, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"F"
W. McClement
Pres. S.C.M. Major

17

RECORD of the Declaration of a Court of Inquiry assembled at Vancouver, B.C.

on the 26th day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 634192 Pte BOUCHER, J.A.R., Vancouver Military Hospital, R.C.A.M.C.

DECLARATION

The Court declare that No. B 634192 (Regt'l No.) Private (Rank)

BOUCHER, Joseph Aurele Real (Full Name) Vancouver Military Hospital, R.C.A.M.C. (Unit)

illegally absented himself without leave from Vancouver Military Hospital, R.C.A.M.C.

at Vancouver, B.C. (Place) at 2359 hours on the Fourteenth day of November, 1944

that he is still so absent, and that on the 26th day of January, 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Anklets Web	Pr 2	1	48	Trousers Battle Dress	pr 2	13	10
Blouses Battle Dress	2	13	00	Vests Woollen	2	2	40
Boots Ankle	Pr 2	11	64	Badges Cap RCAMC	1		06
Caps Field Service	2	1	48	Bags Kit Universal	1	1	27
Drawers Cellular (Cotton)	Shorts			Braces	pr 1		28
	Pr 2		84	Brass Cleaning	1		04
Drawers Woollen	Pr 2	2	80	Brush Button Brass	1		11
Gloves Knitted Drab	Pr 1		66	Brush Clothes	1		17
Greatcoat Drab	1	15	54	Brush Hair	1		39
Jacket Sweater	1	1	37	Brush Shaving	1		42
Overalls Combination	Pr 1	2	52	Brush Shoes Polishing	1		21
Shoes Canvas	Pr 1	2	29	Brush Tooth	1		09
Socks	Pr 4	1	84	Cont'd (over)			

"H.N.C. Begg" (Name) Major (Rank) #11 Coy RCAMC (Unit) President

"A.L. Hunt" (Name) Major (Rank) #11 Coy RCAMC (Unit) Member

Signed at Vancouver, B.C.

this 26th day of January 1945.

"P.S. Rutherford" (Name) Capt (Rank) #11 Coy RCAMC (Unit) Member

Signature of Commanding Officer "F.E. Coy" (Name) Lt-Col. (Rank) O.C. Vancouver Military Hospital, R.C.A.M.C.

Certified true copy (Name) Lt-Col. (Rank) O.C. Vancouver Military Hospital, R.C.A.M.C.
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-257

10

Articles		Value
Cap Comforter	1	.41
Comb Hair	1	.04
Dressing, Field	2	.22
Fork, N.S. Table	1	.08
Holdall	1	.22
Housewife, Complete	1	.35
Knife, Table	1	.18
Razor, Safety, (with blade)	1	.42
Spoons, N.S. Table	1	.08
Towel, Hand	2	.62
Attachments, Brace	2	.32
Bags Ration	1	.04
Belts Waist	1	.67
Bottles Water	1	.62
Brace W.E. Right	1	.33
Left	1	.35
Carriers Waterbottle	1	.37
Covers Mess Tin	1	.08
Haversack	1	2.29
Helmet Steel	1	5.66
Pack	1	2.26
Pouches Basic	2	2.06
Straps Shoulder Left	1	.31
Straps Haversack Right	1	.31
Straps Web Supporting	2	.28
Tins, Mess P.P.	1	.57
Respirator A/G Comp. with Haversack	1	5.97
Outfits, A/D	1	.03
Eyeshields A/G Pk of 6	1	.68
Sheet Ground	1	2.38
Belts Waist Leather Brown or Web 1¾"	1	.25
Buttons G.S. Large	4	.03
Buttons G.S. Small	4	.03
Caps Winter Melton Cloth	1	1.05
Coat Waterproof	1	6.91
Helmet Sun	1	1.76

Articles		Value
Jackets Khaki Drill	1	3.42
Jackets Serge Drab O.C.	1	10.80
Mitts Pullover Leather	pr 1	.44
Muffler Khaki	1	.93
Necktie Black	1	.1[illegible]
Pins Collar Safety	1	.06
Puttees	pr 1	.97
Rubbers	pr 1	.62
Shirts Khaki Cotton	3	4.62
Shirts Under Cotton	2	.86
Shoes Leather Black	pr 1	4.84
Socks Black	pr 2	.56
Trousers Khaki Drill	pr 1	1.80
Trousers Khaki Drill Short	pr 3	3.93
Trousers Serge Drab N.P.	pr 1	4.33
Boots Dressing, Tins	1	.05
Bootlaces	pr 1	.03
Blacking, Tins	1	.05
Total		$ 150.73
Charged at 75% full value		$ 113.05

"G"

W. McClement
Pres S.C.M. Major

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY ~~XXXX

M.F.B. 1481
115M—10-43 (2296)
P[redacted]1772-39-1851

"H"
W. McClement
Pres & C.M. Major

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. (Rank) W.A. Cain, (Name) RCASC, (Unit) Issuing Officer for DS&TO, M.D.#2

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from TORONTO, (Place) Ontario. to TIMMINS, (Place) Ontario.

and return to TORONTO, (Place) Ontario. for the purpose of escorting

Full description of soldier being escorted — B.634192 (Number) Pte. (Rank) BOUCHER, V.A. (Name in full)

Vancouver Mil. Hospital (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	TRANSPORTATION	
	ESCORT: C.41862 Sgt. Erskine, G., #2 D.D.	
	One single first-class fare, Toronto to Timmins, Ontario. 12.18	
	TAX:15% 1.85	
	One single standard lower berth Toronto to Timmins, Ontario. 3.50	
	TAX:15% .55	
	$18.08	$18.08
	One single second class fare, Timmins to Toronto. (TAX:15%	8.12
		1.20
	ACCUSED	
	One single second class fare, Timmins to Toronto.	8.12
	TAX:15%	1.20
	MEALS:(3 @ 75¢ and 2 @ $1.00)	
	Covered by M.D.#2 Transport Warrant No. D.162629 dated August 28, 1945.	
	TOTAL $36.72	$ $36.72

Dated at TORONTO, Ontario. this 28th day of August A.D. 19 45.

W.A. Cain
Lieut. RCASC,
Issuing Officer for DS&TO, M.D.#2
Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)
Strike out description not applicable

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed *by* the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

"I"
W. McClement Maj.
Pers Sec

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete description — I, C.41862 (No.) Sgt. (Rank) ERSKINE G. (Name) #2 D. D. (Unit),

Strike out words not applicable — as (escort) ~~(commander of escort)~~ consisting of myself

Members of escort

detailed to proceed from Toronto, Ont. (Place) to Timmins, Ont. (Place)

Name and description of soldier escorted — to return B.634192 Pte. BOUCHER, V. A. Vancouver Mil. Hospital.

alleged to be a deserter or absentee without leave, to No.2 District Depot, C.A. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
1 meal for escort (breakfast) 29-8-45	.75
1 " " " (supper) 29-8-45	1.00
1 " " accused (supper) 29-8-45	1.00
1 " " " (breakfast) 30-8-45	.75
1 " " escort (breakfast) 30-8-45	.75
Covered by M.D.#2 Transport Warrant No. D.162629 dated 28 Aug. 45	
Maintenance for accused while held in Timmins Jail.	
11 meals @ 40¢ per meal	4.40
As per attached receipted bill.	
Total	$ 8.65

Dated at Toronto this 31st day of August A.D. 1945.

G. Erskine Sgt.
Signature and rank
~~(commander of escort)~~ (escort)
Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1482
75M—3-43 (8826)
H.Q. 1772-59-1836

7

Y

W. McClement
Prost C. Major

M.F.B. 355
75M—5-43 (145)
H.Q. 1773-39-630
A.F.B. 298

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-534192	Private	Joseph Aurele Real BOUCHER	(RCAMC) No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~[illegible]~~ Conduct sheets ~~[illegible]~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~[illegible]~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

~~[illegible]~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~[illegible]~~ Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges for 4 days in civil custody, and ~~17~~ 15 days in military custody, making a total of ~~18~~ 19 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ enrolment ~~[illegible]~~ paper is 23 years, 3 months.

6. The date of his ~~[illegible]~~ enrolment ~~[illegible]~~ specified in his ~~[illegible]~~ enrolment ~~[illegible]~~ paper is 18th February, 1944.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

6

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of N/A dated N/A, and in his regiment (or corps) the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion

In the rank of N/A years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B634192 Rank Private

Name Joseph Aurele Real BOUCHER, of (RCAMC) No. 2 District Depot, C.A. Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Magistrate's Court.	Iroquois Falls Ontario. 16 November, 1944	Assault.	$10.00 fine & costs.	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of September, 1945. Lt. & A/Adj

No. 2 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B.122)
750M—12-42 (7537)
H.Q. 1773-39-1032

No. B-634192 Name BOUCHER Joseph Aurele Real. | Sqn., Battery, or Company | No. and date of last drunk | Corps RDAFC | Period not reckoning towards freedom from extra fine | Date of enlistment 18 Feb 44 | G.C. Badges | Sheet No. One | Signature O.C. Company, etc. F.Coy Lt. Col. | Tradesmen's Rates of Pay | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Iroquois Falls Ont.		Pte.		Fined $10.00 and costs of $10.50 for "Assault occasioning bodily harm" (by Civil Power)		Fine Paid	16 Nov 44	Civil Power	"F.Coy Lt. Col."
~~Accused, having been fined, illegally absent from 2359 hours 14 Nov 44 by a Cte. of Inq. held 21 Nov 44 at Iroquois Falls, Ont. 14 Dec. 44 Deficiencies of kit to the value of $113.06~~									

CERTIFIED TRUE COPY.....Capt. & Adj.
No. 2 District Depot, C.A.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. B.634192 Pte. Joseph Aurele Real BOUCHER of No. 2 D.D. is in a good state of health, and is fit to undergo Trial by Court martial.

R. Stubbings Capt.
Medical Officer RCAMC
Att. to No. 2 District Depot CA(A)
Toronto, Ont.

Station Exhibition Barracks, Toronto, Ont.

Date 14 Sep 45

4

W. P. McClement
Pro. S.T.M. Major

M. F. B. 246
35M—10-42 (6566)
H.Q. 1772-30-480

H.Q.C.55-B-2018 (JAG/D-9)
Your T. 20-B-16392

3 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B.6[illegible]192 Pte. Joseph A. R.Boucher,
(RC MC) No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

Judge Advocate-General.

R.M.A/MDM

8M-7-45(M-188)

THIS COPY FOR: H.Q. S. 55-B-2018
M.D. A-20-B-16392

NFMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. B-234192 Name Joseph Aurele Real BAUCHER

Rank Pte. Unit (RCAMC) No. 2 D.D. C...

Charge AA 12 (1) (a) WAR DESERTION.....

Date of Crime 14-11-44

Date of Arrest 28-8-45 Charge Signed 11-9-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks, 14-9-45

Sentence Detention 9 mos. Stoppages 45.37

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40055

Date 2-10-45

MEMO Balance of sentence remitted by Conf. Auth. (3-12-45)

M.D. 2	(RCAMC) No. 2 D.D. C...
ABSENT	SENTENCE
9½ mos.	Det. 6 mos.

2

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. T-20-B-16392 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
25th September 1945

CONFIDENTIAL.

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-B-2018

STANDING COURT-MARTIAL

B-634192, Pte. Joseph Aurele Real BOUCHER,
(RCAMC) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
Permanent President
Standing Courts-Martial.

40055

NAT. DEF. B. 640
2500M - 4 - 44 - 43201
H.Q. 1772-39-767

H.Q.C.55-B-2019 CONFIDENTIAL

M.F.H. 5178

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT FIELD GENERAL COURT-MARTIAL

BRYSON, TERRANCE BILLIE ELSTONE

E.136746 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2019

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and write "See Minute")		
OCT 14 1945	12/10/45	PA	jm	ADMIN	NEW FILE	CR	2-10-45
				JAG	To material	wal	5/10/45
				CMBR	For Information C.R. OCT 25 1945		
NOV 3 - 1945	3.1.46		wal	Adm 3	Recommendation	gas	NOV 1 1945
JAN 4 1946	3.3.46				Cancelled PER B.F. JAN 3 1946		
FEB 1 5 1946	10-2-46			3	Admin		
MAR 1 - 1946	28/2/46	PA		GSB	Admin	WithPapersC.R. JAN 19 1946	
						WithPapersC.R. FEB 28 1946	
MAR 4 - 1946	4/3/46	PA	jm	JAG		WithPapersC.R. MAR 2 1946	
APR 2 - 1946	1/4/46	T-A	SJS	Admin		WithPapersC.R. MAR 28 1946	
				JRB		APR 11 1946	
AUG 10 1946	18/46			Water	405 B-11643	gas	MAY 14 1946

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

C A N A D I A N A R M Y

T-20-B-10098 (AJAG)
T-36-10-282 Vol.4

The Secretary,
DND (Army).

HQ MD 2
25 Mar 46.

CENTRAL REGISTRY
COMD. D.O.C.
MAR 14 1946
File C-55-B-2019
Admin

Remission of Sentence - SUS ex UK
B-136746, Pte. BRYSON, T.B.E. - 1029(8)

1 Reference CB 1-4-8-2 (SCA) dated 26 Feb 46.

2 Herewith completed Appendix "G" to C.A.R.O. 5913 and A.F.A. 3104 for the m/n SUS discharged under the provision of C.A.R.O. 1029(8) on 5 Mar 46, with remission of sentence granted, effective date of discharge.

(P.J. Flynn)Maj
for D.O.C. MD 2

PJF/JB

COPY TO : Commander, (For Information)
Camp Borden.

noted
GCR

T-20-B-100

BRYSON, T.B.E.

B-136746 Pte.
No. 2 District Depot, C.A. (formerly 4 Cdn Armd Bde Coy RCASC)

22 Mar 45 (FGCM)
AWL (AA Sec. 15(1)

21 months' Detention

22 Mar 45 JRR Gough Brig. Comd. A Tps Area First Cdn Army

XXXX

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B136746 Pte Bryson, T.B.E. Unit 4 Cdn Armd Bde Coy RCASC

Sentenced to Twenty one Months Detention on 22 Mar 45

Age on, and date of, enlistment 19 yrs 9 Jan 43 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

(For action on review, see paragraph VI.)

Superior Military Authority (4).

SECOND TRIAL.

For details of offences, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*28503) Wt.19340/415 38,000 1/44 A.& E.W.Ltd. Gp.698 Forms/A.3104/2

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57 of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION-RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	for (Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 14 AUG 1945	
28 Feb 46	Remit effective date of discharge.	(C.C. Mann) Brigadier D.O.C. M.D. 2.	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA SEC 15 (1) ABSENTING HIMSELF WITHOUT LEAVE in that he, at No.1 Cdn Detn & FP Bks, Cdn Pro Corps, absented himself without leave whilst in lawful custody, undergoing detention, from 2100 hrs 7 Nov 44 until 1430 hrs 8 Jan 45, when he was apprehended by the Corps of Military Police at Prevent. Total Time Absent 61 days 15 hrs 30 mins. Signature of Officer making entry.	7 Nov 44	22 Mar 45 Lt Col COMMANDANT (APM)
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
10 APR 45	I recommend that this sentence be served and normally reviewed from time to time. Attached is Neuropsychiatrist report which further recommends that this soldier be reboarded to M4 S5 and returned to Canada for discharge upon completion of sentence.	Lt Col COMMANDANT (APM)

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
3 May 45	I do not recommend any remission other than that ordinarily granted whilst undergoing detention.	(JRR Gough) Brig Comd A Tps Area First Cdn Army

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B-136746 Pte. Bryson, T.B.E. Unit 4 Cdn Armd Bde Coy RCASC

Sentenced to 18 Month's Detention on 30 Sept 44.

Age on, and date of enlistment 17 yrs. 9 mths. 4 days. 9 Jan 1943 Term of service ~~1 yr. 8 mths. 21 days.~~ Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

14

(20619) Wt.46072/276 100,000 1/42 A.& E.W.Ltd. 625.698 Forms A.3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	B7 1 Feb 45	[illegible] Officer I/c Canadian Section G.H.Q. 1 Echn. 14 NOV 1944	
	B7 for remission on apprehension or surrender of the Soldier	E Lui Burns Maj Gen Officer I/c Canadian Section G.H.Q. 1 Echn. 8 FEB 1945	
	NO REMISSION - RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	for (Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 14 AUG 1945	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
First charge Sec 15(1) Army Act — Absenting himself without leave, in that he, in the field, did absent himself from 2200 hrs 21 Sept 1944 to 1700 hrs 25 Sept 1944.	21 Sep 44	28 Sep 44
Second Charge Sec 40 Army Act — Conduct to the prejudice of good order and military discipline, in that he, in the field at approx 2030 hrs 22 Sept 1944 did improperly and without authority use Canadian Military Vehicle CM4647515 for his private purposes.	22 Sep 44	28 Sep 44
Signature of Officer making entry.		
VIII.—Second Trial.		
Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
2 Oct 44	Recommend Pte Bryson T. B. E serve full sentence of 18 months detention	J C Ward Major

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
2 Oct 44	Concur with remarks of Coy Comdr in IX above	[illegible] Lt Col. C.R.C.A.S.C. 4 Cdn. Armd. Div.

15

C O P Y

II

The m/n SUS escaped the lawful custody of this camp at 2100 hrs 7 Nov 44.

(Sgd) C.O. Rochon, Capt.,
DAPM (Comd),
No. 1 F.P. Camp & Detn Bks
CDN PRO C

10 Nov 44.

16

IN REPLY PLEASE QUOTE No. T-20-B-10098 (AJAG)
T-36-10-282 Vol.3(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

H.Q. M.D. 2,
1 Mar 46.

CAMP BORDEN
10179
MAR 2 1946
File 6-55-B-2019
Check to
Reply by

O.C.
2 D.D.

Remission of Sentence - SUS ex U.K.
B-136746, Pte. BRYSON, T.B.E. - 1029(8)

Reference CB 1-4-8-2 (SCA) dated 26 Feb 46.

2. The T/Commander, Camp Borden, advised that the m/n SUS was despatched to 2 D.D. for discharge under C.A.R.O. 1029(8).

3. The D.O.C. M.D. 2 has remitted the balance of the sentence now being served by the said m/n SUS effective the date of discharge.

4. Enclosed herewith Appendix "G" to C.A.R.O. 5913 effecting Remission.

5. May Promulgation of the remission be made to the said SUS effective the date of discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

P.J. Flynn
(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
D.N.D. (Army).

The Commander, (FOR INFORMATION)
CAMP BORDEN,

ART. DEF. B. 440
250BM - 4-44 (4329)
H.Q. (772-38-767)

CB 1-4-8-2 (SCA)
and Personal File

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

Headquarters, Camp Borden,
Camp Borden, Ontario,
26 Feb 46,

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

Officer Commanding,
No. 2 District Depot,
TORONTO, Ontario.

Officer Commanding,
No. 86 R.C.A.,
CAMP BORDEN, Ontario.

Army
FEB 1946
Referred to Admin

B 136476 Pte. BRYSON, T.E. CARC 1029 (8)
SUS - AWOL at No. 86 R.C.A.

The m/n soldier under sentence by Court Martial O/S and presently serving his sentence in No. 86 R.C.A. has been recommended for remission of the rest of his sentence on 1 Mar 46 by C.M.B.R. under Authority HQC 55-B-2019 Adm 3(b) 2 dated 13 Feb 46.

2. The Commander, Camp Borden is prepared to remit the balance of sentence in this case and the DOC I.D. 2 is requested to carry out this remission. In this connection Report on Conduct and AFA 3104 are enclosed for this soldier. May these forms be forwarded to NDHQ when they have served their purpose.

3. This SUS is therefore being despatched to his home District Depot in accordance with NDHQ letter HQC 9039-1-1(Adm3) dated 31 Oct 45 (R&S3A) for discharge as indicated after his name.

4. This SUS will be despatched to No. 2 D.D. Custody Barracks on 28 Feb 46 by vehicle supplied by A 19 C.A.S.C.T.C. Escort will be supplied by No. 48 Coy. C. Pro. C.

Maj Sergeant Major
(F.F. Bingham)
Colonel
T/Commander, Camp Borden.

Copies to: The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Officer Commanding,
A 19 C.A.S.C. T.C.,
CAMP BORDEN, Ontario.

noted
JCR

Officer Commanding,
No. 48 C. Pro. C.,
CAMP BORDEN, Ontario.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

CONFIDENTIAL
OTTAWA, Ontario

District Officer Commanding,
Military District No 2,
TORONTO Ontario

DSC
~~55-B-8019~~

13 Feb 46

Commander,
Camp Borden,
CAMP BORDEN, Ontario

~~B 136/46 Ptp HUTTON~~, T B E
305 - MED APPLIED

1. Further this HQ letter HQS 8336-6 Vol 5 dated 2 Feb 46 and 12 Feb 46.

2. Herewith is AFA 3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CANR 1039(8).

3. It will be noted that this [illegible] was sentenced [illegible] - [illegible] court martial [illegible]

4. The sentence awarded has been reviewed by CMHQ who have recommended for remission on 1 Mar 46.

5. Ack.

(E.C. Weeks)
Major-General
Adjutant-General.

HQC 55-8-2019 (CMBR-4) /N
30 Oct 45.
Case No.------0564------

REVIEW OF PROCEEDINGS
BY
CENTRAL MARTIAL BOARD OF REVIEW

1. No, Rank and Name: E-[illegible] Pte. [illegible], [illegible] . . .

2. Unit at Date of Offence: [illegible]4 CABC RCASC att [illegible]. 1 [illegible] [illegible] Can. Pro C. CAO (Holland)

3. Charge: [illegible] Sec 15 (1) AWL
(Whilst in Lawful Custody - [illegible] serving a sentence [illegible] mos. & [illegible] [illegible] [illegible]

Case No----------

CONDUCT

11. (a) Prior to Conviction: Bad (Includes the FGCM already referred to which he is serving concurrently with present sentence. 1 civil offence of theft on 15 Jun 43 - 1 yr Jail.)

Date of enlistment: 4 May 42
re-enlisted: 9 Jan 43
~~Date of enrolment:~~ Age: 20

(b) After conviction: Good
(Has so far earned full remission for good conduct. If he continues to do so should be released on 21 May 46.)

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(1) "This soldier was medically reboarded 8 Aug 45 and placed in Pulhems Grades M4, S5 on a diagnosis of "mental Dullness" and "psychopathic personality, anti-social". He has been certified as fit to undergo detention.

The Neuropsychiatrist and SPO who have examined this soldier state that he is an individual of not above borderline intelligence who is extremely immature in his judgement; that he has a history of restlessness and lack of self-discipline dating back to adolescence; and that he appears to have no idea of the seriousness of his offences, and looks upon them as having been merely good clean fun."

(2) CMHQ - Has been in trouble almost continually since enlistment and has consequently given little effective service to army.

(3) Statement of Accused ; "I thing my first sentence was too severe. I was getting no mail from home. I was fed up. Everything seemed to be going against me."

(4) Defence in Mitigation- Asks Courts to consider youth of accused. Only major offence (presumably referring to previous FGCM) was attempt to get up to Front Line to fight. Charge of theft was intended as a prank in that he and 4 others borrowed a car and were caught before they returned it.

13. Recommendations: (State by whom, made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

CMHQ - Serve concurrent sentence in full and be discharged under [illegible] for misconduct.

Rev. Offr: - [illegible] military detention barracks may have corrective value. Therefore remission [illegible] than [illegible] by good conduct is recommended.

A.B. Gold

Reviewed by----------
A.B.Gold, Capt.

---

14. Recommendation of the Board:
For remission on 1 Mar 46
or as soon as may be after the return of the SUS to Canada, whichever is the later.

NOV 1 1945
Date----------19---------

N. A. Stitwell Maj
Secretary
Courts-Martial Board of Review

Noted
JGS

23

Quote No. HQC. 55-B-2019

DEPARTMENT OF NATIONAL DEFENCE (JAG/D)
- Army -

OTTAWA, Canada
12 October, 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
B-133746, Pte BRYSON, THE

1. Receipt is acknowledged of your 10/Bryson, THE/1 dated 14 Sep 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

E.L.M.
for (R.J. Orde), Brigadier
Judge Advocate General.

/jm

22

THIS COPY FOR: H.QC. 55-B-2019
M.D. 10/Bryson TRE/1

STANDING

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

GS

No. B-136746 Name BRYSON, Terrance Billie Elstone

Rank Pte Unit 4 CABC RCASC att No. 1 CD & FP Bks

Charge AA 15 (1) AWL

Date of Crime 7-11-44

Date of Arrest 8-1-45 Charge Signed 19-3-45

Orders for D.C.M. By Ord Brig Comd A Tps Area FCA

Place and Date of Trial In the field 22-3-45

Sentence Det 21 mos

Date of Confirmation 31-3-45

Date of Promulgation 10-4-45

Entered in Records of J.A.G. as No. 4250

Date 6-10-45

MEMO

Reviewed at CMHQ

21

for Judge Advocate-General

10M-8-45(M-189)

AIR MAIL

Quote No. 10/Bryson, TBE/1

BOMBER CONFIDENTIAL

CANADIAN MILITARY HEADQUARTERS

LONDON 14 Sep 45.

C.55-B-2019

The Secretary,
Department of National Defence,
OTTAWA, Canada.

B-136746 Pte Bryson, T.B.E.

1. The m/n soldier is now serving concurrent sentences of 18 months detention and 21 months detention awarded by FGCsM 28 Sep 44 and 22 Mar 45. The first sentence was for an absence without leave of 4 days (AA Sec 15(1)) and improperly using a W.D. vehicle (AA Sec 40); the second sentence was for an absence without leave while undergoing detention from which he was apprehended after 61 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving these concurrent sentences and the earliest date on which he should be released if he continues to do so, is 21 May 46.

3. This soldier enlisted 4 May 42 at Toronto, Ont., and he was discharged as being under age on 4 Jan 43. He re-enlisted 9 Jan 43 at Toronto, Ont., and he is now 20 years of age. Since his second enlistment he has been found guilty of 5 offences under AA Sec 15(1) and of 2 offences under AA Sec 40. He has had no previous FGCM. He has however had 1 civil conviction, on 15 Jun 43, when he was convicted of theft and sentenced to a term of 1 year in the reformatory at Guelph, Ont.

4. This soldier was medically reboarded 8 Aug 45 and placed in Pulhems Grades M4, S5 on a diagnosis of "mental dullness" and "psychopathic personality, anti-social". He has been certified as fit to undergo detention.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he is an individual of not above borderline intelligence who is extremely immature in his judgement; that he has a history of restlessness and lack of self-discipline dating back to adolescence; and that he appears to have no idea of the seriousness of his offences, and looks upon them as having been merely good clean fun.

6. From this soldier's record it is apparent that he has been in trouble almost continually since enlistment and has consequently given little effective service to the army. It is consequently considered that he should be required to serve his present concurrent sentences in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier must have realized that his consistent misconduct might lead to his discharge and he may have had that end in view.

7. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 22 Mar 45, together with original A.F.A3104 in respect thereof and original A.F.A3104 in respect of the FGCM held 28 Sep 44 on both of which this direction has been endorsed.

for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters.

Enc. 3

Copy to OIC Records.

4634
4250

1/39B CMHQ 1000.77
40, F & S, 9310 (8147)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Serial: B136746 Pte Terrance Billie Elstone, BRYSON

1st
2nd
3rd
4th
5th
6th

At present under detention: 18 MOS. DETENTION to 30 SEPT 44

Time in confinement: 0 days at 0

Sentence Awarded (by Court):

To undergo detention for 21 months

22 Mar 45

Date awarded

PART II. MINUTE WHERE CONFIRMATION RESERVED

Date: Sgd: Command:

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

Date: Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN.

Accused: Date: Signature, A. Offr:

B136746
Pte Terrance Billie E. Bryson 10/4/45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, 5G-113.

RECEIVED 15 MAY 1945 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

4388

Convened by Order of Brigadier JRR Gough Comd A Tp Area dated 19 Mar 45
First Cdn Army

ACCUSED.

Number: B136746 Rank: Pte Present Br: Appmt, A Br: A Appmt: Full Christian Names: Terrance Billie Elstone Surname: BRYSON Unit: 4th Arm'd Bde Coy R CASC

PROCEEDINGS REVIEWED

ATT. 1 CDN DET & FP BANKS

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Field: Holland 22 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, Judge Advocate, Witnesses, Interpreter and Other under-mentioned persons withdrew and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR INSTRUCTIONS WILL BE REDUCED AND NOT USED OR APPLICABLE AND NOTHING ADDED BY WAY OF ADVICE.)

A2. The President and Members of the Court are sworn. Order and Charge Sheet read to the Accused (1). The Court is closed for a period of deliberation. Objections to Jurisdiction and Challenge are not made.

A3. Decision as to objections: The accused is informed that the Court has decided that it has jurisdiction to try the accused and that the objections are not allowed. At 1045 hrs the Court is opened.

A4. The President informs the Court that the accused has elected to be tried by court-martial composed as hereinbefore stated (1).

A5. Plea to charge: The accused pleads to the charge: Guilty (1).

A6. Evidence of Identity: Witnesses: Lt Col Holland, Lt Col Smith, Capt Eagle, Capt Cast, Lieut Smith, Lieut Nash, Lieut Brown.

A7. The President, Members, Judge Advocate, Witnesses, Interpreter and Other under-mentioned persons withdrew and the Court is closed.

A8. Decision on Plea: The Court is opened. The accused is informed that the Court has found the plea of guilty to be proper and legal and has recorded a finding of guilty accordingly.

A9. The President, Members, Judge Advocate, Witnesses, Interpreter and Other under-mentioned persons withdrew and the Court is closed.

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. The accused [illegible] guilty to one or more charges laid on the alternative [illegible] (RP 37). [illegible] charge [illegible] (RP 38). [illegible] charge [illegible] (RP 39). [illegible] (RP 40). [illegible] (RP 41). [illegible] (RP 42). [illegible] (RP 43). [illegible] (RP 44). [illegible] (RP 45). [illegible] (RP 46). [illegible] (RP 47). [illegible] (RP 48). [illegible] (RP 49). [illegible] (RP 50). [illegible] (RP 51). [illegible] (RP 52). [illegible] (RP 53). [illegible] (RP 54). [illegible] (RP 55). [illegible]

2. The procedure in each charge sheet (RP 62) [illegible] shall be noted [illegible] on the respective [illegible] as follows:

I. If [illegible] GUILTY [illegible]

II. If [illegible] NOT GUILTY [illegible]

III. If [illegible] GUILTY [illegible] NOT GUILTY [illegible]

3. [illegible] President to proceed [illegible] (RP 101). [illegible] (RP 52). [illegible] (RP 53). [illegible] (RP 92). [illegible] (RP 52). [illegible] (RP 75, 76, 86). [illegible] (Summary of Evidence at Trial [illegible] RP 75, 76, 86). [illegible] (RP 94). [illegible]

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA [illegible] complies with [illegible] B1 [illegible] accused the nature of the charge [illegible] of the charge sheet [illegible] that he is guilty [illegible] sentence [illegible] and make an address [illegible] call witnesses as to his character and [illegible] (1)

(1. RP 35(1)-(2). 2. MML p 54 para 47.)

B2. President to accused. The Court will now [illegible] any statement you wish to make in mitigation [illegible] charge. (1). If it appears from your statement that [illegible] stand the effect of the plea of Guilty to which [illegible] the witnesses for the Prosecution should be examined [illegible] make a statement you will not be sworn or affirmed [illegible] in evidence against you. [illegible] will be given an opportunity later to prove your statement [illegible] (1)

President to accused. Do you wish to make a statement [illegible] (1). Ans: Yes - Sir.

(1. RP 37(1). 2. RP 37(1) fn 4. 3. RP 37(1) fn 3 para 3; MML p 54 para 47. 4. See para E2 of Record Form E. 5. Statement [illegible] recorded per Notes.)

B3. The Court considers the accused's statement [illegible] The Court decides [illegible] to advise accused to change his [illegible] plea of Guilty to Not Guilty on [illegible] the charge. ~~The accused [illegible] and he [illegible] Part I of the Schedule is amended accordingly.~~ ~~[illegible] plea on~~ (1)

(1. Court [illegible] and [illegible] per the statement [illegible] (2. [illegible] whole or part not used.)

B4. On the charge to which the plea [illegible] is now not guilty [illegible] President proceeds [illegible] Guilty [illegible] Schedule. (1)

(1. RP 37(1). 2. [illegible] plea is a plea changed, see RP 37(1) fn 4 Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A [illegible] the President.

B6. [illegible]

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the [illegible] obtained by using paras D1 to D8 inclusive of Record Form D on p 2 before proceeding to Form C2. (1)

(1. RP 37(3)-(5).)

C2. The charges on which accused pleaded GUILTY are read to him again and the trial is continued by using paras B1 to B4 of Record Form B above.

(1. [illegible] B5 [illegible] parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure to the trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans: (1)

(1. Yes. See RP 39(A) for procedure. Statement of evidence if given, is recorded per Notes.)

D2. The Prosecutor makes an opening address (1).

(1. RP 38(B) 6064 (B) 90 91 2. 3. Recorded address per Notes, subject to RP 75(C).)

D3. Witnesses for the Prosecution is taken. (1)

(1. RP 38(B) 4. KR Con 122. Recorded evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution [illegible] closed. The Defending Offr rises to state that the evidence for the Prosecution does not [illegible] charges (1). The Court [illegible] (2). The President [illegible] submission [illegible] (3). [illegible] Not Guilty on [illegible] (4). [illegible] will [illegible] that the accused is not guilty and Not Guilty on [illegible]

(1. [illegible] 2. Argument on both sides [illegible] recorded. 3. RP 44 [illegible] See WW [illegible] 4. [illegible] Decision per Notes. If accused indulged [illegible] 5. RP 44 [illegible] 6. [illegible] defence and the Court should not stop his defence [illegible]

D5. President to accused. You will now proceed with your defence (1). You may if you wish, give evidence [illegible] (2). [illegible] will be subject to cross-examination (3). [illegible] without being sworn or affirmed will be subject to the Court's comments in arriving at a verdict (4). [illegible] (5). [illegible] whether you give evidence or make a statement or do [illegible]

President to accused. Do you wish to give evidence yourself, or do a witness make a statement, or do neither? Ans: [illegible]

Do you intend to call witnesses on your behalf? Ans: [illegible]

Are there witnesses to be called? Ans: [illegible]

(1. RP 41. 2. RP 41(5), see 90(2). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Conclusion of the inquiry recorded in Form D6 [illegible] procedure for the defence is followed (1) [illegible] (2). [illegible] Evidence for accused as to his character [illegible] (3). [illegible] See RP 41 (4) and fn 1. [illegible] the further opportunity in para E1 [illegible] given before sentencing. See RP 41 (4) and fn 1. [illegible] summing up by the JA (under RP 42, 103(e)) [illegible] address, statement, evidence and summing up [illegible]

(1. RP 41 (1). 2. [illegible] 3. [illegible] 4. [illegible] 5. [illegible] 6. [illegible] 7. [illegible] 8. [illegible] 9. [illegible] 10. [illegible] 11. [illegible] 12. [illegible] 13. [illegible] 14. [illegible] 15. [illegible] 16. [illegible] 17. [illegible] 18. [illegible] 19. [illegible] 20. [illegible] 21. [illegible]

CHARGE SHEET

The accused B 136746 Pte Terrance Billie Elstone BRYSON, 4 Cdn Armd Bde Coy RCASC, att No 1 Cdn Detn & FP Bks, Cdn Pro C., a soldier of the Cdn Army Overseas, on active service, is charged with:

First charge
Sec 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he,
at No 1 Cdn Detn & FP Bks, Cdn Pro C., absented himself without leave whilst in lawful custody, undergoing detantion, from 2100 hrs 7 Nov 1944 until 1430 hrs 8 Jan 45, when he was apprehended by the Corps of Military Police at FREVENT.

Total time absent - 61 days 15 hrs 30 mins.

Lt Col
Commandant (APM)
No 1 Cdn Detn & FP Bks
Cdn Pro C

Field
15 Mar 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(JRR Gough) Brig
Comd A Tps Area
First Cdn Army

In the field
19 Mar 45

13

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his command or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law by immediate comd of troops on active service, subject to RP 103 (1) and restrictions imposed by appropriate authy, AA 49, 50; RP 104, 107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see NM, Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly, see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmts, A rank or A appmts, if any, see AA (82, 183); Ins, KR Can 308, 328, 330.)

ACCUSED.

Number	A Permt R	A Appmt A B	A Appmt	Surname	Christian Name	Surname	Unit
B,136740	Pte		Pte	Terrance Billie Elstone		BRI SCN	4 Cdn Armd Bde Coy RCASC att No 1 Cdn Detn & FP Bks Cdn Pro C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, ~~have~~ has committed the offence set forth in the charge sheet attached and on (date) 19 Mar 45 signed by me ~~or to be allotted by staff officer~~, "to be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is impracticable that such offence should be tried by an ordinary General Court-Martial ~~and that it is inexpedient to delay the trial for reference to a superior officer~~ (Offr)

(Delete part in brackets when not required for compliance with RP 28 (2))

3. I hereby convene a Field General Court Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint an Officer to act as the Judge Advocate, for the reasons given attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate Major the Offr mentioned hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major J.B. ASLAND
(Rank) (Must be named. RP 106.) 2 Cdn Inf Tps Wksp RCEME (Unit.)

MEMBERS.

Capt or Lieut to be detailed by OC 2 Cdn Eng Bgrt Wksp RCE

Capt or Lieut to be detailed by OC 1st Cdn A Tpt Coy RCASC
(Rank) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in HOLLAND
(Country.) (Signed personally. RP 105 (2).) Brigadier (Rank.)

Date 19 Mar 45 (JRR Gough)
Commanding A Tps Area, First Cdn Army
Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFAIB) (In lieu of AFAB) 40 P & S 1697 4031. (See overleaf for oaths and notes for use on trial.)

01 Mar 45

[illegible] Capt

Evidence in the case of B 32746 Pte Kipson J B E

A9 Plea — Guilty

B2 Charge not read on Summary of Evidence

Charge sheet state of charge read

Summary of Evidence state of charge read

Court calls upon the accused to give evidence in the first place

Accused elects not to give evidence on the present charge

Court informs the accused of his rights

Court explains

Prosecutor produces signed summary of Evidence showing date of absence as [illegible] Prisoners record card indicates also show date of absence [illegible]

Court returns summary of Evidence to prosecution for execution

Court informs [illegible] of prosecution that summary of Evidence will be executed [illegible]

Accused makes statement

[illegible]

B3 [illegible]

B5 [illegible]

E3 [illegible]

Exhibit 'A'

SUMMARY OF EVIDENCE in the Case of
B 136746 Pte Terrance Billie Elstone
BRYSON, 4 Cdn Armd Bde Coy RCASC att
No 1 Cdn Detn & FP Bks Cdn Pro C

Charge
AA Sec 15 (1) - AWL - Whilst in lawful custody.

The Commandant directs that the evidence be taken on oath:

First Witness for the Prosecution

K 53131 S/Sgt GRAY A A No 1 Cdn Detn & FP Bks Cdn Pro C having been duly sworn states:

"On the 7 Nov 1944 I was night orderly sergeant of No 1 Cdn Detn & FP Bks. At 2100 hrs I made a check of the SUS quarters. Pte Bryson was not in his quarters. I made a complete search of the camp area but Pte Bryson could not be found. I reported his absence to the Orderly Room and to the RSM.

I produce certificate of apprehension signed by Capt J Potts, OC No 76 Coy CMP (TC). This document is marked exhibit "B" and is attached to this Summary.

I produce statement of evidence purporting to be signed by Pte R L Jefferies of No 76 Coy CMP (TC) d/ 8 Jan 45, corroborated by Pte Risley-Hutt. This document is marked exhibit "C" and is attached to the Summary.

The above exhibits are read to the accused.

The accused declines to cross examine the witness.

(K 53131 S/Sgt Gray A A)

The accused was cautioned as follows:
"Do you wish to make any statement or to give evidence under oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

After the above caution the accused declined to give evidence or to make a statement.

9

SUMMARY of EVIDENCE in the case of B 136746 Pte BRYSON T B E

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

_____ Capt
Officer detailed to take this Summary of Evidence.

Field
15 Mar 45

Exhibit "B"

CHARGE

Army Form B 252
(See King's Regulations)

ROYAL CANADIAN ARMY SERVICE CORPS Regiment
Battery, Squadron, Troop or Company

CHARGE against No. B/130746 Rank PTE

Name BRYSON T.B.E.

Place FREVENT Date of Offence 3/JAN/45.

OFFENCE

Parker Capt.
D.A.P.M. H.Q. 6 L of C.

Names of Witnesses:— [illegible] PTE [illegible] R.C.S.R.L. No. COY. HT (T)
B/112044 PTE RIDLEY-HUTT. T. No. COY. L.T.P. (T.C.)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

3 3 44 G H Q P P 200M

P.T.O.

Statement of **EVIDENCE** in the case of
B/136746 PTE. BRYSON. T.B.E.
81. COY R.C.A.S.C.

Sir,

At DOULLENS on the 8/JAN/45 I received instructions to proceed to the scene of an accident at VACQUERIE-LE-BOUCQ M.R. 5/0800 driving there I was informed that the soldiers involved in the accident had been taken to the GENDARMERIE NATIONALE at FREVENT. I proceeded there where I saw the M/M soldier who was wearing the chevrons of a L/CPL. I asked him to produce his M.B.M.I. he was unable to do so, but produced a CANADIAN ARMY IDENTITY CARD from which I obtained his particulars, which gave his rank as PRIVATE. I then asked him if he was an ABSENTEE, and he replied "yes" He also stated that he was driving the CIVILIAN vehicle at the time of the accident. I placed him under close arrest and conducted him to my SECTION H.Q. for further questioning and later conducted him to the TOWN GUARD ROOM AMIENS, where I handed him over to N.C.O. i/c. GUARD.

FIELD
8/JAN/45

N° 517656 R.S. Jefferson. Pte.
76. COY. C.M.P. (T.C)

REMARKS

Sir,

I have read over and corroborate the above statement

FIELD
8/JAN/45

519004 A/Pte Bailey-Hutt Pte
76 COY. C.M.P. (T.C)

Exhibit 'C'

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT, SECTION 163 (1) (d).

I certify that No B.136746 Rank Pte. Name BRYSON, T.B.E.

of R. C.A.S.C. (Unit), was arrested at ~~[illegible]~~ MRX/0600 FREVENT

(place) at 1430 hours on 8 Jan 45 (date) He was dressed in Uniform

~~Plain Clothes~~

Date 8 Jan 45

Signature [illegible]

Capt.

(Rank).

(Appointment).

OC 76 Company, CMP (TC).

6

Exhibit 'D'

Army Form B 196 (War)

STATEMENT AS TO [illegible]

For use at Trials by [illegible] or [illegible] as the case may be

Number	Rank	Name	[illegible]
B 136746	Pte	BRYSON T B E - 4 Cdn Armd Bde	Coy RCASC att No 1 Cdn Detn and FP Bks Cdn Pro C

1. The following is a [illegible] in the Field Conduct Sheet of the [illegible] convictions by a court martial [illegible] exclusive of [illegible]:

For AA Sec 15 (1) 3 times

For AA Sec 18(4) 1 times

For [illegible] times

For [illegible] times

Date of first entry in [illegible] 15 Jun 43

Date of last entry in Field [illegible] 30 Sep 44

2. Previous convictions [illegible] 18 mths detn

[illegible] 30th September 1944

4. The accused has been [illegible] for nil days [illegible] nil days in hospital [illegible] nil days were spent in hospital.

5. The present age of the accused 19 yrs - ~~337~~ 343 days

6. The date of his enlistment for [illegible] service is: 9 Jan 43

7. The service which the accused is allowed to reckon: 2 yrs ~~65~~ 72 days

8. The accused is in possession of CVSM and clasp

9. (If the accused is a warrant [illegible] the accused has served continuously [illegible] the present date: [illegible] Date of Promotion

In the substantive rank of N/A

In the War substantive rank of N/A

In the acting rank of N/A

Civil Court	15 June 43 Canada	Theft	1 yr in civil goal. (Reformatory)	52 days
FGCM	30 Sep 44 Field	AA Sec 15(1) AA Sec 40	18 mths detn	--

15th March 1945

4

Exhibit "E"

No. B13674 Name BRYSON T B E | Sqn., Battery, or Company | Corps RCASC | Date of enlistment 9 Jan 43 | Service or Proficiency Pay N/A | M.F.M. 6

Date of last entry in Company Conduct Sheet | No. and date of last deed N/A | Period not reckoning towards incentive in no extra line N/A | Sheet No. | Badges | Signature of Company or

Character

Place	Date	Offence	Name of Witnesses	Punishment awarded	Remarks
Camp Borden, Ontario		[illegible]			Forf all pay and allowances under Art 149(1b)
Camp Borden, Ontario	Apr 44	A.A.A. [illegible] ABSENT: Absent [illegible] Apr 44 until [illegible] Apr 2 May 44 Absence: (2 days 3 hrs 15 mins)	Arrival [illegible]	[illegible]	BRAI Forf [illegible] days pay & allowances under Art. 149 R.P.& I.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
CAMP BORDEN Ont	13 May 44	Pte		1) A.A. 18 (4) Improperly using DND vehicle. 2) A.A. 15 (1) Absenting himself without leave from 2330 hrs 13 May 44, until apprehended at 1620 hrs 14 May 44 (Absent 16 hrs, 50 mins)	Cpl Saunders J.C. Documentary	14 days detention	17-5-44	E.M.RIMMER Lt-Colonel	Forfeits 1days pay for absence 2 days pay in close arrest Total F.O.P.
CAMP BORDEN Ont	1-6-44	Pte		A.A.15(1) Absenting himself without leave from 2200 hrs 1 JUN 44, until apprehended at 1840 hrs., 6 JUN 44 (Absent 4 days, 20 hrs, 40 mins) (TO SHEET TWO)	Documentary	28 days detention	8-6-44	E.M.RIMMER Lt-Col	Forf 5 days pay for absence 1 days pay in close arrest. Total FOP 34 days pay.

No B136746 Name BRYSON TBE | Sqn., Battery, or Company | Corps RCASC | Date of enlistment | G.C. Badges | Service or Proficiency Pay

D.F.M. 5 (A.F.B. 122) 175M—7-42 (1215-30) H.Q. 1775-39-1652

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21-9-44		1)	A.A.15(1) AWL from 2200 hrs 21 Sep 44 to 1700 hrs 25 Sep 44. Total absence 3 days 19 hrs)	Lt FR.EVANS RSM WILSON Pte SALANIO	18 Months Detention	30 Sep 44	FGCM	Forfs 527 days pay FR&I 149(2)
	22-9-44		2)	A.A.40 Improper Use of a W.D. Vehicle					Forfs 4 days pay FR&I 149 (1)(a) Forf 2 days pay FR&I 149 (1)(c) Total Forf. 553 days pay.

CERTIFIED TRUE COPY OF ALL DOCUMENTS IN MY POSSESSION

N L Cain Capt
2 i/c
1 Cdn Detn & FP Bks.
Cdn Provost Corps.

(P.T.O.)

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

H.Q.C. 55-B-2020 CONFIDENTIAL

M.F.B. 2/3 DSM-2-43 (6697) H.Q. 22-1-43

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BARTZ, EDWIN IRWIN M.602444 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2020

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		(If space for which referred cannot be expressed on one line, add minute to file and "With Minute")					
OCT 10 1945	Cancelled	Cancelled	Cancelled	JAG	NEW FILE	CR	3-10-45
OCT 26 1945	26/10/45				With Papers C.R. OCT 25 1945		
					For Recommendation C.R. NOV 16 1945		
JAN 17 1946	17-1-46	PA		Adm 3	Recommendation		DEC 19 1945
JAN 25 1946	24/1/46	PA	GAB.	Admin	For Recommendation C.R. JAN 22 1946		
					With Papers C.R. JAN 25 1946		
JAN 28 1946					Go write file		28/1/46
JAN 29 1946	29/1/46	PA	GAB.	Adm 3(b)	Per request		29 Jan 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CANADA

IN REPLY PLEASE QUOTE
No. 22-A-3163 (JAG)
22-B-4932 (JAG)
22-B-10792 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ Pacific Command
Vancouver B.C. 19 Jan 1946

CENTRAL REGISTRY ARMY
COMP. SEC.
JAN 28
4063
File C-55-B-2020
Charged to
Delivered to
fo. 6

The Secretary,
N.D.H.Q.
Ottawa, Ontario.

REMISSIONS:
M.609573 ANDERSON C.C.
M.602444 BARTZ, E.I.
M.65337 BEDARD R.J.

1. Herewith MFM 288 together with Forms of Remission for the m/n soldiers for custody.

Encl. 6

MajorGeneral
GOC-in-C Pacific Command.

N.D. 23
750M—10-41 (2244)
H.Q. 1772-101-23

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of M.602444 (Number) Private (Rank) Edwin Irwin Bartz (Name in full)

No. 13 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 1 year Detention.

on 27th September 1945 at Calgary, Alberta.

being served at No. 81 Military Detention Barracks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 years 4 months.

Medical grade or category 18-1111111

FIRST TRIAL—PART II

To Adjutant-General (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should (not) be (suspended) ~~XXXX

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
12 Nov 45	No remission. BF for review 15 Mar 46	S. S. Reeves Major General G.O.C. in C. Pacific Command	
22 Dec.45	Balance of sentence remitted. wef 26 Jan 46.	N.C. Sherman (N.C. Sherman) Colonel Exercising powers of a DOC pursuant to Delegation of GOC-in-C, Pacific Command dated 21 Dec.45.	

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge Sec. 12(1)(a) Army Act.	Desertion: in that he at Toronto, Ontario, at 1200 hours on the 4th January, 1945, absented himself from 1st. Battalion Midland Regiment, C.A., until surrendering himself to Military Authorities at Calgary, Alberta, at 0630 hours on the 17th September 1945.	4 January 1945	27 September 1945.

Lt.Col.
Signature of Officer making entry
(J.W.Littleton)
Commanding, No. 13 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
18 October 1945.	nil	.....Lt.Col. (J.W.Littleton) Commanding, No. 13 District Depot C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
20th October 1945	Suspension not recommended	(F M W Harvey) Brigadier ~~District Officer Commanding Military Distric~~ #13.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE:
OUR FILE: 22-B-4932

PART I

No. M-602444 Rank Pte Name Edwin Irwin BARTZ

Unit No. 11 DD (formerly 13 DD.)

Part II

Date of Trial 27 Sept. 45

Charge(s) AA 8c. 12 (1)(a)

Sentence one year detention

Date of Sentence 27 Sept. 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~XXXXXXXXXXXXXXXXXX~~ the balance of the sentence of detention effective 26 Jan. 46, by direction of AG.

Signed at Vancouver, B.C., this 22nd day of Dec. 45.

(N.C. Sherman) Colonel,
Exercising powers of a DOC pursuant to Delegation
og GOC-in-C., Pacific Command dated 21 Dec. 45.

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission (~~XXXXXXXXXXXXXXXXXXXX~~) promulgated and extracts taken at No XI D.D. C.A

Vancouver, B.C. this 26th day of January 1946

Capt & Adjt
Officer i/c Documents

(1) Unit, attachment and appointment to be stated.

(1) No. XI District Depot C.A.

Part V
Certified True Extract of Daily Orders Part II

No. M-602444 Rank Pte Name BARTZ, E.I.

The sentence of One Year Detention

awarded by ~~XXXXXXXXXXXXXXXXXXXX~~ Standing) Court-Martial on the 27th day of September 1945 has been Remitted balance of the sentence of detention effective 26 Jan 46, by direction of AG on the 26th day of January 1946 by G.O.C. IN.C. Pacific Command

Certified true Extract of Daily Orders Part II of No. XI. District Depot
No. 22 Place Vancouver, BC Date 26 January 46

Capt & Adj.
No XI District Depot C.A.

M E M O R A N D U M

TO:

M.S.

DEPARTMENT OF NATIONAL DEFENCE
(ARMY)

HQC 55-B-2020 Adm 3(b)2
BDF-SE-AC 378

OTTAWA, Ontario 24 Jan 46

S.E. 378 d/17 Jan 46
Min File: 1091-98

M.602444 Pte BARTZ, E I

This SUS was tried by SCM 26 Sep 45 charged with desertion, having absented himself without leave from 4 Jan 45 until 17 Sep 45. He was found not guilty of desertion but guilty of AWL and was sentenced to undergo detention for one year.

2. Sentence was reviewed by CMBR 19 Dec 45 and recommendation was made for his release on 26 Jan 46. His release at that time will of course depend upon his good conduct during the interim.

(E C Weeks)
Major-General
Adjutant-General

F I N A L

GDB/6293/da

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: H.C 55-M-2007
H.C 55-B-2020
Adm 3(a)

PLACE: OTTAWA ONT

DATE: 20 Dec 45

GOC IN C
PACIFIC COMMAND
VANCOUVER BC

RANKS: 1566 RESTD

REVIEW REF AG 0267 D/18 OCT 45 (.) CMBR RECOMMENDS

REMISSION OF SENTENCE OF M-610583 RFMN MARKO P

WEF 11 JAN 46 AND M.602444 PTE BARTZ E I WEF 26 JAN 46 (.)

AG CONCURS (.) ACK

ADJUTANT GENERAL

Infm copies to: CMBR

JAG

GDB/JH

ack
20-12-45

G.D. Buck Capt
for Major-General
Adjutant-General

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
		IMMEDIATE	1656

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

10063
NOV 19 1945
File 055-B-2020
Chgd. to
Returned to

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

22-B-10674

Headquarters, Pacific Command.
Vancouver, B.C.
14 Nov 1945

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks

M 602444 Pte. BARTZ, E.I.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

Headquarters,
Pacific Command.

(Attention D.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.BKS.

The transfer of the w/n S.U.S. has been completed with effect date stated hereunder;

No.	Rank	Name	Unit
M 602444	Pte.	BARTZ, E.I.	No. 13 D.D.

Transferred from No. 81 M.D.Bks. at Calgary, Alberta

to No. 92 M.D.Bks. at Chilliwack, B.C.

with effect 9 Nov 45

submitted in duplicate.

Commandant
No. 92 M.D.Bks.

HQC 55-B-2020(CMBR 5)/N
19 Nov 45
Case No.....

REVIEW OF SENTENCE
BY
COURT MARTIAL BOARD OF REVIEW

1. Rank, No and Name: M-602444 Pte. BARTZ, E I

2. Unit at date of offence: 1 Bn. Midland Regt.

3. Charge: AA Sec 12 (1) (a) DESERTION
AWL from 1200 hours 4 Jan 45 until surrendering at 0630 hours 17 Sep 45. Length of absence - 8½ mos.

Plea: Not guilty

4. Place and Date of Trial: Calgary Alberta - 26 Sep 45
(~~xxxxx~~ (~~xxxx~~ (SCM)

5. Finding: Not guilty of desertion but guilty of AWL

6. (a) Sentence: 1 year detn.

(b) Date of Sentence: 27 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 92 MDB in MD.....~~11~~ Pac Comd.

(N.B. - Discharged under RO 1029( ) for
wef)

CONDUCT

Case No.....

11. (a) Prior to conviction

Offence	Date	Sentence
(1) Civil Convictions: NIL		
(2) Courts/Martial: NIL		
(3) Summary Convictions: NIL		

(b) After conviction Fair
Expected date of release 26 May 46

(c) Date of enrolment/~~xxxxxxxxxx~~: 12 Mar 42 Present Age: 27

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

(a) Item 10 has been omitted.
(b) In an unsworn statement the accused says that he was enrolled in Mar 42, took his basic and advanced training and after some service in Canada was sent to Jamaica were he served for 15 mos. On return to Canada he went on leave but fully intended to return. However, father is 75 years old and was attempting to operate a half section of land by himself. The accused himself owns a ½ section of land against which there is $1000 mortgage. One thing after another cropped up to prevent his returning.
(c) He is married and has Grade 7 education.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr., etc.)

Reviewing Officer:
This man has had considerable service and has maintained a good record of conduct. I recommend release after serving 5 mos.
26 Feb 46.

Reviewed by A. M. Stephenson
A.M.Stephenson, Major

14. Recommendations of the Board: Release on 26 Jan 46

Date DEC 19 1945

M A Stebbell 24 May
Secretary
Courts-Martial Board of Review.

HQC 55-B-2020 (JAG/D-6)

26 Oct 45

District Officer Commanding,
Military District No. 13,
Calgary, Alberta

Standing
M.602444 Pte. Edwin Irwin Bartz
#13 District Depot CA
Court-Martial

C36-B-3275 (JAS)

20th October 5

Receipt is acknowledged of your Standing
dated ~~together with NPM 888~~ 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

(R.J. Orde) Brigadier,

Judge Advocate-General.

MLM/fdf

22

C36-B-3275 (JAS)

File:

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

AIR MAIL
REGISTERED
CONFIDENTIAL

20th October 1945.

4961
OCT 25 1945
55-B-2020

The Secretary
Department of National Defence
OTTAWA, Canada

STANDING COURT-MARTIAL

M-602444 Pte Edwin Irwin Bartz
#13 District Depot (CA)
Reference 55-B-2020

1. Returned herewith are the Proceedings of the marginally noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his unit (17 Sep 45) and trial (26 Sep 45)

is 8 days

The time between apprehension and trial is 8 days.

3. Enclosed is M.F.M. 288 in the above case.

4. Upon review, no remission has been ordered by the District Officer Commanding, Military District No. 13.

(F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13.

21

REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of M-602444 Pte Edwin Irwin Bartz

#13 District Depot (CA)

Reviewed on 17th day of October 1945

Decision Confirmed

F M W Harvey

(F M W Harvey) Brigadier

District Officer Commanding, M.D.13.

20

MEDICAL OFFICER'S REPORT

I certify that No. M.602444 Private Edwin Irwin Bartz

of No. 13 District Depot, C.A. is in a good state of health,

and fit to undergo Trial by Court martial.

R. R. Heron

Medical Officer
R.C.A.M.C., CA. Attached to
No. 13 District Depot, C.A.

Station Calgary, Alberta.

Date 27 September 1945

19

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. M.602444 Private Edwin Irwin Barts,

No. 13 District Depot, C.A. is in a good state of health,

and fit for to undergo Trial by Court martial.

Medical Officer
R.C.A.M.C., C.A. Attached to
No. 13 District Depot, C.A.

Station Calgary, Alberta,

Date 26 September 1945.

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

18

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries - Calgary

on the 26th day of September 1945 at 15.40 hours,

for the trial of: M 602444 Pte Edwin Irwin Bartz
Number Rank Full Name

No. 13 District Depot C.A
Unit Attachment, if any

PRESIDENT: Lieut-Col. Walter Kingsley Jull - MC-V.D
HQ. M.D. No 13.

PROSECUTOR: Captain Duncan Bingham No. 13 D.D - CA.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. W.M. Laybourne No. 13 D.D - CA
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused not guilty of desertion but guilty of absence without leave.

SENTENCE: The Court sentence the accused to undergo detention for one year.

Extracts entered as No. 40087 in the Record of Courts-Martial kept in the office of the Judge Advocate-General
4 Oct 1945

17

Signed at The Armouries - Calgary this 27th day of September 1945.

President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

0900 27th (3)

At 1545 hours on the 26th day of September, 1945, the Court adjourned.

At 1315 hours on the 27th day B of September, 1945, the Court is re-opened.

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No. Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: as interpreter?

Question to the accused. Do you object to MS3148 W.O.II(A)(W.O.I). S/M. N.R. Calloway. CMSC. HQ. MD. No.13. as shorthand writer?

Answer: No Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: The accused was remanded for trial by Standing Court-Martial.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes Sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: Not guilty

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

16

(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

3

CHARGE SHEET

By Force President

The accused, No. M.602444 Private Edwin Irwin Bartz, No. 13 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE
SEC 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Toronto, Ontario, at 1200 hours on the 4th January 1945 absented himself from the 1st Battalion Midland Regiment, C.A., until surrendering himself to the Military Authorities at Calgary, Alberta, at 0630 hours on the 17th September 1945.

D. Bingham

....Capt.,
(D.Bingham), Prosecutor,
No. 13 District Depot, C.A.

CALGARY, ALBERTA.
25th September 1945.

15

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No. sir

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

Capt. D. Bingham, No. 13 District Depot, C.A.,

being duly sworn, ~~is examined by the Prosecutor~~ states:-

Question

I am Capt. D. Bingham, the Legal Officer of No. 13 District Depot, C.A., Calgary, Alberta, and I am producing the following documents:-

A certified true extract of the accused's M.F.M. 2.

(Certified true extract of M.F.M. 2 is read, marked "Exhibit F", signed by the President, and attached to the proceedings.)

M.F.B. 375.

(M.F.B. 375 is read, marked "Exhibit G", signed by the President, and attached to the proceedings.)

M.F.M. 216.

(M.F.M. 216 is read, marked "Exhibit H", signed by the President, and attached to the proceedings.)

I identify the accused, Sir, No. M.602444, Pte. Edwin Irwin Bartz, as the person to whom these documents relate.

The Defending Officer declines to cross-examine.

The witness resumes his seat.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement in writing

Question to the accused. Do you intend to call any witness in your defence?

Answer. No sir

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No sir

The Defending Officer makes a Closing Address.

The Prosecutor makes a Closing Address.

UNSWORN STATEMENT OF M.602444 Private Bartz, E.I. , No. 13 District Depot, C.A.

Sir:

I am No. M.602444 Private Edwin Irwin Bartz, No. 13 District Depot, C.A., on March 12, 1942, I was enrolled as an N.R.M.A. soldier of the Canadian Army. I took my Basic Training at Camrose, Alberta, and my advanced training at M/A 16 C.I.T.C. Currie Barracks, Calgary, Alberta. At the completion of my advanced training, I was posted to the Irish Fusiliers at Vancouver, British Columbia, in June 1942. On April 1943, I went to Jamaica with the Irish Fusiliers and remained there 15 months. I remained with the Irish Fusiliers until October 1944, when I was transferred to the Midland Regiment.

When I proceeded on leave, I fully intended to return, but conditions on the farm were such that I postponed my return until such time as I felt things were straightened out. My father is 75 years old and is attempting to operate a half section of land by himself. I own one quarter of land and at the present time there is a $1000 mortgage against it. Things kept cropping up one after the other which prevented me from returning until I surrendered myself on the 17th of September 1945.

I am a married man, 26 years of age, Grade 7 education.

During my absence, I did not at any time attempt to conceal my identity and I wore my uniform at all times in public.

E. I. Bartz

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir

Question to the accused. Do you wish to address the Court?

Answer. Yes sir through my Defending Officer

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

Sir, I would like to bring out in Pte. Bartz's case it is another farm problem, the shortage of help. They have no real security on the farm. His father was 75 years old and trying to operate a half-section. The accused is a married man. He owns a quarter section of land, with a thousand dollar mortgage against it. Surely, Sir, this man must have felt a great deal of responsibility resting upon him. This responsibility was the cause of his remaining absent. I would like to point out the fact that he has had no crimes in his army career, and also the fact that he has only had a grade seven education, which puts him below the average man as far as his realization of his responsibilities to his country are concerned. I think, Sir, that this case deserves a great deal of leniency.

Exhibit "F"
Maj
alCl
President

Regimental No. M 602444 Rank Fus.

Sheet No. One

M.F.M. 1-6-2 (a)
300M—11-44 (30179)
H.Q. 177-1-1044

Name BARTZ, Edwin Irwin.

Record of Promotions, Reductions, Transfers, Casualties, Reports, etc.—	Rank Shown	Effective Date	Unit	Place	Authority D.O. Number	Authority Dated
SOS to No. 2 DD (While AWL from 1200 hrs. 4 Jan 45)	Pte.	5 Jan 45	1 Mid R	Toronto	6	9 Jan 45
TOS No. 2 DD (While AWL).	Pte.	6 Jan45	#2DD	"	86-38	29 Mar 4
SOS as a deserter having been decl. illegally absent from 1200 4 Jan 45 by a Court of Inq. held 24 Apr. 45.Def. in kit, if any are unknown as there was no M.F.C.800 availbale .Forf.111 days pay underFR&I 149(1)(a)	Pte.	24 Apr45	"	"	114-54	28 Apr.45
TOS from #2 DD on surr. to Mil Auth. at 0630 hours on the 17th Sept 45.	"	17Sep45	#13 DD	Calgary.	227	25Sep45.

Certified to be a ture extract of M.FM. 2, of which it purports t o be a copy.

W M Sellar
.....Capt.,
(W.M. Sellar),Adjutant,
No. 13 District Depot,C.A.

Soldier's C.
Exhibition Barracks,
Toronto, Ontario,

RECORD of the Declaration of a Court of Inquiry assembled at

on the 24th day of April 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M-602444, Private BARTZ, E. I., (Midland Regiment), No. 2 District Depot, C.A., Exhibition Barracks, Toronto, Ontario.

DECLARATION

The Court declare that No. M-602444 (Reg'l No.) Private (Rank) E. I. BARTZ, (Midland Regiment), No. 2 District Depot, C.A., (Full Name) (Unit) illegally absented himself without leave from Midland Regiment at No. 2 District Depot, CA Exhibition Barracks, at Toronto, Ontario (Place) at 1200 hours on the 4th day of January, 1945, that he is still so absent, and that on the 24th day of April, 1945, the Court was unable to ask whether or not this soldier was deficient in articles of clothing ~~he was deficient, and that he is still deficient of the following articles:~~ or deficient in articles of equipment.

ARTICLES	VALUE	ARTICLES	VALUE

B. Grossberg, Capt. (Name) (Rank) (Unit) President
(H.W.E.), No. 2 District Depot, C.A. (Name) (Rank) (Unit) Member
(Name) (Rank) (Unit) Member

Signed at Exhibition Bks., Toronto

this 24th day of April 19 45.

Signature of Commanding Officer O.S. Hollinrake, Col. No. 2 District Depot, C.A. (Name) (Rank) (Unit)

Certified true copy Capt. & Adjt. No. 2 District Depot, C.A. (Rank) (Unit)
(Signature of Officer having custody of original record)
(J. J. Eyles)

M.F.B. 375
A.F.B. 115
150M—10-42 (8530)
H.Q. 1772-39-257

8

Sgt Gilbert. H.
WO
President.

21

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(~~[illegible]~~ SURRENDER TO SERVICE AUTHORITIES)

I, Colonel (Rank) Louis Scott (Name) A.16 Can.Inf.Training Centre, CA. (Unit) (Number)

hereby certify that M.502444 (Number) Pte. (Rank) Bartz, E.I. (Name in full)

of the 1st Bn. Midland Regt., C.A. (Unit and attachment, if any)

Strike out words not applicable } ~~[illegible]~~ (surrendered to) M.55812 (Number) Sgt. (Rank)

Mohoney, M (Name) A.16 Can.Inf.Training Centre, C.A. (Unit or appointment)

at CALGARY, Alberta (Place) at 0630 (Hour)

on the 17th day of September 19 45

Strike out words not applicable } as a ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was wearing military ~~[illegible]~~ uniform ~~[illegible]~~

Dated at CALGARY, Alberta this 17th day of September 1945

Louis Scott
(Signature, Number, Rank, Unit or appointment)

(LOUIS SCOTT) COLONEL
COMMANDANT
A.16 CANADIAN INFANTRY TRAINING CENTRE CA.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

An N.R.M.A. soldier of the Canadian Army, placed on Active Service.

M.F.M. 216
50M—5-42 (4731)
H.Q. 1772-39-1936

7

M.P.F. 255
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
M.602444	Private	Edwin Erwin Bartz,	No. 13 District Depot, C.A.S.F.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	~~times~~	~~times~~
For	~~times~~	times
For	times	times
For	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

~~Note. If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ ~~A.F.A. 73~~ Section 47 of the ~~Army Act~~ and dispensations with trial under ~~A.A. 73~~ are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ..... 19.....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, ~~Air Force~~ and, 8 days in military custody, making a total of 8 days in custody, of which nil. days were spent in hospital.

Close Arrest. 8 days
Open Arrest. nil days

5. The present age of the accused according to his ~~record of service~~ enrolment ~~attestation paper~~ is 26 years 10 months.

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ enrolment ~~attestation paper~~ is 12 March 1942.

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no military decoration or military reward.

~~9. The accused is in possession of or entitled to any air force decoration or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

6

21

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., Permanent Force unit, and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24th day of September 1945 W. M. Sellar .....Capt., (W.M. Sellar), Adjutant, No. 13 District Depot C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

M.F.M. 6

Reg. No. M.602444 Name BARTZ, E.I. Corps 1st Mid Regt. Date of enlistment or enrolment 12-3-42 Date of Birth "Z" Field Pr President

Signature O.C. Company, etc. "K. Hall", Maj.

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks

Certified to be a true copy
of M.F.M.6 , of which it purports
to be a copy.

W.M. Sellar Capt.,
(W.M. Sellar), Adjutant,
No 13 District Depot, C.A.

M.F.M. 6—500M—8-44 (5386)
H.Q. 1772-39-1652

(P.T.O.)

36-B-3275

PRECIS OF EVIDENCE

in respect to the trial by Standing Court-Martial of

The accused , No.M.602444 Private Edwin Irwin Bartz,No. 13 District Depot,C.A.,An N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

CHARGE: Desertion.

To prove the charge the following evidence is available:

DOCUMENTARY: F.M.F.M. 2 —
G M.F.B. 375
H. M.F.M. 216

Ok Trial Court to have no objection

D. Bingham

.....Capt.,
(D.Bingham),
Prosecutor,
No. 13 District Depot,C.A.

CALGARY,ALBERTA.
25th September 1945.

4

H.Q.C.55-B-2020 (JAG/D-4)
Your C. 36-B-3275 (JAJ)

10 Oct 45

The District Officer Commanding,
Military District No. 13, Calgary, Alta.

STANDING COURT-MARTIAL

M. 602444 Pte. Edwin Irwin Bartz,
No. 13 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde) Brigadier
Judge Advocate-General.

JOGR/MM

3

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2020
M.D. 2 ~~36-B-3275~~ (JAJ)

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

NRMA

No. M.602444 Name BARTZ, Edwin Irwin

Rank Pte Unit No. 13 DD CA

Charge AA 12 (1)(a) WOAS Deserting....

Date of Crime 4-1-45

Date of Arrest 17-9-45 Charge Signed 25-9-45

Orders for D.C.M.

Place and Date of Trial Armouries, 26-9-45

Sentence Det 1 year

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. ~~xxxxxx~~ 40082

Date 4-10-45

MEMO Balance of sentence remitted by Conf. Auth. Guilty AWL

MD 13 No. 13 DD CA

Absent
Approx 8 mos

Sentence
Det 1 year

2

for Judge Advocate-General

10M-8-45(M-189)

C.36-B-3275 (JAJ)

R61

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -
Headquarters, M.D. 13
Calgary, Alberta.

AIR MAIL

REGISTERED

CONFIDENTIAL

28th September, 1945.

The Judge Advocate-General,
Department of National Defence,
Ottawa, Canada.

C.35-B-2020

Standing Court-Martial
No. M.602444, Pte. Edwin Irwin Bartz,
No. 13 District Depot, C.A.

1. Enclosed are the proceedings of the marginally-noted Standing Court-Martial.

(W.K. Jull) Lieut.-Col.,
President,
Standing Courts-Martial.

40082

H.Q.C. 55-B-2021 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOBRYK, NICK M_608560 PUS.

CONFIDENTIAL
H.Q.C. 55-B-2021

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 10 1945		cancelled		JAG	NEW FILE	CR	3-10-45
OCT 18 1945	18/11/45			Int	Per Requisition C.R. OCT 1		
OCT 31 1945	30-12-45	PA		JAG	Papers OCT 29		
NOV 26 1945	20/11/45	PA		Int	PER S.P. NOV 18 1945		
				CMBR	Per Requisition C.R. NOV 30 1945		
JAN 17 1946	17-1-46	PA		Admin 3	Recommendation	MAS	DEC 19 1945
				JAG	Per Requisition C.R. JAN 18 1946		
JAN 19 1946				CMBR	Transmitted pls	Jm	19/1/46
JAN 22 1946							
JAN 21 1946	22-1-46	PA		Admin	" "	AMS	21 Jan 46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. 22-B-10675 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ Pacific Command
Vancouver BC 11 Jan 1946

JAN 16 1946
File 6-55-B-2021
Chgd. to Admin 19-12-
Referred to JAG

The Secretary
NDHQ
Ottawa Ontario

REMISSION:
M.608560 Pte BOBRYK N.

1. Herewith MFM 288 together with Form of Remission of the m/n soldier for custody.

Noted
21 Jan 46
G M Lomas
CMBR-5

for Lieutenant Colonel
Major General.
GOC-In-C Pacific Command

Encl. 2

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE:
OUR FILE: 22-B-10675

PART I

No. M.608560 Rank Private Name BOBRYK Nick

Unit No.11 District Depot CA

Part II

Date of Trial 25 Sep 45

Charge(s) Sec 12 (1)(a) A.A. Desertion

Sentence 11 months' detention

Date of Sentence 25 Sep 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxx~~ balance of sentence of detention effective 21 Dec 45, by direction of AG.

Signed at Vancouver, B.C., this 21st day of Dec 45

G.R. Kingston
Major General
GOC-in-C Pacific Command

To be signed by the remitting authority personally.

Part IV
PROMULGATION

Remission ~~(xxxxxxxxxxxxxxxxxxxxxx~~ promulgated and extracts taken at No.13 District Depot, C.A.

Calgary, Alberta this 2nd day of January 1946

Officer i/c Documents (V.L.Sims) Capt.
(1) No.13 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

Part V
Certified True Extract of Daily Orders Part II

No. M608560 Rank Private Name BOBRYK Nick

The ~~xxxxxxx~~ balance of 11 months' detention

awarded by ~~xxxxxxxxxxxxxxxxx~~ (Standing) Court-Martial on the 25th day of

September 1945 has been remitted.

on the 21st day of

December 1945 by G.O.C.i/c. Pacific Command

Certified true Extract of Daily Orders Part II of No.13 District Depot, C.A.
No. 1 Place Calgary, Alberta Date 2nd January 1946.

A/ Adj.
(Charles G.Short) Capt.
No.13 District Depot, C.A.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of M.608560 Fusilier Nick Bobryk
Number Rank Name in full

No. 13 District Depot, C.A.
Unit Attachment (if any)

Sentenced to 11 months Detention.

on 25th September 1945 at Calgary, Alberta.

being served at No. 81 Military Detention Barracks, C.A.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years 9 months 13 Jul 43

Medical grade or category 23-1111111

FIRST TRIAL—PART II

To Adjutant-General
Superior Military Authority

For details of offence see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on XXXXXXXXXXXXXXXXXX) for reasons given in paragraph X. NR NR NR

date

Place Calgary Alberta,

(F.M.W. Harvey) Brigadier,
District Officer Commanding,
Military District No. 13.
Confirming Authority

Date 25 October, 1945.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)
(of which I remit .....) (be suspended) (be put into execution)
(and) be reviewed on .....

Place .....

Date .....
Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....
Confirming Authority

M.F.M. 268
(Army Form A-2104)
25M—9-43 (1886)
H.Q. 1772-30-2013

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

Date ..... Superior Military Authority

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
10 Nov 45	No remission. for review 15 Mar 46.	S. Vernon Major General G.O.C. in C Pacific Command	
21 Dec 45	Balance of sentence remitted wef 21 Dec 45	J. J. Lord Maj Gen GOC-in-C Pac Comd	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge Sec. 12(1)(a) Army Act. Desertion: in that he at Debert, Nova Scotia, at 2200 hours on the 2nd January 1945, absented himself from 1st. Battalion Irish Fusiliers, C.A., until surrendering himself to Military Authorities at Calgary, Alberta, at 1930 hours on the 3rd September 1945.	2 January 1945	25 September 1945

Lt.Col.
(J.W.Littleton) Signature of Officer making entry
Commanding, No. 13 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 October 1945.	nil	..... Lt.Col. (J.W.Littleton) Commanding

Part X No. 13 District Depot, C.A.

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
25 October, 1945.	Suspendion not recommended	(F.M.W. Harvey) Brigadier District Officer Commanding Military District No.13.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

H.Q.C 55-W-760
H.Q.C 55-R-738
H.Q.C 55-Z-87
H.Q.C 55-S-1580
FILE H.Q.C 55-B-2021
H.Q.C 55-B-1952
H.Q.C 55-B-1930
H.Q.C 55-B-1186
H.Q.C 55-S-1601

CIPHER

ARMY MESSAGE

(OUTGOING)

PLACE

GOC IN C
PACIFIC COMMAND
VANCOUVER BC

OTTAWA ONT

DATE 20 Dec 45

RANKS: 1568 RESTD

REVIEW REF AG 0267 D/18 OCT 45 EKKER (.) CMBR RECOMMENDS IMMEDIATE RELEASE OF M-610664 GNR WUDEL E J K-74812 PTE ROSS B W M-610077 TPR ZAZULAK A M-610861 PTE SCHMIDT E M-608560 FUS BOBRYK N M-612097 PTE BAILER E R M-610614 FMAN BEZUBIAK G J L-602278 PTE DAMLEY R E K-602653 PTE SPETCH R H (.) AG CONCURS (.)

ACK

ADJUTANT GENERAL

Infm Copies to: CMBR
JAG

GDB/JH

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
		IMMEDIATE	1650

SIGNED Major-General
Adjutant-General

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

HQC 55- B-2021 (CMBR-5) /ev
3 Dec 45.

CASE NO----------1596

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: M.608560 Fus BOBRYK, N.

2. Unit at date of offence: 1 Bn Irish Fusiliers

3. Charge: 1: AA Sec 12(1)(a) DESERTION: AWL from 2200 hrs 2 Jan 45 until surrendereing at 1930 hrs 3 Sep 45. Length of absence: 8 months.

2: AA Sec 24(2) Loss of kit to the extent of $48.94

Plea: Not guilty on both charges.

4. Place and Date of Trial: Calgary, Alberta - 11 Sep 45. ~~(GCCM)XXXX(DCM)X~~ (SCM)

5. Finding: 1: Not guilty of desertion but guilty of AWL
2: Not guilty

6. (a) Sentence: 11 months detention.

(b) Date of Sentence: 25 Sep 45.

7. Date of Confirmation: NA

8. Date of Promulgation: NA

9. Being served at: 92 M.D.B. in M.D. Pac Comd.

(N.B - Discharged under R.O. 1029( ) for
wef).

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil convictions:	Nil	-	-
(ii) Courts-Martial:	Nil		
(iii) Summary Convictions:	Nil		

(b) After conviction: Fair. Expected date of release 4 May 46.

(c) Date of enrolment/~~enlistment~~: 13 Jul 43 Present Age: 21

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Item 10 has been omitted.

In an unsworn statement the accused says he is not a naturalized Canadian citizen. He had a timber contract in the bush. He applied repeatedly for leave but was not successful. He went AWL to complete his contract. After completing the contract he found that he did not have enough money to ~~by~~ pay a railway ticket to return so he worked on a farm to get money and then returned.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Officer, etc.)

DOC MD 13: No remission.

Rev Offr: Recommend release after serving 5 months, 24 Feb 46.

Reviewed by A.M. Stephenson
A.M. STEPHENSON, Major.

14. Recommendation of the Board: Immediate Release

Date DEC 19 1945

A.A. Stewart
Secretary
Court Martial Board of Review

Maj.

CR

10064
File
Chgd. to
Referred to

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

22-B-10675

Headquarters, Pacific Command.
Vancouver, B.C.
15 Nov 45 194

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks

M.80 8560 Fus. BOBRYK, N.

In accordance with the provisions of C.A.R.C. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

40 NOV 17

Headquarters,
Pacific Command.

(Attention C.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.HKS.

The transfer of the u/m S.U.S. has been completed with effect date stated hereunder

No.	Rank	Name	Unit
M 608560	Pus.	BOBRYK, N.	No. 13 D.D.

Transferred from No. 81 M.D.Hks. at Calgary, Alberta

to No. 92 M.D.Hks. at Chilliwack, B.C.

with effect 9 Nov 45

(J.M.Johnston) Captain
Commandant

submitted in duplicate

No. 82 M.D.Hks.

39

HQC 55-B-2021 (JAG/D-6)

30 Oct 45

District Officer Commanding,
Military District No. 13,
Calgary, Alberta.

Standing
M.608560 Fusilier Nick BOBRYK
No. 13 District Depot, CA
Court-Martial

36-B-5339

25th October 5

Receipt is acknowledged of ~~MMF~~ Standing
dated 194 . under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/rdf

37

6 R58

File: 36-B-5339

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

AIR MAIL
REGISTERED
CONFIDENTIAL

25 October, 1945.

CONF. 5897
OCT 29 1945
File C55-B-2021
Chgd. to
Referred to JAG

The Secretary
Department of National Defence
OTTAWA, Canada

STANDING COURT-MARTIAL

M.608560 Fusilier Nick BOBRYK,
No. 13 District Depot, C.A.

Reference 55-B-2021

1. Returned herewith are the Proceedings of the marginally noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his unit (3 September /45) and trial (11 September/45)

is 7 days.

The time between apprehension and trial is 7 days.

3. ~~Enclosed is M.F.M. 288 in the above~~
~~ENNEX~~

4. Upon review, no remission has been ordered by the District Officer Commanding, Military District No. 13.

(F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13.

36

REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of M-608560 Fus Nick Bobryk
#13 District Depot (CA)

Reviewed on 22nd day of October 1945

Decision Confirmed

(F M W Harvey) Brigadier
District Officer Commanding, M.D. 13.

35

MEDICAL OFFICER'S REPORT

I certify that No. M.608560 Fusilier Nick Bobryk of No. 13 District Depot, C.A. is in a good state of health, and fit to undergo Trial by Court martial.

R. Wherry
Medical Officer
R.C.A.M.C., C.A. Attached to
No. 13 District Depot, C.A.

Station Calgary, Alberta.

Date 11th September 1945.

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

34

MEDICAL OFFICER'S REPORT

I certify that No. M608560 Fusilier Nick Bobryk,
of No.13 District Depot,C.A. in a good state of health,
and fit to undergo Trial by Court martial.

R. Hanson Maj
Medical Officer
R.C.A.M.C.,C.A., attached to
No.13 District Depot,C.A.

Station CALGARY, ALBERTA

Date 12 September 1945.

33

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. M608560 Fus. Nick Bobryk

of No 13 District Depot, C.A. is in a good state of health,

and fit to undergo Trial by Court martial.

R Kerson Maj

Medical Officer
R.C.A.M.C.(CA) att'd to
No 13 District Depot, C.A.

Station Calgary, Alberta

Date 21 September 1945

M. F. B. 246
50M—9-44 (5437)
H.Q. 1773-39-480

32

MEDICAL OFFICER'S REPORT

I certify that No. M.608560 Fusilier Nick Bobryk

of No. 13 District Depot, C.A. is in a good state of health,

and fit to undergo Trial by Court martial.

R V Henson Maj
Medical Officer
R.C.A.M.C., Attached to
No. 13 District Depot, C.A.

Station Calgary, Alberta.

Date 25 September 1945.

M. F. B. 246
50M—5-43 (254)
H Q 1772-39-480

31

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries - Calgary.

on the 11th day of September 1945 at 16.03 hours,

for the trial of: M. 6085.60. Fusileer Nick Babryk
Number Rank Full Name

No. 13 District Depot C.A.
Unit Attachment, if any

PRESIDENT: Lieut. Col. Walter Kingsley Lull MC-VD
HQ MD. No. 13.
Rank Full Name Unit Attachment, if any

PROSECUTOR: Major C.F. Swan. No. 13 D.D - C.A.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. H.S. Kennedy. No. 13 D.D - C.A.
Rank Full Name Unit Attachment, if any

FINDING:

The Court find the accused
Not guilty of desertion but guilty
of absence without leave on the
first charge
Not guilty of the second charge

SENTENCE: The Court sentence the accused
To undergo detention for 11 months.

Extracts entered as No. 40083 in the Record of Courts-Martial kept in the office of the Judge Advocate-General, this 4 day of Oct 1945

Signed at The Armouries Calgary this 25th day of September 1945.

President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

29

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No. sir.

For minute of adjournment see page BB

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: ~~as interpreter?~~

Question to the accused. Do you object to M 41138. C.S.M. (W.O.II) Le Roy Park CMSC. HQ MD No 13 as shorthand writer?

Answer: No sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: ~~The accused was remanded for trial by Standing Court Martial.~~

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer: Not guilty

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. Not guilty

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

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(The accused having pleaded guilty to ~~charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

At 1610 hours on the 11th day of September, 1945 the Court adjourned.

At 1510 hours on the 12th day of September, 1945 the Court re-opened.

CHARGE SHEET

The accused, No. M608560 Fusilier Nick Bobryk, No.13 District Depot,C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

First Charge
Sec. 121 (a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Debert, Nova Scotia, at 2200 hours on the 2nd January 1945, absented himself from 1st Battalion Irish Fusiliers, C.A., until surrendering himself to military authorities at Calgary, Alberta, at 1930 hours on the 3rd September 1945.

Second Charge
Sec. 24(2)
Army Act

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

at Calgary, Alberta, on the 10th September 1945, was deficient of the following articles, viz:

	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "A"		
Overalls Combination prs. 1	2.52	1.89
Blouses Battledress Serge 1	6.50	4.88
Boots Ankle Army prs. 1	5.82	4.37
Caps Field Service 1	.70	.53
Drawers Cotton Short prs. 2	.84	.63
Clothing Division "B"		
Jackets Khaki Drill L/C 1	3.42	2.57
Shirts, Cotton Khaki 1	1.95	1.46
Shirts, Undercotton 2	.86	.65
Shoes Canvas prs. 1	2.29	1.72
Socks Army prs. 4	1.84	1.38
Trousers Battledress Serge prs.1	6.55	4.91
Trousers Khaki Drill Short prs.1	1.31	.98

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	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "C"		
Brushes Button 1	.11	.08
Brushes Cloth 1	.17	.13
Caps Comforter 1	.41	.31
Knives Clasp 1	.99	.74
~~Socks Lightweight Black Prs. 2~~	~~.56~~	~~.42~~
Clothing Division "1-A"		
Belts Waist W.E. Patt. 37 1	.72	.54
Bottles Water 1	.62	.47
Braces W.E. Patt .37 Left 1	.35	.26
Braces W.E. Patt. 37 Right 1	.33	.25
Carriers W/Bottle W.E. 1	.37	.28
Frogs Bayonet W.E. 1	.12	.09
Haversacks W.E. Patt. 37 1	2.29	1.72
Helmets Steel 1	2.39	1.79
~~Helmets Cover Camouflage 1~~	~~.26~~	~~.20~~
Packs W.E. Patt. 37 1	2.26	1.70
Pouches Basic W.E. Patt. 37 2	2.06	1.55
Straps Shoulder Haversack Left 1	.31	.23
Straps Shoulder Haversack Right 1	.31	.23
Straps Supporting W.E. Patt. 37 2	.28	.21
Tins Mess Rectangular 1	.57	.43
Clothing Division "2-A"		
Capes A/G 1	4.70	3.53
Detectors Gas Sleeve prs. 2	.60	.45
Eyeshields A/Gas (Pkt. of 6) 1	.68	.51
Ointment A/Gas #2 Boxes 2	.52	.39
Respirators A/Gas W/Container and Facepiece 1	4.73	3.55
Haversacks Respirator A/G 1	1.27	.95
Outfits A/Dimming 1	.06	.05
Clothing Division "K"		
Mugs Enamelled 1	.16	.12
Clothing Division "1-J"		
Sheets Ground Drab 1	2.38	1.79
TOTAL		$ 48.94

M A Ellissen

.....Major,
(M.A.Ellissen), Officer Commanding,
No.13 District Depot,C.A.

CALGARY, ALBERTA
11 September 1945.

25

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Major C. F. Swan, No. 13 District Depot, C.A.

being duly sworn, ~~is examined by the Prosecutor~~.

Question. I am Major C, F. Swan of No. 13 District Depot, C.A. and I am producing the following documents.

Certified true extract from M.F.M. 2.

(Certified true extract from M.F.M. 2, is read, marked Exhibit "F", signed by the President and attached to the Proceedings.)

M.F.B. 375.

(M.F.B. 375, is read, marked Exhibit "G", signed by the President, and attached to the Proceedings).

M.F.M. 216.

(M.F.M. 216, is read, marked Exhibit "H", signed by the President and attached to the Proceedings.)

I identify the accused No. M.608560, Fus. Nick Bobryk, as the person to whom these documents relate.

The Defending Officer declines to cross-examine.

The witness resumes his seat.

Second witness for Prosecution M.37337, C.Q.M.S. J. Wright, No. 13 District Depot, C.A. having been duly sworn is examined by the Prosecutor.

Q. Would you tell the court your number, rank, name, unit and your position here?

A. I am M.37337, C.Q.M.S. J. Wright, No. 13 District Depot and I am employed in the quartermaster stores.

Q. Now in regard to the second charge. Would you tell the court what you know regarding the difficiencies as listed.

A. On the 10th September, 1945 I inspected the kit of Pte. Bobryk and found him defficient certain articles.

Q. Would you read the articles--by the way what is that list you have in your hand?

A. This document is a typewritten copy of the articles I found deficient. I made a copy of the or I made a list of the articles deficient at the time I checked his kit and this is a typewritten copy of the list I made.

Q. Did you check that with the other copy?

A. Yes.

Q. Is it exactly the same?

A. Yes sir.

Court. You may use that.

Q. Would you advise the court as to the articles you found deficient at the time of your inspection?

A. On the kit check which I took on the 10th September, 1945 I found Pus. Bobryk deficient of the following articles;

	Voc.rate	less 25%
Overalls, Combination prs. 1	2.52	1.89
Blouses, Battledress Serge 1	6.50	4.88
Boots Ankle Army prs. 1	5.82	4.37
Capts Field Service 1	.70	.53
Drawers Cotton Short prs. 2	.84	.63
Jackets Khaki Drill L/C 1	3.42	2.57
Shirts, Cotton Khaki 1	1.95	1.46
Shirts, Undercotton 2	.86	.65
Shoes, Canvas prs. 1	2.29	1.72
Socks Army prs. 4	1.84	1.38
Trousers Battledress Serge prs. 1	6.55	4.91
Trousers Khaki Drill Short prs. 1	1.31	.98
Brushes Button 1	.11	.08
Brushes Cloth 1	.17	.13
Caps Comforter 1	.41	.31
Knives Clasp 1	.99	.74
Socks Lightweight Black prs. 2	.56	.42
Belts Waist W.E. Patt. 37 1	.72	.54
Bottles Water 1	.62	.47
Braces W.E. Patt. 37 Left 1	.35	.26
Braces W.E. Patt. 37 right 1	.33	.25
Cariers W/Bottle W.E. 1	.37	.28
Frogs Bayonet W.E. 1	.12	.09
Haversacks W.E. Patt. 37 1	2.29	1.72
Helmets Steel 1	2.39	1.79
Helmets Cover Camouflage 1	.26	.20
Packs W.E. Patt. 37 1	2.26	1.70
Pouches Basic W.E. Patt. 37 2	2.06	1.55
Straps Shoulder Haversack Left 1	.31	.23
Straps Shoulder Haversack Right 1	.31	.23
Straps Supporting W.E. Patt. 37 2	.28	.21
Tins Mess Rectangular 1	.57	.43
Capes A/G 1	4.70	3.53
Detectors Gas Sleeve prs. 2	.60	.45
Eyeshields A/Gas (Pkt. of 6) 1	.68	.51
Ointment A/Gas #2 Boxes 2	.52	.39
Respirators A/Gas W/Container and Facepiece 1	4.73	3.55
Haversacks Respirator A/G 1	1.27	.95
Outfits A/Dimming 1	.06	.05
Mugs Enamelled 1	.16	.12
Sheets Ground Drab 1	2.38	1.79

This made a total of $48.94 at vocabulary rate less 25% sir.

Q. Would you tell the Court by what procedure you arrived at this list?

A. I checked this against the 375.

Q. What is that?

A. That is the finding of a Court of Inquiry. I may say here sir that on the 800 the 375 did not correspond.

Q. Did the accused have with him at the time of your inspection the M.B. Part 3?

A. No sir they don't carry them in this country.

Q. The record then of any soldier of the clothing and equipment on his charge is the 800.

A. Is the 800, yes sir.

Q. Then when making up the 375 by a Court of Inquiry they should check that against the 800?

A. They should sir. There should be no article on the 375 that is not listed on the 800. In this case I have the original 800.

Q. You have the accuseds original 800?

A. Yes sir.

Q. Is the accused in this court at the moment?

A. Yes sir the soldier with no cap on.

Cross-examined by the Defending Officer.

Q. Is it possible that some of this kit may be in the store of his unit at the time of his desertion that is not taken off the 800?

A. According to the 375 there isn't sir the 375 is the result of the collection of all this equipment.

Questioned by the Court.

Q. Did the accused tell you anything about this. Was this check made in the presence of the accused?

A. Yes sir.

Q. Did he make any remarks before about the shortages?

A. Only that he left them someplace.

Q. Did he say where he left them?

A. He might have done. I couldn't tell exactly what the case was. I noticed at the time when I checked the 375 with the original 800 the 375 is not exactly true.

Q. Did he make any remarks as to where they were?

A. I have so many sir I couldn't exactly say what he said.

Q. There are some items which are not on the 375. Here it is here on the charge sheet he is shown deficient, shirts, cotton khaki 1 at $1.46.

A. Yes sir it is right there you will find it below shirts woollen.

Q. There are certain descrepancies between the price and that will be accounted for by what?

A. The 375 is, in my estimation, a mistake of somebody because in the first place he is charged with a jacket K.D., an open collar but you will find that there is no K.D. Jacket on his 800. It was impossible for him to be short that.

Q. Perhaps the 800 should be put in?

A. The certified copy is here sir.

(M.F.C. 800, certified copy, is read, marked Exhibit "I", signed by the President and attached to the Proceedings.)

Q. You say on the 800 there is no-----

A. Jacket K.D. There may be some. Well I think you will find that he isn't issued with them they are not on his 800 anyway.

Q. Helmets cover camouflage, one. I am not certain whether this is on the court of inquiry or not?

A. No sir I am afraid I don't see it.

Q. Another one is Tins, mess, rectangular, one?

A. Yes it is on the 375 sir.

Q. How does the original 800 appear to be made up?

A. The original 800 appears to be true enough.

Q. How about the verification of the soldier?

A. They are verified although it is very irregular in a way. He has M for his initial and on one line I believe he has got only the first three letter of his name.

Q. How about the initials of the Q.M.?

A. It seems to be alright. It seems to be the same initials all the way through the 800.

Q. Would you take a few minutes to compare this list and let me know of any other articles which appear on the 800 but not on the court of inquiry?

A. Yes sir.

At 1555 hours on the 12th day of September, 1945 the Court adjourned.

At 1605 hours on the 12th day of September, 1945 the Court re-opened.

Q.

Q. Have you now checked the charge sheet and the M.F.C. 800 together with the M.F.B. 375?

A. I have sir.

Q. And what articles are you of the opinion should not appear on the charge sheet?

A. Jackets Kjaki drill, open collar shwon as $3.42 and $2.57 and socks light weight black, two pairs shown as 56¢ and 42¢ and covers Helmet Camouflage, on shown as 26¢ and 20¢.

Q. Now there is an item shown on the 375, respirators A.G. with container and facepiece and also haversacks respirator A/G. Now there is one item on the 375 if you will look at it which may possibly be these shown as a total?

A. They are combined sir.

Q. They did combine the two items?

A. I take the price now sir which may differ from the price at that time.

Q. Are there any further comments which you wish to make?

A. No sir I have nothing further to say sir.

The witness resumes his seat.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement in writing

Question to the accused. Do you intend to call any witness in your defence?

Answer. No sir

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No sir

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

_____ 194

Sir.

When I came to Canada in July 1935 I was going to Public school and passed grade eight, [illegible] at [illegible] I have great difficulties of [illegible] to understand the army rules as I'm poor in language. Alas I'm still not a naturalized Canadian Citizen. Before my call up to the army I made a contract to cut timber & skid logs to the mill, as after three months in the army I applied for my bush leave and did not get one. On my [redacted] leave I went for a special bush leave or compassionate discharge to Ottawa and received a letter from Selective Service stating that I should apply to C.O. of my unit.

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THE SALVATION ARMY

"Keep in touch with the folks at home"

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

25

_____ 194

After applying to C.O. I received no answer. Then these days had to be done before April 1945 I went to work in the bush on my own. When I finished my work I tried to get back to my unit on the same ticket. Ticket was invalid in 30 days, so having no money to buy one I went out on the farms to work. After I had enough earned I came back to the depot on my own.

In here I was about I remained in my own district and used my own name.

N. Bolsyk

17

"Keep in touch with the folks at home"

27

THE SALVATION ARMY

ON ACTIVE SERVICE
WITH THE
CANADIAN FORCES

_____ 194

Sir

All my deficiencies of kit which I am charged for were left in Camp Valcartier under O. C.'s orders. I packed all in mattress cover and put it in a hut which was laid aside for such kit under the charge of R.M.S.

N. Bebeph

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Court. Under the circumstances and in view of the statement of the accused it will be necessary to adjourn this case in order that inquiries may be made of this man's unit or at the place at which this man's unit was, to ascertain whether or not the statement of the accused is in fact correct and if so what articles were left in there by him at Debert. How long will you want?

Def. Offr. I think that if we adjourned for ten days that would be sufficient.

Court. In the mean time you can arrange with the legal office to wire the unit or place where the unit was to ascertain what articles were actually left by this man?

Def. Offr. Yes sir.

Court. This case will therefore stand adjourned until 1400 hours on the 21st day of September, 1945.

At 1640 hours on the 12th day of September, 1945 the Court adjourned.

At 1425 hours on the 21st day of September, 1945 the Court re-opened.

Court This case was adjourned for the purpose of having imquiries made as to certain defiaincies of kit which the accused claims he left at Debert Camp. Have any inquiries been made in that connection.

Prosecutor Sir this telegram was sent on the 12th September, 1945 to the Officer Commanding, Training Centre, Debert, Nova Scotia. M.608560 Fusilier Nick Bobryk now on trial by standing Court Martial stop claims he left his kit in company lines your camp stop 1st B. Irish Fusiliers, C.A. December, 1944 on instructions of Quartermaster stop please check and advise of any kit in your possession. That was sent on the 12th September and up to yesterday we had no reply so we sent a hastner.

Court. That was addressed to the same person?

Prosecutor Yes sir.

Court What are your feelings in the matter Mr. Kennedy do you feel a further adjournment should be granted?

Def. Offr. Yes sir I do.

Court How long do you ask for?

Def. Offr. Four days should be sufficient sir.

Court. Would Tuesday of next week be sufficient?

Def. Offr. Yes sir.

Court. This case will be adjourned until 1600 hours on 25th September, 1945.

At 1435 hours on the 21st September, 1945 the Court adjourned.

At 1435 hours on the 25th September, 1945 the Court re-opened.

Court — In view of the fact that your previous Defending Officer has been discharged from the army, have you any object to Capt. D. Bingham acting for your?

Accused — No sir.

Court. — There is only a very small portion of the case left and I can assure you that he knows what has happened before. Is that all right?

Accused — Yes sir.

Court. — Major Swan, what further word have you concerning the equipment of this accused?

Prosecutor — According to instructions, a telegram was sent on the 21st September, 1945 to which there has been no reply up to the present time.

Court. — What is the wording of that?

Prosecutor — It is a repeat on the former telegram which reads as follows. Officer Commanding, No. 2 Transit Camp, Debert, Nova Scotia. Telegram 113 referred to despatched to Officer Commanding Training Centre, Debert, Nova Scotia repeated for your information Stop No. M.608560, Fusilier Nick Bobryk, now on trial by Court Martial for desertion was stationed at your camp with First Battalion Irish Fusiliers (VR) C.A. on December 15 44 proceeding on leave that date he claims to have left kit his quarters upon instructions of Officer Commanding Company and in care of Q.M. stop please investigate and advise by wire as to possible disposition of kit. And this wire is signed by the Officer Commanding 13 District Depot, sir.

Court — Do you feel that enough time has ~~ellapsed~~ elapsed for them to check for this equipment and reply?

Def. Officer — My feeling sir is that, with respect to this accused is, he has claimed that his kit was there and if the persons who are there do not see fit to answer our correspondence in this connection I would strongly recommend that this charge be dismissed.

Court. — Do you feel that sufficient time has ~~ellapsed~~ elapsed and that further adjournment is of no use?

Def. Offr. — I do sir.

The Defending Officer makes a closing address.

The Prosecutor makes a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No sir

Question to the accused. Do you wish to address the Court?

Answer. Yes sir through my Defending officer

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

Mr. President, before you pass sentence in this case I would like you please to take into consideration first of all the fact that this man, you might say, is a foreigner. His education is such that might excuse him to a certain degree of the offence which which you have found him guilty that of absence without leave. He is 21 years old and has been in the army since 1943 with the exception of the period he has been on leave and during that time you will see that he did behave himself. He has been 22 days in custody awaiting trial and I would ask you to be as lenient as your wisdom will allow you in this case.

Regimental No. M608560 Rank Gnr.

Sheet No.

Name BOBRYK, N.

Record of Promotions, Reductions, Transfers, Casualties, Reports, etc.	Rank Shown	Effective Date	Unit	Place	Authority D.O. Number	Authority Dated
AWL 2200 hrs. 2 Jan 45	Fus.	Jan 2 1945	I IR FUS	Debert	3	4 Jan 45
SOS to No. 6 DD	Fus.	9 Jan. 45	1 IR FUS	Debert	8	9 Jan. 45
TOS from 1st Irish Fus. (in absentia)	"	10 Jan 45	No. 6 DD	Halifax, N.S.	12	13 Jan. 45
AWL from 2200 hrs. 2 Jan. 45 (2nd & 3rd Pub)	"	2-1-45	"	"	19	22 Jan. 45
SOS as deserter Forfeits 32 days pay Def Kit $129.70	"	2-2-45	"	"	32	6 Feb. 45
TOS from No. 6 DD on surrender to Mil. Auth. at 1930 hours on the 3rd September 1945 at Calgary, Alberta	"	3 Sept.45	13 DD	Calgary	215	11th Sept. 45

Certified to be a true extract of M.F.M. 2 of which it purports to be a copy.

W.A. Blench Lieut.,
(W.A.Blench) Ass't. Adjutant,
No.13 District Depot, C.A.

Schedule "G" 39

RECORD of the Declaration of a Court of Inquiry assembled at No. 6 District Depot, C.A. on the 2nd day of Feb. 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any in the Arms, ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of M608560 Fus. Bobryk, N. No. 6 District Depot, C.A.

DECLARATION.

The Court declare that No. M608560 (Regt'l No.) Fus. (Rank) No. 6 District Depot, C.A. Bobryk, N. (Full Name) illigally absented himself without leave from 1st Irish Fus. at Debert, NS at 2200 hours on the 2nd day of January 1945 that he is still so absent, and that on the 2nd day of February 1945 he was deficient, and that he is still deficient the following articles:-

ARTICLES		VALUE		ARTICLES		VALUE	
Clothing Div. "A"				Knife table	1		14
Anklets web pr	1		56	Fork table	1		06
Gloves woollen prs	1		50	Spoon table	1		06
Greatcoat drab	1	11	66	Holdall	1		17
Overalls comb.	1	1	89	Housewife	1		27
Clothing Div. "B"				Knives clasp o/s	1	75	75
Blouses serge BD	2	9	76	Razor safety	1		32
Trousers S pr	2	9	82	Towels hand	2		48
Boots ankles	2	8	74	Necktie black	1		15
Cap F.S.	2	1	06	Pins collar	1		05
Drawers cotton	2		64	Socks black prs	2		42
Drawers woollen pr	2	2	10	Belts W.L.B.	1	27	27
Jacket KD OC	1	2	57	Bags kit Mk111	1	1	27
Shirts F.K.	2	2	46	Section A-1			
Shirts undercotton	2		66	bags ration	1		03
Shirts woollen	2	1	80	Belts w.	1		57
shirts K.C.	2	2	32	Bottles water	1		47
Shoes canvas pr	1	1	73	Braces shldr L	1		27
Socks woolen	4	1	40	Braces shldr R	1		25
Trousers KD Shorts pr	1		99	Carriers waterbottle	1		28
Clothing Div. "C"				Frogs bayonet	1		14
Blacking tins	1		04	Haversack	1	1	73
Boot dressing tins	1		04	Helmet steel	1	1	79
Boot laces prs	1		03	Pack	1	1	70
Braces	1		21	Strap shldr hvsack	2		48
Brasses button	1		02	Strap web supporting	2		22
Brushes boot polishing	1		16	Tins mess	1		43
Brushes button	1		09	Covers breach	1		27
Brushes cloth	1		13	Pouches basic	2	1	56
Brushes hair	1		30	Section A-2			
Brushes shaving	1		32	Capes AG	1	2	32
brushes tooth	1		07	Res. AG & Hvsack	1	4	51
Cap comfoter	1		31	Ointment A.G.	2		40
Comb hair	1		03	Eyeshields	1		78

G.W. Neily Capt. (Name) (Rank) No. 6 D.D. President. (Unit)

R.O. 4633 (Name) (Rank) Member (Unit)

R.O. 4633 (Name) (Rank) Member. (Unit)

Signed at Halifax, N.S. this 2nd day of Feb. 1945

Signature of Commanding Officer: F. I. Andrew, Col., No. 6 DO. C.A.

M.F.B 375
A.F.B. 115
150 M-10-42 (6530)
H.Q. 1772-39-257

Certified true copy L.H. LeBlanc Capt. (Name) No. 6 District Depot C.A. (Rank) (Unit)

(Signature of Officer having custody of original record
L.H. LeBlanc, Capt, & Adj. No. 6 District Depot C.A.

10

Section "J"							
Sheets ground	1	1	85				
Mugs enamal	1		12				
~~Pnnlexx~~ prs detectors	2		42				
Outfit A/D	1		03				
Rfle No. 43L9639	1	36	29				
Bottles oil	1		10				
Pullthrough	1		10				
Slings rfle web	1		18				
Protectors ear	2		06				
Sponges pipe clay	1		02				
Bayonet w/s	1	4	31				
TOTAL		129	70				

G.W. Neily Capt. (Name) (Rank) No. 6 D.D. President. (Unit)

R.O. 4633 (Name) (Rank) Member (Unit)

R.O. 4633 (Name) (Rank) Member. (Unit)

Signed at Halifax, N.S.
this 2nd day of Feb. 1945

Signature of Commanding Officer: F. I. Andrew, Col., No. 6 DO. C.A.

Certified true copy L.H. LeBlanc Capt. (Name) No. 6 District Depot, C.A. (Rank) (Unit)

(Signature of Officer having custody of original record
L.H. LeBlanc, Capt. & Adj. No. 6 District Depot C.A.

M.F.B 375
A.F.B. 115
150 M-10-42 (6530)
H.Q. 1772-39-257

10

Schedule "H"
Amendment 41

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major M.A. Ellissen, Officer Commanding No. 13 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that M.608560 Private Nick Bobryk
(Number) (Rank) (Name in full)

of the 1st Bn. Irish Fusiliers, C.A.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (surrendered to) M.11494 S/Sgt.
(Number) (Rank)

J.J. Chapman No. 13 District Depot, C.A.
(Name) (Unit or appointment)

at Calgary, Alberta. at 1930
(Place) (Hour)

on the 3rd day of September 1945

Strike out words not applicable } as a deserter or absentee without leave), and that at the time of his arrest surrender he was wearing military (air force) uniform (dressed in civilian clothes).

Dated at Calgary, Alberta this 8th day of September 1945

M A Ellissen Major,
(Signature, Number, Rank, Unit or appointment)
(M.A. Ellissen), Officer Commanding,
No. 13 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

AN N.R.M.A. SOLDIER OF THE CANADIAN ARMY PLACED ON ACTIVE SERVICE.

9

4

ARTICLE	QUANTITY
Badges, arm, drab, Royal Arms	1
Badges, arm, drab, Royal Arms in Wreath	1
Bags, kit, universal MK II	1
Braces	1
Brass, cleaning	1
Brush, button, brass	1
Brush, clothes	1
Brush, hair	1
Brush, shaving	1
Brush, shoe, blacking	1
Brush, shoe, polishing	1
Brush, tooth	1
Cap, comforter	1
Chevrons	1
Initials of Soldier	M
Initials of QM or Rep.	RD

5

ARTICLE	QUANTITY
Rifle (Regt'd No.) (.....)	1
Bayonet No. ..... w/scabbard	1
Bottles, oil	1
Pullthroughs, single	1
Rods, cleaning, pistol	1
Carbine, Mach. (Regt'd No.) (.....)	1
Magazines, Carbine	1
Pistol Revolver (Regt'd No.) No. ..... (.....)	1
Ctges, SA, revolver .380 in.	1
Ctges, SA, .303 in Mk VII	100
CHARGERS	100
Initials of Soldier	M
Initials of QM or Rep.	RD

6

ARTICLE	QUANTITY
Towels, hand	2
Unit or Corps titles, prs.	
Attachments, brace	
Bag, ration	1
Belts, waist	1
Bottles, water	1
Braces, WE (Right)	1
(Left)	1
Carriers, cartridge	1
Carriers, waterbottle	1
Cases, binoculars	
Cases, pistol	
Covers, breech, rifle	1
Initials of Soldier	M
Initials of QM or Rep.	RD

7

ARTICLE	QUANTITY
Cover, [illegible]s tin	1
Frogs, web, bayonet	1
Haversack	1
Helmet, steel	1
Net camouflage helmet	1
Packs	1
Pockets Compass	
Pouches, amm, pistol	
Pouches, basic	2
Pouches, utility Front	1
Pouches, utility Rear	1
Slings, rifle, web	1
Straps, shoulder, haversack left	2
Straps, shoulder, haversack right	2
Straps, web, supporting	1
Tins, mess, TP	
Initials of Soldier	M
Initials of QM or Rep.	RD

10

ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY
Belts, waist, leather, brown or web 1½"	1
Boots ankle, felt, prs.	
Boots, insoles, prs.	
Boots, lumberman's rubber prs.	
Buttons, G.S., large	4
Buttons, G.S., small	4
Buckles, Brass	4
Cap, winter, melton cloth	4
Coat waterproof	
Helmet, sun	
Jackets, Khaki drill	4
Jackets, serge, drab, O.C.	
Initials of Soldier	M
Initials of QM or Rep.	RD

9

ARTICLE	QUANTITY
Jacket, [illegible]ater, ~~or jersey~~ pullover	1
Overalls, combination	1
Overalls, blouses, denim	
Overalls, trousers, denim	
Shirts, Angola, drab or flannel khaki	2
Shoes, canvas, prs.	1
Socks, prs.	4
Trousers, battle-dress, prs.	2
~~Coats~~ Shirts, woollen	2
Badges, cap	1
Badges, arm, drab, crowns	
Badges, arm, drab, crown in wreath	
Badges, arm, Tank Bn.	
Badges, shoulder, "CANADA", prs.	4
Initials of Soldier	M
Initials of QM or Rep.	RD

8

ARTICLE	QUANTITY
Veil, face, camouflage	
Yoke	
Capes, A/G	1
Respirators, A/G, complete with haversack	1
Outfits, A/D	1
Ointment, A/G	2
Eyeshields, A/G, pk of 6	1
Detectors, Individual prs.	2
Wallet, A/G	
Blanket	
Mug, drinking	1
Sheet, ground	1
Initials of Soldier	M
Initials of QM or Rep.	RD

5

ARTICLE	QUANTITY
Comb, hair	1
Discs, identity, sets, with cord	3
Dressing, field	1
Fork, NS Table	1
Holdall	1
Housewife, complete	1
Knife, clasp	1
Knife, table	1
Lanyard, knife	1
Razor, safety, with blade	1
Patches, distinguishing, prs.	
Shorts, gymnasium	
Spoons, NS dessert	1
Vest, cotton, gym	
Initials of Soldier	M
Initials of QM or Rep.	RD

ARTICLE	QUANTITY				
Anklets, web, prs.	1				
Blouses, Battle-dress	2				
Bonnet, tam-o'shanter					
Boots, ankle, prs.	2				
Boots, rubber, high, prs.					
Boots, leather, high, prs.					
Bonnet, drab, Irish					
Cap, field service	2				
Cap, mechanic					
Cap, tank battalion					
Drawers, Cellular (cotton) short, prs.	2				
Drawers, Woollen, prs.	2				
Gloves, knitted, drab, prs.	1				
Greatcoat, drab	1				
Initials of Soldier	M				
Initials of QM or Rep.	MP				

ARTICLE	QUANTITY				
Mitts, cover, leather, prs.	P				
Muffler, khaki	P				
Necktie, black	P				
Pin, collar, safety	P				
Puttees, prs.	P				
Rubbers, prs.					
Shirts, khaki, cotton	2	2			
Shirts, undercotton	2	2			
Shoes, leather, black, prs.	P				
Socks, black, prs.	P				
Trousers, khaki drill, prs.	PP				
Trousers, khaki drill, short, prs.	2	1			
Trousers, serge, drab, N.P. prs.					
Initials of Soldier	M	M			
Initials of QM or Rep.	MP	P			

INSTRUCTIONS TO SOLDIER
(OVERSEAS ONLY)

1. You will always carry this book on your person and are responsible for its safe custody. (Officers need not carry this book on their person but will be responsible for its safe custody).

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS ONLY)

1. Unit equipment (e.g. compasses, binoculars, special clothing for cooks, m/cyclists, etc.) will not be recorded on this statement.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS AND CANADA)

1. This statement will be used to record articles of personal clothing and equipment issued to each soldier.

2. All entries will be made in ink. Blank spaces in columns will be ruled through. All columns used will be initialled in the space provided by soldier and by the QM. or his representative.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AT EACH KIT INSPECTION

Certify that the record detailed in this statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE	DATE	SIGNATURE	DATE
G.O. Perley	10-9-44		
R. Butler	1-12-44		

44

CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	
Battle Dress, trousers	
Cap or bonnet	
Boots, ankle	
Gloves	
Facepiece, respirator	
Greatcoat	
Helmet steel, lining	
Overalls, combination	
Jersey, pullover	
Shirts, Angola, drab	
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

OVERSEAS—Militia Book M. 1 Part III
(P & S/1894 (2570)
(M.S.F.C. 800
(2550)
H.Q. 1772-39-1643
K.P. 93282

43

Certified to be a true copy of M.F.C. 800 of which it purports to be a copy.

"I"
W. A. Blench Lieut.
(W. A. Blench) Asst. Adj.
CANADIAN ARMY
No. 13 District Depot, CA.

CLOTHING AND EQUIPMENT STATEMENT

Regt'l. No. M608260

Rank Gnr.

Name Bobryk, H.

Date of Attestation 13 July 43

Original Unit 300 Station Calgary

Home Address (Reserve Unit Personnel Only) Alberta.

8

12

ARTICLE	QUANTITY
Badges, shoulder, Canada, drill, prs.	
Blacking, tins	1
Boot dressing, tins	1
Bootlaces, prs.	1
Protectors, ear	2
Sponge, pipeclay	1
Lanyard, pistol	
Initials of Soldier	M
Initials of QM or Rep.	RD

1

3. Items withdrawn from soldier will be marked off by a "X" in ink, on the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner.

"H" 45

M.R.B. 358
7638—5-43 (145)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or unit)~~
M6085560	Fusilier	Nick Bobryk	No.13 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Nil times	Nil times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets ~~of~~ the accused.

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has ~~not been~~ previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 7 days in military custody, making a total of 7 days in custody, of which NIL days were spent in hospital.

~~Air Force~~

Close arrest ...7.. days
Open arrest . NIL .. days

5. The present age of the accused according to his ~~record of service is~~ ~~attestation paper~~ enrolment 21 years 9 months

6. The date of his ~~commission~~ specified in his ~~record of service is~~ ~~attestation~~ enrolment ~~attestation paper~~ enrolment 13 July 1943

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ ~~Air Force~~ ~~the regimental rank of .....~~

7

46

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In the rank of ..... years. ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of September 1945 W.A. Blench Lieut.
(W.A. Blench) Ass't. Adj.
No. 13 District Depot,
C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "G" signed by the president, and annexed to the proceedings.

M.F.M. 6

Reg. No. M608560 Name BOBRYK, N. Corps R.C.A. Date of enlistment or enrolment 13-7-43 Date of Birth

Signature O.C. Company, etc. "S.C.Smith" Capt.

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Dartmouth, N.S.				Original sheet destroyed - No. entries - 13 Jan. 44	"J.Daley" Lt.				
				Certified to be a true copy of M.F.M. 6 of which it purports to be a copy.					
				.....Lieut., (W.A.Blench) Ass't.Adjutant, No.13 District Depot,C.A.					

M.F.M. 6—500M—9-44 (3386)
H.Q. 1272-39-1053

(P.T.O.)

47

50

PRECIS OF EVIDENCE

in respect to the trial by Standing Court-Martial of

The accused, No. M608560 Fusilier Nick Bobryk, No.13 District Depot,C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

CHARGE: 1. Desertion,

2. Losing by Neglect.

To prove the first charge the following evidence is available:

DOCUMENTARY: M.F.M. 2
M.F.B. 375
M.F.M. 216

To prove the second charge the following evidence is available:

DOCUMENTARY: M.F.B. 375

VERBAL: No. M37337 C.Q.M.S. J. Wright, No.13 District Depot,C.A., who will give evidence that on the 10th September 1945, he personally checked the kit of the accused against his M.F.B. 375 and M.F.C. 800 and found him to be deficient the following articles:

	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "A"		
Overalls, Combination prs. 1	2.52	-1.89 o
Blouses Battledress Serge 1	6.50	-4.88 o
Boots Ankle Army prs. 1	5.82	-4.37 o
Caps Field Service 1	.70	-.53 o
Drawers Cotton Short prs. 2	.84	-.63 o
Clothing Division "B"		
~~Jackets Khaki Drill L/C 1~~	~~3.42~~	~~-2.57 o~~
800	1.95	-[1.46] = No Clothing
Shirts, Cotton Khaki 1	.86	-.65 o
Shirts, Undersotton 2	2.29	-1.72 o
Shoes, Canvas prs. 1	1.84	-1.38 o
Socks Army prs. 4	6.55	-4.91 o
Trousers Battledress Serge prs. 1	1.31	-.98 o
Trousers Khaki Drill Short prs. 1		

5

51

	Vocabulary Rate	Less 25% CARO 3464
Clothing Division "C"		
Brushes Button 1	.11	-.08
Brushes Cloth 1	.17	-.13
Caps Comforter 1	.41	-.31
Knives Clasp 1	.99	-.74
~~Socks Lightweight Black Prs. 2~~	~~.56~~	~~-.42~~
Clothing Division "1-A"		
Belts Waist W.E. Patt. 37 1	.72	-.54
bottles Water 1	.62	-.47
Braces W.E. Patt . 37 Left 1	.35	-.26
Braces W.E. Patt. 37 Right 1	.33	-.25
Carriers W/Bottle W.E. 1	.37	-.28
Frogs Bayonet W.E. 1	.12	-.09
Haversacks W.E. Patt. 37 1	2.29	-1.72
Helmets Steel 1	2.39	-1.79
~~Helmets Cover Camouflage 1~~	~~.26~~	~~[.20]~~ - not ch'd
Packs W.E. Patt. 37 1	2.26	-1.70
Pouches Basic W.E. Patt. 37 2	2.06	-1.55
Straps Shoulder Haversack Left 1	.31	-.23
Straps Shoulder Haversack Right 1	.31	-.23
Straps Supporting W.E. Patt. 37 2	.28	-.21
Tins Mess Rectangular 1	.57	OW [.43] - no ch'd
Clothing Division "2-A"		
Capes A/G 1	4.70	-3.53 2.32
Detectors Gas Sleeve prs. 2	.60	-.45
Eyeshields A/Gas (Pkt. of 6) 1	.68	.51 .78
Ointment A/Gas #2 Boxes 2	.52	.39
Respirators A/Gas W/Container and Facepiece 1	4.73	-3.55
Haversacks Respirator A/G 1	1.27	.95 4.51
Outfits A/Dimming 1	.06	-.05
Clothing Division "K"		
Mugs Enamelled 1	.16	-.12
Clothing Division "1-J"		
Sheets Ground Drab 1	2.38	-1.79
TOTAL		$ -48.94 ✓

M A Ellissen

.....Major,
(M.A.Ellissen), Officer Commanding,
No.13 District Depot,C.A.

CALGARY, ALBERTA
11 September 1945.

4

H.Q.C.55-B-2021 (JAG/D-4)
Your C. 36-B-5339 (JAJ)

10 Oct 45

The District Officer Commanding,
Military District No. 13, Calgary, Alta.

STANDING COURT-MARTIAL

M. 608560 Fus. Nick Bobryk,
No. 13 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

JOGR/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2021
M.D.C. ~~36-B-5339 (JAJ)~~

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. NRMA M-608560 Name BOBRYK, Nick

Rank Fus Unit No. 13 DD CA

Charge (1) AA 12 (1)(a) WOAS Deserting.....
(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 2-1-45 (2) 10-9-45

Date of Arrest 3-9-45 Charge Signed 11-9-45

Orders for D.C.M.

Place and Date of Trial Armouries 11-9-45

Sentence Det 11 mos

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40083

Date 4-10-45

MEMO Balance of sentence remitted by Conf. Auth. Guilty AWL (2) not gu lty

MD 13	No. 13 DD CA
Absent	Sentence
Approx 8 mos	Det 11 mos

2

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No. C. 36-B-5339 (JAJ)

R61

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY
Headquarters, M.D. 13,
Calgary, Alberta.

26th September, 1945.

Registered
Confidential
Airmail

C.55-B-2021

Judge Advocate General,
Department of National Defence,
OTTAWA, Ontario.

No. M.608560, Fus. Nick Bobryk,
No. 13 District Depot, C.A.

1. Attached hereto are the Proceedings of the Standing Court-Martial in connection with the marginally named soldier.

(W.K. Jull) Lieut. Col.
President,
Standing Court-Martial.

40083

N.D. 23
3 Mil.—11-43 (2979)
H.Q. 1772-101-23

H.Q.C. 55-B-2022 CONFIDENTIAL

M.F.B. 3070
ISM—2-15 (8000)
H.Q. 4-31-1-43

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOUCHER, JEAN GUY D.170324 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2022

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 5 - 1945					(If purpose for which referred cannot be expressed on one line, add minute to file and enter "With Minute")		
OCT 15 1945				JAG	NEW FILE	CR	3-10-45
	15-10-45	O.A.	MM	JAG	With Papers C.R. OCT 11 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C.55-B-2022 (JAG/D)

15 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING Court-Martial
D.170324 Pte. J.G.Boucher,
CIC., No. 44 C.I.(B) T.C.,C.A.

Receipt is acknowledged of your M.1-B-17764(J) dated 9th October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J.Orde) Brigadier
Judge Advocate-General.

MM

IN REPLY PLEASE QUOTE No. M.1-B-17764(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

P 41

Montreal, P.Q.,
9th October, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
DOCS. SECT.
2304
OCT 11 1945
File C55-B. 2022
Charge to
Referred to P.A.G.

STANDING COURT-MARTIAL
D-170324 Pte. J.G. BOUCHER,
CIC No. 44 CI(B)TC, CA.

Reference your HQC.55-B-2022 (JAG/D-7) dated 4 Oct 45.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, please.

J.E.A. Simonneau Capt.
for (E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

NAT. DEF. B. 140
2500M-4-44-(5021)
H.Q. 1772-39-767

MEDICAL OFFICER'S REPORT

I certify that No. D-170324 Pte BOUCHER, J.G.
of St-Jerome, Qué. is in a good state of health,
and fit to undergo Trial by Court martial.

J. Guay Capt
Medical Officer
(J. GUAY) CAPT. RCAMC (AF)
M.O. M.I.R. NO 44 C.I. (B) T.C.

Station St-Jerome, 44 CI(B)TC.

Date 27 Sept 1945.

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 44 C.I.(B)T.C., C.A. St-Jérôme, Que.

le 27ième jour de septembre 19 45 à 1100 heures,

pour le procès de D-170324, Pte. BOUCHER J.G., C.I.C., C.A.,
Matricule Grade Nom et prénoms

attached to No. 44 C.I.(B)T.C., C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. Belleau, Quartiers-généraux, District Militaire No. 4.

PROCUREUR: Capitaine P.J.F. Bousquet, Quartiers-généraux,
Grade Nom et prénoms

District Militaire No. 4.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. R.R. LeBlanc, C.I.C., C.A.,
~~ADVOCATE~~
Grade Nom et prénoms

attached to No. 44 C.I.(B)T.C., C.A.
Unité Détachement, le cas échéant

VERDICT: La cour déclare l'accusé, D-170324, Pte. BOUCHER J.G., C.I.C., C.A., attached to No. 44 C.I.(B)T.C., C.A. coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La cour condamne l'accusé, D-170324, Pte. BOUCHER J.G., C.I.C., C.A., attached to No. 44 C.I.(B)T.C., C.A. à la détention pendant dix (10) jours, et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $23.75, coût des articles perdus.

Extracts entered as No. 40084 in the Record of Court-Martial kept in the Office of the Judge Advocate-General this 4 day of Oct 1945

Signé à St-Jérôme, que. ce 27ième jour de septembre 1945

(L.J.E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6448)
H.Q. 1772-39-2286
K.P. 26109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé.~~ ~~Vous opposez-vous à comme interprète ?~~

~~Réponse:~~

Question à l'accusé. D-137479, CSM (WO 11) J.E.R. Samson, No.4 Det. CMSC,CA, Vous opposez-vous à Quartiers-généraux, District Militaire No. 4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur les deux ..... chefs d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J.E. Bellemare Major Que. Cmd

"B2"

NO. 44 C. I. (B) T. C.
St.Jerome, Que.

CHARGE SHEET

The accused, D-170324 Pte. BOUCHER J.G., C.I.C. (C.A.), attached to No. 44 C.I.(B)T.C. (C.A.), St.Jerome, Que., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE
SEC 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

In that he

At St.Jerome, Que., at 0200hrs 6th August 1945, absented himself without leave from No. 44 C.I.(B)T.C. (C.A.), St.Jerome, Que., until he was apprehended by Military Authorities at Granby, Que., at 0340hrs on the 11th day of September 1945.

SECOND CHARGE
SEC 24 (2)
Army Act

LOSING BY NEGLECT HIS CLOTHING EQUIPMENT AND REGIMENTAL NECESSARIES

In that he

At No. 44 C.I.(B)T.C. (C.A.), St.Jerome, Que., on the 14th day of September 1945, was deficient of the following articles:-

	100%	75%
CLOTHING DIV. "A"		
1 Anklets web prs.	0.74	0.56
1 Dressing First Field N.P.	0.22	0.17
1 Coats Waterproof Army	6.91	5.18
CLOTHING DIV. "B"		
1 Trousers Khaki drill long	1.80	1.35
2 Drawers woollen	2.80	2.10
1 Muffler khaki	0.93	0.70
2 Shirts cotton khaki	3.90	2.92
2 Shirts woollen	2.40	1.80
1 Shoes leather black	4.84	3.63
4 Socks Army prs.	1.84	1.38
2 Trousers Khaki drill short	2.62	1.97
CLOTHING DIV. "C"		
1 Bags Kit Mk II	1.27	0.96
1 Belts waist web 1½"	0.25	0.19
1 Braces	0.28	0.21
1 Brushes button	0.11	0.08
1 Forks table	0.08	0.06
1 Knives table	0.18	0.14
1 Pins collar safety	0.06	0.04
1 Socks lightweight	0.28	0.21
1 Spoons table	0.08	0.06
CLOTHING DIV. "D"		
1 Buckles brass	0.06	0.04
GRAND TOTAL.....	$ 31.65	$ 23.75

These articles to be charged at 75% of their Vocabulary Rate.

Signed on this 18th day of September 1945, at St.Jerome, Que.

(C. McPHERSON) Major,
A/O.C. NO. 44 C.I.(B)T.C.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au premier et au deuxième chefs d'accusation, il est déclaré coupable ~~de cette accusation~~ desdites accusations.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement ~~à l'accusation~~ aux accusations dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur, je soumets une déclaration écrite.

(Voir CC-3 et seq.)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

St Jerome, Que.,
24 Sep 45

M. Le President.

Je, D-170~~234~~32 Pte Boucher J.G. agé de vingt ans, dans l'armée depuis le 13 Janvier 1944 depose et dit:

"J'obtenais mon congé annuel le 19 Juillet 1945 et je devais me rapporter ici au camp de St Jerome le 6 Aug 45.

Le 21 Juillet, cinq (5) amis et moi-même nous partions de Granby, Que., (ou je demeure) pour nous rendre au Mont Tremblant afin d'y passer quelques jours.

Rendus à St Jérome nous decidons d'y passer la nuit à l'hotel Lapointe. Au courant de la soirée un de mes amis "Lemonde" et moi-meme nous prenions l'automobile pour aller faire un tour. Le Proprietaire de l'auto mobile, M. Joe Fournier nous, avait donné la permission, étant donné que nous avions des amis ici car voila deja quelques mois que je suis stationné au camp de St Jerome.

Au cours de la soirée il nous est arrivé un accident avec l'automobile de M. Fournier et les dommages s'éleverent à $179.05 (les factures ci-attachees, et recus du Garage Bellerose de St Jerome, ou furent faits les repa-) rages de l'automobile)

Le 6 Aug 1945 M. Fournier venait lui même à St Jérome, pour chercher son automobile. Il dut encore faire un deboursé d'une cinquantaine de dollars ($50.00) pour peinture et autre petites réparations.

Je me voyais alors obligé de rembourser une somme de $115.00, (ma part dans les raparations) à M. Fournier, soit la moitie des dommages causés à son automobile.

Afin de ne pas inquieter mes parents, qui auraient été oblige de payer à ma place, je jugeai bon alors de travailler pour gagner le montant en question.

Je travaillai donc pour un restaurateur ambulant et ai voyage jusqu'à Quebec. J'ai gagne suffisamment d'argent ($160.) pour payer à M. Fournier ma part et decidai ensuite de retourner au camp.

Je devais revenir au camp lorsqu'un soir les Provost Corps vinrent chez moi et m'apprehenderent.

J'étais arrivé de Quebec à 1700 le lundi et je devais me rapporter au camp le lendemain quand je fus appehendé la nuit même.

Boucher J. G.
(J.G. Boucher) Pte
D-170324.

Téléphone 251 CC-45 201 rue Saint G

Gaz - Huiles - Accessoires
Graissage Général - Peinture
Débossage
Spécialité - Soudure à l'Oxygène et à l'Electricité

GARAGE BELLEROSE

Saint-Jérôme, 24 Août 1945

M. Les Tourisses

No. 229 rue Principale

Gazoline		
Pneu	le 2 août	45
Réparer lumière		
réflecteur sur		
Plymouth 1936		
sedan		
1-aile avant droite		
1-grille		
1-feu à Gauche		
1-bouchon radiateur		
1-kit bumper	179	05

No. 33L75

REDIFORM - PATENTED 1928 - BURT BUSINESS FORMS LIMITED

Téléphone 251 CC -97 201 rue Saint George

Gaz - Huiles - Accessoires
Ouvrage G[illegible] - Peinture
De[illegible]ge
Spécialité - Soudure à l'Oxygène et à l'Electricité

GARAGE BELLEROSE

Saint-Jérôme, Août 1945

M. Jos. Bournier

No 229 rue Principale

Granby

1	pulle droite	9	36
2	bagnette bumper	3	10
1	pulley gauche	9	36
1	main lame spring	3	10
1	collet spring		35
2	bolts		40
1	bushing shackle		60
1	insulator	1	60
1	front support	2	40
1	pulley crankshaft	1	80
		32	07
	Tax		65
		32	72

No. 32719

REDIFORM - PATENTED 1925 - BURT BUSINESS FORMS LIMITED 39569

Téléphone 251 CC-11 201 rue Saint Georges

Gaz - Huiles - Accessoires
Ouvrage Général - Peinture
Débossage
Spécialité - Soudure à l'Oxygène et à l'Electricité

GARAGE BELLEROSE

Saint-Jérôme, 6 août 1945

M. Jos. Fournier

No. 229 rue Principale

Sembly

1 support radiateur	6	85
4 bolts		60
2 U bolts spring	1	50
4 nuts double 4/8"		40
2 brosse générateur	1	20
16 pas. ½ jaw		16
2 bolts 3/8 x 1¾"		20
1 crossmember	8	40
1 pompe à l'eau	9	70
5 bolts complets	3	75
	32	76
Pay		66
32120	32	42

REDIFORM PATENTED 1925 BURT BUSINESS FORMS LIMITED 35568

Téléphone 251 CC-13 201 rue Saint George

Gaz - Huile - Accessoires
Garage G[illegible] - Peinture
Dé[illegible]ge
Spécialité - Soudure à l'Oxygène et à l'Electricité

GARAGE BELLEROSE

Saint-Jérôme, août 1945

M. Jos. Pournier
No. 229 rue Principale
Granby.

4 pds fender welt		20
96 noir, washers bolts		48
1 set tailed lamp	16	88
1 headlight wire	2	30
1 dimmer switch	1	00
1 champlure		55
1 can huile frein		65
	22	06
Gaz		45
	22	51

No. 32721

REDIFORM - PATENTED 1925 - BURT BUSINESS FORMS LIMITED 30568

Téléphone 251 CC-15 201 rue Saint Georges

Gaz - Huiles - Accessoires
Ouvrage Général - Peinture
Débossage
Spécialité - Soudure à l'Oxygène et à l'Electricité

GARAGE BELLEROSE

Saint-Jérôme, 6 août 1945

M. Jos. Bournier

No. 229 rue Principale

Granby.

1 radiateur réparé	27	25
50 1/2 hrs ouvrage	63	15
	90	40

No. 7222 2

REDIFORM PATENTED 1925 BURT BUSINESS FORMS LIMITED 39568

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: "Monsieur, j'ai été onze mois au bureau à Longueuil; "j'étais bien tanné et j'ai demandé pour un transfert, "mais il ne m'a pas été accordé. J'ai demandé pour être "paradé, mais ils n'ont pas voulu me parader. C'est là "l'idée du retard. J'ai été onze mois sans faire d'en- "traînement, rien du tout.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur. (Par l'entremise de mon officier défenseur - Voir E-3).

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Monsieur le président,

Je demanderais la clémence de la cour en passant sentence sur l'accusé, étant donné le jeune âge de l'accusé et le fait qu'il a déjà passé seize jours en détention préventive, et aussi le motif qui l'a porté à s'absenter était assez légitime, c'est-à-dire ne pas vouloir ennuyer ses parents avec l'accident qui lui était arrivé.

F 25

RECORD of the Declaration of a Court of Inquiry assembled at St.Jerome,Que.

on the 28th day of August 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-170324 L/Cpl. Pte. BOUCHER J.G. C.I.C. (C.A.), attached to No. 44 C.I.(B)T.C., St.Jerome, Que.

DECLARATION

The Court declare that No. D-170324 (Regt'l No.) Private L/Cpl. (Rank) BOUCHER J.G. (Full Name) C.I.C. (C.A.), attached to No. 44 CI(B)TC. (Unit) St.Jerome, Que. illegally absented himself without leave from No. 44 C.I.(B)T.C. at St.Jerome, Que. (Place) at 0200 hours on the 6th day of August 1945, that he is still so absent, and that on the 28th day of August 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
"D"			"1-J"		
1 D 81400 Buckles brass	0	06	1 1J 18900 Sheets ground MK VIII	2	38
1 Badges Cap	0	09	75% of Vocab. Rate	1	79
	0	15			
75% of Vocabulary Rate	0	11	GRAND TOTAL.....	$ 42	46
"1-A"					
1 IA 3450 Braces WE Patt.'37 Left	0	35			
1 IA 16280 Frogs Bayonet NO. 4 Mk II	0	12			
1 IA 29300 Straps sh. hav. left	0	31			
1 IA 29350 Straps sh. hav. right	0	31			
1 IA 29500 Straps web. support.	0	28			
	1	37			
75% of Vocabulary Rate	1	03			

Lieut. R.G. Fleury, CIC (CA) President
(Name) (Rank) (Unit)
attached to No. 44 C.I.(B)T.C., St.Jerome, Que.

Signed at St.Jerome, Que. ..... Member
(Name) (Rank) (Unit)

this 28th day of August 1945 ..... Member
(Name) (Rank) (Unit)

Signature of Commanding Officer (SGD.) (P. BROSSEAU) Lieut.-Col., OC NO.44 CI(B)TC
(Name) (Rank) (Unit)

Certified true copy .....
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)
(P.A.Y. Lupien) Lieut.-A/Adjt.,
No. 44 C.I.(B)T.C.

M.F.B. 375
A.F.B. 115
200M—1-44 (3578)
H.Q. 1772-39-257

ARTICLES	VALUE		ARTICLES	VALUE	
"A"			75% of Vocabulary Rate	36	13
1 A 250 Anklets web prs.	0	74	"C"		
1 A 4800 Caps Winter Melton Cloth	0	05	2 C 100 Bags Kit Mk II	27	10
1 A 8420 Dressing First Field N.P.	0	22	1 C 250 Belts waist web 1½"	2	54
1 A 7700 Coats Waterproof Army	8	51	1 C 850 Braces prs.	0	25
1 A 24660 Overshoes 4 buckles	2	04	1 C 800 Brushes button	0	28
			1 C 850 Brushes shaving	0	17
75% of Vocabulary Rate	10	96	1 C 1000 Brushes tooth	0	17
"B"			1 C 1100 Combs	0	05
1 B 450 Blouses Battle Dress Serge	8	22	1 C 1300 Forks table	0	04
1 B 3550 Drawers woollen	6	50	1 C 1500 Knives table	0	06
1 B 7050 Muffler Khaki	2	80	1 C 1650 Neckties black	0	18
2 B 7950 Shirts cotton khaki	3	34	1 C 1850 Razors safety sets	0	19
2 B 8600 Shirts woollen	5	86	1 C 1700 Pins collar safety	0	12
1 B 8750 Shoes leather black	2	40	1 C 2200 Spoons table	0	06
2 B 8850 Socks army	4	84	1 C 2300 Towels hand	0	08
1 B 10200 Trousers Battle Dress Serge	1	84	2 C 2100 Socks lightweight	0	21
1 B 10500 Trousers Khaki Drill Long	6	50		0	58
2 B 10350 Trousers Khaki Drill Short	1	80			
	2	62			
75% of Vocabulary Rate	4	71	75% of Vocabulary Rate	2	71

"G"

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT NO. 44 C.I.(B)T.C.

PART II ORDERS

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 174

STATION St.Jerome, Que.

DATE 9 Aug 45

"Last Order Issued No. 173 dated 8 Aug 45"

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
4	ABSENCE WITHOUT LEAVE	D-170324	B/CPL. BOUCHER J.G.		AWL from 0200hrs	6 Aug 45

CERTIFIED TRUE EXTRACT:-

(P.A.Y. Lupien)Lieut.-A/Adjt.,
No. 44 C.I.(B)T.C.

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

(SGD.) (P.A.Y. Lupien)Lieut.-A/Adjt.,
for (M.A. Desrochers)Capt.-Adjt.,
No. 44 C.I.(B)T.C.

(Officer Commanding or Adjutant)

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-39-254

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W.Pouliotte O.C. Composite Provost Companies. M.D4.
(Number) (Rank) (Name) (Unit)

hereby certify that D-170324 Pte. Boucher Jean Guy
(Number) (Rank) (Name in full)

of the No.44 C.I.B.T.C. St. Jerome.Que
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~[illegible]~~) D-51382 Sgt.
(Number) (Rank)

Barbe. A. Composite Provost Coys. M.D.4.
(Name) (Unit or appointment)

at Granby,Que (Place) at 0340 (Hour)

on the 11th day of September 19 45

Strike out words not applicable } as ~~[illegible]~~ absentee without leave), and that at the time of his arrest he was wearing military ~~[illegible]~~ uniform ~~[illegible]~~

Dated at Montreal.Que this 12th day of September 19 45

(R.W.Pouliotte)Major R.Pouliotte 48
(Signature, Number, Rank, Unit or appointment)
O.C. Composite Provost Coys. M.D.4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Soldier of the Active Army

36

ARTICLE	QUANTITY
Badges, arm, drab, Royal Arms	1
Badges, arm, drab, Royal Arms in Wreath	
Bags, kit, universal	2
Braces	1
Brass, cleaning	8
Brush, button, brass	1
Brush, clothes	8
Brush, hair	8
Brush, shaving	1
Brush, shoe, blacking	
Brush, shoe, polishing	2
Brush, tooth	1
Cap, comforter	8
Chevrons	1
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

41

ARTICLE	QUANTITY
Rifle No. (Regt'd No.) (44.1214)	8
Bayonet No. w/scabbard	8
Bottles, oil	8
Pullthroughs, single	8
Rods, cleaning, pistol	
Carbine, Mach. (Regt'd No.) (.....)	
Magazines, Carbine	
Pistol Revolver No. (Regt'd No.) (.....)	
Ctges, SA, revolver .380 in.	
Ctges, SA, .303 in Mk VII	
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

38

ARTICLE	QUANTITY
Towels, hand Net 1	2
Unit or Corps titles, prs.	8
	1
Attachments, brace	1
Bag, ration	1
Belts, waist	8
Bottles, water	8
Braces, WE (Right)	8
(Left)	1
Carriers, cartridge	1
Carriers, waterbottle	1
Cases, binoculars	1
Cases, pistol	8
Covers, breech, rifle	[illegible]
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

37

ARTICLE	QUANTITY
Cover, mess tin	1
Frogs, web, bayonet	1
Haversack	8
Helmet, steel	8
Net camouflage helmet	1
Packs	8
Pockets Compass	1
Pouches, amm, pistol	1
Pouches, basic	8
Pouches, utility { Front / Rear	1
Slings, rifle, web	1
Straps, shoulder, haversack { left / right	2
Straps, web, supporting	2
Tins, mess, TP	8
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

42

10

ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY
Belts, waist, leather, brown or web 1½"	1
Boots ankle, felt, prs.	
Boots, insoles, prs.	
Boots, lumberman's rubber prs.	
Buttons, G.S., large	4
Buttons, G.S., small	4
Buckle Brass	1
Cap, winter, melton cloth	1
Coat waterproof	1
	1
Helmet, sun	1
Jackets, Khaki drill	1
Jackets, serge, drab, O.C.	1
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

9

ARTICLE	QUANTITY
Jacket sweater, or jersey pullover	1
Overalls, combination	1
Overalls, blouses, denim	1
Overalls, trousers, denim	1
Shirts, Angola, drab or flannel khaki	1
Shoes, canvas, prs.	3
Socks, prs.	4
Trousers, battle-dress, prs. Shirts	2
Vests, woollen	2
Badges, cap	1
Badges, arm, drab, crowns	1
Badges, arm, drab, crown in wreath	
Badges, arm, Tank Bn.	
Badges, shoulder, "CANADA", prs.	1
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

40

8

ARTICLE	QUANTITY
Veil, face, camouflage	1
Yoke	1
Clothing	1
Capes, A/G	1
Respirators, A/G, complete with haversack	1
Outfits, A/D	1
Ointment, A/G	1
Eyeshields, A/G, pk of 6	1
Detectors, Individual prs.	1
Wallet, A/G	
Blanket	
Mug, drinking	
Sheet, ground	1
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

8

ARTICLE	QUANTITY
Combs, hair	1
Discs, identity, sets, with cord	1
Dressing, field	1
Fork, NS Table	1
Holdall	1
Housewife, complete	1
Knife, clasp	1
Knife, table	1
Lanyard, knife	1
Razor, safety, with blade	1
Patches, distinguishing, prs.	
Shorts, gymnasium	
Spoons, NS dessert	1
Vest, cotton, gym	1
Initials of Soldier	[illegible]
Initials of QM or Rep.	[illegible]

ARTICLE	QUANTITY					
Anklets, web, prs.	1					
Blouses, Battle-dress ret. 1	2					
Bonnet, tam-o'shanter	1					
Boots, ankle, prs.	2					
Boots, rubber, high, prs.						
Boots, leather, high, prs.						
Bonnet, drab, Irish						
Cap, field service Felt Khaki	3					
Cap, mechanic						
Cap, tank battalion						
Drawers, Cellular (cotton) short, prs.	2					
Drawers, Woollen, prs.	2					
Gloves, knitted, drab, prs.	1					
Greatcoat, drab	0					
Initials of Soldier						
Initials of QM or Rep.						

ARTICLE	QUANTITY					
Mitts, pullover, leather, prs.	1					
Muffler, khaki	1					
Necktie, black	1					
Pin, collar, safety	1					
Puttees, prs.	1					
~~Rubbers, prs.~~ Overshoes	1					
	1					
Shirts, khaki, cotton	3					
Shirts, undercotton	2					
Shoes, leather, black, prs.	1					
Socks, black, prs.	2					
Trousers, khaki drill, prs.	1					
Trousers, khaki drill, short, prs.	3					
Trousers, serge, drab, N.P. prs.						
Initials of Soldier						
Initials of QM or Rep.						

CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	
Battle Dress, trousers	
Cap or bonnet	
Boots, ankle	
Gloves	
Facepiece, respirator	
Greatcoat	
Helmet steel, lining	
Overalls, combination	
Jersey, pullover	
Shirts, Angola, drab	
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

OVERSEAS—Militia Book M. 1 Part III
40 P & S/1894 (2570)
CANADA —M.F.C. 800
750M 11-43 (2570)
H.Q. 1772-39-1643
KF. 93282

L. LACROIX CAPT. Q.M.
No. 44 C . 1. (B) T.
St. Jerome P.Q.
CERTIFIED TRUE COPY

CANADIAN ARMY
CLOTHING AND EQUIPMENT STATEMENT

Regt'l. No. D. 170324

Rank Ste

Name Boucher J. G.

Date of Attestation Jan. 13. 44

Original Unit H.D. Station Smith Falls, Ont

Home Address (Reserve Unit Personnel Only)

D. 170324 Ste Boucher J.

44

12

ARTICLE	QUANTITY
Badges, shoulder, Canada, drill, prs.	1
Blacking, tins	2
Boot dressing, tins	4
Bootlaces, prs.	3
Protectors, ear	1
Sponge, pipeclay	
Lanyard, pistol	1
Initials of Soldier	
Initials of QM or Rep.	

1

3. Items withdrawn from soldier will be marked off by an "X" in ink over the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner.

J.E. Belleau Major, Pres. C.M.

"Y"

M.F.B. 355
75M—5-43 (145)
H.Q. 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-170324	Private	BOUCHER J.G., C.I.C. (C.A.), attached to No. 44 C.I.(B)T.C., St.Jerome, Que.	

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	One (1) A.W.L.	times	One (1) A.W.L.	times
For		times		times
For		times		times
For		times		times

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 16 days in military custody, making a total of 16 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 19 years 10months

6. The date of his attestation specified in his attestation paper is 23rd November 1944

7.

8.

9. The accused is in possession of or entitled to no military decoration, or military award (

10. The accused has not been before under any other custody the regimental

the

48

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Air Force

Name.....of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th Sept 1945 day of .....

(F.A.Y. Lunien) Lieut.-A/Adjt.,
No. 44 C.I.T.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Y" signed by the president, and annexed to the proceedings.

M.F.M. 6

Reg. No D-170324 Name BOUCHER Jean Guy Corps CIC

Date of enlistment or enrolment 23 Nov 44

Date of Birth 6 Nov 25

Signature O.C. Company, etc. J.T. Breault, Lieut. (SGD.)

Sheet No. ..... of *1. 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Jacques Cartier Barracks, Montreal	26 Nov 44	Gnr.		AA15 (1)AWL from 1200hrs 25 Nov 44 to 0830hrs 26 Nov 44 (20hrs 30mins.)	CSM POOLE	3 days C.B.	27 Nov 44	Capt. Stewart- Forf. 1 day's pay. Aut. FR&I. 14 9	

CERTIFIED TRUE COPY:-

(P.A.L. Dupian) Lieut.-A/Adjt.,
No. 44 C.I.(B)T.C.

M.F.M. 6—500M—8-44 (5388)
H.Q. 1772-39-1652

(P.T.O.)

H.Q.C.55-B-2022 (JAG/D-7)
Your M. 1-B-17764(J)

4 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 170324 Pte. J.G.Boucher,
CIC No. 44 C.I.(B) T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

R.J.O.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2022
M.D.M. 1-B-17764 (J(

STANDING

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. GS D-170324 Name ROUCHER, J.G.

Rank Pte Unit CIC No. 44 CI(B)TC CA

Charge (1) AA 15 (1) ~~AA~~ AWL

(2) AA 24 (2) Losing by neglect.....

Date of Crime (1) 6-8-45 (2) 14-9-45

Date of Arrest 11-9-45 Charge Signed 18-9-45

Orders for D.C.M.

Place and Date of Trial No. 44 CIBTC CA 27-9-45

Sentence Det 10 ~~mos~~ DAYS Stoppages $23.75 RAP

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40084

Date 4-10-45

MEMO

MD 4 No. 44 CIBTC CA

Absent Sentence

36 days Det 10 ~~mos~~ DAYS RAP

R.J. Ryan Cpt

for Judge Advocate General

10M-8-45(M-189)

LJEB/S

In reply quote No. M. 1-B-17764 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

Montreal, Quebec,
29th September, 1945.

C.55-B-2022

CONFIDENTIAL

Judge-Advocate General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT-MARTIAL
D-170324, Pte. BOUCHER J.G.,
C.I.C., C.A., attached to
No. 44 C.I.(B)T.C., C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:-

(a) Proceedings of the Court
(b) Medical Officer's Report dated 27th September, 1945

2. Submitted for your information, consideration and approval, please.

J.E. Belleau

(L.J.E. BELLEAU) Major,
Headquarters, Military District No. 4,
President - S.C.M.

ENC.

400 84

M.F.A. 1326
1,000M—1-43 (9993)
H.Q. 1772-39-2009

H.Q.C. 55-B-2023 CONFIDENTIAL

M.F.R. 5019
25M—2-45 (6097)
H.Q. 201-1-38

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOWEN, CLARENCE C.40513 GNR.

CONFIDENTIAL
H.Q.C. 55-B-2023

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 12 1945				JAG	NEW FILE	CR	3-10-45
OCT 18 1945					Papers C.R. OCT 16 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-2-2023 (JAG/D-5)

17th October 1945

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

Standing
~~G-40818, Field Court-Martial~~

K-55-B-408(JAG)

Receipt is acknowledged of your dated 15th October 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(P.J.Orde) Brigadier,
Judge Advocate-General.

LCC:MJ

HG

IN REPLY PLEASE QUOTE No. K.55-B-408(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 15 Oct 45.

Quartermaster General
Co...
3236
OCT 16 1945
File 055-B-2023
Chgd. to
Referred to JAG.

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C.40513 Pte. BOWEN, C.
O.T.C. (EC) C.A.

Reference H.Q.C.55-B-2023 (JAG/D-8) dated 11 Oct 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

for (F.L.Armstrong) Brigadier
District Officer Commanding,
Military District No.3.

Encl.

NAT. DEF. B. 440
2500M 4 44 4320
H.Q. 1772-39-767

MEDICAL OFFICER'S REPORT

I certify that No. C-40513 Pte Bowen, C.
of O.T.C.(EC) is in a good state of health,
and fit to undergo Trial by Court martial.

a.c. Lang Capt
(A.C.Lang) Capt. RCAMC.
Medical Officer
attd O.T.C. (E.C)

Station Brockville, Ontario

Date 27 Sept. 1945

M. F. B. 246
25M—10-42 (6503)
H.Q. 1772-36-440

Rmk

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at O. T. C. (E.C.), C.A., Brockville, Ontario,

on the 27th day of Sept., 1945, at 1405 hours,

for the trial of: C-40513 - ~~XX~~ Gnr. CLARENCE BOWEN,
Number Rank Full Name

Officers' Training Centre (E.C.), C.A.
Unit Attachment, if any

PRESIDENT: Major R. K. Laishley.

PROSECUTOR: Capt. J. D. C. Boland, Headquarters, Military District No. 3, C.A.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Lieut. R. P. Pennington, O. T. C. (E.C.), C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, C-40513, Gnr. Clarence Bowen, Officers' Training Centre (E.C.), C.A., guilty of the charge.

SENTENCE: The Court sentence the accused, C-40513, Gnr. Clarence Bowen, Officers' Training Centre (E.C.), C.A., to undergo detention for thirty days.

Extracts entered as No. 40085
Record of Courts-Martial kept in the
office of the Judge Advocate-General
this 4 day of Oct 19.45

Signed at Brockville, Ont., this 27th day of Sept., 1945.

(R. K. Laishley) Major, President, Standing Court-Martial
Military District No. 3.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to ..... as interpreter ?

Answer: .....

Question to the accused. Do you object to B-4233 - S.M. (W.O.I) F. A. Luet, No. 3 Detachment, C. M. S. C., C.A., as shorthand writer ?

Answer: No, sir.

The shorthand writer and interpreter (if any) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B2
Rutherford Maj
Rec

CHARGE SHEET

The accused, C-40513 Gnr. Clarence BOWEN, Officers' Training Centre (EC), C.A., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec. 15 (1)
Army Act

"ABSENTING HIMSELF WITHOUT LEAVE"

in that he

at 01 O.T.C. Brockville, Ontario absented himself without leave from 0600 hrs, 6 Sep 45 until surrendering himself to the Military Authorities at Brockville, Ontario, at 0110 hrs, 25 Sep 45 dressed in military uniform.

K R Jenkins

(K.R. Jenkins) Lt.-Col.
COMMANDANT
Officers' Training Centre.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to .....the..... charge, is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

---The Prosecutor does not desire to make a statement regarding the circumstances surrounding the offence.

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. .....No, sir.....

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. .....No, sir.....

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. .....No, sir.....

Question to the accused. Do you wish to call any witness as to character?

Answer. .....No, sir.....

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

---The Prosecutor Presents to the Court M.F.B.355 and M.F.M.6.

---These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir; through my Defending Officer.

BY THE DEFENDING OFFICER: I just wish to deal with the accused's previous service. He joined the army originally in September, 1939, in the Midland Regiment, and stayed with them until January, 1941, during which time he rose to the rank of Acting Sergeant. In 1941 he was discharged because of a nervous breakdown. In between that time he worked in a foundry in civilian life, at which place, incidentally, he has the opportunity of returning to his former job when he is discharged from the Army. He joined the Army again in January, 1943, voluntarily. At the present time he has three children, one four, one two and one fifteen months, and is expecting another addition to his family around December of this year. His wife, apparently, is not very well and requires him at home. On the 5th of September he received a letter from her asking him to come home. He obtained an overnight pass and went home. When he arrived home his wife asked him to stay, which he did until she was well again and then reported. I would ask you to consider his family background when passing sentence and also the fact that his wife is expecting another baby shortly.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

M.F.B. 355
50M—9-42 (1902)
H.Q. 1772-30-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-40513	Pte	Clarence BOWEN	O.T.C. (EC)

1. The following is a fair and true summary of the entries in the Field ~~xxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxxxxxxx~~ Conduct sheets ~~xxxxxxxxxxxxxxxxxx~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~xxxxxxxxxx~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	4 times	A.W.L.	10 times
For	Losing by neglect	1 times	Losing by neglect	1 times
For		times	Drunkenness	1 times
For		times		times

~~xxxxxxxxxxxxxxxxxxxx

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name..... of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27/12 day of September, 1945. (E.G.Gillies)Lt. Offr i/c Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

M.F.M. 6

Reg. No. C-40513 Name BOWEN, Clarence Corps CIC Date of enlistment or enrolment 1 Sep 43 Date of Birth 6 Jan 20

Signature O.C. Company, etc. G.E. Milliken, Capt.

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Kingston, Ont	16 Sep 43	Gnr		AA 15(1) AWL 2 dys 9 hrs 55 mins	Sgt Bebee	Admonished	16 sep 43	GMC	Forf 3 days py FR&I 149/1/a G.E.M.
Kingston, Ont	1 Oct 43	Gnr		AA 15(1) AWL 2 dys 6 hrs 16 mins	Cpl Turner Cpl Adams	7 days CB	4 Oct 43	GMC	Forf 3 dys pay FR&I 149/1/a G.E.M.
Kingston, Ont	21 Oct 43	Gnr		AA 15(1) AWL 5 dys 15 hrs 26 mins	Sgt Bebee Bdr Weckworth	7 dys CB	28 Oct 43	GMC	Forf 6 dys pay FR&I 149/1/a G.E.M.
Petawawa, Ont	1 Jan 44	Gnr		AA 15(1) AWL 3 dys 14 hrs	Sgt Bartlett L/Bdr Usher	Admonished	5 Jan 44	Col E.B.M.	Forf 4 dys pay FR&I 149/1/a G.E.M.

(P.T.O.)

M.F.M. 6—500M—8-44 (5386)
H.Q. 1772-39-1652

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
Petawawa, Ont	5 Feb 44	Gnr	1	DRUNKENNESS (A.A. 19)	Documentary	Admonished	8 Feb 44	Lt-Col Wolfe	G.E.M.
Petawawa, Ont	15 Jul 44	Gnr		AA 15(1) AWL 2 dys 22 hrs 20mins	Bdr Hazach	Admonished	18 Jul 44	Capt Collier	Forf 3 dys pay FR&I 149/1/a
Petawawa, Ont	11 Aug 44	Gnr		AA 15(1) AWL 13 dys 17 hrs 15 mins	Documentary	7 dys O.P. 7 dys CB	6 Sep 44	Lt-Col Ketchum	Forf 14 dys pay FR&I 149/1/a GEM
Kingston, Ont	10 Oct 44	Gnr		AA 15(1) AWL 15 days	Bdr Morgan	7 days CB	25 Oct 44	Capt Hercus	Forf 15 days pay FR&I 149/1/a G.E.M.
Kingston, Ont	4 Nov 44	Pte		AA 15(1) AWL 13 days	Bdr Morgan	7 days CB	17 Nov 44	Lt-Col Roberts	Forf 13 days pay FR&I 149/1/a G.E.M.
Brockville, Ont	1 Mar 45	Pte		AA 15(1) AWL 19 dys 22 hrs 15 min AA 24(2) Losing by neglect etc	Cpl Pallante Documentary	20 dys Detn Stoppage 21.25	28 Mar 45	Lt-Col Mathers	Forf 20 dys pay FR&I 149/1/a G.E.M.
Brockville, Ont	13 May 45	Pte		AA 15(1) AWL 10 hrs 30 mins	Pte Lucatch	4 dys CB	15 May 45	Lt-Col Jenkins	Forf 1 dys pay FR&I 149/1/a G.E.M.

CERTIFIED TRUE COPY, ...
(E.G. Gillies) Lt.
Offr i/c Records

H.QC.55-B-2023 (JAG/D-8)
Your PCO: B-21

11 Oct 45

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

STANDING COURT-MARTIAL

C. 40513 Gnr. Clarence Bowen,
O.T.C. (EC) CA.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

MO/MM

THIS COPY FOR: H.Q.C. 55-B-2023
M.D.PCO: B-21

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

GS

No. C 40513 Name BOWEN, Cla ence

Rank Gnr Unit OTC (EC) CA

Charge AA ,5 (1) AWL

Date of Crime 6-9-45

Date of Arrest 25-9-45 Charge Signed

Orders for D.C.M.

Place and Date of Trial OTC (E.C.) CA 27-9-45

Sentence Det 30 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40085

Date 4-10-45

MEMO

MD 3

OTC (EC) CA

Absent
19 days

Sentecne
Det 30 days

M Bolin, Capt
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE

No. PCO: B-21

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Ottawa, Ontario, 29th Sept., 1945.

C. 55-B-2023

Judge Advocate General,
Department of National Defence (Army),
Ottawa, Ontario.

Standing Court-Martial
C-40513 - Gnr. C. Bowen
C. T. C. (E.C.), C.A.

Herewith record of proceedings of the trial ofthe m/n by Standing Court-Martial, together with M.F.B.246.

R K Laishley

(R. K. Laishley) Major,
President Courts-Martial,
Military District No. 3.

4 cons 85

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

H.Q. C55-B-2024 CONFIDENTIAL

M.F.R. 2478
55M—2-45 (8667)
H.Q. 300-1-18

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BARRISOVE, JAMES JOHN K.53570 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2024

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 9 - 1945				JAG	NEW FILE	CR	4-10-45
OCT 24 1945		PA	PA	JAG	With Papers C.R. OCT 22 1945		
				JAG	With Papers C.R. NOV 5 1945		
NOV 5 - 1945				Adm	for your file		
				CMBR.	Minutes		
JAN 9 1946	8-1-46			Adm 3	Recommendation Fol 28		DEC 14 1945
				Jag	With Papers C.R. JAN 14 1946		
JAN 16 1946	15/1/46	PA	AP	CR(Inf)	w/memo		15/1/46
FEB 2 - 1946					With Papers C.R. FEB 1 1946		
				CMBR.			2.2.46
FEB 4 - 1946	4-2-46			Adm 3	To note pls		4/2/46
NOV 27 1947				WJR	PER REQUEST CR OCT 22 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. 22-P-4866 (JAG)
22-B-1087 (JAG)
22-C-1238 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

HQ Pacific Command
Vancouver BC 26 Jan 1946

CENTRAL REGISTRY Army
CONF. SEC.
5078
JAN 31 1946
File 155-B-2024
Date 1/2/46

The Secretary
NDHQ
Ottawa Ontario

REMISSIONS:
K.53570 Pte BARRISOVE J
K.601620 Pte OLIVER AT
K.608797 Pte PINDA L

1. Herewith Forms of Remission together with MFsM 288 in the m/n cases for custody.

Major General
GOC-in-C Pacific Command

Encl. 6

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of K-53570 (Number) Pte (Rank) James John BARRISOVE (Name in full)

No.11 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to Imprisonment with hard labour for 1 year; to be discharged with ignominy from H.M.Service

on 24 Sep 45 at Vancouver, B. C.

being served at Oakalla Prison Farm, Burnaby B.C. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 yrs 7 mos - 18 Nov 43

Medical grade or category 22 / 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

..... (Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-4104)
2531—9-43 (1500)
H.Q. 1773-39-3015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

.....(and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
7 Jan 46	Bal of sentence remitted wef 24 Jan 46.	A.R. St. Louis. (A.R. ST. LOUIS) Colonel Exercising powers of a DOC pursuant to delegation by GOC-in-C Pacific Command d/29 Dec 45.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
SEC.12(1)(a) A.A.	8 May 45	24 Sep 45

W.K. Decker. Capt., Adjt.,
Signature of Officer making entry No.11 District Depot CA

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

.....
Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 Sep 45	Concur in the finding of the court.	J. Chum

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

2

NDHQ FILE:
OUR FILE: 22-B-1067

PART I

No. K-53570 Rank Pte Name BARRISOVE, J J

Unit No 11 Dist Depot

Part II

Date of Trial 24 Sep 45

Charge(s) AA Sec 12(1)(a)

Sentence Imprisonment with hard labour 1 year; Discharge with ignominy.

Date of Sentence 24 Sep 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit xxxxxxxxxxxxxxxxxx balance of sentence effective 24 Jan 46.

Signed at Vancouver B.C., this 19th day of December 1945

F F Worthington
Major General
G.O.C. in C.
Pacific Command

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission (xxxxxxxxxxxxxxxxxxxx promulgated and extracts taken at No. XI D.D. C.A.

Vancouver, B.C. this 24th day of January 194 6

R. Flannon
Officer i/c Documents Capt & Adjt

(1) Unit, attachment and appointment to be stated.

(1) No. XI District Depot C.A.

Part V
Certified True Extract of Daily Orders Part II

No. K-53570 Rank Pte Name BARRISOVE, James

The sentence of Imprisonment with hard labour 1 Year Discharge with ignomy

awarded by (xxxxxxxxxxxxxxxxxxx (Standing) Court-Martial on the 24th day of

September 1945 has been remitted balance of sentence effective 24 Jan 46

on the 24th day of January 194 6 by G.O.C. in C. Pacific Command

Certified true Extract of Daily Orders Part II of No XI District Depot C.A.
No. 20 Place Vancouver BC Date 24 January 1946

R. Flannon Capt & Adj
No XI District Depot C.A.

15 Jan 46

CE (Conf):

Your 2035 has been removed from the file HQC 55-Z-86, and forwarded to the addressee:-

CAPM Pacific Command
VANCOUVER, B.C.

Also your 2057, 2058, 2059 and 2060 have been removed from files HQC 55-P-1098, HQC 55-M-1926, HQC 55-0-262, and HQC 55-B-2024 respectively, and forwarded to the addressee:-

Officer Commanding
No 11 District Depot, CA
Vancouver, BC

for J A G

noted
GR Grad
16-1-46 GR

COPY

VE V CIV NR 52

FROM COMMANDING PACIFIC VANCOUVER 191045U

TO SEC NDHQ OTTAWA ONT

GR 77 BT

PCA 1977F UNCLASSIFIED RANKS 1473 REFERS K609304 PTE LANGSTROTH F C STOP RANKS 1461 REFERS K608908 PTE LOUGHEED J STOP RANKS 1459 REFERS K607678 PTE SYLTE E STOP RANKS 1462 REFERS K53570 PTE BARRISOVE J J STOP ACK

BT 1910 45U

BB 191243U B

HQC 55-B-2024
Adm 3(b)2

OTTAWA Ont

CONFIDENTIAL

20 Dec

5

GOC in C
Pacific Command
VANCOUVER BC

K.53570 Pte HARRISOVE J J

Dated 18 Dec 45: Ref 22-B-1087(JAG) and Ranks 1462

2. Returned herewith MFM 288 for this soldier.

Encl

GDB/jh

(A.E. Walford)
Major-General
Adjutant-General

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION TO THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: HQC 55-B-2024 Adm 3(a)

PLACE	DATE
OTTAWA ONTARIO	18 DEC 45

GOC IN C
PACIFIC COMMAND
VANCOUVER B C

RANKS 1462 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REFERS K 53570 PTE HARRISOVE J J (.) CMBR RECOMMENDS REMISSION OF SENTENCE REF 24 JAN 1946 (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: CMBR

JAG

GDB/MA

G D Buck Capt
Major-General
Adjutant-General

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	MESSAGE IS LIABLE TO BE PUBLISHED. INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
		IMMEDIATE	1115

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

IN REPLY PLEASE QUOTE

No. 22-B-1087(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Pacific Command,
Vancouver, B.C. 27 Nov. 1945.

CENTRAL REGISTRY
12050
NOV 29 1945

The Secretary,
N.D.H.Q.,
OTTAWA, Ont.

K-53570, Pte. J.J. Barrisove

CMBR 6-15-8
CMBR

1. Ref. HQC 55-B-2024(CMBR) dated 15 Nov.45.

2. Enclosed herewith M.F.M.288 and Latest Report on Conduct re the m/n soldier, as requested. The Brigadier i/c Administration, Pacific Command reviewed this case on 16 Oct.45 and recommended that the sentence be served in full. It is noted that no formal endorsement has been made on the 288. This will be rectified in due course.

E.E. Learman maj.

for Major-General,
G.O.C.-in-C., Pacific Command.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

DEPUTY ASST. PROVOST MARSHAL
H. Q.
M. D. No. 11
NOV 26 1945
B. C.
Canadian Provost Corps, C.A.A.

REPORT ON CONDUCT

File 50431

Date 23-11-45

To: Asst. Provost Marshal,
Pacific Command,
Vancouver, B.C.

1. Soldier under sentence	K-53570 Pte. BARRISOVE, J.J.
2. PLEASE STATE:-	
(i) Date of sentence	24- 9-45
(ii) Sentence	1 year
(iii) Date you received soldier	24- 9-45
(iv) (a) Can soldier read and write?	Yes
(b) Religion	C of E
(c) Married, widow er, single	Separatel
(d) What Army trade has soldier?	
(v) (a) Conduct of soldier	Good
(b) Industry of soldier	Good
(c) Remission earned:-	
(i) Number of days actually earned.	9 days
(ii) Number of days obtainable to date	9 days
(vi) Medical Officer or Surgeon's report on physical and mental condition; if soldier is ill should state:-	Normal
(a) Whether imprisonment or detention will seriously aggrava te soldier's condition.	
(B) Whether futher confinement is likely to prove fatal	
(vii) (a) Whether in your opinion conduct of soldier warrants	
(i) Remission	Yes
(ii) Suspension#	
(b) Moral effect confinement has had?	Apperently good
(viii) Date term will expire if all remission earned from now on.	2- 8-46

Signature John Millman
Warden MDB.
Oakalla Prison Farm
Date of Report. 23-11-45

Do NOT recommend suspension for personnel discharged from Canadian Army.

PAGE 1

HQC 55-B-2024 (CMBR-2)/WLD
15 Nov 45
Case No. [illegible]

REVIEW OF SENTENCE
BY
COURT MARTIAL BOARD OF REVIEW

1. Rank, No. and Name: K-53570 Pte BARRISOVE, JJ

2. Unit at date of offence: No. 11 D D

3. Charge: AA 19(1)(a) WOAS Desertion being AWL from A 11 CSTC Camp Borden on 8 May 44 until apprehended in civilian clothes at Vancouver on 9 May 45.

Plea: Not guilty.

4. Place and Date of Trial: Vnacouver, B.C. 24 Sep 45.
(~~NCCM~~) (~~DCM~~) (SCM)

5. Finding: Guilty.

6. (a) Sentence: One yr Imp WHL and discharge with ignominy

(b) Date of Sentence: 24 Sep 45.

7. Date of Confirmation: n/a

8. Date of Promulgation: n/a

9. Being served at: in MD Pac Comd
(Ref 22-B-1087)
1462

(N.B. - Discharged under RO 1029( ) for

24

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(1) Civil Conviction:			
(1)	Possession Liquor Permit not his own.	30 May 45	14 dys
(2)	Possession of Nat Registration Card not his own.	30 May 45	14 dys
(3)	Obtaining goods by false pretenses.	30 May 45	90 dys.
(ii) Courts-Martial:	nil	(Sentenees to run concurrently)	
(iii) Summary Convictions:	nil		

(b) After convictions:

(c) Date of ~~enlistment~~/enlistment 18 Nov 43 Present Age: 27

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12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Accused gave sworn evidence. He enlisted in 1940 and was discharged in fall and re-enlisted in Nov 1943. His mother was in poor health. When home she got well and he applied for compassionate leave several times but did not recieveit. Then he heard his mother would not live long and went AWL but his mother died 1½ mos after he went home. He helped to pay hospital expenses. Then he was injured in an accident. He was afraid and tried to enlist under an assumed name but was rejected. This was in April 1945. Accused conducted his own defence. There is no corroboration of story of accused.

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13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

RevOffr: In view of above Reviewing Officer recommends SUS serve one half sentence.

Reviewed by (A.P.M. O'Connor) Maj.

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14. Recommendation of the Board: Release on. 24 Jan 46

Date DEC 14 1945

28

H. a. Stilwell Major
Secretary
Courts/Martial Board of Review

Request for AFA 3104 or MFM 288 sent out 15 Nov 45

IN REPLY PLEASE QUOTE
No. 22-B-1087(32-AD)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CANADA

V I A A I R M A I L

Headquarters, Pacific Command.
Vancouver, B.C. 2 Nov. 1945.

7149
NOV 5 1945
File C55-B-2024
Chgd. to
Referred to JAG

The Secretary,
Dept of National Defence,
Ottawa, Canada.

K.53570 - Pte. BARNISOVE, J.J.

Ref:HQC 55-B-2024(JAG/D), d/23 Oct 45.

1. Advice has been received that the above mentioned soldier was discharged from the Cdn. Army(A) under the provisions of CARO 1029(9), "Having been sentenced to be discharged with Ignominy". Effective date of discharge 30 Oct 45.

W P Williams Capt
for Major-General.
G.O.C.-in-C. Pacific Command.

"SIGN YOUR NAME TO VICTORY"

27

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

22-B-1087(52-AD)

VIA AIRMAIL

Headquarters, Pacific Command.
Vancouver, B.C. 2 Nov 5.

The Secretary,
Dept of National Defence,
Ottawa, Canada.

K.53570 - Pte. BARRISOVE, J.J.

Ref:HQC 55-B-2024(JAG/D), d/23 Oct 45.

1. Advice has been received that the above mentioned soldier was discharged from the Cdn. Army(A) under the provisions of CARO 1029(9), "Having been sentenced to be discharged with Ignominy". Effective date of discharge 30 Oct 45.

W B Wallace Lt Col
Major-General.
G.O.C.-in-C. Pacific Command.

WK/RA "SIGN YOUR NAME TO VICTORY"

26

HQC 55-B-2024 (JAG/D-6)

23 Oct 45

G.O.C.-in-C., Pacific Command,
Headquarters Pacific Command,
Vancouver, B.C.

Standing
K.53570 Pte. J.J. Barrisove,
No. 11 Indust. Martial

22-B-1087(JAG)

17th October 55

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.M.

(R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

24

IN REPLY PLEASE QUOTE
No. 22-B-1087(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, Pacific Command,
Vancouver, B.C. 17 Oct. 1945.

CENTRAL REGISTRY ARMY
COURT 4390
OCT 22 1945
File CVS-B-2024
Chgd. to
Referred to JAG

Judge Advocate-General,
N.D.H.Q.,
OTTAWA, Ont.

Standing Court-Martial
K-53590, Pte. J.J. Barrisove,
No.X1 DD, CA

1. Ref. HQC 55-B-2024(JAG/D-3)dated 9 Oct.45.

2. The proceedings in the m/n case are returned herewith for custody.

Major
for Major-General,
G.O.C.-in-C., Pacific Command.

23

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

A

PROCEEDINGS of a Standing Court Martial held at Headquarters No. XI District Depot, CA. Vancouver, BC. on the 24th. day of September, 1945 at 0900 hours, for the trial of:

K.53570 Pte. James John BARRISOVE, No. XI District Depot, CA.

President: Major A.M.GRIMMETT, MC.
Headquarters Pacific Command.

Prosecutor: Captain William John KIRBY
Headquarters Pacific Command.

Defending Officer: The Accused stated to the Court that he did not wish the aid of a Defending Officer and that he would conduct his own defence.

FINDING: The Court find that the accused is GUILTY of the charge.

SENTENCE: The Court sentence the accused to BE IMPRISONED WITH HARD LABOUR FOR ONE (1) YEAR AND TO BE DISCHARGED WITH IGNOMINY FROM HIS MAJESTY'S SERVICE.

SIGNED at Vancouver, BC. this 24th. day of September, 1945.

(A.M.GRIMMETT) Major
President Standing Court Martial.

Extracts entered as No. 40111 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 7 day of Oct 1945

22

Question to accused:

Q Do you object to me acting as President of the Court

A No, sir.

Q Do you object to K.92189 SM (WO1) A.S.HOGG Headquarters Pacific Command as shorthand writer ?

A No, sir.

The shorthand writer is duly sworn.

Question to Prosecutor:

Q Has the accused elected to be tried by standing court martial ?

A No, sir, remanded.

THE ACUUSED IS ARRAIGNED UPON THE CHARGE IN THE CHARGE SHEET MARKED B2 AND ANNEXED TO THE PROCEEDINGS AFTER HAVING BEEN SIGNED BY THE PRESIDENT,

Question to accused:

Q Is that your number, rank, name and unit ?

A Yes, sir.

Q Are you guilty or not guilty of the charge against you, which you have heard read ?

A NOT GUILTY.

D.L.
President
S.C.M.

CHARGE SHEET

The accused K-53570 Pte James John BARRISOVE, of No.11 District Depot, C.A., a G.S. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE
SEC.12(1)(a) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE
ARMY ACT

in that he

at Camp Borden, Ontario, at 0600 hours on the 6th day of May 1944, absented himself without leave from A-11 C.S.T.T.C., C.A., and remained so absent until apprehended by Civil Authorities at Vancouver, B.C., at 1830 hours on the 9th day of May, 1945. DRESSED IN CIVILIAN CLOTHES.

Vancouver, B.C.,
22 August, 1945.

(J.H.Cave)Lt.-Col.,
A/Officer Commanding,
No.11 District Depot, C.A.

C

PROCEEDINGS ON PLEA OF NOT GUILTY

Question to accused:

Q Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for peparing your defence ?

A No, sir.

THE PROSECUTOR PROCEEDS TO CALL WITNESSES.

First witness for Prosecution: K.92149 S/Sgt. W.E.PHILPOTT, No. XI District Depot, CA. being duly sworn, is examined by the Prosecutor.

Q What are your duties at the depot ?

A I am employed in the legal office and my duties include the preparation of documentary evidence to be used at courts-martial.

Q Will you identify this document ?

A MFB. 375 dated at Camp Borden, Ont. 31st. May, 1944 relating to the accused.

COURT TO DEFENDING OFFICER:

Q Do you object to this document being admitted in evidence ?

A No, sir.

(DOCUMENT is read, marked "F" signed by the President and attached to the proceedings).

PROSECUTOR TO WITNESS:

Q Will you identify this document ?

A MFM.215 dated at Vancouver, BC. 9th. May, 1945 relating to the accused.

COURT TO DEFENDING OFFICER:

Q Do you object to this document being received in evidence ?

A No, sir.

(DOCUMENT is read, marked "G" signed by the President and attached to the proceedings).

PROSECUTOR TO WITNESS:

Q Will you identify this document ?

A Certified true extract No. XI District Depot Part II Order No. 195 dated 21st. August, 1945 relating to the accused.

COURT TO DEFENDING OFFICER:

Q Do you object to this document being received in evidence ?

A No, sir.

(DOCUMENT is read, marked "H" signed by the President and attached to the proceedings).

The defending officer declines to cross examine this witness.

The witness withdraws.

THE PROSECUTOR HAS NO FURTHER WITNESS TO CALL.

D

The prosecution is closed.

DEFENCE

The President advises the accused as to his rights in the general conduct of his defence.

Question to accused:

Q Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement ?

A Evidence on oath, sir.

Q Do you intend to call any witness in your defence ?

A No, sir.

Witness for Defence: The accused being duly sworn, states:

I enlisted in the Canadian army in 1940 and I was later discharged in Calgary in the fall of 1940 and reenlisted in Regina in November, 1943. Within that time since my discharge I was unable to return home to Vancouver. When I enlisted I was given enlistment leave. When I returned home I found that my mother was in very poor health and she seemed to have more of a mental illness than anything. Her mind was always as to my safety and the continual worry of me being away caused her to go to hospital. Her mind wasepressed and she was pretty anxious. When I returned home the mere knowledge of me bing home she picked up again and while she did not regain her full health she was allowed home from the hospital. I wired Regina for an extension of five days leave and returned to Regina and Dr. Clement who was handling my mother's case advised me to apply for leaveon compassionate grounds and that he would write my C.O. and he did write. I was notified of that fact by Captain Watt who said that as he was only my company commander he could only give me a short leave, six days, on compassionate grounds. He referred me to the O.C. who in turn informed me that seeing as my applications was for a leave of some length it would have to be taken up by the D.O.C. which was taken up with the D.O.C. and in the meantime I was placed on draft and went to Nova Scotia. I was there for some 2 to 4 weeks and I applied for the same leave from Col. Dawson and he told me that as the D.O.C. in Regina was handling the case he could not overrule him or take the case from his hands. We finished our training and were taken to Camp Borden where I applied there wnd was told the same thing that they could not grane me leave on account of the D.O.C. in Regina. At this time, four months had passed and I received a telegram that my mother would not live more than about two weeks and now I see where I made the mistake of not showing the telegram to my O.C. as I would have got enough leave to come home but I still thought the same that leave would not be granted to me so I went A.W.L. I came here to Vancouver but my mother was too far gone. She died, sir, a month and a half or two months after I got home and she only recognized me as her son regardless that my brother and sister were there and after she died, sir, I helped to pay the funeral expenses. I had to work for a time and then was hospitalized myself through a traffic accident. After I came out of the hospital I knew I should report to the army and yet I was afraid of what might happen after I did report so I came up to Little Mountain here and tried to reenlist sir, under an assumed name. I was rejected. I have my rejection paper to that effect. I returned home and went to work for the city - I was driving truck for them when the civilian authorities apprehended me.

BY THE COURT:

Q What date did you try to enlist under a false name ?

A It would be the last week of April of this year because I was apprehended about two weeks after I tried to enlist and I was apprehended on the 9th. May, sir. You see, sir, my mother always considered me the pet of the family and that meant more to me than anything else.

CROSS EXAMINED BY THE PROSECUTOR:

D3

Q Did you absent yourself without leave at Camp Borden, Ontario at 0600 hours on the 8th. day of May 1944 from No. A-11 CSTTC ?
A Yes, sir.

Q And did you remain so absent until apprehended by civil authorities at Vancouver at 1830 hours on the 9th. May, 1945 ?
A Yes, sir.

Q That is, other than reporting here for trying to reenlist ?
A Yes, sir.

Q And did you have any leave or permission to be absent during that time ?
A No, sir.

Q Were you dressed in civilian clothes at the time of apprehension ?
A Yes, sir.

Q At the time of your apprehension what name were you using ?
A The name of Hillburne, sir.

Q What initials ?
A J.C.

Q Were you carrying with you any papers saying you were the person Hillburne ?
A Yes, sir I had a registration card and papers in the name of Hillburne.

Q Where did you get that ?
A I got it from a friend up town.

Q Did you have anything else beside your registration card "Hillburne" ?
A Yes, sir a Discharge Certificate.

Q In whose name?
A The name of John Charleston Hillburne.

Q Where did you get that discharge certificate ?
A I got it from a man who passed through this Court by the name of Edwin Bjur and I changed the name to Hillburne.

Q It was not a man named Hillburne that you got it from ?
A No, sir.

Q Were you carrying any other papers that might identify you ?
A No, sir.

Q Did you have a steam engineer's certificate ?
A That was all given to me to hold by this Bjur, sir.

Q But you were carrying it ?
A I was not carrying it. They were in my room, sir, I never attempted to use them, sir.

Q Did you not have a steam engineer's certificate in the name of Hillburne at the time of your arrest ?
A No, sir.

Q Did you have a machinist's certificate in the name of J.C.Hillburne at the time of your arrest ?
A No, sir.

Q You said you were carrying it ?
A No, it was in my room.

Q What were you doing with these certificates ?
A I was holding them for Bjur. He asked me to look after them.

Q Were you not using them for the purpose of obtaining employment ?
A No, sir.

Q You were not ?
A If I may say, sir, my employment card, I registered for employment with the regimental number given me when I tried to enlist.

Q What was the point of using this discharge certificate in the name of Hillburne ?
A I was not using it.

Q Why were you carrying it around ?
A I was not carrying it around.

Q It was on you at the time of your arrest ?
A No, the authorities searched my room and found it there.

Q When you found that you were rejected on medical grounds under the name of John Charleston Hillburne why did you not surrender yourself to the army authorities knowing that you were absent without leave ?
A At the time I did not see, now I do see, but at the time i was medically unfit I did not see any use in that.

Q Why did you go and offer your services under another name ?
A It was my wish to serve in the army.

Q Why not go back and serve under your own name ?
A Every man fears the consequences of such an act even though I believe in my own mind I was justified in taking such a leave, yet I understand it is distinctly contrary to army regulations and orders. My mother meant more to me than my liberty did.

Q At the time you went back to the army your mother had passed away. If you were so anxious to get back to the army why not come back under your own name ?
A As I said I feared the consequences , I knew I would have to appear before a military court.

Q Did you think that if you got into the army under another name they would not know you ?
A I tried to show them that I figured if I came back when my mother died and after I got the funeral expenses paid the war would be practically over and if I had come back then the army would figure that I was just trying to come back now that the war was over and get a discharge when I was going to show them that I was willing to serve that is why I used an assumed name. I was in a traffic accident and had my back injured, my ear had been injured and my right eye.

Q Were you not pretty sure that you would be rejected even before you went to offer your services ?
A No, sir as far as I knew I was well, sir.

Q Where did you present yourself ?
A At the war mobilization board.

Q On what date ?
A I could not tell you the exact date but it was around the middle of April.

Q Did they ask you for identification ?
A Yes, sir.

Q What did you give them ?
A My registration card.

Q The false registration card ?
A Yes, sir.

Q Were you given a medical examination ?
A Yes, sir, right here at Little Mountain.

Q What did they tell you after your medical examination ?
Q I passed through my medical and was told to report to a room at the end of the hallway and they handed me a little white slip about 2 or 3 inches square and on it it said I was unfit for service.

17

Q You have that document ?
A They are in the guardroom. When I was admitted into custody of the barracks they were taken off me.

Q Were they taken off you at the time of your apprehension ?
A No, sir.

Q Why did they not take them off you ?
A I don't know, sir.

Q Who took them off you ?
A Sgt. Killam, sir.

Q How long were you in hospital ?
A About 2½ months.

Q What kind of an accident were you in ?
A A car accident.

Q I am suggesting to you that the only reason you offered yourself in the army was to get an alibi for yourself by offering yourself and then saying you were trying to get back into the army ?
A No, sir.

Q You were satisfied you would be accepted by the army ?
A Yes, sir.

Q Does it not seem strange that you tried to get back under another name ?
A I don't see anything strange about that as regards me offering my services, willing to serve.

Q In whose name was the registration card ?
A James Charleston Hillburne, sir the same name as I applied for for my induction into the army.

Q When did your mother die ?
A She died in August, 1944.

Q How is it that you were absent from August 1944 until the latter part of April 1945 before you tried to enlist ?
A I had to pay funeral expenses which the Home Funeral Chapel will verify I paid

Q Is your father working ?
A My father is a very old man.

Q Has he no regular job ?
A He has not worked for quite a while now.

Q Have you any brothers ?
A One, sir.

Q Does he live in the city ?
A Yes, sir.

Q Is he working ?
A Yes, sir.

Q Is he married ?
A Yes, sir.

Q Did it take you from August to April to make sufficient money to pay the funeral expenses ?
A If you will recall, sir I was in hospital for 2½ months and there was doctor's bills to pay and funeral expenses to pay.

16

QUESTIONED BY THE COURT:

Q Do you know why you were refused enlistment when you tried to enlist again ?
A No, sir, I don't know what my Pulhems wad.

Q What did you think was the reason ? Your eye ?
A I think it was my back, sir because when I was passing through my medical the MO. told me to lay on the table and he tried bending my legs down and when he pressed on my legs I felt a pain all the way up my back, sir.

Q What did you do with ~~your~~ the uniform you had when you went absent without leave ?
A I have it at home, sir.

Q Is it still at home ?
A Yes, sir.

Q How old was your mother when she died ?
A She was about 55, sir.

Q All the time you were away you were going by the name of James Charleston Hillburne?
A Yes, sir.

THE ACCUSED RESUMES HIS SEAT.

THE PROSECUTOR MAKES A CLOSING ADDRESS.

THE ACCUSED MAKES A CLOSING ADDRESS.

E

PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

The Court having arrived at a finding on the charge against the accused, and such finding having been announced to the accused the Prosecutor tenders to the President MFB. 355 and certified copy MFM.6.

These documents havingbeen read to the Court by the President are marked "Y" and "Z" signed by the President and attached to the proceedings.

Question to accused;

Q Have you any statement to make concerning the documents which have just been read to you ?

A No, sir.

Q Do you wish to address the Court ?

A The reason why I left the army is the only reason I can point out, sir. After all, a person has only one mother, sir.

PROSECUTOR: I should explain why this accused has been 39 days in custody. The first adjourment occurred on 27th.August, 1945 at the request of the defending officer for the purpose of obtaining civilian counsel. Again on 10th. September, 1945 following the two weeks asked for by defending officer for counsel on 27th. August, no counsel appearing a further adjournment was asked for and granted until the 17th. September, and on that date the accused asked for a further extension until today, when he decided to conduct his own defence.

THE SENTENCE IS RECORDED AND ANNOUNCED TO THE ACCUSED IN OPEN COURT.

ARTICLES		VALUE Comp.		ARTICLES	VALUE Reg.	
Clothing Div. "A"						
Caps, Winter, Melton	1	1	06			61
Coats, Waterproof	1	6	95		5	22
Dressing, First, Field	1		22			18
Clothing Div "B"						
Battle Dress Blouses	1	5	25		3	95
Battle Dress Trousers	1	5	39		4	00
Boots, Ankle, Pairs	1	5	46		4	00
Drawers, cotton, short	1		36			27
Drawers, Woollen	2	2	40		1	80
Jerseys, Pullover	1	1	56		1	95
Mufflers, Khaki	1		87			65
Shirts, Woollen	1	1	20			90
Trousers, K.D. Short	1	1	20			90
Belts, Waist, Web 1½"	1		30			20
Clothing Div "C"						
Bootdressing, tins	1		05			05
Braces, pairs	1		32			23
Brushes, bootpolishing	1		19			15

13

RECORD of the Declaration of a Court of Inquiry assembled at Camp Borden on the 30th day of MAY 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K-53570 Pte. BARRISOVE, J.J. A-11 C.S.T.T.C., C.A.

DECLARATION

The Court declare that No. K-53570 Pte. BARRISOVE, J.J. A-11 C.S.T.T.C., C.A. from A-11 C.S.T.T.C., CA. illegally absented himself without leave from Camp Borden, Ont. at 0600 hours on the 8th day of MAY 44, that he is still so absent, and that on the 30 MAY 44 he was deficient, and that he is still deficient of the following articles:—

Cont'd. ARTICLES		VALUE Vocab		ARTICLES	VALUE Red.	
Brushes, cloth	1		27			21
Brushes, hair	1		26			20
Combs, hair	1		04			04
Sec. "A-1"						
Carriers, waterbottle	1		37			37
Straps. Web supporting	2		28			28
Sec "B-1"						
Covers, breech	1		32			32
Sec "J-1"						
Sheets, Ground, MK VIII	1	2	47		2	47
TOTAL		$ 36	79	TOTAL	$ 29	05

Signed at Camp Borden, Ont. this 31st day of MAY 1944

Major C.A. Dadds, A-11 C.S.T.T.C., C.A. — President

Lieut. N.D. Terry, A-11 C.S.T.T.C., C.A. — Member

Lieut. W.G. Treanor, A-11 C.S.T.T.C., C.A. — Member

Signature of Commanding Officer Sgd: D.S. Forbes (D.S. Forbes) Col., Commandant A-11 CSTTC

Certified true copy

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
10(34—4-42—6537)
H.Q. 1772-39-257

CERTIFIED TRUE COPY
ASSISTANT ADJUTANT GENERAL

12

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by (~~surrendered to~~)

Strike out words not applicable

P.C.119 P.Easler Vancouver City Police
(Name of Peace Officer or Constable)

at Vancouver,B.C. (Place) at 1830 hrs (Hour)

on the 9th day of May 1945

Strike out words not applicable

and at the time of arrest (~~surrender~~) he was ~~wearing military or air force uniform~~ (dressed in civilian clothes).

Regimental particulars of officer or soldier referred to above.

No. K-53570
Rank Pte.
Name BARRISOVE James John
Unit A-11 C.S.T.T.C. CA

Description

Age 23 yrs
Height 5'11½"
Complexion Dark
Hair Dk.Brown
Eyes Hazel
Marks Vacc.scar left arm, two scars rght side forehead

President S.C.T.T.

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

P.C. 119 P.Easler
(Constable) (or Officer in Charge of Police Station)

P.C.119 P.Easler Vancouver City Police

Strike out words not applicable

M.F.M. 215
43 (3178)
H.Q. 1772-39-1935

DAILY ORDERS PART II

BY

COL J NEISH ED

Commanding

NO XI DISTRICT DEPOT C.A.(A)

ORDERS NO 195
21 August 1945
VANCOUVER B.C.

LAST ORDERS ISSUED NO. 194 , dated 20 August 1945

21 STRENGTH INCREASE

(mi) TOS from des. (All CITC CA) 1830 hours 9 May 45 Hour and date of apprehension by Civil Authorities at Vancouver, B.C. (Dressed in civilian Clothes) 9 May 45

K53570 Pte BARRISOVE, James John (App)

PRESIDENT S.C.M.

"J. Kingsbury" Capt.
for (W J DECKER) Capt & Adjt
No. XI District Depot C.A.(A)
Vancouver, B.C.

CERTIFIED TRUE EXTRACT

Whlecker Capt., Adjt.
Officer i/c Records,
No. 11 District Depot, C.A.

10

M.F.B. 559
50M—9-42 (3092)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
K-53570	Pte	James John BARRISOVE	No.11 District Depot CA

1. The following is a fair and true summary of the entries in the field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ Army Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~
~~For~~	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

There are no entries in the conduct sheets of the accused.

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ ~~Air Force Act~~ ~~A.F.A. 73~~ Section 47 of the ~~Army Act~~ and dispensations with trial under ~~A.A. 73~~ are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges for nil days in civil custody, and ~~Air Force~~ 39 days in military custody, making a total of ~~Air Force~~ 39 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 27 yrs 4 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 18 Nov 43

~~7. The service which the accused is allowed to reckon towards discharge is~~

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force ~~military~~ decoration, or air force ~~military~~ reward (or is in ~~military~~ possession of or entitled to). State any air force ~~military~~ decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of .....

President
S.C.M.

9

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number K53570 Rank Pte

Name James John BARISOVE of NO.XI DD CA Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Police Court	30 May 45 Vancouver BC	Possession of Liquor Permit NOT his own	30 days Imprisonment Hard Labour	
	30 May 45 Vancouver BC	Possession of National Registration Card NOT his own		14 Days
	30 May 45 Vancouver BC	Obtaining goods under false pretences (b) Theft	90 days Imprisonment Hard Labour	
			NOTE- 3 ABOVE sentences concurrent	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24th day of SEP 45. Whleeker Capt., Adjt., Officer i/c Records, No.11 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B.122)
750M—12-43 (7537)
H.Q. 1773-99-1052

K-53570 No. | BARRISOVE, J.J. Name | Sqn., Battery, or Company | XXXXXXXXXXXXXXXXXXXX | Corps C.I.C. | Date of enlistment 19 Nov | G.C. Badges N/A | Tradesmen's Rates of Pay | Character Major

No. and date of last drunk | Period not reckoning towards freedom from extra fine n/a | Sheet No. 43 | Signature O.C. Company, etc. "C.A.DODDS"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vancouver, B.C.	30 May 1949	Pte		Civil Conviction- Possession of Liquor Permit not his own		30 days Imprison ment with Hard Labour.		P.M.	
				(a) Possession of National Registration Card not his own. (b) Obtaining goods under false pretenses.		90 days imprison-ment with hard labour.		PM	

CERTIFIED TRUE COPY
Walecka Capt., Adjt.,
Officer i/c Records,
No.11 District Depot, C.A.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. K-53570 Pte James John BARRISOVE

of NO XI DD CA is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

W S Hilch Capt (RCAMC)
Medical Officer
NO XI DISTRICT DEPOT C.A.

Station VANCOUVER B.C.

Date 27 AUG 45

7

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. E-53570 Pte James John BARRISOVE

of NO XI DD CA is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

Hylmest (RCAMC)
Medical Officer
NO XI DISTRICT DEPOT C.A.

Station VANCOUVER B.C.

Date 10 Sep 45

6

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-30-480

MEDICAL OFFICER'S REPORT

I certify that No. K-53570 Pte James John BARRISOVE of NO XI DD CA is in a GOOD state of health, and FIT to undergo Trial by Court martial.

D G Phillips (Capt)
Medical Officer
NO XI DISTRICT DEPOT C.A.

Station VANCOUVER B.C.

Date 17 SEPTEMBER 1945.

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-20-480

5

MEDICAL OFFICER'S REPORT

I certify that No. K-53570 Pte James John BARISOVE

of NO XI DD CA is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

J.Z. Stephens Capt. (RCAMC)
Medical Officer
NO XI DISTRICT DEPOT C.A.

Station VANCOUVER BC

Date 24th September 1945.

4

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

H.Q.C.55-B-2024 (JAG/D-3)
Your 22-B-1087

9 Oct 45

The General Officer Commanding-in-Chief,
Pacific Command, Vancouver, B.C.

STANDING COURT-MARTIAL

K. 53570 Pte. James John Barrisove,
No. 11 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R. [illegible] Orde) Brigadier
Judge Advocate-General.

EPL/MM

3

8M-7-45(M-188)

THIS COPY FOR H.Q. C. 55-B-2024
M.D. 22-B-1087

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

GS

No. K-53570 Name BARRISOVE, James John

Rank Pte Unit No. 11 DD CA

Charge AA 12 (1) (a) WOAS Deserting.....

Date of Crime 8-5-44

Date of Arrest 9-5-45 Charge Signed 22-8-45

Orders for D.C.M.

Place and Date of Trial No. 11 DD CA 24-9-45

Sentence Imp WHL 1 year Discharge with ignominy

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40111

Date 5-10-45

MEMO. Balance of sentence remitted by Conf. Auth. 24-7-46

Pacific Command	No. 11 DD CA
Absent	Sentence
13 mos	Imp WHL 1 year Discharge with ignominy

2

for Judge Advocate-General

10M-8-45(M-189)

CANADA

IN REPLY PLEASE QUOTE
No. 22-B-1087; 22-L-5261
22-M-3715; 22-M-7108

DEPARTMENT OF NATIONAL DEFENCE

ARMY Headquarters Pacific Command
Vancouver Barracks, Vancouver, BC.

28th. September, 1945.

JUDGE ADVOCATE GENERAL
NATIONAL DEFENCE HEADQUARTERS
OTTAWA. ONTARIO.

C. 55-B-2024

STANDING COURTS MARTIAL

K.53570 Pte. BARRISOVE, J.J.
K.609387 Pte. LEDUC P.
K.606483 Pte. MINCH, DK
K.11852 Pte MAKOWICHUK, M.M.
No. XI D.D. & No. XI Ordnance Depot.

1. Pursuant to CARO. 4565 herewith proceedings in the m/n cases.

(A.M.GRIMMETT) Major.
President Standing Court Martial.

excl;
airmail

N.D. 23
2 M.H.—11-42 (7229)
(E.Q. 1772-101-23)

40111

H.Q.C. 55-B-2025

CONFIDENTIAL

M.F.R. 1078
ADM—2-44 (1000)
H.Q. 301-1-10

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BRAY, JOHN B.62937 CPL.

CONFIDENTIAL
H.Q.C. 55-B-2025

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 9 - 1945							
OCT 25 1945	26/10/45		jm	JAG	NEW FILE With Papers C.R OCT 24 1945	CR	4-10-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2025 (JAG/D-6)

25 Oct 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Sterdin
B.69227 Cpl. John [illegible]
No. 2 District Depot C.
.....Court-Martial

T-20-B-7923 (AJAG)

25th October 5

Receipt is acknowledged of your letter dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally-noted Court-Martial.

[illegible]
for [illegible], Brigadier,

Judge Advocate-General.

ELM/fcf

IN REPLY PLEASE QUOTE No. T-20-B-7923 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
23rd October, 1945.

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
4688
OCT 24 1945
File CSS-B-2025
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-69237 - Cpl. John BRAY,
No. 2 District Depot, C.A.

Reference H.Q.C.55-B-2025 (JAG/D-3) dated 9th October, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. With respect to H.Q. 55-1-41 F.D. 74 (Adm) dated 16th January, 1945, it is advised that there is no administrative action considered necessary.

for (A. E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 440
250M-4-44 (4320)
H.Q. 1772-39-787

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 19th day of September, 19 45 at 1045 hours,

for the trial of: B.62937, Cpl. John BRAY
Number Rank Full Name

No. 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major W. P. McClemont, E.D. (A&SH) H.Q., M.D.2.

PROSECUTOR: Major N. M. Menzies, E.D., H.Q., M.D.2.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ DEFENDING OFFICER: Capt. J. D. McPhail (SSM & SR) No. 2 DD, CA.
Rank Full Name Unit Attachment, if any

FINDING: Guilty.

SENTENCE: To be reduced to the ranks.

Signed at Toronto, Ontario, this 19th day of September, 194 5.

W. P. McClemont (Major)
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (46206)
H.Q. 177-33-2206

Was entered as No. 40112 in the Register of Courts-Martial kept in the office of the Judge Advocate General this 7 day of [illegible] 19 [illegible]

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~

Answer: M.36367, SM R. Gostick, No. 2 Det., CMSC CA HQ MD2,

Question to the accused. Do you object to as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or by the Court Martial?~~

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you~~ have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to both the charges the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2
W. P. McClement
Pres S.C.M. Major

CHARGE SHEET

The accused, NO. B-62937, Corporal John BRAY, No. 2 District Depot, C.A., a G.S. soldier of the Canadian Army, placed on active service, is charged with:

FIRST CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE:

- in that he -

at Exhibition Barracks, Toronto, Ontario, on the 30th day of August, 1945, absented himself without leave from No. 2 District Depot, C.A., at 1330 hours, on said 30th day of August, 1945, until he was apprehended by the Military Authorities at Toronto, Ontario, at 2050 hours, on the 4th day of September, 1945, dressed in military uniform.

SECOND CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE:

- in that he -

at Exhibition Barracks, Toronto, Ontario, on the 8th day of September, 1945, absented himself without leave (when in arrest) from No. 2 District Depot, C.A, at 0800 hours on said 8th day of September, 1945, until he voluntarily surrendered himself to the Military Authorities at Chorley Park Military Hospital, Toronto, Ontario, at 1715 hours, on the 9th day of September, 1945, dressed in military uniform.

W. A. Dunlop Lieut-Colonel.
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
17th September, 1945.

W.M.C.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to both charges is found guilty of the said charge[s].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

(See document marked "F" att'd)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Yes, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

THE ACCUSED:

Sir, in the past year I have had quite a bit of difficulty at home. I was in Ottawa at the time, and when I was before the Colonel down there he granted me a compassionate transfer to Toronto in order to get things straightened out. When these things developed, which was domestic, I was under considerable mental stress, and as a result, I wasn't able to sleep; I was nervous, and as a result I couldn't sleep at nights, and took a drink, and wasn't able to pull myself together. My nerves went completely on me.

I went before the M.O. at Ottawa, and explained the case to him. He said, "When your case is cleared up at home," he said, "I think your mental stability will be a little better." And things are ironing themselves out at home here. They are not 100 percent. yet. And the least little thing leads to a flare-up, and I completely lose my head and have no control over myself. I can't sleep, and walk the house most of the night, or I am out on the street until 5 or 6 o'clock in the morning, walking around, and then take a drink, sir. That is what I am admitting, sir.

I have never been on the loose since I have been in the Army unless I took a drink. When I come back to Toronto I went to the M.O. over at the"Horse Palace" and they gave me some pills to make me sleep, and they were no good. When I was down at Chorley Park Military Hospital they gave me pills and a capsule -- there were five pills, I believe. What they were I don't know. And I slept about two hours through the night fitfully, and I spoke to the nurse about it, and she said,

"You have enough dope to put a horse to sleep," and I said, "Well, that doesn't do me any good." I couldn't sleep, and my nerves went on me, and I cracked up, that is about all I can say. All the time I was in the Army I never went absent unless I was in no condition to report for duty, sir.

W Mc

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

W.P.Mc

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer (see following page).

W.P.Mc

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE DEFENDING OFFICER:

Just a reminder, sir, that the accused is a G.S. soldier, a confirmed Corporal, and the documents show that his age is 43 years, although he admits to 45 years, actually. His PULHEMS is "P-3; E-2" -- 3 under the Physical and 2 under the Eyes. While in Ottawa he was working in records, and the matter of straining on his eyes. And in close work he complained of unsuitability of his glasses, preferred bifocal lenses, but apparently the Army doesn't issue those; and he was returned here on compassionate grounds, as he told you. What he did not say was that in civilian life he was a proof reader, and I think that that would justify a little extra consideration on his eyes, especially at his age.

During his Army life he has had a very considerable number of case histories, you can tell just by looking at this big sheet here, and in these he has been treated for several difficulties, and in all of them it is admitted that he is a borderline in hypertension, and in fairness he should be lowered on his stability, maybe. Now, I would like to ask you, sir, to consider recommending the accused for a reboard, with a view to obtaining a medical discharge on both stability and age. Thank you, sir.

W.M.C.

W.R. McClement
Pres SCM. Major

THE PROSECUTOR:

Sir, theevidence in this case is both verbal and documentary. W.20097, Cpl. (A/Sgt.) Hocking, C. V., H.W.E., No. 2 District Depot, will state that she was N.C.O. in charge Records Office "C", No. 2 District Depot, and that she called the roll of the staff at 1330 hours on the 30th August, and that the accused, who should have been on that roll-call, failed to answer his name, and was continuously absent until apprehended on the 4th day of September, '45; also, again, that she called the roll at 0800 hours on the 8th September, 1945, and the accused also failed to answer his name. He was in arrest at that time. And he was absent until his surrender on the 9th of September. Then I have an M.F.M. 216. And I have another M.F.M. 216.

W.R.McC.

19

W. P. McClement
Pres SCM Maj

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-020
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-62937,	Corporal	John BRAY ,	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For AWL	7 times	AWL	9 times
For "DRUNKENNESS"	1 times	"DRUNKENNESS"	1 times
For	times		times
For	times		times

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges for Nil days in civil custody, and days in military custody, making a total of days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 43 years, 3½ months.

6. The date of his attestation specified in his attestation paper is 8th July 1942.

7.

9. The accused is in possession of military service reward (or is in possession of or entitled to). State any military service or reward.

Canadian Volunteer Service Medal.

No. B-62957 Name BRAY J. | Sqn., Battery, or Company | Corps CAC | Date of enlistment 8-7-42 | G.C. Badges | Tradesmen's Rates of Pay N-4 | M.F.M. 6 (A.F.B.122) 7303M—19-12 (7587) H.Q. 1772-39-1053

Old sheet destroyed 30-10-43 | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 2 | Signature O.C. Company, etc. TW Danby Lt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
		Tpr.		Entries nil 30 October 1943.		"TW Danby Lt.			
Camp Borden Ont.	18-2-44	Cpl.		AWL from 0615 hrs. 18 Feb 44 until apprehended at Toronto 1955 hrs 22 Feb 44 Time absent 4 days 13 hrs. 40 min Sec. 15 (1) A.A.	Documentary		24 Feb 44	N.H.Macaulay Lt.Col.	5 days pay FR&I plus cost of App.
Ed'ton N.B.	6 Sep 44	Cpl.		AA Sec.15 (1) AWL from 0800 hrs. 6 Sep 44 to 0935 hrs.7Sep44 (Abs 1day 1 hrs. 35 min.)	Sgt.Grandmason Sgt.Hemphill A.	Reprimanded	8 Sep 44	Capt L. Lafond	Auto. Forf. 2 days pay FR&I
Ottawa	3-1-45	Cpl.		Sec. 15(1) AA Absent without leave 6 days 9 hrs. 20 min.	Sgt.Costenden E.H.	ADMONISHED	3-1-45	Lt.Col. R.D. Hinch	Forf 7 days pay FR&I 149

(P.T.O.)

E. P. McClenny
Pres. R.C.M.P.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Ottawa	31-1-45	Cpl		1. Sec. 15(1) AA absent without leave 22 hrs. 25 min.	Sgt.Cottanden E. QMR Mitchell J.A.	ADMONISHED	13-2-45	Lt.Col. R.D. Hinch	Forf. 1 days pay FR&I 149(1)
Ottawa	1-2-45	Cpl.		2. Sec. 15(1) AA absent without leave 5 days 8 hrs. whilst under open arrest	Sgt.Cottenden Documentary	SEVERE REPRIMAND	13-2-45	Lt.Col. R.D. Hinch	Forf. 6 days pay FR&I 149(1) Forf $1.74 costs of appreh.
Ottawa	21-2-45	Cpl.		Sec 15(1) AA Absent wit out leave 4 days 18 hrs. 55 min.	Sgt.Cottenden E.H.	Severe Reprimand	26-2-45	Lt. Col. R.D. Hinch	Forf 5 days pay FR&I 149 (1)
Toronto	3 July 45	Cpl.		AA Sec. 15 (1) AWL from 1330 hrs. 3 July 45 until 0745 hrs. 9 July 45 Total time 5 days 18 hr. 15min. (6 days)	Sgt.Donnelly	Reprimand	10-7-45	Lt.Col.H.M. Campbell	Forf. 6 days pay FR&I 149 (1)(a)
Toronto	25 Jul45	Cpl		AA 15(1)Absent without Leave 6 dys 11 hrs 30 min	Sgt. Giordon	Severe Reprimand	3 Aug 45	Lt.Col. HM Campbell	Forf. 8 days p[illegible] FR&I 149(1)
Toronto	31 Jul45	Cpl	1	"DRUNKENNESS" (1st Offence)		Admonished	"H.M.Campbell"		

M.F.M. 6
(A.F.B.122)
750M—12-42 (7537)
H.Q. 1772-39-1052

No. B-62937 Name BRAY J. | Sqn., Battery, or Company | Corps CAC | Date of enlistment 8-7-42 | G.C. Badges | Tradesmen's Rates of Pay | Character

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto Ont.	16 Aug 45	Cpl.		AA 15(1) AWL from 0800 hrs. 16 Aug 45 until 1500 hrs. 22 Aug 45.	Sgt. Loftus	Severe Reprimand	24 Aug 45	H. Kent Lt.Col.	Forf 7 dys pay FR&I 149 (1) A

CERTIFIED TRUE COPY .....Lt. & A/ Adj.
No. 2 District Depot, C.A.

(P.T.O.)

"A"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, F.E. McMahon, NO.31 COY. CDN. PROVOST CORPS C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that B.62937 CPL. BRAY, J.
(Number) (Rank) (Name in full)

of the H.Q. WING, NO.2 D.D. TORONTO, Ontario.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~XXXXXXXXXX~~ E. 42337 Cpl. PORTERFIELD, A.L.
(Number) (Rank)

B.38616 L/Cpl. JOHNSTON, E.H. NO.31 COY. C.PRO.C. C.A.
(Name) (Unit or appointment)

at 10 PALMESTON SQ. TORONTO, Ontario at 2050 hrs.
(Place) (Hour)

on the 4th day of SEP 19 45

Strike out words not applicable } as a ~~XXXXX~~ (or absentee without leave), and that at the time of his arrest he was wearing military ~~XXXXXXXXX~~ uniform (~~XXXXXXXXXXXXXXXXXXXXXXXXXX~~

339 GEORGE STREET,
Dated at TORONTO, Ontario, this 5th day of SEP 1945.

(SOLDIER OF THE ACTIVE ARMY)

F.E. McMahon
(F.E. McMahon) Major,
(Signature, Number, Rank, Unit or appointment)
Officer Commanding, NO.31 COY. C.PRO.C. C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

"B"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel (Rank) F.R. Hassard, (Name) Chorley Park Military Hospital, R.C.A.M.C. (Unit)

hereby certify that B 62937 (Number) Cpl. (Rank) BRAY, John (Name in full)

of the H.Q.Wings #2 District Depot, Toronto, Ont. (Unit and attachment, if any)

Strike out words not applicable } was ~~apprehended by~~ (surrendered to) B 64957 ~~Cpt.~~ (Number) Cpl. (Rank)

CRAWFORD, John K. (Name) Chorley Park Military Hospital, R.C.A.M.C. (Unit or appointment)

at TORONTO, Ont. (Place) at 1715 hrs. (Hour)

on the 9th day of September 19 45

Strike out words not applicable } as a ~~deserter or~~ absentee without leave), and that at the time of his arrest he was wearing military ~~(dress)~~ uniform ~~(civilian clothes)~~.

Dated at TORONTO, Ont. this 13th day of September 19 45

(F.R. Hassard, Colonel,
O.C., Chorley Park Military Hospital.
TORONTO, Ont.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
50M—5-42 (4731)
H.Q. 1772-39-1936

MEDICAL OFFICER'S REPORT

I certify that No. B.82937 Cpl. John BRAY

of No. 2 D.D. is in a good state of health,

and is fit to undergo Trial by Court martial.

W W Stubbing Capt.
Capt.
Medical Officer RCAMC
Att. to No. 2 District Depot CA(A)
Toronto, Ont.

Station Exhibition Barracks,
Toronto, Ont.

Date 19 Sep 45.

W. H. McClement
Pres SCM Major

M. F. B. 246

25M—10-42 (5503)
H.Q. 1772-30-480

H.Q.C.55-B-2025 (JAG/D-3)
Your T.20-B-7923

9 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B.52937 Cpl. John Bray,
No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

EPL/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q.C.55-B-2025
M.D.~~T-20-B-7923 (AJAG)~~

MEMORANDUM - ~~DISTRICT~~ Standing COURT-MARTIAL

No. GS B.62937 Name BRAY, John

Rank Cpl Unit No. 2 DD CA

Charge (1) AA 15 (1) AWL

(2) AA 15 (1) AWL

Date of Crime (1) 30-8-45 (2) 8-9-45

Date of Arrest (1) 4-9-45 (2) 9-9-45 Charge Signed 17-9-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks 19-9-45

Sentence reduced to ranks

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40112

Date 5-10-45

MEMO

MD 2 No. 2 DD CA

Absent	Sentence
5 days	reduced to ranks
1 days	

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. T-20-B-7923 (A1A5).

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
1st October - 1945

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

6.55-B-2025

STANDING COURT-MARTIAL

B-62937, Cpl. John BRAY,
No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
President
Standing Courts-Martial.

41112

COUNTER NUMBER 77477

HOUR 1240

OPERATOR'S INITIALS aw

RELIEVING OPERATOR GG.

H.Q.C. 55-B-2026

H.Q.C. 55-B-2026 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BARONI, LOUIS B.624663 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 10 1945	9/11/45			JAG	NEW FILE	CR	5-10-45
OCT 25 1945	26/10/45	JA	pm	Judg	With Papers C.R. OCT 24 1945		

Name of file, purpose for which referred cannot be expressed on one line, add minute to file and mark "With Minute".

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an portunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQS 33-2-2026 (JAG/B-6)

23 Oct 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing
B.654663 Pte. Louis BURNT
No. 2 District D Coy, CA
.....Court-Martial

T-20-B-12067 (AJAG)

23rd October 5

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E K M
for (R.J. Orde) Brigadier,

Judge Advocate-General.

KLM/fdf

IN REPLY PLEASE QUOTE No. T-20-B-11037 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
23rd October, 1945.

ONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
4689
OCT 24 1945
File C55-B-2026
Chgd. to
Referred to AAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
-624663 - Pte. Louis BARONI,
o. 2 District Depot, C.A.

Reference H.Q.C. 55-B-2026 (JAG/D-9) dated 9th October, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. With respect to H.Q. 55-1-41 F.D. 74 (Adm) dated 16th January, 1945, it is advised that there is no administrative action considered necessary.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont., on the 19th day of September, 1945 at 1150 hours,

for the trial of: B.624663, Pte. Louis BARONI
Number Rank Full Name

No. 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major W. P. McClemont, E.D. (A&SH) HQ, MD2.

PROSECUTOR: Major N. M. Menzies, E.D., H.Q., M.D. 2.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ FOR DEFENDING OFFICER: Capt. W. J. Hines (RCASC) No. 2 D.D., C.A.
Rank Full Name Unit Attachment, if any

FINDING:

Not guilty of desertion, but guilty of absence without leave.

SENTENCE:

To undergo detention for 60 days.

Signed at Toronto, Ontario, this 19th day of September, 1945.

W. P. McClemont (Major)
President,
Standing Court-Martial.

Extracts entered as No. 1435 in the Record of Courts of Inquiry kept in the Office of the Judge Advocate General this 9 day of Oct 1945

M.F.R. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to~~ ..... ~~as in Rule 2?~~

Answer: .....

Question to the accused. Do you object to M.36367, SM R. Gostick, No. 2 Det., CMSC CA HQ MD2, as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or Court-Martial?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. .....

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer. .....

(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B-2
W. McClure
Pres & C.M. Maj

CHARGE SHEET

The accused, No. B-624683, Private Louis BARONI, No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:

HARGE
ec. 12 (1) (a)
my Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:

- in that he -

at Exhibition Barracks, Toronto, Ontario, on the 9th day of April, 1945, absented himself from No. 2 District Depot, C.A., at 0800 hours, on said 9th day of April, 1945, until he voluntarily surrendered himself to the Military Authorities at No. 2 District Depot, C.A., Toronto, Ontario, at 0750 hours on the 14th day of September, 1945, dressed in military uniform.

W. M. Dunlop Lieut-Colonel.
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
17th September, 1945.

W.P.M.

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B.58203, L/Cpl. R. N. HEWER, H.W.E., No. 2 D.D., C.A.,

being duly sworn, is examined by the Prosecutor.

Question

Q Cpl. Hewer, what is your position in No. 2 District Depot?

A Sir, I am an N.C.O. of the Home War Establishment.

Q Do you know the accused?

A I recognize Pte. Baroni, sir.

Q Have you any information to give the Court regarding the accused?

A Yes, sir. I produce a certified true copy of the record of the declaration of a court of inquiry assembled at Exhibition Barracks, Toronto, Ont., on the 4th day of May, 1945, signed by Capt. & Adjt. J. J. Eyles, officer having custody of original record.

Q To whom does that document refer?

A To the accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No, sir.

(Certified true copy of record of declaration of court of inquiry sgnd at Toronto, Ont., 4 May 45, is marked Exhibit "F," sgnd by the Pres., pertinent portions read, and att'd to the proceedings.)

THE WITNESS: (cont'd) I further produce M.F.M. 216, being certificate of surrender, signed by Col. O. S. Hollinrake, Commanding Officer, No. 2 District Depot, C.A.

Q To whom does that document refer?

A To the accused, sir.

THE PRESIDENT: (To Def. Off.) Any objection?

THE DEFENDING OFFICER: No, sir.

(MFM 216 dated at Toronto, Ont., 14 Sept 45, is marked Exhibit "G," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: (cont'd) I have no further evidence, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. No statement at all, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Prosecutor and Defending Officer make closing addresses which are recorded but not transcribed.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. W.M.C.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer.

THE DEFENDING OFFICER: Sir, before awarding sentence to Baroni, there are two facts I think we should consider; firstly, his length of service, which originated the 8th of September, 1942; and during the time he was in service he had no serious offences against him, the crimes merely being minor offences.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

26 ✓ 15

RECORD of the Declaration of a Court of Inquiry assembled at Exhibition Barracks, Toronto, Ontario, on the 4th day of May, 1945, for the purpose of investigating and recording the absence without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-624663, Private BARONI, Louis, Reinforcement Wing, No. 2 District Depot, C.A., Exhibition Barracks, Toronto, Ontario.

DECLARATION

The Court declare that No. B-624663, Private Louis BARONI, No.2 District Depot, C.A., illegally absented himself without leave from No.2 District Depot, C.A., Toronto, Ontario, at 0800 hrs., on the 9th day of April, 1945, that he is still so absent, and that on the 4th day of May, 1945, he was deficient, and that he is still deficient of the following articles:-

ARTICLES	VALUE	ARTICLES	VALUE
SECTION "A"			
Caps, winter melton cloth..1	.79		
Rubbers, prs.....1	.47		
SECTION "B"			
Trousers, battle dress.....1	4.91		
Blouses, battle dress.....1	4.88		
Boots, ankle,prs.....1	4.37		
Caps, field service.....1	.53		
Socks, army,prs.....1	.35		
Puttees, prs.....1	.73		
Shoes, leather black,prs...1	2.63		
SECTION "C"			
Belts, waist web,1¾".....1	.19		
Neckties, black.....1	.15		
Pins, collar.....1	.05		
Towels, hand.....1	.23		
Braces, prs.....1	.21		
Sticks button.....1	.03		
Brushes, shaving.....1	.32		
" boot blacking.....1	.11		
" tooth.....1	.07		
Holdalls.....1	.17		
Razors, safety.....1	.32		
SECTION "D"			
Badges, cap.....1	.07		
Total at 75% vocab.rate.....	22 58		

"F"
W. A. Clement
Pres & C.A. Major

.....B. Grossberg.....Capt, President
(H.W.E.) No. 2 District Depot, C. A.

Signed at Exhibition Barracks, Toronto, Ontario
this 4th day of May, 1945.

Signature of Commanding Officer...O.S. Hollinrake.....Colonel
Officer Commanding, No.2 District Depot, C.A.

Certified true copy.....Mayles.....Capt.,
Adjutant, No.2 District Depot, C.A.
(signature of Officer having custody of original record)

"G"
W. McClement Major Pres. SCM.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. O.S.Hollinrake, Commanding Officer, No. 2 District Depot CA(A)
(Number) (Rank) (Name) (Unit)

hereby certify that B.624663 Pte. BARONI, L.
(Number) (Rank) (Name in full)

of the App/Wing, No. 2 D.D.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ OH (surrendered to) B.78755 Pte. Neary, P.
(Number) (Rank)

R.M.P.
(Name) (Unit or appointment)

at No. 2 D.D., Toronto, Ont. at 0750 Hrs.
(Place) (Hour)

on the 14th day of September 19 45

Strike out words not applicable } ~~as a deserter~~ OH (or absentee without leave), and that at the time of his arrest he was wearing military (~~air force~~ OH) uniform ~~(dressed in civilian clothes)~~ OH

Dated at Toronto, Ont. this 14th day of September 19 45

P. Neary
B.78755 Pte. Neary, P.

O S Hollinrake Col.
(Signature, Number, Rank, Unit or appointment)
(O.S.Hollinrake) Col.,
Commanding Officer, No. 2 District Depot CA(A).

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

W. McClement
Pres. (M. Maj)

19

A.F.B. 255
73M—5-43 (343)
SQ. 1772-39-620
A.F.B. 291

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-624663,	Private	Louis BARONI,	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	AWL AA 15(1)	1 times
For		times	Neg. to the Prej. AA 40	3 times
For		times	Refused to obey a lawful command AA 9 (2)	2 times
For		times	Found beyond limit of camp AA 15 (3)	1 times

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 5 days in military custody, making a total of 5 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his enrolment paper is 23 years, 1½ months.

6. The date of his enrolment specified in his enrolment paper is 8 September 1942.

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Air Force Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of September. 1945. Lt. & A/Adj. C.A.
No. 2 Distri ct Depot,

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.R.132)
750M—12-43 (7537)
H.Q. 1773-38-1052

No. B-624563 Name BARONI Louis | Sqn., Battery, or Company | Corps | Date of enlistment 8 Sep 42 | G.C. Badges | Tradesmen's Rates of Pay | Character

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. R.C. Allen Major.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pr. George BC	4 Apr43	Pte.		AWL from 2200 hrs.4-4-43 to 0830 hrs. 10-4-43 (5 days 10 hrs. 30 min)AA 15(1)	Documentary	Admonished	10-4-43	Capt.Bullock	Forf 6 day pay FR&I 149 (1)(a)
Pr. George B.C.	3 May43	Pte.		Refused to obey a lawful command by a Superior Officer AA 9(2)	Cpl.McMurray	Fined 3 days pay FR&I 149 (2) 2 dys C.B.	3-5-43 20-6-43	Capt. E.G. Hession Capt. E.G. Hession	
Pr. George BC	20Jun43	Pte.		Neg. to theprej. of good order and Mil Disc. A.A. 40	Sgt.S.J.C. Sedor				
Pr. George BC	4 Nov 43	Pte.		Neg. to the prej. of good order and mil. Disc.	Cpl. R.C. Foster	Fined 2 days pay FR&I 149 (2)	4-11-43	Major. R.C Allen	
Pr. George	11 Feb 44	Pte.		Found beyond the limits of Camp without a pass A.A. 15 (3)	Sgt. Hill EC 41 Prov C.	3 days CB	11-2-43	Major R.C. Allen.	

(over)

(P.T.O.)

W.T. McClement
Pte
SCR

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pr. George	15Mar 44	Pte.		Disobeying a lawful command by superior officer Did not get out of bed AA9(2)	Sgt.Raymond F.S.	5 days C.B.	15-3-44	Major R.C. Allen	
Wainwright	13Sep 44	Pte.		Neg. to the prej. of good order and Mil. Disc. Dirty socks on bed. A.A.40	Documentary	Fined 1 days pay FR&I 149 (2)	14-9-44	Major R.C. Allen	

CERTIFIED TRUE COPY G.H. Hayward Lt. & A/Adj.
No. 2 District Depot, C.A.

MEDICAL OFFICER'S REPORT

I certify that No. B.624663 Pte. Louis BARONI

of No. 2 D.D. is in a good state of health,

and is fit to undergo Trial by Court martial.

A. Hubbuy Capt.
Medical Officer RCAMC
Att. to No. 2 District Depot CA(A)
Toronto, Ont.

Station Exhibition Barracks,
Toronto, Ont.

Date 19 Sep 45.

M. F. B. 246
25M—10-42 (6503)
H.Q. 1772-39-480

W. P. McClement Maja
Pres SCM

H.Q.C.55-B-2026 (JAG/D-9)
Your T. 20-B-11037

9 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B. 524663 Pte. Louis Baroni,
No. 2District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(E. J. Orde) Brigadier
Judge Advocate-General.

RMM/MM

8M-7-45(M-188)

THIS COPY FOR:

H.Q.C. 55-B-2026
M.D. ~~T-20-B-1103-7 (AJAG)~~

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA
B-624663 Name BARONI, Louis

Pte No. 2 DD CA
nk Unit

AA 12 (1)(a) WOAS Deserting....
harge

Date of Crime 9-4-45

Date of Arrest 14-9-45 Charge Signed 17-9-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks 19-9-45

Sentence Det 60 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40135

Date 9-10-45

MEMO Guilty AWL

MD 2 No. 2 DD CA

Absent Sentence

Approx 5 mos Det 60 days

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. T-20-B-11037 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
1st October 1945

CONFIDENTIAL

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

6-55-B-2026

STANDING COURT-MARTIAL
B-624663, Pte. Louis BARONI,
No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
President
Standing Courts-Martial.

40135

NAT. DEF. B. 440
2500M-4-44 (4521)
H.Q. 1172-39-787

H.Q.C. 55-B-2027 CONFIDENTIAL

N.F.H. 3578
DSM—2-45 (6000)
H.Q. 801-1-67

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOLDT, NICHOLAS H.613285 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2027

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 10 1945				JAG	NEW FILE	CR	5-10-45
OCT 21 1945	19/10/45	P.A.	E.J.	JAG.	With Papers C.R. OCT 17 1946		
					Per Requisition C.R. JAN 8 1946		
JAN 19 1946					Recommendation		JAN 17 1946
FEB 28 1946	27/2/46	PA		Int	Per Requisition C.R. FEB 8 1946		
MAR 29 1946	29/3/46	PA		Admin	With Papers C.R. MAR 28 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

W.44-B-5475 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba,
25th March, 1946

CENTRAL REGISTRY Army
CONFIDENTIAL
11819
MAR 29 1946
File B.W.J.-B-2488
Chgd. to
Referred to

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

RE: TRIAL OF [illegible]
No. H-613285, Private Nicholas BOLDT,
No. 10 District Depot, C.A.

Herewith, for [illegible], is Form of Remission of Sentence relative to the [illegible] tried, duly completed in accordance with C.[illegible] 1074. M.F.M. 288 is also enclosed herewith.

[illegible] Brigadier
District Officer Commanding
Military District No. 10.

mhp
encl.

APPENDIX "G" TO C...R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No HQC 55-B-2027...
District File No..10/H613285 (J)

PART 1

No. H-613285 Rank Private Name Nicholas BOLDT

Unit No. 10 District Depot.

PART II

Date of Trial.....1st October 1945
Charge(x) .....Desertion
Sentence .....1 year detention
Date of Sentence.....1st October 1945
Confirmation - (a) Authority.....N/A. SCM
(b) Date .....

PART III

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit ~~xxxxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxxxxxxxxxxx~~ the balance of the sentence of detention effective the 19th day of March 1946

Signed at Winnipeg, Man this 1.. day of March 1946

(R.O.G. Morton) Brigadier D.O.C. M.D. 10.
(Appointment)
To be signed by the Competent Authority or Superior Military Authority personally.

PART IV

PROMULGATION

Remission(~~xxxxxxxxxxxxxxxxxxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of H-613 285 (Number) Private (Rank) Nicholas B O L D T (Name in full)

No. 10 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to undergo detention for 1 year

on 1st October, 1945 at Winnipeg, Manitoba,

being served at No. 73 Military Detention Barracks, Winnipeg, Manitoba. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years 5 months 22nd July, 1942

YOB P U L H E M S

Medical grade or category 21 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place: .....

Date ..... Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority

M.F.M. 268
Army Form A-3104
(4-d—9-43 (1669))
H.Q. 1772-89-3015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
NOV 14 1945	B. F. FOR REVIEW TO	E. F. Fitch A. J. A. G., M. D. No. 10.	
6 Mar 46	Sentence remitted effective 18 Mar 46	R.O.G. Morton (R.O.G. Morton) Brigadier, District Officer Commanding Military District No. 10.	

HARGE: Sec. 12(1)(a)
rmy Act.

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
HEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE: in that e at Debert, Nova Scotia, at 0600 hours on the 22nd day of ebruary, 1945, absented himself from the 2nd Infantry Training attalion, Canadian Infantry Corps, C.A. until he surrendered to ilitary Authorities, in Winnipeg, Manitoba, at 2245 hours on the 8th September, 1945, wearing Military Uniform. A. Thomson Lieut. Colonel (A. Thomson) Commanding Officer, No. 10 District Depot, C.A. Signature of Officer making entry	22 Feb 45	1 Oct 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
3rd October, 1945	There has been no opportunity to assess this man's ability, character, or usefulness as a soldier. A. Thomson Lieut. Colonel (A. Thomson) Commanding Officer, No. 10 District Depot, C.A.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

CLEAR

ARMY MESSAGE
(INCOMING)

43 VEL AN 38

PLACE FROM

WINNIPEG 21 1155

DATE & TIME

R. C. SIGS 937 NATIONAL DEFENCE BLDG. JAN 21 (OTTAWA) Phone L.3337 ARMY SIGNAL OFFICE

adm

SECTY DND

OTTAWA

O.M.N. 3B3

3363A UNCLASS RELET HQC 55-B-2027 ADM 3 (B) 3 DATED 18 JAN 46

RE PTE BOLDT N STOP RECOMMENDATION RE RELEASE HEREBY ACKNOWLEDGED

CMDG TEN

211426R MM

Pa on file
Minute

THIS IS AN ACTION COPY
IF INDOORMEDIATELY DELIVERED, COMPLETE BELOW AND RETURN TO ... WOODS

BRANCH	TIME	SIGNATURE

71699

4-300M-10-44 (5869)
39-2100 K.P. 20293

COPY 1

GRAIN PRINTERS LIMITED-IE

A.F.M. 336 (4 PARTS)
DOCR: 5-45 (7429)
No. 1772-99-2092
P. 36739

ARMY MESSAGE

UNCLASSIFIED (OUTGOING)

DHQ-10-H-613285
FILE

PLACE: INNIPEG MAN
DATE: 19TH JAN 46

THE SECRETARY

DEPT NATIONAL DEFENCE ARMY
OTTAWA ONT

3363A UNCLASSIFIED RELEAT HQC 55-B-2027 ADM 3 (b)3

DATED 18 JAN 46 RE PTE BOLDT N STOP RECOMMENDATION

RE RELEASE HEREBY XXXXX ACKNOWLEDGED

COMMANDING TEM

ORIGINATOR'S INSTRUCTIONS

SIGNATURE	DEGREE OF PRIORITY	TIME OF ORIGIN
G.H. Johnson Capt (A.D.A.G.)		

COPY 2

H C 55-B-2027
AM 3(b)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario, 18 Jan 46

District Officer Commanding,
Military District No 10,
Winnipeg, Man.

H-613285 Pte Boldt N
CM Board of Review
73 MDB

Ref telegram AG 0267 d/18 Oct 45 Review.

2. The CM Board of Review has in the case of the a/m soldier made the following recommendation:

"Release on 1 Apr 46"

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. ~~Enclosed herewith xxxx

C O P Y

VER V VEL NR 89 """" R U S H """"

FROM COMMANDING TEN WPG MAN JAN 1014475

TO SECTY DND OTTAWA ONT

GR /65 BT """" RUSH """"

3326A UNCLASSIFIED RELET CMBR 80 DATED 9 JAN 46 STOP RE SUS H-613285 PTE BOLDT N NO 73 M D B H-613172 GNR AUCH G NO 73 M D B H-22530 PTE DUMONT L HEADINGLY GAOL H-613535 PTE PAIZEN J NO 73 M D B H-602078 PTE HUPALO W NO 73 M D B H-510203 PTE KACHKAN S HEADINGLY GAOL H-531296 TPR SOUQUE H NO 73 M D B H-610272 FUS MALECH P HEADINGLY GAOL XXXXXXXXXX H-66408 GNR MC IVOR J A REMITTED 4 JAN 46 STOP CONDUCT GOOD IN EVERY CASE.

BT 1014585 HQ B

INCLUDE ORIGINATOR'S NO. AS THE FIRST GROUP IN THE TEXT OF THE MESSAGE.

HQC 55-B-0027
55-A-516
55-D-612
55-R-1161
55-K-581
55-S-1642
55-M-2075
55-M-2077
(CMBR-6)

CLEAR

ARMY MESSAGE

(OUTGOING)

FILE

PLACE

DATE

OTTAWA, Ontario 9 Jan 46

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

CMBR 80 UNCLASSIFIED

WIRE LATEST REPORT ON CONDUCT AND PRESENT LOCATION MARKED ATTENTION CMBR OF FOLLOWING SUS

H-613285 PTE BOLDT, N.

H-613172 GNR AUCH, G.

H-22530 PTE DUMONT, L.

H-613535 PTE PAIZEN, J.

H-602078 PTE HUPALO, W.

H-510203 PTE KOCHKAN, S.

H-531296 TPR SAUQUE, H.

H-610272 GUS MALECH, P.

H-66408 GNR MC IVOR J A

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS

ACCEPT WIRELESS

(E. G. Weeks)
Major General, Adjutant-General

DEGREE OF PRIORITY

TIME OF ORIGIN

SIGNED

SINGLE FORM FOR CLEAR MESSAGE

USE FOR ADDITIONAL DISTRIBUTION

26

BQ 55- B-2027 (CMER- 6) /EH
9 Jan 46.

Case No ----------

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: H-613285 Pte BOLDT, N.

2. Unit at date of offence: 2 Cdn Inf Trng Bn. C.A. Debert, N.S.

3. Charge: AA Sec 12 (1)(a) Desertion:- At Debert, N.S. absented himself from 22 Feb 45 until he surrendered 18 Sep 45 wearing military uniform. (Absent 7 months).

- Absence commenced on expiration of embarkation leave -

Plea: NOT GUILTY.

4. Place and Date of Trial: Ft. Osborne Bks. 1 Oct 45.
XXXXX XXXX (BOM)

5. Finding: GUILTY.

6. (a) Sentence: 1 year Detention.

(b) Date of Sentence: 1 Oct 45.

7. Date of Confirmation: N/A

8. Date of Promulgation: N/A

9. Being served at: 73 M D Bks. in H.D. 10

(N.S. - Discharged under R.O. 029 ( ) for WEP)

25

CONDUCT

11. (a) **Prior to conviction:**

	Offence	Date	Sentence
(i) Civil Convictions:	N/A		
(ii) Courts-Martial:	N/A		
(iii) Summary Convictions:	A.W.L. - 3 days.	8 Sep 44.	5 days C.B.
	A.W.L. - 21 days.	17 Jan 45.	28 days Detn.

- 31 months previous service -

(b) After Conviction: Good.

(c) Date of enrolment/~~xxxxxxxxxx~~ 22 Jul 42 Present Age: 24

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) Accused on oath stated he was a conscientious objector before enrolment in the army and his beliefs were still the same which was his reason for going A.W.L. Spent his time while absent in the vicinity of Winnipeg and admitted he did not wear his uniform and went into hiding.

(c) Defending Officer declined to make a plea in mitigation.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

Reviewing Officer: Release 1 Apr 46 on completion of 6 months of sentence.

Reviewed by W.A. Moss (W.A. MOSS) Major.

Recommendation of the Board: Release on 1 Apr 46

Date JAN 17 1946

R. A. Stilwell Major
Secretary
Courts-Martial Board of Review.

HQC 55-B-2027 (JAG/D-6)

18th October 1945

District Officer Commanding,
Military District No. 10,
Winnipeg, Manitoba.

Standing
~~H-613285, Court-Martial~~

W.44-B-5475(J)

Receipt is acknowledged of your dated 18th October 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:EW

22

IN REPLY PLEASE QUOTE
No. W.44-B-5475(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba,
13th October 1945

Judge Advocate-General,
Department of National Defence (Army)
OTTAWA, Ontario.

3575
OCT 17 1945
55-B-2027
JAG

STANDING COURT-MARTIAL
H-613285 Pte. BOLDT, Nicholus

Reference your letter, H.Q.C. 55-B-2027 (JAG/D-9) dated 9th October 1945.

Enclosed herewith for custody are the proceedings of the marginally noted Standing Court-Martial.

WRF

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

21

N.D. 23
900M—10-44 (3769)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

on the 1st day of October 19 45 at 1100 hours,

for the trial of: No. H-613285 Private Nicholas BOLDT
Number Rank Full Name

No. 10 District Depot, C.A.,
Unit Attachment, if any

PRESIDENT: Major F. J. Killeen, District Headquarters, M.D. No. 10.

PROSECUTOR: Captain R. Carr, District Headquarters, M.D. No. 10.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Captain L. Jackson, No. 10 District Depot, C.A.,
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, No. H-613285 Private Nicholas BOLDT, No. 10 District Depot, C.A., is Guilty of the charge.

SENTENCE: The Court sentence the accused, No. H-613285 Private Nicholas BOLDT, No. 10 District Depot, C.A., to undergo detention for one (1) year.

Signed at Winnipeg, Manitoba, this 1st day of October 194 5.

F. J. Killeen Major
President, Standing Court-Martial.
(F. J. Killeen) Major

Extracts entered as No. 40136 in the Record of Courts Martial kept in the Office of the Judge Advocate-General this 9 day of Oct 1945.

M.F.B. 1406
25M-6-44 (4820)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.*~~ ~~Do you object to~~ ..... ~~as interpreter?~~

~~*Answer:*~~ .....

Question to the accused. Do you object to No. H-35618 S.M.(A/W.O.I) A. C. Bryant, District Headquarters, R.N. No. 16, acting as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or other Court-Martial~~ ?

Answer: No, Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

F. J. Killeen Major
President, S.C.M.

CHARGE SHEET

The accused, No. H-613 285 Private Nicholas BOLDT, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE:
Sec. 12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

- in that he -

at Debert, Nova Scotia, at 0600 hours on the 22nd day of February, 1945, absented himself from the 2nd Infantry Training Battalion, Canadian Infantry Corps, C.A., until he surrendered to Military Authorities, in Winnipeg, Manitoba, at 2245 hours on the 13th day of September, 1945, wearing Military Uniform.

Winnipeg, Manitoba,
28th September, 1945

R Carr
(R. CARR) CAPTAIN
Prosecutor, Courts-Martial
Military District No. 10.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

By the Prosecutor: Mr. President, the Prosecution's evidence in this case is documentary, and pursuant to C.A.R.O. 5126 I would ask permission to file with the Court the documents in the order shown in the Precis; namely, the M.F.B. 375 and M.F.M. 216, both of which apply to the accused.

By the Court to Defending Officer: Have you any objection to these documents, Captain Jackson?

By the Defending Officer: No, Sir.

M.F.B. 375 is read, marked "F", signed by the President, and attached to the proceedings.

M.F.M. 216 is read, marked "G", signed by the President, and attached to the proceedings.

By the Prosecutor: That is the Prosecution's case, Sir.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. By Defending Officer: He wishes to make a statement under oath, Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. By Defending Officer: No, Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

First Witness for the Defence:) No. H-613285 Private Nicholas BOLDT, No. 10 District Depot, C.A., having been duly sworn, states:

'Well Sir, I was a Conscientious Objector before I went into the Army and my beliefs are still the same, Sir, and that is my reason for going on the loose, Sir. That is all, Sir.'

Cross-examined by the Prosecutor:

Q Then you don't deny the times you were absent, from the 22nd of February, 1945, to the 18th of September, 1945?

A No, Sir.

Q You have told the Court your reason, your state of mind; being a Conscientious Objector you object to serve, that is right, isn't it?

A Yes, Sir.

Q When you went absent on the 22nd February, 1945, you were on leave, weren't you?

A Yes, Sir.

Q That was what kind of leave?

A Embarkation leave.

Q How much leave did you have?

A It was four days, Sir.

Q And where did you proceed on that leave -- where did you go on that leave?

A I did proceed, Sir.

Q But didn't you go away on it?

A Yes, Sir.

Q Did you go home, back to the farm, or stay in Camp? You must have gone somewhere? When you got this Embarkation leave your Unit was where?

A Red Deer, Alberta.

Q And when you got this four days' leave where did you go?

A I went home, Sir.

Q Where is your home?

A Winnipeg, Sir.

Q You came home to Winnipeg on the four days' leave?

A Yes, Sir.

Q Where were you to report back when this leave expired?

A At Debert, Sir.

Q And you had been warned, had you, that you were going Overseas?

A Yes, Sir.

Q And for the reason you tell the Court, you didn't return?

A Yes, Sir.

Q Now, during that time you were away from the 22nd February, 1945, to the 18th September, 1945, where did you stay?

A Around Winnipeg, Sir.

Q Were you at home at all?

A No, Sir.

Q What did you do about your uniform? Were you wearing it or not?

A No, Sir.

Q You were hiding out, were you?

A Yes, Sir.

Re-examined by the Defending Officer:

Q When you surrendered to the Police you were wearing your uniform, were you?

A Yes, Sir.

The Witness resumes his seat.

The Prosecutor makes a closing address.

The Defending Officer makes a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(The Defending Officer declines to make an address in mitigation of punishment).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"F"

17

A J Spillen
President, S C M

RECORD of the Declaration of a Court of Inquiry assembled at Debert, N.S. on the 17th day of March 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.613285 Pte Boldt, N.

DECLARATION

The Court declare that No. H.613285 Pte Boldt, N. (Rft) 2 Inf Trg Bn CIC illegally absented himself without leave from 2nd Inf. Trg. Bn. Camp Debert, Debert, N.S. at 0600 hrs on the 22nd day of February 1945 that he is still so absent, and that on the 22 Feb 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
C2200 Spoons Table	1		08	1A-27000 Slings Rifle	1		24
C2250 Sticks Button	1		04	1A-29300 Straps, Shldr Hav L	1		31
C2400 Towels, Hand	2		62	1A-29350 Straps, Shldr Hav R	1		31
Clothing Div "D"				1A-29500 Straps, Web, Supp	2		28
D20400 Badges Cap	1			1A-30300 Tins, Mess	1		57
Clothing Div "1-A"				Clothing Div "A-2"			
1A-1450 Bags Ration	1		04	Capes, Anti-Gas	1	4	43
1A-2550 Belts, Waist, Small	1		67	Detectors Sleeve, prs	14		56
1A-3300 Bottles Water	1		62	Eyeshields, A.G. Pkg	1	1	04
1A-3450 Braces Left	1		35	Ointment, A.G. No.5 Tins	2	5	22
1A-3500 Braces Right	1		33	R.A.G. Light Type Complete	1	4	05
1A-6950 Carriers, W.B.	1		37	R.A.G. Outfit Anti-Dim	1		03
1A-11100 Covers, Breech Rifle	1		36	"J-1"			
1A-15280 Frogs, Web, Bayonet	1		12	Sheets Ground Drab Mk VII	1	2	47
1A-15800 Haversack	1	2	29	"K"			
1A-17550 Helmets Stl Mk II	1	2	39	Mugs Enamel	1		16
1A-18000 Helmets Covers Cam	1		26			114	70
1A-23600 Packs	1	2	26	Less 25% CARO 3464		28	68
1A-24800 Pouches, Basic	2	2	06			86	02

(R.Finney) Capt HWE 2 Inf Trg Bn CIC President

Signed at Debert, N.S. (J.R.Clendening) Lt RCCS 2 Inf Trg Bn CIC Member

this 17 day of March 1945 (R.A.Hergott) Lt HWE 2 Inf Trg Bn CIC Member

Signature of Commanding Officer

Certified true copy

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
100M—4-43 (4537)
H.Q. 1772-38-237

12

President, S. C. M.

RECORD of the Declaration of a Court of Inquiry assembled at Debert, NS on the 17th day of March 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.613285 Pte Boldt, N.

DECLARATION

The Court declare that No. H.613285 Pte Boldt, N. (Rft) 2 Inf Trg Bn CIC illegally absented himself without leave from 2nd Inf Trg Bn Camp Debert, Debert, N.S. at 0600 hrs on the 22nd day of February 1945, that he is still so absent, and that on the 22nd Feb 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES			VALUE	
Clothing Div "A"				
A250	Anklets, Web	1		74
A9420	Dressings, F.F.	1		22
A13000	Gloves, Woollen	1		66
A13700	Greatcoats, Drab	1	15	54
A24000	Overalls, Comb	1	2	92
Clothing Div "B"				
B450	Blouses, B.D.	2	13	00
B700	Boots, Ankle prs	2	11	64
B1800	Caps, Field Service	1		70
B3300	Drawers, Cotton, Short	2		84
B3550	Drawers, Woollen	2	2	80
B6400	Jerseys, Pullover	1	1	65
B7050	Mufflers, Khaki	1		93
B8000	Shirts Flannel	2	3	26
B8500	Shirts, Woollen	2	2	40
B8350	Shirts, Undercotton	2		86
B8700	Shoes, Canvas, prs	1	2	29
B8850	Socks, Army, prs	4	1	84

ARTICLES			VALUE	
B10200	Trousers, B.D.	2	13	10
B10500	Trousers, K.D. Short	1	1	31
Clothing Div "C"				
C150	Bags, Kit	1	1	68
C200	Belt Waist Lea Brown	1		35
C650	Braces, prs	1		28
C750	Brushes Boot Pol	1		21
C800	Brushes Button	1		11
C850	Brushes, Cloth	1		17
C900	Brushes, Hair	1		39
C950	Brushes, Shaving	1		42
C1000	Brushes, Tooth	1		09
C1050	Caps, Comforter	1		41
C1100	Combs, Hair	1		04
C1300	Forks Table	1		08
C1350	Holdalls	1		22
C1400	Housewives	1		35
C1500	Knives, Table	1		18
C1850	Razors, Safety, sets	1		42

(R. Finney) Capt HWE 2 Inf Trg Bn CIC President

(J.R. Clendening) Lt RCCS 2 Inf Trg Bn CIC Member

(R.A. Hergott) Lt HWE 2 Inf Trg Bn CIC Member

Signed at Debert, NS

this 17th day of March 1945

Signature of Commanding Officer

Certified true copy

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
100M—4-43 (4327)
H.Q. 1772-39-287

11

Pte Boldt

F. Fitzgerald
Pro. S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Debert, N.S. on the 17th day of March 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.613285 Pte BOLDT, N.

DECLARATION

The Court declare that No. H.613285 Pte BOLDT, N. (Rft) 2 Inf Trg Bn, CIC No. 2 Inf. Trg. Bn. CIC Camp Debert, N.S. illegally absented himself without leave at 0600 hrs on the 22nd day of February 1945, that he is still so absent, and that on the 22 Feb 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES	VALUE
8-1					
Rifles, No.4 Mk I Star:					
BA 6260 Bayonet	1	1	87		
BA 6320 Bottles Oil	1		06		
BA 0518 Pullthroughs	1		14		
BA 8022 Rifle #3L4958	1	33	74		
BA 6354 Scabbard	1		62		
TOTAL DEFICIENCIES		122	45		

(R.Finney)Capt HWE 2 Inf Trg Bn CIC President

Signed at Debert, N.S. (J.R. Clendening)RCCS 2 Inf Trg Bn CIC Member

this 17th day of March 19 45 (R.A.Hergott)Lt HWE 2 Inf Trg Bn CIC Member

Signature of Commanding Officer E. Cockburn Lieut.Colonel
(E. Cockburn) No. 2 Inf. Trg. Bn. CIC

Certified true copy R.S.R. Rodgers
(L.S.H.Rodgers)Capt & Adjt.
2 Inf Trg Bn CIC
Signature of Officer having custody of original record

M.F.B. 275
A.F.B. 115
100M—4-42 (4337)
H.Q. 1773-39-337

10

"G" F. J. Killen 23
President, S.C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Captain (Number) R.E. (Rank) Boorman, (Name) Act. Camp Commandant, Fort Osborne Bks. (Unit)

hereby certify that H.613285 (Number) Pte. (Rank) BOLDT, Nicholas (Name in full)

of the No. 2 Inf. Trng. Bn. (Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXXXX~~ (surrendered to) H.65682 (Number) Cpl. (Rank)

Cooper J.H. (Name) District Headquarters M.D. 10 (Camp Commandant Staff) (Unit or appointment)

at The Garrison Custody Barracks Fort Osborne Barracks, WINNIPEG, Man. at 2245 hours (Hour)

on the 18th day of September 19 45.

Strike out words not applicable } as a deserter (~~XXXXXXXXXXXXXXXX~~ and that at the time of his ~~XXXX~~ surrender he was wearing military (~~XXXXXX~~) uniform (~~XXXXXXXXXXXXXXX~~).

Dated at WINNIPEG, Manitoba this 19th day of September 19 45.

R.E. Boorman Captain
(R.E. Boorman) (Number, Rank, Unit or appointment)
Act. Camp Commandant,
Fort Osborne Barracks.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

9

"Y" Mallen
President, S. C. M.

M.F.R. 355
Jd 234—8-40 (6435-6)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-613 285	Private	Nicholas BOLDT	No. 10 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ Conduct Sheets ~~Regimental and Squadron, Battery~~ ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	Absence without leave	1 times	Absence without leave	2 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 days in military custody, making a total of 13 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment ~~attestation paper~~ is 24 years 7 months

6. The date of his ~~commission~~ enrolment ~~attestation~~ specified in his record of service ~~enrolment~~ is ~~attestation paper~~ 22 July, 1942

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. State any ~~air force~~ military decoration or reward. nil

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

8

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force Permanent Force the rank of unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name .....of .....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st day of October, 1945 Capt. & Adj. (W. Throp) No. 10 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

..... Major
President, S. C. M.

M.F.M. 6

~~R.C.A.S.C.~~

Reg. No. H-61[illegible]5 Name BOLDT, Nicholas Corps C.I.C. Date of enlistment or enrolment 22 Jul 42 Date of Birth

Signature O.C. Company, etc. D.L. Hamilton, Capt.

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of Drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Nil entry end of 6 months service 1942 Sheet destroyed 22 Jul 44 after 2 yrs. service					
Red Deer, Alberta	4 Sep 44	Pte		A.A. Sec. 15(1) AWL from 2200 hrs 4 Sep 44 until 0315 hrs 8 Sep 44. (Absent 3 days 5 hrs 15 mins)	Documentary	5 days C.B.	8 Sep 44	Capt. J.A. Girling	Auto. forfs. 4 days P & A F.R. & I 149(1)
Red Deer, Alberta	27 Dec 44	Pte		A.A. Sec. 15(1) AWL from 0630 hrs 27 Dec 44 until 0400 hrs 17 Jan 45 (Absent 20 days 21 hrs 30 mins)	DOCUMENTARY	28 days Detention.	17 Jan 45	Lt.Col. W.M. Copeland	Auto Forf. 21 days Pay FR&I 149(1)

CERTIFIED TRUE COPY

Captain & Adjutant

PRECIS OF EVIDENCE

H-613 285 Private Nicholas BOLDT, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service.

CHARGE: DESERTION

TO PROVE THE CHARGE: the following evidence is available.

Documentary: M.F.B. 375

M.F.M. 216

NOTICE

TAKE NOTICE: that I propose to present H-613 285 Private Nicholas BOLDT, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, the accused, for trial by Standing Court-Martial, at 1015 hours, Monday, the 1st day of October, 1945, in Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

Winnipeg, Manitoba,
28th September, 1945

(A. Thomson) Lieut. Colonel
Commanding Officer,
No. 10 District Depot, C.A.

6

TRIAL OF:

H-613 285 Private Nicholas BOLDT,
No. 10 District Depot (CA)

I, H-613 285 Private Nicholas BOLDT,
No. 10 District Depot (CA), desire ~~do not desire~~
an officer assigned to defend me at my trial by
Court-Martial.

N. Boldt.

Winnipeg, Manitoba,
28th Sep. 1945.

5

MEDICAL OFFICER'S REPORT

I certify that No. H-613 285 Cpr. BOLDT, N.

of #10 D.D. CA is in a good state of health,

and fit to undergo Trial by Court martial.

Medical Officer R.C.A.M.C.
No. 10 District Depot, C.A.

Station Winnipeg, Manitoba.

Date 1st October, 1945

M. F. B. 246
25M—9-41 (1765)
H.Q. 1773-39 480

4

H.Q.C.55-B-2027 (JAG/D-9)
Your W. 44-B-5475 (J)

9 Oct 45

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

STANDING COURT-MARTIAL

H. 613285 Pte. Nicholas Boldt,
No. 10 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

RMM/MM

3

8M-7-45(M-188)

THIS COPY FOR:

H.Q.6. 55-B-2027
M.D.W.44-B-5475

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

NRMA

No. H.613285 Name BOLDT, Nicholas

Rank Pte Unit No. 10 DD CA

Charge AA 12 (1)(a) WOAS Deserting.....

Date of Crime 22-2-45

Date of Arrest 18-9-45 Charge Signed 28-9-45

Orders for D.C.M.

Place and Date of Trial Bldg 15 Fort Osborne 1-10-45

Sentence Det 1 year

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40136

Date 9-10-45

REMO

MD 10	No. 10 DD CA
Absent	Sentence
Approx 7 mos	Det 1 year

for Judge Advocate-General

CM-S-45(M-189)

2

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

W.44-B-5475 (J)

Winnipeg, Manitoba
2nd October, 1945.

Judge Advocate-General
Department of National Defence (Army)
OTTAWA, Ontario.

C.55-B-2027

STANDING COURT-MARTIAL

No. H.613285 Pte. BOLDT, Nicholas
No. 10 District Depot, C.A.,

Herewith for review, are the proceedings of the marginally-noted Standing Court-Martial.

ACB.
Enc.

D. J. Killen Major
President
Standing Court-Martial

40136.

1

H.Q.C. 55-B-2028 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOOTH, ROBERT JOHN K.601566 PTE.

H.Q.C. 55-B-2028

CENTRAL REGISTRY	DATE	R.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")					
OCT 10 1945				JAG	NEW FILE	CR	5-10-45
NOV 3 - 1945		cancelled		JAG	PER B.F. NOV 5 - 1945		
NOV 3 - 1945					Per Requisition C.R. NOV - 6 1945		
NOV 7 - 1945					With Papers C.R. NOV 13 1945		
JAN 7 1946	cancelled	cancelled			Recommendation		DEC 14 1945
MAR 1 2 1946	12.3.46				PER B.F. MAR 12 1946		
					With Papers C.R. MAR 19 1946		
MAR 20 1946 MAR 27 1946	20.3.46				is note discussion the		19/3/46

NOTICE

1. Files should not be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to see it.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE: 55-B-2028
OUR FILE: 22-B-7851

CENTRAL REGISTRY Army
CONF. SEC.
12648
MAR 16 1946
File 55-B-2028
Copied to
Returned to

PART I

No. K.601566 Rank Private Name BOOTH Robert John

Unit No 11 District Depot CA

Part II

Date of Trial 17 Sep 45

Charge(s) Sec 12 (1)(a) A.A. Desertion

Sentence 18 mos detention

Date of Sentence 17 Sep 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~XXXXXXXXXXXXXXXX~~ balance of sentence of detention effective 5th Mar 46, ~~XXXXXXXXXXXXXXX~~

Signed at ~~Vancouver~~, B.C., this 1st day of March 46.

(E.C. PLOW) Brigadier, D.O.C., M.D. No.11

To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission (~~Commutation/Mitigation~~) promulgated and extracts taken at No XI District Depot CA Vancouver BC this 5th day of March 1946

H.M. Mortensen Capt. Adjt.
Officer i/c Documents
(1) No XI District Depot, CA.

(1) Unit, attachment and appointment to be stated.

Part V
Certified True Extract of Daily Orders Part II

No. K-601566 Rank Pte. Name BOOTH Robert John

The sentence of 18 month's detention

awarded by (Field General)(District)(Standing) Court-Martial on the 17th day of September 1945 has been remitted the balance of the sentence on the 5th day of March 1946 by DOC MD XI

Certified true Extract of Daily Orders Part II of No XI District Depot.
No. 56 Place Vancouver B.C. Date 7 March 46

H.M. Mortensen Capt. Adj.
No XI District Depot. CA.

Please do not detach from case file

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of K-601566 Pte Robert John BOOTH
Number Rank Name in full

NO.XI DISTRICT DEPOT CA.
Unit Attachment (if any)

Sentenced to EIGHTEEN (18) MONTHS DETENTION

on 17 SEP 45 at VANCOUVER B.C.

being served at
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 yrs 1 mo - 8 Jan 42

Medical grade or category 19/ 1 1 1 1 1 2 1

FIRST TRIAL—PART II

To
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on) for reasons given in paragraph X.
date

Place

Confirming Authority

Date

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Superior Military Authority

Date

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To
Superior Military Authority

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Confirming Authority

Date

M.F.M. 258
(Army Form A-104)
[illegible]
H.Q. 1772-29-[illegible]

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
1 Nov 45	No remission. BF for review 10 Mar 46.	S. S. Terry, Major General G.O.C. in C. Pacific Command	
5 March 46.	Balance of sentence of detention remitted effective today.	(E.C. PLOW) Brig. DOC MD No.11	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
SEC.12(10(a) A.A.	4 Jan 45	17 Sep 45
FOU ND GUILTY OF AWL		

Signature of Officer making entry — Capt., Adjt., No.11 District Depot CA

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
17 Sep 45	Convicted in pursuance of Court	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

ER V CIV NR 73

COMMANDING PACIFIC VANCOUVER 101152U

THE SECTY NDHQ OTTAWA

R 129 BT

CA 1904G UNCLASSIFIED YOUR HQC 55-U-31 ADM 3(B)3 REFERS M602340

FN UNTERSCHULTZ A V STOP HQC 55-Z-51 REFERS M448588 PTE ZAROW Y L

TOP HQC 55-P-1130 REFERS M39959 TPR PALICHUK J STOP HQC 55-0-275

EFERS L610231 PTE OBUCM A STOP HQC 55-B-2028 REFERS K601566 PTE

OOTH R J STOP ALL CMBR DATED 7 JAN 46 STOP ALL ACK

1/1/56

T 101152U

E 101242U B

RECEIVED
JAN 10 1946
A.D.M.A.N.
3B3

CANADIAN SIGNALS
Wood Bldg.
OTTAWA
JAN 10 1946
Phone
Signal Office

OFFICE, ARMY MESSAGE, ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE

INITIAL AND ACTION ONLY
IF INCORRECTLY DELIVERED COMPLETE
BELOW AND RETURN TO A.M.C. WOODS

BRANCH	TIME	SIGNATURE

adm

Hespie

Pa on file
1-1-56
58685

HQC
DEPARTMENT OF NATIONAL ADM 355-B-2028
DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario,
7 Jan 46.

GOC-in-C,
Pacific Command,
VANCOUVER, B.C.

.601566 Pte BOOTH R J
M Board of Review
5 MDB

Ref telegram AC 0267 D/18 Oct 45 Review.

2. The CM Board of Review has in the case of the a/m soldier made the following recommendation:

"

Release on 17 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. Enclosed herewith AF A3104/MFM 288 for this soldier.

7. Acknowledgment by telegram requested.

(N. G. Weeks)
Major-General
Adjutant-General

KHM/MA

Case No.....

REVIEW OF SENTENCE
BY
COURT MARTIAL BOARD OF REVIEW

1. Rank, No and Name: K-601566 Pte BOOTH R.J.

2. Unit at date of offence: No 11 DD CA, Vancouver, B.C.

3. Charge: AA 12(1)(a) - AWL
When on Active Service was AWL for 8 months until surrendering himself.

Plea: Notguilty

4. Place and Date of Trial: No 11 DD CA, Vancouver, B.C.
~~XXXXX XXXX~~ (SCM) 17 Sep 45

5. Finding: Not guity of desertion
Guilty of AWL

6. (a) Sentence: 18 months detention

(b) Date of Sentence: 17 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 85 MDB in MD Pac Comd.....

(N.B. - Discharged under RO 1029( ) for
wef)

CONDUCT

Case No----------

11. (a) Prior to conviction

	Offence	Date	Sentence
(1) Civil Convictions:	NIL		
(2) Courts/Martial:	NIL		
(3) Summary Convictions:	NIL		

(b) After conviction Good - Expected date of release - 13 Sep 45

(c) Date of enrolment/xxxxxxxxxxx 8 Jan 42 Present Age: 26

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances).

STATEMENT MADE BY ACCUSED IN MITIGATION: States tonsils were bothering him, and he had been promised an operation by the Medical Officer. The operation was refused, and he was placed on draft for O/S. So the accused went AWL.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr., etc.)

REVIEWING OFFICER: Sentence to be remitted after serving 8 months.

Reviewed by. A.B. O'Keefe
(A.B. O'KEEFE) Capt

14. Recommendation of the Board: Release on 17 Mar 46

DEC 1 4 1945
Date--------19------

G.A. Stilwell Maj
Secretary
Courts Martial Board of Review

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

22-B-7851

Headquarters, Pacific Command.
Vancouver, B.C.
8 November 1945

8824
NOV 13 1945
C.S.S.-B 2026
Chief
Referred to

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks

K.601566 Pte. BOOTH, R.J.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

21

File 6-2-6

DEPARTMENT OF NATIONAL DEFENCE
(ARMY)

File No. 2-14-D

7851

Command Assistant Provost Marshal
Headquarters, Pacific Command.
Vancouver, B.C.

SOLDIERS UNDERGOING SENTENCE -Transfer of,
BETWEEN MILITARY DETENTION BARRACKS.

1. In accordance with the provisions of C.A.R.O. 4567, para 15, it is notified that the undermentioned soldier has been transferred to Military Detention Barracks No. 85 at Vernon, B.C. w/e 25 Oct 1945

Regt'l No.	Rank	Name	Unit
K-601566	Pte.	BOOTH.R.J.	No.X1 District Depot

W H Hand S.M.(WO1)
(W.H.Hand) Commandant,
No.74 Military Detention Barracks,
Esquimalt, B.C.

MINUTE 11

The undersigned acknowledges the completion of the above transfer and that the soldier mentioned above was received into Military Detention Bks. No. 85 at Vernon, B.C. w/e 26 October 1945

No. 85
Military Detention Barracks
VERNON, B. C.
OCT 27 1945
CANADIAN PROVOST CORPS

20

H B Forster Lieut.
(H.B. Forster) Commandant,
Military Detention Barracks., No. 85 M.D.B.

HQC 55-B-2028 (JAG/D-6)

7 Nov 45

G.O.C.-in-C.,
Pacific Command,
Vancouver, B.C.

Standing
K.601566 Pte John Robert Booth
#11 District Depot, CA.
.....Court-Martial

29th October 5 22-B-2851 (JAG)

Receipt is acknowledged Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E L M
for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

19

IN REPLY PLEASE QUOTE
No. 22-B-7851(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, Pacific Command
Vancouver, B.C. 29 Oct 1945.

CENTRAL REGISTRY Army
6941
NOV 3 1945
File 055-B-2028
Chgd. to 1093-11
Referred to JAG

Judge Advocate-General,
N.D.H.Q.,
Ottawa, Ont.

STANDING COURT MARTIAL
K601566 Pte. John Robert Booth
#11 District Depot, C.A.

Reference HQC 55-B-2028 (JAG/D-3) d/9 Oct 45.

2. Proceedings of the m/n case are returned herewith for custody.

RECEIVED
Claims Section
NOV 5 1945
J. A. G.

Major-General
G.O.C. in C. Pacific Command

N.D. 24
M—10-44 (5769)
Q. 1772-101-23

18

7851

PROCEEDINGS OF A STANDING COURT MARTIAL HELD
AT NO XI DISTRICT DEPOT, CA, VANCOUVER, B C,
at 1430 hours on the 17th day of September, 1945,
for the trial of:

K601566 Pte ROBERT JOHN BOOTH,
of No XI District Depot, CA

PRESIDENT: Major A M Grimmett, MC,
Headquarters Pacific Command

PROSECUTOR: Capt Walter John Kirby,
Headquarters Pacific Command

DEFENDING OFFICER: Lt Theodore William Clair
No XI District Depot, CA

FINDING: NOT GUILTY OF DESERTION BUT
GUILTY OF ABSENCE WITHOUT LEAVE

SENTENCE: The Court sentence the accused
TO UNDERGO DETENTION FOR EIGHTEEN
(18) MONTHS

SIGNED at Vancouver, B C, this 17th day of September, 1945

A M Grimmett

(A M Grimmett) Major
President
Standing Court-Martial

Extracts entered as No. 40137 in the Record of Court Martial kept in the office of the Judge Advocate General this 9 day of Oct 19 45

17

Question to the accused:

Q Do you object to be tried by me as President of the Court?
A No, sir.

Q Do you object to D24030 CSM (A/WO II) J H Spence, Headquarters Pacific Command, acting as shorthand writer?
A No, sir.

(D24030 CSM (A/WO II) J H Spence, Headquarters Pacific Command, is duly sworn as shorthand writer)

Question to Prosecutor:

Q Has the accused elected to be tried by Court-Martial?
A Remanded, sir.

The accused is arraigned upon the charge in the Charge-Sheet, which is marked "B-2", signed by the President, and annexed to the Proceedings.

Question to the accused:

Q Is that your number, rank, name and unit?
A Yes, sir.

Q Are you guilty or not guilty of the charge against you, which you have heard read?
A NOT GUILTY.

B-2

(A M Grimmett) Major
President
Standing Court-Martial

CHARGE SHEET

The accused, K-601566 Pte Robert John BOOTH, of No.11 District Depot, C.A., a N.R.M.A. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE
SEC.12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Toronto, Ontario, at 1200 hours on the 4th day of January 1945, absented himself without leave from 1st Bn Midland Regt C.A., and remained so absent until surrendering himself to Service Authorities at Vancouver, B. C., at 1520 hours on the 3rd day of September 1945.

Vancouver, B. C.,
12th September 1945.

(R. L.Purves) Lt.-Col.,
Commanding,
No.11 District Depot, C.A.

16

C

PROCEEDINGS ON A PLEA OF NOT GUILTY

Question to the accused: Q Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A No, sir.

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS

THE PROSECUTOR PROCEEDS TO CALL WITNESSES

First Witness for Prosecution: K92149, S/Sgt W E Philpott, No XI District Depot, CA, having been first duly sworn, is examined:

BY THE PROSECUTOR:

Q Will you identify yourself to the Court, please?
A I am K92149, S/Sgt W. E. Philpott, No XI District Depot, CA, I am employed in the Legal Office and part of my duties is the preparation of documentary evidence for use at Courts Martial.

Q I show you a document, what is this?
A Certified true extract Daily Orders Part II, No 11 District Depot, CA, Order No 207, dated 5 Sep 45, paragraph 27 relating to the accused.

(The Defence does not object to the document, which is read, is marked "F", signed by the President, and annexed to the proceedings).

Q What is this document?
A Certified true copy of MFM 24, relating to the accused, Pte Booth, R J.

(The defence does not object to the document, which is read, is marked "G", signed by the President, and annexed to the proceedings.)

Q What is this document?
A MFB 375, signed at Exhibition Barracks, Toronto, Ont, 3 Apr 45, relating to the accused, Pte Booth, R J.

(The defence does not object to the document, which is read, is marked "H", signed by the President, and annexed to the proceedings).

Q What is this document?
A MFM 216, dated at Vancouver, B C. 4 Sep 45, relating to the accused, Pte Booth, R J.

(The defence does not object to the document, which is read, is marked "I", signed by the President, and annexed to the proceedings).

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THE WITNESS

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call
The Prosecution is closed.

DEFENCE

THE PRESIDENT INFORMS THE ACCUSED AS TO HIS RIGHTS IN THE GENERAL CONDUCT OF HIS DEFENCE.

Question to the accused:

Q Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?
A On oath.

Q Do you intend to call any other witness in your defence?
A No.

First Witness for Defence:

The accused, K601566, Pte ROBERT JOHN BOOTH, No 11 District Depot, CA, having been first duly sworn, is examined:

BY THE DEFENDING OFFICER:

Q Pte Booth, go ahead and make your statement now?
A There is only one reason and that is because I didn't get my operation when I should have had it, or when I was supposed to have had it.

Q Is that all you have to say?
A Yes, sir.

Q You were promised to have an operation just prior to your going on leave and going AWL?
A When I was supposed to have my operation I wasn't going anywhere.

Q When the M.O. had a look at you did he make any remarks before you went on draft?
A No, he just told me I should have them out, and I told him I was supposed to have them out and I didn't.

Q Was there any particular reason why you didn't surrender yourself earlier, other than having this operation?
A Well, sometimes you just can't get back when you want to get back.

CROSS-EXAMINED BY THE PROSECUTOR:

Q Did you absent yourself without leave at Toronto, Ontario at 1200 hours on the 4th of January, 1945 from the 1st Bn Midland Regiment?
A I was here, sir, when I was AWL.

Q But you were supposed to report to the 1st Bn Midland Regt at Toronto at 1200 hours on 4 Jan 45?
A Yes, sir.

Q And did you so report?
A No, sir.

Q And did you remain absent until surrendering yourself to Service Authorities at Vancouver, B C on 3 Sep 45?
A Yes, sir.

Q And did you have any leave or permission to be so absent?
A No, sir.

Q Now, at the time you failed to report back to your unit were you on leave, before the 4th of January?
A Yes, sir.

Q What kind of leave?
A Well, it said a special leave.

Q What was that special leave for?
A It didn't say.

Q Have you any idea why it was special leave?
A No, sir.

Q Had you been warned for overseas service?
A Well, yes.

Q You had?
A Yes.

Q And did you not sign a Warning Order acknowledging the fact that you had been warned for overseas service?
A Yes, sir.

Q And at the time you signed that did you not know that if you failed to report as ordered you would be liable to be charged with desertion?
A Yes, sir.

Q Now, prior to going on this special leave did you have a Medical Board?
A Yes, sir.

Q And how many doctors examined you?
A Three.

Q And what was the result of that examination?
A I didn't get no results at all.

Q Did any of these Medical Officers tell you you needed an operation?
A Yes, one said I should have my tonsils out.

Q Have you any idea of what PULHEMS they gave you as a result of that examination?
A No.

Q What did you do after you absented yourself?
A Well, for a while I did nothing.

Q And then what did you do?
A I got odd jobs.

Q How long did you not do anything at all?
A About a month.

Q Where were you during that month?
A Here and there and all over.

Q And during that time you were in uniform?
A Sometimes.

Q Some of the time you weren't?
A Yes.

Q And why is it you didn't report back until the 3rd of September 1945?
A Well, it just happened that I didn't get back.

Q Did you just happen to go back by accident?
A No, sir, I intended to come back and take the rap.

Q And why did you wait until the 3rd of September?
A I was some place where you couldn't get out.

Q Did it have anything to do with the fact that the Japanese war had ended?
A No, sir.

Q What kind of a job did you finally get?
A I did everything on farms.

Q Did the condition of your tonsils interfere with your doing any of these jobs?
A Well, at times it bothers me.

Q Did you have to quit any of these jobs on account of your tonsils?
A No, it wasn't so bad as all that.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE THE WITNESS

BY THE COURT:

Q Are you married?
A No, sir.

Q Where is your home?
A Mission, B C.

Q Mother and father alive?
A Yes, sir.

Q Do they live at Mission?
A Yes, sir.

Q Any brothers and sisters?
A Two brothers and two sisters.

Q How old are the brothers?
A One is 35 and one is 19.

Q And where are they now?
A One is at home and one is married.

Q Neither of them in the army?
A No, the youngest one was rejected.

THE PROSECUTOR AND DEFENDING OFFICER DECLINE TO QUESTION THE WITNESS ON QUESTIONS ARISING OUT OF THE COURT'S EXAMINATION.
THE WITNESS RESUMES HIS SEAT AS THE ACCUSED
THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS
THE DEFENDING OFFICER MAKES A CLOSING ADDRESS.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Prosecutor tenders to the Court MFB 355 and MFM 6. These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused:

Q Have you any statement to make concerning the documents which have just been read to you?
A No, sir.

Q Do you wish to address the Court?
A Yes, through my defending officer.

THE DEFENDING OFFICER:

I would simply like to draw the Court's attention to the fact that the accused has no previous crimes in the army, and I would ask for leniency for the accused.

THE SENTENCE HAVING BEEN RECORDED IT IS ANNOUNCED TO THE ACCUSED.

15

"E"

(A M Grimmett) Major
President
Standing Court-Martial

DAILY ORDERS PART II

BY

COL J NEISH ED

Commanding

NO XI DISTRICT DEPOT C.A.(A)

ORDERS NO 207
5 September 1945

VANCOUVER B.C.

LAST ORDERS ISSUED NO. 206 , dated 4 September 1945

23 STRENGTH INCREASE

(gi) TOS from Des. (1 Bn Midland Regt CA) 1520 hours 3 Sep 45
Hour and date of surrender to Service Authorities at Vancouver BC

K601566 Pte BOOTH, Robert John (App)

"W.Decker" Capt & Adjt
No. XI District Depot C.A.(A)
Vancouver, B.C.

CERTIFIED TRUE EXTRACT

Capt., Adjt.
Officer i/c Records,
No. 11 District Depot, C.A.

10

17

Sheet No.

M.F.M. 1 & 2 (a)
250M—4-43 (4728)
H.Q. 1773-49-1000

Regimental No. K601566 Rank Pte.

Name BOOTH R.J.

Record of Promotions, Reductions, Transfers, Casualties, Reports, etc.—	Rank Shown	Effective Date	Unit	Place	Authority D.O. Number	Authority Dated
	Pte	8-1-42	A4 RCATC	Brandon	12	27-1-42
T.O.S. on enrolment	"	11-10-44	KORC	Pr Albert	210	12-10-44
Ceases to be detailed for farm duty						
Granted 96 hrs accum leave 1 day travelling time and 14 days furl.	"	31-10-44	"	"	224	3-11-44
Entitled to R.A. Warrant granted	"	8-12-44	"	Port Hardy	236	13-12-44
Change of address from Ruskin B.C. to Mission B.C.	"	8-12-44	"	"	236	13-12-44
Granted permission to marry Miss Maxine Louise Lowise	"	13-12-44	1 Mid R	Vernon	134	16-12-44
T.O.S. to Midland Regt. from KORC	"	5 Jan45	"	Toronto	6	9 Jan 45
S.O.S. to No. 2 D.D. (while A.W.L. from 1200 hrs. 4 Jan 45)	"	6 Jan 45	#2 D.D.	Toronto	24-51	27Jan 45
T.O.S. No. 2 District Depot (while A.W.L.)	"		"	"	24-52	27Jan 45
A.W.L. from 1200 hrs. 4 Jan. 45 Still absent at 1200 hrs 12 Jan 45						
TOS appr. Wing & posted to Reinf. Wing from 1st Btn Midland Regt.(whilst AWL)	"	6-1-45	#2 DD	Toronto	84	28 Mar45
AWL from 1200 hrs 4-1-45 Still AWL at 1200 hrs 12-1-45 (8th day)	"		"	"	84	28 Mar45
AWL from 1200 hrs 4-1-45 Still AWL at 1200 hrs 25-1-45 (21st day)	"		"	"	84	28 Mar45
SOS des having been declared illegally absent from 1200 hrs 4 Jan 45 by a ct inq held 28 Mar 45	"	28Mar45	"	"		
D.O. 91-59 AM'D TO INCL. FORF. 84 DYS. PAY FR&I 149	"		No.2 DD	TOR. D.O.	92-56	5Apr 45
TOS from Des (Mid Regt) 1520 hrs (Surrendered Vancouver, B.C.)	"	3 Sep45	XI DD	Vancr	207	5 Sep 45

CERTIFIED TRUE COPY:
M. Grimsday Capt.&Adjt.
Officer i/c Records
No. XI District Depot C.A.

(A.M. Grimmett) Major
President
Standing Court-Martial

"B"

(A.M. Grimmett) Major
President
Standing Court-Martial

RECORD of the declaration of a Court of Inquiry, assembled at Exhibition Barracks, Toronto, Ontario, on the 28th day of March, 1945, for the purpose of investigating and recording the absence without leave from his duty and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of

K-601566 - Pte. BOOTH, R.J.

D E C L A R A T I O N

The Court declare that No.

K-601566 - Pte. BOOTH, R.J.

(Midland Regiment) illegally absented himself without leave from Midland Regiment at No.2 District Depot, C.A., Toronto, Ontario, at 1200 hrs. on the 4th day of January, 1945, that he is still so absent, and that on the 28th day of March, 1945, the Court was unable to say whether or not this soldier was deficient in Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing.

G.I. Alexander, Lt-Col., President,
48th HofC (HME) No.2 District Depot, C.A.

E.C. King, Major, Member,
QOR (HME) No.2 District Depot, CA.

B. Crossberg, Captain, Member,
Ir.R.of C. (HME) No.2 District Depot, CA.

Signed at Exhibition Barracks, Toronto, Ontario, this 3rd day of April, 1945.

SIGNATURE of Commanding Officer, O.S. Hollinrake, Col.
Officer Commanding, No.2 District Depot, CA.

CERTIFIED TRUE COPY J.B. Eyles Capt.
Adjutant, No.2 District Depot, C.A.
(Signature of Officer having custody of original record)

8

MFB 315

"I"

(A E Grimmett) Major
President
Standing Court-Martial

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(~~APPREHENSION OR~~ SURRENDER TO SERVICE AUTHORITIES)

I, J. Neish (Number) Colonel, (Rank) Commanding (Name) No.11 District Depot CA (Unit)

hereby certify that K-601566 Pte (Number) (Rank) Robert John BOOTH (Name in full)

of the 1st Bn Midland Regt C.A. (Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) K-83692 Pte (Number) (Rank)

STANLEY-REES, J. (Name) No.11 District Depot, C.A. (Unit or appointment)

at Vancouver, B. C. (Place) at 1520 hrs (Hour)

on the 3rd day of September, 1945

Strike out words not applicable } as a deserter ~~apprehended without leave~~, and that at the time of his arrest he was wearing military ~~uniform (dressed in civilian clothes)~~

Dated at Vancouver B.C. this 4th day of September, 1945.

(Signature, Number, Rank, Unit or appointment)
(J. Neish) Colonel, Commanding,
No.11 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
50M—5-42 (4731)
H.Q. 1772-39-1936

1

"Y"

23

(A M Grimmett) Major
President
Standing Court Martial

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
K-601566	Pte	Robert John BOOTH	No.11 District Depot, C.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

~~Note. If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ ~~A.F.A. 73~~ ~~Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 14 days in military ~~Air Force~~ custody, making a total of 14 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service or~~ enrolment ~~attestation~~ paper is 25 yrs 10 mos

6. The date of his ~~commission~~ enrolment ~~attestation~~ specified in his ~~record of service~~ enrolment ~~attestation~~ paper is 8 Jan 42

~~7. The service which the accused is allowed to reckon towards discharge is~~

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of, or entitled to, no military ~~air force~~ decoration, or military ~~air force~~ reward (or is in possession of or entitled to). State any military ~~air force~~ decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused. Number.....Rank..... Unit Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of Sep 45.

Wheeler Capt., Adjt.,
Officer i/c Records,
No.11 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.F.M. 1

Date of Birth

Reg. K601566 Name BOOTH, Robert John Corps KOR of Can CA Date of enlistment or enrolment 8-1-42

Sheet No. two of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc. H.A. Harrington Capt.

Original Sheet destroyed 8 Sep 43

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
		Gnr.		Granted special furlough transportation 9-7-42			"Z"		

(A M Grimmett) Major
President
Standing Court-Martial

CERTIFIED TRUE COPY:

Capt.& Adjt.
Officer i/c Records,
No. XI District Depot C.A.

5

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. K-601566 Pte Robert John BOOTH

of NO XI DD CA is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

D L Phillips Capt (RAMC)
Medical Officer
NO XI DISTRICT DEPOT C.A.

Station VANCOUVER B.C.

Date 17 SEP 45

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

4

HQC.55-B-2028 (JAG/D-3)
Your File 22-B-7851

9 Oct 45

General Officer Commanding-in-Chief,
Pacific Command,
VANCOUVER, B.C.

STANDING COURT-MARTIAL

K.601566, Pte. Booth, R.J.
No. 11 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

EPL/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

3

8M-7-45(M-188)

THIS COPY FOR

H.Q.C. 55-B-2028
M.D. 22-B-7851

STANDING

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

~~REX~~ NRMA

o. K.601566 Name BOOTH, Robert John

ank Pte Unit No. 11 DD CA

harge AA 12 (1)(a) WOAS Deserting.....

ate of Crime 4-1-45

ate of Arrest 3-9-45 Charge Signed 12-9-45

rders for D.C.M.

lace and Date of Trial No. 11 DD CA 17-9-45

entence Det 18 mos

ate of Confirmation

ate of Promulgation

ntered in Records of J.A.G. as No. 40137

ate 9-10-45

EMO Guilty AWL Balance of sentence remitted by Conf. Auth.

Pacific Command	No. 11 DD CA
Absent	Sentence
Approx 8 mos	Det 18 mos

2

for Judge Advocate-General

DM-8-45(M-189)

1

22-O-1276
22-H-6088
22-B-7851

Headquarters Pacific Command,
Vancouver, B C, 3 Oct 45

AIRMAIL

Judge Advocate General
National Defence Headquarters
O t t a w a, Ont.

C.55-B-2028

Standing Courts-Martial
K608787 Pte Olson, A J
K608298 Pte Hamelin, J E G
K601566 Pte Booth R J
No 11 District Depot, CA

1 Pursuant to CARO 4565 herewith proceedings in the m/n Courts.

(A M Grimmett) Major
President,
Standing Courts-Martial

40137

1

H.Q.C.55-B-2029

CONFIDENTIAL

K.F.B. 8079
2.M—2-23 (6690)
H.Q.301-1-10

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOUCHER, JOHN URGEL A-102044 CPL.

CONFIDENTIAL
H.Q.C. 55-B-2029

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter "Minute" with Minute)		
OCT 10 1945				JAG	NEW FILE	CR	5-10-45
OCT 21 1945		PA	JB	JAG	With Papers C.R. OCT 18 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an portunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2029 (JAG/D-6)

19 Oct 45

Commander,
Petawawa Military Camp,
Petawawa, Ontario.

Standing
A.102014 Cpl. BOUCHER, J.U.
A-37, C.I.T.C.
Court-Martial

P.6-0-B-3309(JAG)

17th October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E K M
for (R.J. Orde) Brigadier,

Judge Advocate-General.

KLM/fdf

IN REPLY PLEASE QUOTE
No. P.6-O-B-3309(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Petawawa Military Camp, 17 October, 1945

CENTRAL REGISTRY Army
CONF. SEC.
3699
OCT 18 1945
55-B-2029
Chgd. to:
Referred to: JAG

The Judge Advocate-General,
Department of National Defence,
OTTAWA - Canada.

STANDING COURT-MARTIAL
A.102014, Cpl. BOUCHER, J.U.
A-37, C.I.T.C.

Reference your HQC 55-B-2029(JAG/D-3) dated 9 Oct 45.

2. Now enclosed herewith are the proceedings of the marginally noted Standing Court-Martial which are returned for custody as instructed in your above reference.

James S. Craig Brigadier

(W.C. Thackray) Brigadier,
Commander,
Petawawa Military Camp.

JSC:jg
Encl.

N.D. 23
(E)--10-44 (5769)
J. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Petawawa Military Camp

on the 3rd day of October 19 45 at 0900 hours,

for the trial of: A-102014, Corporal John Urgel Boucher
Number Rank Full Name

A-37, Canadian Infantry Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major G. Longman, Camp Headquarters, Petawawa Military Camp

PROSECUTOR: Capt. J.R. McMullen, RCA, Camp Headquarters, Petawawa Mil.Camp
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut. H.O. Brett, C.I.C., A-37, C.I.T.C., C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, A-102014, Corporal John Urgel Boucher, A-37, Canadian Infantry Training Centre, C.A., is guilty of the charge.

SENTENCE: The Court sentence the accused, A-102014, Corporal John Urgel Boucher, A-37, Canadian Infantry Training Centre, C.A., to be reprimanded.

Signed at Petawawa Mil. Camp this 3rd day of October 194 5.

G. Longman, Major,
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2298

Extract entered as No 40158 in the Record of Standing Court-Martial kept in the Office of the Judge Advocate General this 8 day of Oct 19 46

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to N/A as interpreter ?

Answer:

Question to the accused. Do you object to Miss Betty Lemke, Civil Servant, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. N/A

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. N/A

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. N/A

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B2 Elmshaw, Major
Pres. S.C.M.

CHARGE SHEET

The accused, A.102014 Corporal John Urgel BOUCHER A.37 Canadian Infantry Training Centre, C.A., Petawawa Military Camp, Ontario, a GS soldier of the Canadian Army placed on Active Service is charged with,

CHARGE
Section 15(1)
Army Act.

Absenting himself without leave

in that he

at Petawawa Military Camp, Ontario on the 20th day of September 1945 absented himself without leave from 1st Motorized Field Artillery Battalion, Royal Canadian Horse Artillery, C.A. from 0830 hours on the 20th September 1945 until returning to A.37 Canadian Infantry Training Centre, C.A. at 1230 hours on 24th September 1945.

E. Ketchum
(E. . Ketchum) Lt.Col.
T/Comd.
A.37, C.I.T.C.

1 October 1945
Petawawa Military Camp.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[*].

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Prosecutor:— No, sir.

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. Yes, sir.
(See page CC3)

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. Yes, sir.
(See page CC5)

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

STATEMENT OF THE ACCUSED

The reason I asked for a pass in the first place was to go to see my former employer to get a letter stating that my job was waiting for me but seeing the pass was for a weekend, it was impossible for me to see him. I sent a telegram asking for a 48-hr extension. I received no answer from the telegram and was hoping in the meantime that an answer would come to it. When no answer came at the end of the extension I had asked for and seeing that this letter that I wanted and which meant so much to my future and my getting out of the Army, and seeing that I had already been away for two days, I was hoping that the strike would be settled and that I could get a letter from them stating that my job was there and also a letter stating that it was impossible for me to get that letter before hand, thereby having a concrete reason for my staying away.

- -

The accused, A-102014, Corporal John Urgel Boucher of A-37, Canadian Infantry Training Centre (CA) being duly sworn, is examined by the Defending Officer.

Q. Cpl. Boucher, how long have you been in the Service?

A. Three years and seven months.

Q. Of this period of time, how long have you been an N.C.O.?

A. Three years as an N.C.O., the last year and eight months as a confirmed corporal.

Q. Have you ever been on charge in any of your service?

A. No, sir.

Q. What ribbons are you entitled to through your overseas service?

A. The 1939-45 Star, France Germany Star, Defence Medal and CVSM and clasp.

Q. How long were you in action, corporal?

A. Eleven months.

Q. Why did you not see the Ford Company in the period of your leave that you had been granted from the Camp originally?

A. I arrived at Windsor at 3:00 o'clock in the morning after a 15-hour train ride and I overslept and on Saturday afternoons the office staff of the Company don't work so it was impossible for me to see him then. On Sundays the shop is closed and Monday morning I went down early about 8:00 o'clock and tried to get in to the office but was stopped by the pickets. My train was due to leave to come back at 9:20 so I went back home and sent this telegram asking for the extension.

Q. You didn't receive a reply to the telegram?

A. No, sir. I did not.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Corporal, you have told us that you have been in the Army for 3½ years in all.

A. Three years and seven months.

Q. When were you first promoted after joining the Army?

A. The second month after I joined up, the last part of May 1942 I was made Acting L/Cpl. without pay.

Q. You have served continuously since then as an N.C.O.?

A. No sir. After arrival overseas I had to relinquish my rank. Six days later I was promoted to Lance-Corporal with pay which I held for approximately five months, relinquishing the rank when I went out in the field. I became a Lance-Corporal about six months later, a rank which I held till 26 Nov 43, being confirmed to the rank of Corporal 26 Jan 44, a rank which I held up to now.

Q. These reductions that you mention were by reason of your transfers?

A. Yes sir.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE

The witness resumes his seat.

- -

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.
(See document attached, marked "P")

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"F"

THE DEFENDING OFFICER ADDRESSES THE COURT IN MITIGATION OF SENTENCE.

Mr. President, I submit that Cpl. Boucher has been an exemplary soldier by his record, his attitude and bearing and that in his three years and seven months of service he has been recognized as such by being an N.C.O. for three years. He was eleven months in action. He has never had any charge in all his service and the extenuating circumstances behind his staying away were such that I respectfully submit, sir, that they should be taken into account in mitigation of punishment.

2. Can the interests of Military justice best be served by sending this N.C.O., a soldier in every sense of the word, a conscientious man who has served faithfully and well during his years of service, back to civilian life with one black mark on his otherwise excellent record and on a charge, which at its worst, could only be classed as a very minor offence.

3. I suggest that it would be doing Cpl. Boucher the rankest injustice in the light of the evidence submitted.

- -

Y. Elmshaw, Maj.
Pres. S.C.M.

19

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-99-030
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A.102014	Corporal	BOUCHER, John Urgel	1 Mot F A Bn RCHA

1. The following is a fair and true summary of the entries in the Field Regimental and Squadron Orders Conduct sheet of the company Conduct sheet of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

The entries in the conduct sheet of the accused for drunkenness are recorded separately

2. The accused has not been previously convicted by court-martial or civil court

Convictions of the accused by a court-martial or civil court

Section 1 of the Army Act and Section 1 of the Indian Army Act are set out in the Schedule

3. The accused is not under sentence at the present time.

The accused is the present time under sentence for beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and nil days in military custody, making a total of nil days in custody, of which none days were spent in hospital.

5. The present age of the accused according to his attestation paper is 29 years of age

6. The date of his attestation specified in his attestation paper is 22 Mar 42

The accused's conduct in the service and his character as a soldier

The accused's conduct in the service and his character as a soldier

9. The accused is in possession of or entitled to military decoration, or military reward as follows: 1939-45 Star, Canadian Volunteer Service Group & the CVSM, Service Medal, Service Medal, Service Medal

Notice given to the accused before the commencement of the proceedings

(over)

~~In the case of an officer: The accused has served in the Royal Canadian Air Force or Royal Canadian Navy or Permanent Force~~ N.D.O

~~Dated~~ N.D.O ~~and on the expiration of each of the ranks~~ N.D.O

~~Dated~~ N.D.O

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

26 Jan 44 Date of promotion.

In the rank of L/Cpl. 7 months ~~years~~ N.D.O

In the rank of A/Cpl. 3 months ~~years~~ N.D.O

In the rank of Cpl. 1 yr. 8 months ~~years~~ N.D.O

~~Note: If any of the above paragraphs cannot be taken from the Regimental Books,~~ N.D.O paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force

Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

N.D.O

I hereby certify that the foregoing schedule of N.D.O convictions and dispensations with trial is a true extract ~~from the regimental books in my custody.~~

Signed this ~~27 Sep 45~~ 3 Oct 45. N.D.O day of N.D. Oates

(W.D.Oates) Lieut.Ass't Adjt.A.37 CITC

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Z. [illegible] Major
Pres. SCR

Date of Birth

Reg. No. A.102014 Name BOUCHER, J.U. Corps RCCS

Date of enlistment or enrolment 23 Mar 42

Sheet No. of *1. 2, 3, 4, 5

Signature O.C. Company, etc.

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				(Sheet destroyed 23 Sep 42, date of last offence Nil, NIL cases drunkenness)					

CERTIFIED TRUE COPY

W. D. Oates

(W.D.Oates) Lieut.
Ass't Adjt.
A.37, C.I.T.C.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. A.102014 Cpl. Boucher, J.U.

of 1 Mot F A Bn RCHA is in a good state of health,

and medically fit to undergo Trial by Court martial.

W. Bashenchy Capt.
Medical Officer
R.C.A.M.C.,
A-37, C.I.T.C., C.A.

Station Ret. Mil. Camp

Date 3 Oct 45

M. F. B. 246
50M—12-43 (3221)
H.Q. 1773-39-480

3 Oct 45

HQC.55-B-2029 (JAG/D-3)
Your File P.6-0-B-3309

9 Oct 45

The Commander,
Petawawa Military Camp,
PETAWAWA, Ontario.

STANDING COURT-MARTIAL

A-102014, Cpl. Boucher, J.U.
A-37, C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

EPL/AB

(E.J. Orde), Brigadier,
Judge Advocate-General.

8M-7-45(M-188)

THIS COPY FOR:

H.Q.C. 55-B-2029
M.D.P.-6-O-B-3309

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

GS

No. A.1080154 Name BOUCHER, John Urgel

Rank Cpl Unit A.37 CITC CA

Charge AA 5 (1) ~~XXXX~~ AWL

Date of Crime 20-9-45

Date of Arrest 24-9-45 Charge Signed 1-10-45

Orders for D.C.M.

Place and Date of Trial Petawawa Mil Camp 3-10-45

Sentence To be reprimanded

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40138

Date 9-10-45

MEMO

Petawawa Military Camp A-37 CITC CA

Absent	Sentence
4 days	to be reprimanded

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No. P.6-O-B-3309(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Petawawa Military Camp, 3 Oct 1945.

Judge Advocate-General,
Dept. of National Defence,
OTTAWA, Canada.

C.55-B-2029

STANDING COURT-MARTIAL
A-102014, Cpl. Boucher, J.U.,
A-37, C.I.T.C., C.A.

The proceedings of Standing Court-Martial of the a/m soldier are forwarded herewith, together with medical certificate in accordance with C.A.R.O. 4566.

2. For your approval, please.

GL/BL
Encls.

(G. Longman) Major,
President,
Standing Court-Martial.

N.D. 23
3 Mil—11-43 (2979)
H.Q. 1772-101-23

41138

H.Q.C. 55-B-2030 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BELL, JACK LEONARD B-115856 TPR.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 13 1945				JAG	NEW FILE	CR	6-10-45
OCT 20 1945	18-10-45	PA	JB	JAG	Papers O.A. OCT 17 1945		

CONFIDENTIAL
H.Q.C. 55-B-2030

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2030 (JAG/D-6)

18th October 1945

Commander,
Camp Borden,
Ontario.

Standing
~~B-113856, Tpr. J. McNeil~~ Court-Martial

40-B-3620(AJAG)

Receipt is acknowledged of your
dated 14th October 194 5, under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

E.L.M.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

LCC:MJ

File No. C.B. 40-B-3620 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Camp Borden,
Camp Borden, Ontario,
14 OCT 45.

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

3483
OCT 17 1945
55-B-2030
JAG

STANDING COURT-MARTIAL
B-115856, Tpr. J. L. BELL,
T.&S.W., A-33 CACTE, CA.

Reference HQC 55-B-2030 (JAG/D-8), d/12 Oct 45.

2. Returned herewith for custody the proceedings of the marginally-noted Standing Court-Martial.

3. No administrative action would appear to be required in this case.

(A.C. Spencer)
Major-General
Commander - Camp Borden

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Camp Borden, Ontario,

on the 3rd day of October, 1945 at 0930 hours,

for the trial of: No. B 115856 Trooper Jack Leonard BELL,
Number Rank Full Name

Technical & Schools Wing, A-33 C.A.C.T.E.
Unit Attachment, if any

PRESIDENT: Major J. C. A. Campbell, President Courts-Martial, Camp Borden, C.A.

PROSECUTOR: Capt. J. A. Mullin, Prosecutor Courts-Martial, Camp Borden, C.A.
Rank Full Name Unit Attachment, if any

DEFENDING OFFICER: Lieut. L. A. Matthews, T.&S.W., A-33 CACTE,CA,
Rank Full Name Unit Attachment, if any

FINDING:

The Court find that the accused is guilty of the charge.

SENTENCE:

The Court sentence the accused to undergo detention for forty-five days and to be put under stoppages of pay until he has made good the sum of $9.55 in respect of costs of apprehension and return to his Corps.

Entered as No. 4973 in the Register of Courts-Martial kept in the Office of the Judge Advocate-General this 9 day of Oct 1945

Signed at Camp Borden, Ont., this 3rd day of October, 1945.

(J.C.A.Campbell), Major
President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.* Do you object to ..... as Interpreter ?~~

Answer: .....

Question to the accused. Do you object to No.B-142054, CSM(W.O.11)(S/M(A/W.O.1)) A.R. Bartleman, Headquarters, Camp Borden, C.A., as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Guilty, sir.

~~*Question to the accused.* Are you guilty or not guilty of the second charge against you, which you~~ have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B 2
J.H. Campbell Major
Pres & Gen.

CHARGE SHEET

The accused, No. B 115856 Trooper Jack Leonard BELL, Technical & Schools Wing, A-33 C.A.C.T.E., a G.S. soldier of the Canadian Army placed on Active Service is charged with:-

CHARGE
(15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Camp Borden, Ontario, on the 1st day of September, 1945, absented himself without leave from Technical & Schools Wing, A-33 C.A.C.T.E., from 0300 hours on the said 1st day of September, 1945, until he surrendered to the Civil Authorities at Parry Sound, Ontario, at 1100 hours on the 26th day of September, 1945, wearing military uniform.

Costs of apprehension and return to his corps, $9.55.

Camp Borden, Ont.,
2 October, 1945.

P.G. Griffin
.....
(P.G.Griffin)Colonel,
Officer Commanding,
Tech & Schools Wing,
A-33 C.A.C.T.E.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge.

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

JCC

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

---- The Defending Officer makes a Final Address.

(See document marked "F").

JCC

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Y
J. A. Campbell Wgr on Prosecution

M.F.B. 358
75M—4-43 (145)
H.Q. 1773-39-520
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 115856	Trooper	Jack Leonard HILL	T&S Wing, A-33 CACTE.

1. The following is a fair and true summary of the entries in the Field ~~Service Conduct sheets~~ Regimental ~~or records~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~or~~ ~~of~~ ~~awards~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Absent without leave: 2 times	Absent without leave: 7 times
For	... times	Neglect to the prejudice: 1 times
For	... times	... times
For	... times	... times

~~Nature of misbehaviour, gallantry or distinguished conduct~~

~~Date~~ or,

~~Brief summary of the conduct which gave rise to the award~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~The accused has been previously convicted by a court-martial or has received summary awards under Section 47 of the Army Act~~ ~~Army Act~~ ~~Army Act~~ ~~Section 47 of the Army Act~~ ~~Army Act~~ ~~Army Act~~ ~~

11. (~~Have you served in any military or naval or air force or in the Royal Canadian Air Force or in the Permanent Force~~ unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....~~Unit~~ Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~2nd~~ 3rd day of October, 1945

(H.N.Rose) Lieut.
Asst/Adj. T&S Wing
A33 CACTE

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

"2"

J C Crawford Major
Pres

Reg. No. B 115856 Name BELL Jack Leonard Corps CAC Date of enlistment or enrolment 28 Aug 43 Date of Birth 27 Aug 25

Signature O.C. Company, etc. SIGNED J W McMAHON MAJOR Sheet destroyed 1 Mar 44 Sheet No. one of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Orillia, Ont	19 Nov 1943	Tpr		Sec 15 (1) AA-AWL 16 hrs 50 mins	Documentary	3 days pay cost of apprehn $3.92	19 Nov 43		Forf 1 days pay by PR&I 149 (1)(a)
Orillia, Ont	6 Dec 1944	Tpr		Sec 40 AA Neglect to the Prejudice-	Documentary	5 days pay	6 Dec 43		Forf 2 days pay by PR&I 149(1)(a)
Camp Borden	26 Mar	Tpr		Sec 15(1)AA - AWL 1 day 16 hrs	Documentary	Admonished Cost of apprehn $8.46	26 Mar 44		

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
	1944						1944		
Camp Borden	3 Jul	Tpr		AA 15(1) - AWL 2 days 13 hrs 55 min	Documentary	forf 3 days pay	6 Jul		Forf 2 days pay by FR&I 149(1)(a)
Camp Borden	20 Aug	Tpr		AA 15 (1)- AWL 1 day 20 hrs	Documentary	14 days detn	23 Aug		Forf 2 days pay by FR&I 149(1)(a)
Camp Borden	11 Sep	Tpr		AA 15(1) - AWL 7 days 9 hrs 45 mins	Documentary	28 days detn	19 Sep		Forf 8 days pay by FR&I 149(1)(a)
	1945						1945		
Camp Borden	1 Feb	Tpr		AA 15(1) - AWL 20 hrs 15 mins	Cpl Shea B M	5 days C B	3 Feb	Capt V Bolton	Forf 1 days pay by FR&I 149(1)(a)
Camp Borden	13 Apr	Tpr		AA 15 (1)-AWL from 0600 hrs 13 Apr 45 to 0600 hrs 16 Apr 45	Cpl Hobson C J	28 days detn	16 Apr	Maj C C Edwards	Forf 3 days pay by FR&I 149(1)(a)

"Certified True Copy

C.H.McClelland, Capt.
T&3 Wing.A-33.G.OTE.
Signature of Officer having custody of original record."

EXHIBIT "F"

J C A Campbell Major
Pres Secy

FINAL ADDRESS BY THE DEFENDING OFFICER:-

I just have a few facts to bring before the Court that concern entirely Tpr. Bell's record. First of all, he joined the Army two years ago, the first day after his eighteenth birthday, which is pretty young. Joining the Army, his Pulhems were "one across the board" with one exception--he had a two under the "M". Now that goes right back to his education as a boy. He attended school to the age of sixteen, but still only attained Grade Eight, which would indicate he is extremely slow to learn. His Army training falls along that entire same line--apparent willingness to learn, but incapable of picking up the training. Actually, he did manage to qualify as a Driver, Class Three, and would have gone overseas in the normal course of events, except that he was put up before the Psychiatrist. He was very nervous and unstable, and they put him up before the Psychiatrist, and when they looked into his background they gave him an "S-4".

When he was still young his mother died and she died from some form of insanity, which was in the family, his mother's family. The father left and went to the States at that time, and remarried, so Tpr. Bell was left in Canada with his grandparents. The fact that his mother died with this and that it was in the family, was known to be in the family--her father had also died with it--preyed on his mind, and it made him nervous and unstable. It was noted,

for instance, in the Psychiatric Report, a little over a year ago, that he continually bit his finger nails, and they were bitten away almost down to the roots, and that condition still exists.

Now, his M.F.M. 6, he has several charges on there for A.W.L., but they are all very small, and where he is now working, or where he has most recently been employed as a dishwasher, they say there, after I checked up, that his work is satisfactory in the sense that he is a willing worker, but he is not too dependable in stability respects.

Now, the reason he gives for being A.W.L. in this latest charge--he went away on a week end, a legitimate week end, and he went to Parry Sound where his Grandparents live, that is, the grandparents on his father's side, and the grandmother was in the hospital. His grandfather has given up working. He worked for the railroad and had a stroke, so he is still able to get around, but he is not particularly able to take care of himself, and Tpr. Bell remained to help take care of him. When the situation improved he gave himself up to the civil authorities.

I would like to suggest, sir, that in view of the circumstances, that the Court be as lenient as possible, and that at the termination of taking his punishment that he be put up for discharge. That is all, sir.

JCC

MEDICAL OFFICER'S REPORT

JC&C

I certify that No. B-115856 Tpr. Bell, Jack Leonard of T&S Wing, A33 CACTE is in a good state of health, and fit to undergo Trial by Court martial.

Medical Officer
(G.W. Dix) Capt. RCAMC
Att. Tech & Schools Wing, A33 CACTE

Station Camp Borden, Ontario

Date 3 Oct 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-460

H.Q.C.55-B-2030 (JAG/D-8)
Your C.B.40-B-3620

12 Oct 45

The Commander,
Camp Borden Military Camp, Ont.

STANDING COURT-MARTIAL

B. 115856 Tpr. Jack Leonard Bell,
T & S Wing., A-33 C.A.C.T.E., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde) Brigadier
Judge Advocate-General.

MO/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q. C. 55-B-2030
M.D. C.B. 40-B-3620 (AJAG

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

GS
No. R.115856 Name BELL, Jack Leonard

Rank Tpr Unit T&S Wing A-33 CACTE

Charge AA .5 (1) AWL

Date of Crime 1-9-45

Date of Arrest 26-9-45 Charge Signed 2-10-45

Orders for D.C.M.

Place and Date of Trial Camp Borden 3-10-45

Sentence Det 45 days Stoppages $9.55

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40173

Date 9-10-45

MEMO

Camp Borden	T&S Wing A-33 CACTE CA
Absent	Sentence
25 days	Det 45 days

[illegible], Capt.
for Judge Advocate-General

10M-8-45(M-189)

C.B. 40-B-3620 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters, Camp Borden,
Camp Borden, Ontario.
3 OCT 45

C.55-B-2030

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
B-115856, Tpr. J. L. BELL,
T. & S. W., A-33 CACTE,CA.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

J. C. A. Campbell Major
(J. C. A. Campbell), Major,
President,
Standing Court-Martial.

40173

H.Q.C. 55-B-2031 CONFIDENTIAL

M.F.R. 8020

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BROWN, DONALD LANG B-70445 SGT.

CONFIDENTIAL
H.Q.C. 55-B-2031

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 10 1945	cancelled	cancelled		JAG	NEW FILE	CR	6-10-45
NOV 6 - 1945	5-11-45	2A.0		Jag	With Papers C.R. NOV. 3 1945		

(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes")

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 53-2-2081 (JAG/D-C)

5 Nov 45

CSC-InC,
Pacific Command,
Vancouver, B.C.

Re: Finding
R.70145 Sgt. D.L. Brown,
B-17, CS, RCAF
Court-Martial

22-B-10194 (JAG)

20th October 5

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

EFM
for (R.J. Orde) Brigadier,

Judge Advocate-General.

EIM/fdr

AR

IN REPLY PLEASE QUOTE

No. 22-B-10294 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, Pacific Command,
Vancouver, B.C. 29 Oct 1945.

CENTRAL REGISTRY Army
CONF SEC.
6946
NOV 3 1945
File C55-B-2031
Chgd. to
Referred to JAG

Judge Advocate-General,
N.D.H.Q.,
Ottawa, Ontario.

STANDING COURT MARTIAL
B.70445, Sgt. D.L. Brown,
S-17, CS of I.

Reference HQC.55-B-2031 (JAG/D-3) d/9 Oct 45.

2. Proceedings in the marginally noted case are returned herewith for custody.

Major
for Major-General
G.O.C. in C. Pacific Command

N.D. 23
(6-10-44 (5769)
(6772-101-23

10294

PROCEEDINGS OF A STANDING COURT MARTIAL HELD AT HEADQUARTERS S-17 CANADIAN SCHOOL OF INFANTRY, VERNON, B C, at 1330 hours on the 21st day of September, 1945, for the trial of:

B70445, Sgt (Cadet) Donald Lang Brown,
S-17 Canadian School of Infantry, CA

PRESIDENT: Lt-Col C G Beeston,
Headquarters Pacific Command

PROSECUTOR: Capt Walter John Kirby,
Headquarters Pacific Command

DEFENDING OFFICER: Lt Ralph Thomas Vaughan,
S-17 Canadian School of Infantry, CA

FINDING: GUILTY OF THE CHARGE

SENTENCE: The Court sentence the accused to BE REDUCED TO THE RANK OF CORPORAL AND SEVERELY REPRIMANDED.

SIGNED at Vernon, B C, this 21st day of September, 1945

(C G Beeston) Lt-Col
President
Standing Court-Martial

Extracts entered as No. 40174 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 9 day of Oct 19 45

Question to the accused:

Q Do you object to be tried by me as President of the Court?
A No, sir.

Q Do you object to D24030 CSM (A/WO II) J H Spence, Headquarters Pacific Command, acting as shorthand writer?
A No, sir.

D24030 CSM (A/WO II) J H Spence, Headquarters Pacific Command, is sworn as shorthand writer.

Question to the prosecutor:

Q Has the accused elected to be tried by Court-Martial?
A Remanded for Standing Court-Martial, sir.

The accused is arraigned upon the charge in the charge-sheet, which is marked "B-2", signed by the President, and annexed to the proceedings.

Question to the accused:

Q Is that your number, rank, name and unit?
A Yes, sir.

Q Are you guilty or not guilty of the charge against you, which you have heard read?
A Not guilty.

(C G Beeston) Lt-Col,
President, S C M

CHARGE SHEET

The accused, B-70445, Sgt (Cadet) Donald Lang BROWN, S-17 Canadian School of Infantry, CA, Vernon, B C, a G S soldier of the Canadian Army, placed on active service, is charged with:

RGE
tion 40
y Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at S-17 Canadian School of Infantry, Vernon, B C, was found to be improperly wearing RCAF Pilot Wings and the D F C, to which he is not entitled, at approximately 1730 hours, 5 Sep 45, and on other occasions.

(W J C Kirby) Captain,
Permanent Prosecutor,
Courts-Martial,
Headquarters Pacific Command.

Vernon, B C,
19 Sep 45

PROCEEDINGS ON A PLEA OF NOT GUILTY

stion to accused:

Q Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby or on the ground that you have not had sufficient opportunity for preparing your defence?
A No, sir.

THE PROSECUTOR DECLINES TO MAKE AN OPENING ADDRESS

THE DEFENDING OFFICER OBJECTS TO THE CHARGE ON THE GROUND THAT IT SHOULD HAVE BEEN LAID UNDER SEC 156(a) ARMY ACT.

THE PROSECUTOR REPLIES, POINTING OUT THAT SEC 156(a) IS INTENDED TO DEAL WITH CIVILIAN OFFENDORS.

THE COURT DISALLOWS THE OBJECTION AND THE DECISION IS ANNOUNCED TO THE ACCUSED AND THE COURT PROCEEDS WITH THE TRIAL.

THE DEFENDING OFFICER OBJECTS TO THE WORDS IN THE STATEMENT OF PARTICULARS "AND ON OTHER OCCASIONS".

THE PROSECUTOR INFORMS THE COURT THAT HE WILL ATTEMPT TO PROVE ONLY ONE OTHER OCCASION, NAMELY 14 SEPTEMBER 1945.

THE COURT INFORMS THE ACCUSED THAT INASMUCH AS THE PROSECUTOR IS ONLY GOING TO ALLEGE ONE OTHER SPECIFIC OCCASION HIS EVIDENCE WILL BE CONFINED TO THAT OCCASION, NAMELY 14 SEPTEMBER 1945.

THE PROSECUTOR PROCEEDS TO CALL WITNESSES:

st Witness Prosecution: Lt J F Noreiko, S-17 Canadian School of Infantry, having been first duly sworn, is examined:

BY THE PROSECUTOR:

Q Will you tell the Court what your duties are here at S-17?
A I am Records Officer, having personal custody of Regimental documents at S-17 Canadian School of Infantry, Vernon, B C.

Q How long have you been in the army?
A A little over five years.

Q And prior to taking on these duties as records officer will you just briefly state what duties you performed since you joined the army?
A I have performed many and varied duties.

Q Did you have anything to do with the attesting of other ranks?
A Yes, sir.

Q Where?
A In Montreal.

Q In what capacity?
A At that time I was an NCO and the unit was recruited for active service and I was one of a number of persons detailed to attest these people and take down information from them.

Q Taking the information from these people before their actual attestation?
A Yes, sir.

Q How long did you do that?
A A couple of weeks.

Q Have you any idea of how many men would come before you when you were working in that capacity?
A Oh, possibly several hundred.

Q Will you identify this document?
A This is a certified true copy of MFM 2, the attestation paper of the accused.

Q It is a copy of the MFM 2 of the accused, which is on file at this School, and under your control?
A Yes, sir.

Q And certified by yourself as officer in charge of records as a true copy?
A Yes, sir.

(Document is read, is marked "F", signed by the President, and annexed to the proceedings).

Q I want to direct your attention to paragraph 14. Is there any difference in the way in which the information with respect to prior military service of another rank on that form and the way in which these questions are asked with respect to an officer?
A Yes, sir.

Q What is the difference?
A The difference is on this form, which relates to other ranks, only one question is asked on the form, the question asked in relation to previous Naval Military or Air Force service and on the officers' equivalent to this form further questions are asked.

Q Is there any question on the officers' form with respect to ribbons or decorations?
A Yes, sir.

BY THE COURT:

Q But not on this form?
A No.

BY THE PROSECUTOR:

Q From your experience at Montreal in being present at the attestation of other ranks what was the practice, insofar as filling in the information in paragraph 14 of that MFM 2?

THE DEFENDING OFFICER: I object to that, as having no relation at all--

THE COURT: The objection is sustained.

THE PROSECUTOR: Am I to understand, sir, you are ruling out as inadmissible as to what was practice in filling out these forms?

THE COURT: Yes, this officer's opinion on what was practice in Montreal doesn't affect this accused, unless you can show me how it would.

THE PROSECUTOR: Q: If another rank, at the time of his attestation had prior military, air force or naval service and had earned a decoration or ribbon in that service, would it appear on his MFM 2 in paragraph 14?

A Well--

DEFENDING OFFICER: I object, that is an opinion question based on his experience in Montreal.

THE COURT: What are your grounds, or experience, Mr. Moreiko, to enable you to answer a question like that?

THE WITNESS: Well, frankly, sir my grounds are very slight.

THE COURT: What, if anything, would enable you to answer that question?

THE WITNESS: The way the question is put it cannot be answered by myself, to my point of view, in a satisfactory way, only in a general way.

THE COURT: I don't see that the witness is qualified to answer a question like that. There is no provision covering that matter in paragraph 14 of the form.

BY THE PROSECUTOR:

Q If the accused had qualified for a service ribbon or decoration in service prior to his attestation in the army would it be likely to appear in paragraph 14 of MFM 2?

THE DEFENDING OFFICER: That is the same question worded differently.

THE COURT: He can state his opinion on that, but I am going to reserve to myself how much weight I will attach to it.

A It might, in answer to that last question.

Q Is the fact that another rank on being attested into the army holds a ribbon, a service ribbon or decoration from any other service an important part of the information that should be included in his records, in your opinion?
A That depends on how he, himself, looks at it.

Q I mean from the point of view of records and the army, in your opinion?
A Well, in my opinion it isn't so utterly important that it couldn't be left out for any reasons that the party in question sees fit.

Q Would you identify this true copy of MFM 196, which is a Personnel Selection Record relating to the accused, where is this produced from?
A The original was produced in the office of some Army Examiner. This copy was produced in my office by my own stenographer from the original contained in the records of the accused.

BY THE COURT:

Q Have you the original of that in your possession?
A I have, sir.

THE COURT: I would like the Defending Officer to know that if,

at any time, you want these original document produced they can be produced for you, if you want to ask for them.

BY THE PROSECUTOR:

Q Did you certify this to be a true copy of the original?
A Yes.

(Document is read, is marked "G", signed by the President, and annexed to the proceedings.)

Q This Exhibit "F", does that represent a complete record of service of all soldiers at the time of attestation?
A Since the information on this form is taken down by questioning the person the service shown is only as the person gives the answers.

Q Is there any place in that form specifically set aside by a heading in which information about service ribbons and other decorations held by the man being attested is recorded?
A No, sir.

Q In what paragraph is the information respecting service ribbons or decorations held by a soldier at the time of his attestation entered?

DEFENDING OFFICER: I object to that question, the question Capt Kirby is putting now was put a few minutes ago.

THE COURT: I will ask him a question:

Q Assuming that an applicant did have prior service decorations, under what paragraph on MFM 2, in your opinion, and experience, would it be proper to record such information, if he gave it to you?
A Well, it might be recorded under paragraph 14 or 15.

Q That, you simply say, would be as a matter of practice, the normal place where such information would be recorded if the information were given?
A Yes.

BY THE PROSECUTOR:

Q In your experience was that information about service ribbons generally given?

THE DEFENDING OFFICER: Objection

THE COURT: I think the witness can state as a fact from his experience whether information as to decorations was generally given, but the question as to what weight I am going to attach to it is a very different thing.

THE WITNESS: (A) It was sometimes.

Q Can you identify this document?
A Certified true copy of MFM 469, which is an individual priority score card relating to the accused.

Q Where is the original of this document?
A It is kept in the files of the Records office here in the Camp in the envelope pertaining to the accused.

Q And have you certified this as a true copy of the original?
A I have.

(Document is read, is marked "H", signed by the President, and annexed to the proceedings).

THE COURT: In all these cases I want to know if the defending officer objects to the certification of the documents because if so the originals will have to be produced to him.

THE DEFENDING OFFICER: I don't object to the documents going in but I want to reserve my right to examine the originals.

BY THE PROSECUTOR:

Q Will you explain the purpose of this form Exhibit "H"?
A Primarily the purpose of this is exactly what it says, it is a priority score for the purpose of discharge of army personnel.

Q What determines the number of priority points that army personnel would have?
A Service in the armed forces.

Q Are the points the same for service regardless of where the service takes place?
A No, you get two points for every month of Service in Canada and three points for every month of service overseas.

Q So that if a soldier had served overseas it would affect the number of priority points?
A Yes.

Q Does this form show a record of the priority points obtained by the accused as of 31 Mar 45?
A It does.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q Mr. Noreiko, the question was put to you before by the Prosecutor about entries being made on attestation, now isn't it true that even in your experience in your present position at S-17 that there are many things which are found to have not been entered on personal documents?
A Yes.

Q In other words would you say that a man that is attesting another soldier regarding coming into the army, that it all depends on the individual, on how he elicits the information from him?
A To be quite honest about it, yes.

Q I show you Exhibit "G", is this kept up to date, this information on the top of the name, number, rank and so on?
A Well, now this is strictly an Army Examiner's form and we have no authority to touch them, this is a certified copy of the original and the information is--

Q In other words it is static? There is nothing put on by you?
A That is right.

THE PROSECUTOR DECLINES TO RE-EXAMINE THE WITNESS

THE WITNESS WITHDRAWS.

Second Witness for Prosecution: Lt Claude Harry Smith, S-17 C S of I, having been first duly sworn, is examined:

BY THE PROSECUTOR:

Q You are employed here at S-17 Canadian School of Infantry?
A Yes, as an Instructor with "B" Coy.

Q How long have you been employed in that capacity?
A Approximately five weeks.

Q And how long have you held the rank of Lieutenant?
A Since December 1943.

Q When were you commissioned?
A April 1943.

Q And did you have any military service before April 1943?
A Not in the active army.

Q In the Reserves?
A C O T C.

Q Do you know the accused?
A Yes.

Q Did you see the accused on 5 Sep 45?
A Yes.

Q On or about 1730 hours?
A Yes.

Q Where?
A On the Company parade prior to a battalion parade to Polson Park.

Q Where did this take place again?
A Outside the accused's quarters in S-17, Vernon, B C.

Q Why do you remember that occasion particularly?
A Because I was asked approximately four or five days ago if I had ever seen the accused wearing decorations and wings and if I did remember seeing him could I recall a specific date. That was the date I recall because of the fact that it was on that parade that I remarked to another officer in the company that we had a candidate who did have the decoration and wore the wings.

Q You stated you remember that because of the decorations he wore, what decorations were being worn by the accused, if any?
A I don't know the difference between the DFC and the DFM-- I know the two decorations, but I don't know just which is which, but I knew it was one or the other and I believe he had the CVSM and he was wearing Pilot's double wings.

Q Are you referring to the accused?
A Yes.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q What were you doing that morning, 15 days ago now?
A I can't recall.

Q What were you doing in the afternoon?
A Yes, I do, that was the afternoon that the cadets were

taking training in the R C E, and as far as the morning is concerned I can recall the morning there was a Court of Inquiry on a fire at Glen ~~Amigan~~. EMMA

Q On that particular date were you Duty Instructor?
A No.

Q Where did the parade fall in, or was there a parade called at 1730 hours?
A I believe the actual parade was 1715, I couldn't say the exact time.

Q Where is it customary for the supernumerary instructors to take their places when the parade is being formed up, what is the usual practice-- isn't it the usual practice for the D.I. only to take the parade?
A Yes.

Q In other words he is the only one that goes out in front of the parade?
A That is right.

Q Where were you standing on that particular afternoon?
A At the right flank of the platoon.

Q Was the accused on parade?
A Yes, sir.

Q Where was he standing?
A As I recall it in the centre rank about the third or fourth from the end.

Q When you were fallen in where did you take your place?
A Do you mean when the parade fell in?

Q First of all you are off on the right flank?
A Yes.

Q And then where did you fall in?
A In the rear of the platoon.

Q And then after that which way were you, about?
A I couldn't recall.

Q And you don't know which way you marched off?
A No, I don't.

Q What sort of hat was the accused wearing?
A I couldn't tell you.

Q Did he have any flashes on at all, besides the white flash?
A I have no idea.

Q Is this how he was wearing the decorations? (indicating)
A I don't know.

Q Is this the decoration?
A No, I don't believe it is.

Q You don't know?
A I am not positive, no.

Q You don't know what that is, anyway?
A I believe it is the D F M.

(Blue and white striped ribbon produced and marked "I" for identification)

Q I would like to submit another ribbon for identification, what is that ribbon?

(Blue and white striped ribbon produced and marked "J" for identification).

RE-EXAMINED BY THE PROSECUTOR:

Q Was the accused wearing one or the other of those two ribbons?
A Yes.

Q Of similar appearance?
A Yes.

THE WITNESS WITHDRAWS.

Third Witness for Prosecution: Lt Robert Norval Johnson, S-17 Canadian School of Infantry, having been first duly sworn, is examined:

BY THE PROSECUTOR:

Q You are employed here?
A I am an instructor with "B" Coy.

Q How long have you been so employed?
A Since 7 Apr 45.

Q How long have you held the rank of Lieutenant?
A Since 24 Aug 45.

Q When were you commissioned?
A 14 Jun 44, prior to that I was three years with the COTC at McMaster University.

Q Now, have you any particular reason for remembering 5 Sep 45 at approximately 1730 hours?
A I have, sir, because I was attending a baseball game at Polson Park in Vernon, B C and I remember on that occasion I was on parade with the platoon and we marched down as a body to witness the game.

Q Did you see the accused on that parade?
A Yes.

Q Do you remember anything particular about the accused at that time?
A His dress. He was wearing a battle-dress and the regular Air Force wings and the decoration of the DFC.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q Mr. Johnson, what was your capacity on that particular day, 15 days ago, the 5th of September?
A I was 2 i/c of the Section.

Q Were you duty instructor?
A No.

Q Who was duty instructor that day?
A I believe it was Kineese on that day, but I wouldn't be sure of that.

Q What is the custom for other instructors, other than the duty instructor, where do they take up their position in the normal parades?
A At the rear of the platoon supernumerary.

Q I mean before the parade?
A On which parade?

Q On any morning parade, if you happen to go on a morning parade, are you in front of the platoon or behind or on the flank, or just in the general area?
A I don't think there is a general rule that can be applied.

Q In other words you aren't fallen in every morning in front of the platoon, or you don't take up a position in front of the platoon, or on the flank, is that correct?
A Not as a general rule.

Q And has it ever happened that you have fallen in on the flank of your platoon, perpendicular to it?
A Yes, on the 5th of September.

Q You mean you were fallen in in the rear?
A Yes.

Q And where was the accused in that platoon?
A When we fell in?

Q When the platoon was all ready to move off where was the accused?
A I couldn't say.

Q Did they have an inspection that day, did they have "open order march?"
A I couldn't say. Not to my knowledge.

Q In other words they didn't?
A I wouldn't say that.

Q What regiment does the accused belong to?
A I don't know.

Q In other words you have never seen that flash before?
A I may have but never taken any notice.

Q I show you exhibit "I" for identification, is this the decoration he was wearing?
A That isn't, I don't think.

Q Could you swear that it isn't, now you are swearing that is not the decoration he was wearing?
A That isn't the decoration he was wearing.

Q I show you "J" for identification, is that the decoration he was wearing?
A Yes.

Q What decoration is that?
A The Distinguished Flying Cross.

Q Now, Mr. Johnson, it seems rather amazing to me that you weren't in front of the platoon, you didn't even see which flashes he had on, you don't know where he was in the platoon and yet you stood there and swore on your oath that on this day he was wearing this decoration and at the same time you didn't have an inspectionof the platoon, you don't know what flashes he had on, in other words your memory isn't very good?
A I think it is.

RE-EXAMINED BY THE PROSECUTOR:

Q Mr Johnson, are these Pacific Force Volunteer patches quite common around here?
A I don't know whether you could say they were common or not and just when--

Q Are Air Force Wings and decorations common around here?
A Not in our Company.

THE WITNESS WITHDRAWS.

Fourth Witness for Prosecution: Major S F Turner, S-17 C S of I, having been first duly sworn, is examined:

BY THE PROSECUTOR:

Q How are you employed here, Major?
A I am commander of "B" Coy, O T C.

Q Will you direct your attention to 14 Sep 45 at about 2230 hours, approximately that time, and I ask you if you remember anything particular about that occasion?
A Yes, on 14 Sep 45 at approximately 2230 hours I attended No 5 Platoon dance, one of the platoons of my company, and at that period Cadet Brown, the accused attended the party and he was at that time wearing Pilot's RCAF wings and the ribbon of the D F C.

Q That was at Coldstream?
A At the Coldstream Chalet in the Township of Vernon, B C.

Q It is in the Vernon military area?
A Yes, that Chalet is used by S-17.

Q Did you have a subsequent conversation with the accused relating to his wearing the DFC and Pilot's winge?

DEFENDING OFFICER: Objection to the question.

THE COURT: No, I don't think there is any objection to that. We have evidence that he wore these things and he is asked "did youchave a subsequent conversation with regard to his wearing them".

DEFENDING OFFICER: Then I would like to know whether the question is related to when the accused was brought before the witness.

THE COURT: You are going to object to it on the ground that it might not have been a voluntary statement? You will get an opportunity to cross-examine on that before any alleged conversation will be allowed to go in.

BY THE PROSECUTOR:

Q Did you have such a conversation?
A Yes.

Q Will you explain to the Court the circumstances under which you had this conversation?
A Yes, it was brought to my attention by the A/Adjt, who had been checking the documents of the accused, the fact that there was nothing on his documents that he should be wearing

the decoration and wings so on Monday, the 17th I called the accused into my office to inquire about the wings and the decoration.

Q Had any charge been laid against the accused at this time?
A No.

Q Did you charge him on this occasion?
A No.

Q Did you offer any inducment to the accused for the purpose of having him make any statement?
A No

Q Did you make any threat?
A No.

Q Did you make any promises?
A No.

Q Did you use the authority of your rank to compel him to make any such statement?
A Not that I am aware of.

Q Will you relate to the Court the manner in which the statement was obtained?
A The accused came into my office after I sent for him and I told him that his documents had been checked and that there appeared to be no authority on his documents for him to be wearing either the wings or this decoration, the DFC.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q Major Turner you are Company Commander of the accused, is that correct?
A Yes.

Q Well, normally you are the superior authority in the Company?
A Yes.

Q To whom all respect is given by the Cadets, is that right?
A Yes.

Q In other words, when a Cadet is brought before you or you send for a Cadet and the status of a Cadet being that he is sort of between a window blind and an army hut, that he doesn't know what he is, in other words that his future depends on exactly what his officers think about him, in getting a commission?
A As Company commander I am responsible whether he does well, his final grading on the Course.

Q Was the accused marched into your office?
A No.

Q Was he escorted?
A He was escorted by his Section Commander.

Q In other words when he was sent for it would be quite normal for him to think that he was being taken up for office for an interview, which is something not normally done unless there is something wrong?
A I wouldn't say so, normally, I could have wanted him for anything.

Q Do you normally interview all the Cadets?
A No.

FURTHER EXAMINATION BY THE PROSECUTOR:

Q Was this interview carried on in a formal manner?
A Well, it wasn't formal, the accused was certainly free to say anything he wanted, I merely asked him a question and asked him to answer it.

THE DEFENDING OFFICER: I object to the alleged conversation being brought into the record on the ground that Major Turner, as company commander of the accused was a person sitting in authority and without any words of inducement, threat or promise actually said by him that that condition could be relayed to the mind of the accused and that it is perfectly reasonable to think that a Cadet, who normally doesn't come up before his company commander when he is sent for by his company commander, he knows he is really on the mat, and I think any information elicited by Major Turner, if he elicited any, is, on that grounds of a Major speaking to a Cadet, inadmissible.

THE COURT: I think it is admissible. The burden lies upon the prosecution, but we have the affirmative statements of Major Turner that no threat, inducement or promise was offered to the accused, and that hasn't been destroyed. I think the statement is admissible.

BY THE PROSECUTOR:

Q What was the statement that he made?
A He told me he had been in the Air Force. First of all we took up the question of the wings. He told me he had been in the Air Force, but he admitted that he was not entitled to wear the Pilot Wings. After that I asked him about the decoration and he admitted he wasn't entitled to wear the D F C.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q Now, Major Turner, you stated that you saw the accused at a dance at Coldstream?
A Yes, at about 2230 hours on Friday evening 14 Sep 45.

Q Was there anything to drink at the dance?
A Yes, the bar was open.

Q And about what time did you get to the dance?
A About 2145.

Q Were there many people there?
A Yes, there was a platoon party, 27 members of the platoon and I would say there were about 40 people there.

Q Did you have any conversation with the accused that night?
A No, I can't remember that I did.

Q Where, exactly, were you standing when you saw him?
A I saw him at various times. The first time I remember I was standing just off the part that they were using for dancing and he was, I believe, making across the dance floor.

Q What type of dress was he wearing?
A Battle dress.

Q These dances are open more or less to the staff?
A No, they are Cadet parties and I was invited as Company Commander.

Q In other words they can invite other people?
A Yes.

Q What regimental flashes, if any, was he wearing?
A I can't remember that.

Q He is a member of your company?
A Yes.

Q Are there any other people in this camp who wear wings?
A What type of wings do you mean?

Q Pilot's wings?
A Well, I know there are in the Air Force Conversion Wing, but I haven't anything to do with them.

Q There is a platoon of Air Force people here, is that right?
A Yes, but they wouldn't all be wearing pilot wings.

Q The majority of them?
A I have no idea.

Q I would like to show you Exhibit "I" for identification, is that the decoration?
A It appears to be from here, yes, but I must admit I am a bit colour blind

Q In other words you wouldn't know whether it was a ribbon with orange or blue?
A Yes, what I am thinking of is the width of the stripes.

Q Did you say you were colour blind?
A I am partly colour blind, yes.

Q For instance that sign on the wall down there, where it says "Boy" what colour are the letters?
A It is red.

Q Do you know what decoration this is, if it is a decoration?
A Yes, it looks like either the DFC or the DFM

Q But you don't know wh ch this is?
A I know the DFC has the broad stripe, but from this distance I wouldn't say.

THE PROSECUTOR DECLINES TO RE-EXAMINE THE WITNESS

THE WITNESS WITHDRAWS.

[illegible]th Witness [illegible] Prosecution: 2/Lt John Jack Paanakker, S-17 C S of I, having been first duly sworn, is examined:

BY THE PROSECUTOR:

Q How are you employed here at S-17?
A I am under instruction with the RCAF Conversion Wing.

Q When were you commissioned as a 2nd Lieutenant?
A 28 May 45.

Q Will you give the Court a brief summary of your service in this country?

A I joined the RCAF 4 Aug 41, was trained as an Air Gunner in Canada, went overseas in May 1942, served in the United Kingdom, did my operational training there, was directed with my Crew to the Middle East as reinforcements, but on arrival we were surplus to requirements there, and we were sent to the Far East, where I joined 205 Squadron and did a tour of operations there and was surplus to requirements and posted back to the Middle East, and from there back to the United Kingdom, and have been two years and 10 months in Canada. I tried to go back overseas with the RCAF but there was no vacancy to go back overseas so I joined the Canadian Army here.

Q How many flying hours have you got?
A Nearly 500, 300 hours operational

Q Now, would you explain to the Court very briefly, from your own personal knowledge the general plan of training employed by the RCAF in Canada, from the time you enlisted?

THE COURT: Who is this Officer, is he on the General Staff?

THE PROSECUTOR: I am saying from your own personal knowledge, as applies to a pilot.

A The recruit is attested at a Depot and then he goes to a manning depot and he spends about two months there.

Q What would be the minimum?
A About a month.

Q Would that apply to anybody in the Air Force, no matter what ultimately they were being trained as?
A About a month, yes.

Q And after they leave the depot?
A Then, in 1941 we had to go to what they called Security Guard because the Empire Training Scheeme was expanding so rapidly, so they had to kill time, so we did Security Guard for roughly six weeks, and after that you were posted to an I T S.

Q And does that still apply to anybody, regardless of what you are going to become?
A Yes, and then they spend anything up to a month or two-- subsequently I think the I T S course has been increased to three months, and from there their categories get split up like Air Gunners going to "B" and "G" and Wireless Operators go to radio school and pilots go to E N T S.

Q Did you have any personal friends who became pilots?
A Yes, naturally, I flew.

Q And do you know as a matter of personal knowledge and correspondence with them how long it took them to go through their training?

THE COURT: No.

Q Have you any knowledge of the amount of training that was given to a man who was going through as a pilot?
A Well, all the pilots I have met overseas, Canadian pilots, or British pilots that trained in the Empire Training Scheme, roughly took a year, in any event, before they were sent overseas.

Q When you went overseas did you take your advanced training with pilots?
A Yes, sir.

Q And how long training did you have with pilots before going into operations?
A The course should last three months, but due to the bad weather we had in the winter it takes six months operational training.

THE DEFENDING OFFICER: I would like to question the relevancy of that question.

THE COURT: Do you object to its admission?

THE DEFENDING OFFICER: Yes.

THE COURT: Why?

THE DEFENDING OFFICER: I can't see on what grounds it is being put in.

THE COURT: I see some relevancy in this.

BY THE PROSECUTOR:

Q Have you any pilot friends who have the D F C?
A Yes, sir.

Q Do you know of any friend of yours who won the D F C without going into an operational flying command?
A No, sir.

Q I am going to show you Exhibit "G", paragraph 5 states-- I want you to explain this term, which I believe is an Air Force term, "washed out of aircrew," I want you to explain the meaning of that term?
A "Washed out" is an Air Force term that means that a man has ceased training due to several reasons, one could be due to medical category, or maybe lack of moral fibre, just didn't have the guts, or whatever the cause may be, maybe he is too nervous. The term "grounded" is always used when a man has got his wings and then has ceased to fly, "washed out" is when he hasn't got his wings, and ceases to fly.

Q Are you familiar with the appearance of the D F C?
A Yes, sir.

Q Could you identify which of these two badges is the DFC?
A The one in your left hand is the DFM and the one in the right is the DFC.

Q The DFC is the one with the wide stripes?
A Yes, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q Are you a pilot?
A No, sir, I was a rear gunner on Wellingtons.

Q Did you take your course with people who were training as pilots when you were at I T S?
A Yes, sir. I was washed out of I T S and taken on as a gunner.

Q You were washed out once?
A Yes, in my case I never started flying, I was washed out on maths.

Q In other words it is possible to go back and try again, is that correct?
A I don't understand.

Q You were washed out?
A Washed out from my initial trade of pilot and went back into another aircrew category, air gunner.

Q How long did you say that it takes a man to qualify as a pilot?
A A year.

Q You joined the service when?
A 4 Aug 41

Q Has that ever been changed?
A When I said a year, I mean maybe a week or so due to bad weather, it has always been just about a year.

Q Would it depend upon the individual in any case?
A No.

Q In other words you can't say they never decreased the length of time?
A If anything they have increased it with the war progressing more favorably they have trained them better.

Q You say you don't know anybody that has ever one the DFC in Canada?
A I didn't say that, sir.

BY THE COURT:

Q What did you say?
A I said I had never heard of anybody getting the DFC not on air operations against the enemy.

Q In other words a man stationed on one of the Coastal Flying Patrols, it is quite possible for him to win the DFC?
A Yes.

Q A man stationed, perhaps at Halifax?
A Yes, it is possible.

BY THE DEFENDING OFFICER:

Q Nevertheless he could win a decoration?
A Yes.

Q But he wouldn't get a clasp for his CVSM?
A The ones that I have talked to, the ones that did the same thing in Vancouver had it.

THE PROSECUTOR DECLINES TO RE-EXAMINE THE WITNESS

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call
The Prosecution is closed.

THE DEFENDING OFFICER MAKES A MOTION FOR DISMISSAL OF THE CHARGE ON THE GROUND THAT THE PROSECUTION HAS FAILED TO MAKE OUT A PRIMA FACIE CASE THAT THE ACCUSED IS NOT ACTUALLY ENTITLED TO WEAR WHAT IS ALLEGED IN THE CHARGE, AND THAT THE PROSECUTION HAS NOT PRODUCED THE WINGS AND RIBBON ALLEGED TO HAVE BEEN WORN BY THE ACCUSED, AS EXHIBITS.

THE PROSECUTOR DOES NOT REPLY

THE COURT DISALLOWS THE MOTION AND THE TRIAL PROCEEDS.

DEFENCE

THE PRESIDENT INFORMS THE ACCUSED AS TO HIS RIGHTS IN THE GENERAL CONDUCT OF HIS DEFENCE.

Questionto the accused:

Q Do you apply to give evidence yourself as a witness or do you wish to make an unsworn statement?
A An unsworn statement?

Q Do you intend to call any other witness in your defence?
A Yes, sir.

Q Is this witness a witness as to character only?
A Yes, sir.

STATEMENT OF ACCUSED:

I have held the rank of confirmed sergeant-- I have been in the army for 3 years and 9 months-- and I had the rank of confirmed sergeant since 28 Sep 43. My intentions, including up until this point, were to serve in the Interim Army or going back to University. I have signed that statement brough around about the Interim Army and I have signed it to the effect that I will serve two years in the interim army. I have never been charged with any crime before. I have completed my junior matriculation in Toronto and part of the first hear of senior matric with the Royal Canadian Air Force before I was admitted into the army.

First Witness for Defence:

Lt J H Turner, S-17 C S of I, having been first duly sworn, is examined:

BY THE DEFENDING OFFICER:

Q Do you know the accused?
A I do.

Q How long have you known him?
A I first knew the accused about 1935 or 1936 in Toronto, he was a member of the same church. I was associated with him to the extent that he was a member of a Young Men's Group and was interested in that work. The accused wasn't a personal friend, he was one of the younger members of this very active Young People's Group and being considerably younger I didn't any great deal of contact with him. I knew all his family and he always seemed to be a very quiet serious sort of individual and on several occasions he helped us out with various activities around the Church and

around the Club and I can't tell the Court a great deal, except that he was very quiet, sincere and steady in attendance at the Club. He has a very good family background.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE THE WITNESS

THE WITNESS WITHDRAWS

Second Witness for Defence: Lt R I Mitchell, S-17 C S of I, having been first duly sworn, is examined:

BY THE DEFENDING OFFICER:

Q You are a Platoon Commander in "B" Company?
A That is right.

Q Is the accused a member of your platoon?
A Yes, sir.

Q How did you find him in his work?
A On the course as a whole I found him an average student, he isn't above average in any particular subject.

Q In other words does he pass the requirements that were set up here to put a man through the course?
A Yes, the marks are much lower than any other school in Canada. The standards are higher here than any other Training School. A "Q2" here might mean a "Q1" there.

Q Has he given you any disciplinary trouble?
A No, sir the Section Instructors have never brought him up to me as giving any trouble and throughout the course they seemed to be quite pleased with his work.

THE PROSECUTOR DECLINES TO CROSS EXAMINE THE WITNESS

THE WITNESS WITHDRAWS

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

THE PROSECUTOR MAKES A CLOSING ADDRESS.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court having arrived at a Finding on the charge such finding is announced to the accused.

The Prosecutor tenders to the Court MFB 355 and MFM 6. These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused:

Q Have you any statement to make concerning the documents which have just been read to you?
A No, sir.

Q Do you wish to address the Court?
A I would like my defending officer to speak for me.

THE DEFENDING OFFICER: The accused is young and is in a rather unfortunate position. I would like to state his case briefly for you. He went to Brockville, passed the OSAW Board there as suitable officer material, went through Brockville, got practically to the last week of the course and then broke his ankle, and then he was confined to hospital for quite a while and then he was sent out here to take the Course again and he is a confirmed sergeant, has climbed up through the ranks. He was sgt-instructor in Debert with the Pacific Trg Bns that were recently formed there and then he was sent up for a commission. I think, in view of his age, he is 22 years old, he comes from a good background of family and Mr. Turner, the character witness has pointed out that he is a very steady and serious young man, that he showed a quiet confident way of going about things and perhaps one of the most steady members of the junior associations that they had in the Church. I would also like to bring out the fact that he hasn't been charged or convicted in any military or civil court and on the basis that he is a personable young man with his instructors, as they say he was and a good student. He led his troops well, and the only thing that is holding him up now is because this has been pending. In other words his whole career hangs in the balance on this case, whether he becomes a commissioned officer or not. I think he realizes now perhaps which he didn't before that it is a most serious thing and he realizes that his career is just hanging in the balance. He likes army life and I think he would like to continue on and from his own statement he would like to get into the regular army, and I would apply for your very great leniency in dealing with him for punishment and perhaps not interrupt a career that has been twice stopped, in Brockville and here.

THE SENTENCE HAVING BEEN RECORDED IT IS ANNOUNCED TO THE ACCUSED.

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"F" 43

ORIGINAL
DUPLICATE
~~TRIPLICATE~~

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M.D. 2 Nom Roll 2694
18 Dec 1942

M.F.M. 2
A.F.B. 271
750M—5-42 (4398)
H.Q. 1772-39-1645

(To be completed in triplicate. Copy designation to be shown by striking out terms not applicable.)

Unit Queen's York Rangers C.A.(A). Regimental Number B 70445

ACTIVE FORMATIONS AND UNITS OF THE CANADIAN ARMY

ATTESTATION PAPER

"F"

(C G Beeston) Lt-Col
President, S C M

1. Surname BROWN
2. Christian Names Donald Lang,
3. Present address 44 Evans Avenue, Toronto, Ontario, Canada.
4. Date of birth 1. July, 1923
5. Place of birth Canada (Country) Ontario (County or Province) Toronto (Town or Township)
6. Citizenship (Of What Country are You Now a Citizen)
7. Religion (state denomination) United Church of Canada.
8. Trade or Calling Student
9. Married, Widower or Single single
10. Name of next of kin (Mrs.) Elsie Grace Brown.
11. Relationship Mother.
12. Address of next of kin 44 Evans Avenue, Toronto, Ontario, Canada.
13. Do you belong to, or have you served in a Reserve Formation or Unit of The Canadian Army? No
n.a. (If Yes, Give Unit and Dates of Service)
14. Have you served in (*a*) an Active Formation or Unit of The Canadian Army? No (Yes or No)
n.a. (If Yes, Give Regimental No. and Unit) (*b*) Any other Naval, Military, or Air Force? RCAF. 12 Nov. 1941 to 26 May 1942 (Yes or No) (If Yes, specify Unit and Period of Service)
15. Did you serve during the Great War 1914-1918? No
n. a. (If Yes, specify Regimental No., Unit and Dates of Service)

DECLARATION TO BE MADE BY MAN ON ATTESTATION

I, Donald Lang Brown., do solemnly declare that the above particulars are true, and I hereby engage to serve in any Active Formation or Unit of The Canadian Army so long as an emergency, i.e., war, invasion, riot or insurrection, real or apprehended, exists, and for the period of demobilization after said emergency ceases to exist, and in any event for a period of not less than one year, provided His Majesty should so require my services.

Witness: Crome C.L.
Date 11 June 42. Don L. BROWN (Signature of recruit)

OATH TO BE TAKEN BY MAN ON ATTESTATION

I, Donald Lang BROWN do sincerely promise and swear (or solemnly declare) that I will be faithful and bear true allegiance to His Majesty.

Witness (Name) (Rank) Don L. BROWN (Signature of Recruit)

CERTIFICATE OF MAGISTRATE, JUSTICE OF THE PEACE OR ATTESTING OFFICER

The Recruit above-named was cautioned by me that if he made any false answers to any of the above questions he would be liable to be punished as provided by law.

The above questions and answers were then read to the recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered as replied to, and the said recruit has made and signed the declaration and taken the oath before me,

at Toronto Ontario this Eleventh day of June 1942 19

J. Hyde Brig. Lt.Col.
Comdng the QUEEN'S YORK RANGERS

(Signature of Magistrate, Justice or Attesting Officer. Officer or Rank and Unit or appointment.)

N.B.—ATTENTION IS DRAWN TO THE FACT THAT ANY PERSON MAKING A FALSE ANSWER TO ANY OF THE ABOVE QUESTIONS IS LIABLE TO A PENALTY OF SIX MONTHS' IMPRISONMENT

Certified true copy of MFM 2 of B70445 Brown, D. L. Sgt (Cdt)
(J. F. Noreiko) Lt.
Offr I/C records.
R.C.A.F. Station Vernon B.C.

CERTIFIED TRUE COPY
Noreiko....Lt
(J.F. Noreiko)
Officer i/c Records

Department of National Defence
(ARMY)

INFANTRY (R)
"G"

PERSONNEL SELECTION RECORD

(C G Beeston) Lt-Col, Pres

I...B-70445.....A/Cpl.....BROWN, Donald Lang.....A.1...19.....A-2.....SCM
Regt No — Rank — Name — A or R Age — Med Cat

....English.....Q.Y.R., Chippawa Bcks..... 5-4-43.....
Main Language — Place Interviewed — Date interviewed

II. Revised Examination "M"

Chippawa Bcks. (Place Tested) 5-4-43 (date) D. Campbell, Sgt. (By Whom)

170	II
Total	Group

Subtests	19	15	20	25	27	13	19	32
	1	2	3	4	5	6	7	8

Subtotals	54	52	64
	1-3	4-5	6-8

English / English or French

YOB	P	U	L	M	E	M	O
23	1	1	1	1	2	1	1

III. Educational Background

Grade XI, Western Tech. Commerce, Toronto.
Sr. Matriculation completed in R.C.A.F.

IV. Occupational Background

Student

V. Military Background

Enlisted in R.C.A.F. 26-11-41. Completed I.T.S., but found to have 20/60 vision, right eye, after six months in the Force, and washed out of air-crew. Released to enlist in Q.Y.R., 11/6/42. L/Cpl. 20-11-42. A/Cpl, 15-3-43, i/c of guard post. One short A.W.L.

VI. Other Personal History and Appraisal

Cpl. Brown is a tall youth of clean and neat appearance, good physique and attractive personality. He has a deep, steady voice and a calm manner. He seems mature for his years and has a good sense of humor. He hopes to go o/s with his Unit, partly because of family traditions. His grandfather and two of his uncles were field officers with this regiment. If the opportunity for comissioned rank arose, he would be glad to serve anywhere however, and would prefer, after the Q.Y.R., a C.A.C. Unit.
He has a good record from High School days in respect to athletics and on school teams (rugby andbasketball).
He plays the piano and organ.

VII. Recommendations

Suitable reinforcement officer material, C.A.A. Especially in Inf. or C.A.C.

(Signed) .....
E. Birney, Capt. H.Q. M.D. #2

M.F.M. 196

(See reverse side for further information and follow-up)

FURTHER INFORMATION AND FOLLOW-UP

SUSSEX, N.B. 17 Sept 45

Suitable for operational duties.
R.W. Umphrey, Lieut.

DEBERT, N.S.
15 Feb 45

Referred by O.C. as potential Officer Candidate.

This N. C. O. has a smart appearance, is neat and rapid in his movements. He expresses himself well and possesses self-confidence. He has had several Courses, including Platoon Weapons and 6th Junior battle Wing Course, C.S. of I., Vernon, and has been employed as instructor in Rifle Company for 16 months.

At high school, he participated in group sports and was Captain of his team. He is alert, speedy in his movements, and appears capable of handling men.

From consideration of M test score, education (Junior Matric Ontario), training, age pulhems profile, and personal ability, he is suitable for consideration for a Commission.

MFM 238 created re Officer Candidate - Recommending:

Suitable candidate for consideration for comission in C.I.C.

/SC .....Capt.
(W.A. Campbell)
Camp Army Examiner

O.S.A.E. Brockville, Ont. 15 Mar 45

Brown was born in Toronto, 1.7.23. His father is sales manager of printing firm. Brown is eldest of 3. He completed grade XI at Western Tech. and Sr. Matric in RCAF Classes from Feb to Nov 1941.

Brown enlisted in R.C.A.F., 26.11-41 but was turned down for air crew, owing to vision after 6 mths in the force. Took discharge to join the family unit. (Q.Y.R.) and trained with the Q.Y.R. until it was disbanded. Since then he had spend 16 mths as A/I at #2 Inf Trng Bn C.I.C.

Brown has shown leadership in civilian summer jobs and in athletics. He was coach and captain in Sr rugby at West Tech. He has done well in some track events.

At O.S.A.W. he is below average in 4 out of 5 written tests including B.M.K., basic Maths and Gen Education. In platoon talks and group tasks he was definitely below average and displayed very little enthusiasm.

On the whole Brown has a dull personality and needs more enthusiasm and aggression. His long sojourn in Canada appears to have developped a slight "browned--off" attitude.

RECOMMENDATION: Doubtful, probably suitable for O.T.C. "DS"

(E.Sager) Major

CERTIFIED TRUE COPY

...Moreiko.....
(J. F. Moreiko) Lt.
Officer i/c Records
S-17 Cdn Sch of Inf

CANADIAN ARMY ACTIVE

Individual Priority Score Card

(Calculated as of 31 Mar 45)

(C G Beeston) Lt-Col
President, S C M

1. B-7044 5 (Regt No) Cdt. (Rank) BROWN (Surname) DONALD LANG (Christian Names in full) O.T.C. (Present Unit)

CERTIFIED TRUE COPY

MARITAL STATUS (31 Mar 45) (Answer Yes or No) Single Yes Married

Widower / Divorced without dependent children

Widower / Divorced with dependent children

(J.F. Noreiko)
Officer i/c Record

2. SERVICE IN NORTH AMERICA AREA (excl. Kiska)

	T.O.S. (1)	S.O.S. (2)	DAYS OF SERVICE (3)
R.C.N.			
G.S. 1st Enlistment	11 Jun 42	31 Mar 45	1025
2nd Enlistment			
3rd Enlistment			
N.R.M.A.			
G.O. 139			
R.C.A.F.			
		TOTAL	1025

3. SERVICE OVERSEAS (incl. Kiska)

	T.O.S. O/S (1)	T.O.S. (Canada) (2)	DAYS OF SERVICE (3)
R.C.N.			
G.S.			
N.R.M.A.			
R.C.A.F.			
		TOTAL	

4. PRIORITY SCORE

	Total Service (1)	Less Non-Qualifying (2) Service	Net Service in Days (3)	Net Service in Months (4)	Points (5)	Score (6)
N.A.A. (except Kiska)	1025	1	1024	34 4/30	2	68
O/S (incl. Kiska)				/30	3	
Adjustment for broken periods			Totalling	4/30	2	2
					Sub-total	70
Married or equivalent status 20% bonus to sub-total points above:						
					TOTAL SCORE	

5. Computed by T,Gordon Cpl. (Signature) (Rank) 30May 45 (Date)

Checked by H.J.Stromene (Signature) (Rank) 30May45 (Date)

Certified that Score has been established based on Service as recorded in Officer's/or Soldier's Regimental Documents.

L.D.Foster Capt. 30 May 45
(Signature) (Rank) (Date)

(Unit)

N.F.M. 469
(12387)
(K.P. 25620)

P.T.O.

CERTIFIED TRUE COPY

.....Lt
(J.P. Nomaiko)
Officer i/c Records

DETAILS OF NON - QUALIFYING SERVICE

NON--QUALIFYING SERVICE IN NORTH AMERICA AREA

Forfeits for (1)	From (2)	To (3)	Days (4)	Total (5)
AWL	29 Jul 42	29 Jul 42	1	1
			TOTAL	1

7. NON--QUALIFYING SERVICE OVERSEAS

Forfeits for (1)	From (2)	To (3)	Days (4)	Total (5)
			TOTAL	

4

(C G Beeston) Lt-Col
President, S C M

M.F.B. 255
BDM—9-42 (1092)
H.Q. 1772-30-020
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-70445	Sgt (Cadet)	BROWN, D.L.	S-17 C.S. of I.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For	Nil	times	Nil	times
For	Nil	times	Nil	times
For	Nil	times	Nil	times

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

A.F.A. 73

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and nil days in military custody, making a total of nil days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 yrs 2mos. 20 days

6.

7.

8.

9. The accused is in possession of or entitled to decoration or reward. State any military Canadian Volunteer Service Medal

10.

~~In the case of an accused who is the Royal Canadian Air Force or the Permanent Force~~
Permanent Force
unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

15 Mar 43 .....Date of promotion.

In the rank of Cpl. 6 Months ~~xxxx~~

In the rank of Sgt. One years, 5 months and 17 days.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary award under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which Convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of Sept 45

(H.E.Snow) A/Col
Comd S-17 C.S. of I.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.P.M. 51

Reg. No. B70445 Name BROWN Donald Lang (Sgt) Corps Q.Y Rang.C. Coy "D" Date of enlistment or enrolment 11 June 42 Date of Birth

Signature O.C. Company, etc. J. Wouldridge Major.

Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
CHIPPAWA ONT				sheet destroyed 11 Dec 42		Six Months	completion		J Wouldridge Major.
						(C G Beeston) Lt-Col President, S C M			
		Certified true copy							
				(J.F. NOREIKO) Lieut.					

Records Officer--- [illegible] Can Reg of Inf.

MEDICAL OFFICER'S REPORT

I certify that No. B 70445, Cpl. Brown, D.L.
of S-12 C Bty S.A. is in a good state of health,
and fit to undergo Trial by Court martial.

[illegible]
Medical Officer

Station S-12 C Bty S.A.

Date 21 Sept. 45

M. F. B. 246
50M—5-43 (251)
H.Q. 1772-39-480

HQC.55-B-2031 (JAG/D-3)
Your File 22-B-10294

9 Oct 45

General Officer Commanding-in-Chief,
Pacific Command,
VANCOUVER, B.C.

STANDING COURT-MARTIAL

B.70445, Sgt (Cadet) BROWN, D.L.
S-17 CS of I.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde), Brigadier,
Judge Advocate-General.

EPL/AB

BM-7-45(M-188)

THIS COPY FOR:

H.Q.C. 55-B-2031
M.D. ~~22~~-B-10294

STANDING

MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

GS

R-70445 Name BROWN, Donald Lang

nk Sgt (Cadet) Unit S-17 CS of I

arge ~~XX~~ AA 40 Conduct to the prejudice....

te of Crime 5-9-45

te of Arrest Charge Signed 19-9-45

ders for D.C.M.

ace and Date of Trial S-17 CS of I 21-9-45

ntence Reduced to rank of Cpl Severely reprimanded

te of Confirmation

te of Promulgation

tered in Records of J.A.G. ~~as~~ No. 40174

te 9-10-45

MO

Pacific Command ~~No~~ S-17 CS of I

E. C. [illegible]
for Judge Advocate-General

[illegible]-8-45(M-129)

22-8-9745 22-G-5530
22Mc-4787 22-B-1016
22B-10294

Headquarters Pacific Command,
Vancouver, B C, 5 Oct 45

SECRET SECRETARY Army
CONF. SEC.
1445
OCT 6 1945
File
Ref. to
Referred to

AIRMAIL

Judge Advocate General
National Defence Headquarters,
Ottawa, Ont.

Standing Courts Martial
B17601 Sgt Spence, G A
C123704 Pte Gareau J M D
B144115 Pte (A/Cpl) McMullen O D
C36340 Pte White, C G
A70445 Bdt (Cadet) Brown, D L

1 Pursuant to CARO 4565 herewith proceedings in the m/n Standing Courts-Martial.

(C G Beeston) Lt-Col
President
Standing Courts-Martial

40174

H.Q.C. 55-B-2032

CONFIDENTIAL

M.F.R. 3078
10M—4-43 (3028)
H.Q. 30-1-48

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

1056-3

BRUNET, AIME JOSEPH C-427765 PTE.

CENTRAL REGISTRY	DATE	P.A. OR S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					If space for which reference must be expressed on one line, add minute to file and cross-reference with Minutes		
OCT 13 1945	Cancelled			JAG	NEW FILE	CR	9-10-45
OCT 26 1945	26-10-45	PA		JAG	With Papers C.R OCT 25 1945		
				Admin	For Requisition C.R. NOV 1 1945		
				SE (DG)	SE		5.11.45
NOV 9 - 1945	9/11/45	PA	md	PS			6.11.45
				CMBR	For Requisition S.F. JAN 4 1946		
JAN 22 1946	Cancelled	cancelled	cancelled	Cancelled	Recommendation		JAN 16 1946
MAR 9 - 1946	8-3-46			Admin	With Papers C.R MAR 8 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-2032 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE

ARMY T-20-B-17948 (AJAG)

Headquarters, Military District 2,
159, Bay Street, Toronto, Ontario.
6 Mar 46

CENTRAL REGISTRY ARMY
CONF. SEC.
11019
File
Chgd. to
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REMISSION OF SENTENCE
C-427765 - Pte. Aime Joseph BRUNET
2 D.D., C.A.

1. Reference HQC 55-B-2032 ADM 3(b)3 dated 22 Jan 46.

2. Herewith completed Appendix "G" to CARO 5913.

3. Also enclosed herewith MFM.288 with respect to the marginally named, for disposal, please.

(C. C. MANN)
Brigadier
D.O.C. M.D.2

149

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY C.M.

NDHQ File No. HQC 55-B-2032
District File No. T-20-B-17948

PART I.

C-427765 Rank Private NAME Aime Joseph BRUNET
No. 2 District Depot, C.A.

PART II.

of Trial 29th September, 1945
rge(s) (1) DESERTION - AA Sec 12(1)(a)
(2) LOSING BY NEGLECT - AA Sec 24(2)
tence 10 months' detention; $26.75 stoppages (deficiencies)
c of Sentence 29th September, 1945
firmation - (a) Authority S.C.M.
(b) Date ---

PART III.
REMISSION

I, the undersigned, being the competent Military authority under Section 2) of the Army Act xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx ex do hereby remit xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx the alance of the sentence of detention awarded the above-named soldier, such mission to be effective the 28TH day of FEBRUARY, 1946.

SIGNED at TORONTO, Ontario, this 1st day of February, 1946.

C.C. Mann

XXXXXXXXXXXXX (C. C. Mann)
XXXXXXXXXXXXX Brigadier
D.O.C. M.D. 2.

Delegated 28 Feb 46 Re-M. Chap 21

PART IV
PROMULGATION

Remission (xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx) promulgated and extracts taken at No. 2 District Depot, C.A.
is 28th day of February 1946.

M Eyles
Capt. Adj.
Officer i/c Documents (J.J.Eyles)

Unit, attachment and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

C.427765 Rank Pte. BRUNET, A.J.
The sentence of 10 months detention
erded by Standing Court-Martial on the 29th day of September 1945
has been remitted by 149 days
the 28th day of Feb 46 194 by Brigadier C.C. Mann
Unit No. 2 District Depot, C.A.
ertified true Extract of Daily Orders Part II of
58 Place Toronto, Ont. Date 2 Mar 46.
Auth: T-20-B-17948 (AJAG), d/4 Feb 46.

M Eyles
Capt.
Adjutant (J.J.Eyles)

Strike out and initial words not applicable.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of C 427765 Pte. Aime Joseph BRUNET, No. 9 District Depot, C.A.
Number Rank Name in full

Unit Attachment (if any)

Sentenced to ten months detention with stoppages of pay of $26.75 for kit defic.

on 29th September 1945 at Lansdowne Park, Ottawa, Ontario,

being served at No. 63 Military Detention Barracks, Barriefield, Ontario.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 25 years 2 months - 13 March 1942

Medical grade or category PULHEMS PROFILE: 17 - 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To.....
Superior Military Authority

For details of offence see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on 29 Feb 46) for reasons given in paragraph X.
date

Place.....

.....
Confirming Authority

Date.....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To.....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on.....and sentenced

to....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place.....

.....
Confirming Authority

Date.....

M.F.M. 288
(Army Form A-2104)
15M—8-43 (441)
H.Q. 1772-39-2013

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
1 Feb 46	Remit effective 28 February 1946	C.C. Mann (C. C. Mann) Brig. D.O.C. M.D. 2.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
DESERTION: 4 Jan 1945 until 19 September 1945	4 Jan 45	29 Sep 1945
LOSING BY NEGLECT, etc. value of $26.75	do	do

W. A. Stewart
Signature of Officer making entry

(W. A. Stewart) Captain,
Legal Officer,
No. 9 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
19 Oct 45	Conduct has been good. Has completed advanced training. Ability and usefulness as a soldier are fair. No recommendation.	(J. A. Pettress) Major, A/Officer Commanding, No. 9 District Depot, CA

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
4 1945 24 October	Pursuant to the suggestion contained in H.Q.S.9093-1-1 Adm. 3 - 15 Jun 45 I will review this sentence 28 Feb 46	(F.I. Armstrong) Brig. DOC MD#3.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Adm

VER V CIB NR 77

FROM COMDG TWO TOR 231612R

TO SEC DND OTT

NR 48 BT

NZ 20 UNCLASS RELET HQC 55-B-2032 ADM 3(B)3 DATED 22 JAN 46 REFERRING TO C 427765 PTE BRUNET A J STOP [redacted] RECEIPT OF ABOVE MENTIONED REFERENCE IS HEREBY ACKNOWLEDGED

Pa on file 24-1-46

BT 231823R

EN B

23/1815R

RECEIVED JAN 23 1946 A.D.M.I.N. 3B3

C. SIGS ARMY SIGNAL OFFICE

ARMY MESSAGE ADDRESS OBRIEN LOCAL ARMY SIGNAL OFFICE

73568

HQC 55-2-2032
ADM 3(b)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

CONFIDENTIAL

AIR MAIL

OTTAWA, Ontario,
22 Jan 46.

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

C.427765 Pte BRUNET A J
CM Board of Review
91 MDB

Ref telegram AG 0267 d/18 Oct 45 Review.

2. The CM Board of Review has in the case of the a/m soldier made the following recommendation:

" Release on 28 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommended remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. [redacted] soldier.

7. Acknowledgment by telegram requested.

(E.G. Weeks),
Major-General,
Adjutant-General.

EEM/MA

M E M O R A N D U M

TO:

M.S.

DEPARTMENT OF NATIONAL DEFENCE
(ARMY)

HQC 55-B-2032 Adm 3(b)2
BDF-SE-AG 169

OTTAWA, Ontario 21 Jan 46

S.E. 169 d/10 Jan 46
Min File: 1056-3

C.427765 Pte BRUNET, A J

Previous representations have been received from Mr J O Gour with reference to this SUS on 25 Oct 45. Report was made to the PS 5 Nov 45 for his reply to Mr Gour.

2. This SUS was tried by SCM 29 Sep 45, charged with desertion, having absented himself without leave from 4 Jan 45 until apprehended 19 Sep 45, dressed in civilian clothes. He was found guilty of the charge and was sentenced to undergo detention for 10 months.

3. The sentence was reviewed by CMBR 16 Jan 46 and recommendation was made for his release 23 Mar 46.

4. His release at that time will, of course, depend upon his continued good conduct, during the interim.

(E G Weeks)
Major-General
Adjutant-General

F I N A L

RGW/6293/da

C O P Y

HOUSE OF COMMONS

CANADA

CASSELMAN

December 31, 1945

Mr D C Abbott,
Minister of Defence,
Ottawa, Ontario

Dear Mr Abbott:

Re: C-427765 Pte A J Brunet

You will excuse me if I bring again the case of this young man to your attention, but it is near four months he is in jail. I am of the opinion that he should be sent back home pretty soon to take care of his farm, cut some woods, etc.

I am willing to support the Government but I am still of the opinion something should be done pretty soon with those deserters and get the regulations smoother.

Yours very truly,

J.O. Gour, M P
Russell

JOG/GR

HQS 55-B-2032 (MBR 5)/MGE
9 Jan 46
Case No 1715

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: C-427765 Pte BRUNET A.J.

2. Unit at date of offence: Midland Regt CA

3. Charge:
   1. AA 12(1)(a) - DESERTION : AWL from 1200 hours 4 Jan 45 until apprehended at 1545 hours 19 Sep 45 dressed in civilian clothes. (Length of absence - 8 months 3 weeks).

   2. AA 24(2) : Loss of kit to the extent of $63.52.

   Plea: Not guilty on both charges

4. Place and Date of Trial: Ottawa, Ontario
   (XXXXX (XXXX (GCM) 29 Sep 45

5. Finding: 1st charge - guilty
   2nd charge - guilty to the extent of $26.75

6. (a) Sentence: 10 months detention, and stoppage of pay to the extent of $26.75

   (b) Date of Sentence: 29 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being Served at: 91 MDB in MD 2

(N.B. - Discharged under AO 1029( ) for
wef)

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PAGE 3 Case No.....

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(1) Civil Convictions -	NIL		
(2) Courts Martial	NIL		
(3) Summary Convictions	AA 40	Oct 44	7 days CB

(b) After Conviction: Good. Expected date of release - 19 Apr 46.

(c) Date of enrolment/~~xxxxxxxxx~~ 13 Mar 42 Present Age: 28

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) The accused in sworn evidence declares that he is convinced that it is not right to go O/S to kill men. However, he would kill men in the defence of Canada on Canadian soil. This conviction is not based on religious grounds, but is the product of his own thinking. He had applied unsuccessfully to transfer to a non-combatant corps. When sent on embarkation leave, he did not return.

An MP has written a letter requesting mitigation.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc)

Reviewing Officer: Recommend that this man serve 6 months of sentence and be release 28 Mar 46.

Reviewed by. A. M. Stephenson
(A.M. STEPHENSON) Major

14. Recommendation of the Board: Release on 28 Mar 46

Date JAN 1 6 1946

N. A. Stickwell. Maj
Secretary
Courts-Martial Board of Review.

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COPY

C.R(C)
PA on file
HQC 58-2-2032

DEPARTMENT OF NATIONAL DEFENCE
ARMY

K.S.688 Vol.1 (A)
and All Personal Files

KINGSTON, Ontario. Nov 13th, 1945.

The District Officer Commanding, M.D. No.2, Toronto, Ontl
The Commandant, No.91 M.D.B., Niagara Falls, Ont.
The Commandant, No.63 M.D.B., Barriefield, Ontario.
The Commandant, Ottawa Area Command, Ottawa, Ont.
Officer Commanding, No.9 District Depot, Ottawa, Ont.
The D.A.P.M., M.D.No.2, Toronto, Ontario.
Officer Commanding, No.31 Coy. C.PRo.C. Toronto, Ontario.
Officer Commanding, No.33 Coy. C.Pro.C. Ottawa, Ontario
The D.S. & T.O., M.D. No.3, Kingston, Ontario.
The District Paymaster, M.D. No.3, Kingston, Ontario.
The District Medical Officer, M.D. No.3, Kingston, Ontario.
Officer Commanding, No.1 Det. No.33 Coy, C.ProlC,, Kingston, Ont.

TRANSFER OF S.U.S. FROM NO 63 M.D.B.
To No.91 M.D.B. Chippawa, Ontario.

Reference T.22-1-233-13(DAPM) dated 11th October 45 and reference to Radiogram Ranks 9267 dated the 5th day of October 45, from National Defence Headquarters, Ottawa, Ontario.

2. Due to the overcrowded conditions at No.63 M.D.B. at Barriefield, Ontario, and in view of the number of soldiers presently sentenced to periods of detention, now being held in the various unit Guard Rooms throughout M.D.No.3, it has been found necessary to transfer the undermentioned S.U.S. from No.63 M.D.B. Barriefield, Ontario, to No.91 M.D.B., at Chippawa, Ont. under escort.

From No.9 DD Ottawa, Ont.	Sentence Date	Date of Release full time	Date of release remission
D.649481 Pte. D'Auray C.	120 Dys 7/11/45	29/2/46	20/1/46
D.616781 Pte. Bedard E.	1 yr 16/8/45	6/8/46	6/4/46
D.650390 Pte. Dupont J.L.	10 mos 27/9/45	20/7/46	9/4/46
C.427765 Pte. Brunet A.J.	10 mos 5/10/45	29/7/46	18/4/46

3. The escort personnel for this movement have been detailed by the D.A.P.M., M.D.No.3, and are as follows:

Conducting N.CO.	Escorts
C.121318 Cpl. Wakely S.W.	K.5367 L/Cpl. Abbott J.A.W.
	L.110390 L/Cpl. Richards W.J.

4. The above mentioned soldiers under sentence will be despatched to No.91 Military Detention Barracks, Chippawa, Ont. from No.63 Military Detention Barracks, Barriefield, Ontario by the above mentioned escort personnel of No.33 Coy. C.Pro.C. The escort personnel will assemble at No.63 M.D.B. Barriefield, Ontario at 0045 hours on the 14th November, 1945, and will take over the above mentioned soldiers under sentence together with all documents in connect ion with each case. This party will entrain at the Outer Station, Kingstonk at 0140 hours same date and on their arrival in Toronto at 0630 hours same date the soldiers under sentence will be taken to the Provost Office in the Union Station and will be given a box lunch.

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5. Arrangements have been made by this Headquarters to meet this train on its arrival at trainside, with the D.A.P.M. M.D.No.2. This party will leave Toronto via C.N.R. at 0800 hours same date and will arrive Niagara Falls at 1050 hours, where they will be met on their arrival at trainside by personnel of the staff of No.91 Military Detention Barracks.

6. All necessary documents as laid down in CARO 5099 will be taken with the Conducting N.C.O. i/c of this movement, and will be handed over to the Commandant, No.91 M.D.B. upon arrival.

7. Attention is directed to HQC 9039-1-1 Adm 3 dated 15th June, 1945, under which National Defence Headquarters lays down the policy to be followed in the remission and suspension of sentences of soldiers under sentence. On the expiration of one-half time the question of remission may be dealt with by the District Officer Commanding, Military District No.2, or if desired may be referred to the District Officer Commanding, Military District No.3.

8. Transportation for this movement will be made by demand by the D.A.P.M., M.D.No.3 on the D.S. & T.O. MD NO.3.

E.L. Patts, Major,
for (W.K. MacGregor) Major,
D.A.A.G. M.D.No.3.

Copu to:
The Secretary,
Dept. of National Defence,
OTTAWA, Ontario.

Attention Capt. Parlee

E.L. Patts, Major
for(F.L. Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

MEMORANDUM

TO:

P.S.

Department of National Defence
(Army)

HQC 55-B-2032 Adm 3(b)2

OTTAWA, Ontario 5 Nov 45

S.E. 7450B d/30 Oct 45

MINISTERS OFFICE
NOV 7 1945
DEPT. N.D. OTTAWA

C.427765 Pte BRUNET, A J

This soldier was tried by SCM 29 Sep 45 on a charge of desertion, having absented himself without leave from 4 Jan 45 until apprehended by the civil authorities 19 Sep 45 dressed in civilian clothes.

2. He was found guilty of the charge and was sentenced to undergo detention for a period of 10 months.

3. This soldier gave evidence at the trial in explaining his absence. The evidence occupied 10 typewritten pages of the transcript.

4. In his evidence he admitted that he had been warned for draft and had been given embarkation leave but that he did not report following such leave. The explanation for his absence as indicated by his evidence was that O/S service was contrary to his conscience.

(M Noel)
Brigadier
Acting Adjutant-General

Noted
M.D.
9/11/45

FINAL
WOP:da

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SPECIAL ENQUIRY C55B. 2032

Date OCT 30 1945

To: D: Admin

No 7450B

Reply addressed to P.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 508 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

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A.G. (Co-ord.3)
May a report be submitted for the Minister's information, please, with the return of the attached correspondence.

D.H. Crerley
P.S.

1056-3

OTTAWA, 29 October 1945

J.O. Gour, Esq., M.P.,
House of Commons,
Ottawa.

Dear Mr. Gour,

Re: C-427765, Pte. A.J. Brunet

I have your letter of the 25th of October 1945, with reference to Private Brunet.

I am asking for a report on this man's case and as soon as it comes to hand I will write to you again.

Yours very truly,

ND/A
RECEIVED
OCT 31 1945
ADMIN.
3B2

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C O P Y

HOUSE OF COMMONS

OTTAWA

October 25, 1945

Honourable D.C. Abbott,
House of Commons,
OTTAWA, Ontario

Dear Mr. Abbott; re: Brunet A.J. Pte
C 427765

The above-named soldier was on absence without leave since early in January until his father, with his son's consent, reported him on September 18th when he was then sentenced to ten months' jail. I am of the opinion there may be some misunderstanding in this case. This young man might not have given full explanations about his case or, did he do something of which I am not informed? I have known Private Brunet since he was a baby and never thought him a bad character except for his deserting the army, but upon investigation since then, I have found out that he was working with his brother-in-law, on the farm, and also on his own farm and also on his own farm in the township of Cambridge.

Therefore, I would like a report on his case, and would very much want to have Private Brunet back on his farm as soon as possible, as there is no one to look after same.

Yours truly,

J.O. Gour, MP

County of Russell

JOG/HG

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HQC 55-5-5022 (JAG/D-6)

26 Oct 45

District Officer Commanding,
Military District No. 3,
Kingston, Ontario.

Standing
C.427785 Pte. Aime Joseph BRUNET
No. 9 District Depot, CA.
.....Court-Martial

R.55-5-5022 (JAG)

23rd October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.L.M.
for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

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HG IN REPLY PLEASE QUOTE No. K.55-B-8022(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

KINGSTON, Ontario, 23 Oct 45

MILITARY ADMIN. CORR. 4904 OCT 25 1945 File 655-B-2032 Digd. to Referred to JAG

The Secretary
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
C.427765 Pte. Alme Joseph BRUNET,
No. 9 District Depot, C.A.

Reference H.Q.C.55-B-2032 (JAG/D-8) dated 12 Oct 45.

2. Herewith returned proceedings of Standing Court-Martial held for the trial of the marginally named soldier.

H. C. Finch Capt
for (F.L.Armstrong) Brigadier,
District Officer Commanding,
Military District No.3.

Encl.

28.

MEDICAL OFFICER'S REPORT

I certify that No. C 427765 Pte BRUNET A J

of #9 District Depot CA is in a good state of health,

and fit to undergo Trial by Court martial.

Lt. W. L. Marksfield
Medical Officer

(W. J. MARKSFIELD) CAPT. RCAMC
Att No. 9 District Depot CA

Station Lansdowne Park Ottawa, Ont.

Date 29 Sep 45

M. F. B. 246
50M—9-44 (5437)
H Q. 1772-39-480

27

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at the Court-Martial Building, Lansdowne Park, Ottawa, Ont.,

on the 29th day of Sept., 1945, at 1010 hours,

for the trial of: C-427765 - Pte. AIME JOSEPH BRUNET,
Number Rank Full Name

No. 9 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major R. K. Laishlay.

PROSECUTOR: Capt. J.D.C. Boland, Headquarters, Military District No.3, C.A.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Capt. J. P. Dorion, No. 9 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: The Court find the accused, C-427765, Pte. Aime Joseph Brunet, No. 9 District Depot, C.A., guilty of the first charge and guilty of the second charge except that he did not lose the articles listed in Catalogue Section "A-1" and "B-1", having a total value of $36.77.

SENTENCE: The Court sentence the accused, C-427765, Pte. Aime Joseph Brunet, No. 9 District Depot, C.A., to undergo detention for ten months and to be put under stoppages of pay until he has made good the sum of $26.75 in respect of deficiencies of clothing, equipment and regimental necessaries.

Extracts entered as No. 40213 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 10 day of Oct 19 45

Signed at Ottawa, Ont., this 29th day of Sept., 1945.

(R. K. Laishley) Major
President, Standing Court-Martial.
Military District No. 3.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

26

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to ..... as interpreter ?

Answer: .....

Question to the accused. Do you object to B-4233 - S.M. (W.O.I) F. A. Luet, No. 3 Detachment, C. M. S. C., C.A., as shorthand writer ?

Answer: No, sir.

The shorthand writer and interpreter (if any) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the (first) charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer. .....

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer. .....

(The accused having pleaded guilty to..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

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CHARGE SHEET

The accused, No. C 427765 Pte. Aime Joseph BRUNET, No. 9 District Depot, C.A., a N.R.M.A. soldier of the Canadian Army placed on Active Service is charged with:

FIRST CHARGE
Sec. 12(1)(a)
ARMY ACT

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

at Toronto, Ontario, at 1200 hours on 4th January 1945, absented himself from Midland Regiment at No. 2 District Depot, C.A., until apprehended by Civil Authorities at Casselman, Ontario, at 1545 hours on the 19th September 1945, dressed in civilian clothes.

SECOND CHARGE
Sec. 24(2)
ARMY ACT

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT, ARMS AND REGIMENTAL NECESSARIES

in that he

at Ottawa, Ontario, on the 24th September 1945, was deficient of the following articles, viz:

		C.A.R.O. 4559	Less 25% C.A.R.O. 3464
CATALOGUE SECTION "A"			
Overalls, combination,	1	2.52	1.89
Mitts, pullover leather, prs.	1	.93	.70
CATALOGUE SECTION "B"			
Boots, ankle, army, prs.	1	5.82	4.37
Drawers, cotton, prs.	1	.42	.32
Drawers, woollen, prs.	2	2.80	2.10
Jackets, sweater,	1	1.37	1.03
Shirts, flannel, khaki,	1	1.63	1.22
Socks, army prs.	4	1.84	1.40
Shirts, woollen,	2	2.40	1.80
Shirts, cotton, khaki,	1	1.95	1.46
Shirts, undercotton,	1	.43	.32
Shoes, leather, black, prs.	1	4.84	3.63
CATALOGUE SECTION "C"			
Brushes, hair,	1	.39	.29
Brushes, boot polishing,	1	.21	.16
Brushes, boot blacking,	1	.14	.11
Forks, table,	1	.08	.06
Knives, clasp,	1	.99	.74
Knives, table,	1	.18	.14
Spoons, table,	1	.08	.06
Towels, hand,	2	.62	.46
Pins, collar, safety,	1	.06	.04
Socks, black, prs.	2	.56	.42
CATALOGUE SECTION "1-A"			
Bags, ration,	1	.04	.03
Bottles, water,	1	1.24	.94
CATALOGUE SECTION "K"			
Blankets, G.S.	1	4.07	3.06
CATALOGUE SECTION "A-1"	In accordance with C.A.R.O. 5279		
Covers, breech,	1	.34	.34
CATALOGUE SECTION "B-1"	In accordance with C.A.R.O. 5279		
Bottles, oil,	1	.06	.06
Pullthroughs, single,	1	.14	.14
Rifle, No. 4 Mk. I	1	33.74	33.74
Bayonet,	1	1.87	1.87
Scabbard,	1	.62	.62
TOTALS:		$ 72.3[illegible]	$ 63.[illegible]

(R. Taylor) Lt. Col.,
Officer Commanding,
No. 9 District Depot, C.A.

Lansdowne Park,
Ottawa, Ontario,
25th September 1945

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Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

being duly sworn, is examined by the Prosecutor.

Question

BY THE PROSECUTOR: I present M.F.B.375, dated the 3rd of April, 1945, sir.

---M.F.B.375 is received, read, marked EXHIBIT "F", signed by the President and attached to the proceedings.

I present M.F.M.216, dated the 19th of September, 1945, sir.

---M.F.M.216 is received, read, marked EXHIBIT "G", signed by the President and attached to the proceedings.

RST WITNESS) FOR) ROSECUTION)

C-21608 - Cpl. A. J. WHITAKER, No. 9 District Depot, C.A., being duly sworn, is examined by the Prosecutor:

Q. What are your duties at No. 9 District Depot, C.A.?

A. I work in the Q.M. stores.

Q. Do you recognize this accused?

A. Yes, sir.

Q. As whome?

A. C-427765, Pte. Brunet, A. J.

Q. Have you had occasion to check the kit of the accused?

A. Yes, sir.

Q. On what date?

A. On the 25th September, 1945.

Q. And what did you check the kit with?

A. M.F.C.800, sir.

Q. Have you seen the charge sheet?

A. Yes, sir.

Q. And are the articles contained in the charge sheet?

A. Yes, sir.

Q. Are those the articles the accused was deficient?

A. Yes, sir.

Q. Have you a certified copy of the M.F.C.800 there?

A. Yes, sir.

---M.F.C.800, Certified True Copy, is received, read, marked EXHIBIT "H", signed by the President, and attached to the proceedings.

Q. Is the accused still deficient those articles?

A. Yes, sir.

Q. What is the total deficiencies, Corporal?

A. $63.46.

---The Defending Officer declines to cross-examine.

QUESTIONED BY THE COURT:

Q. What does this indicate to you, here (indicating), this intial "L" in the first column?

A. That rifle has been written off it, taken off charge.

Q. That the rifle has been taken off charge?

A. Yes, sir.

Q. That is, that originally, in respect of the rifle, this first number here, that rifle was issued?

A. Yes, sir.

Q. As indicated in column 1?

A. Yes, sir.

Q. And then taken back and taken off charge?

A. Yes, sir.

Q. That is the Quartermaster's representative's initial showing that. Then what happened was that rifle No.34L3390 was issued?

A. Yes, sir.

Q. And it is still shown on charge?

A. Yes, sir.

---The witness withdraws.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. .....

ST WITNESS) FOR DEFENCE)

The accused, C-427765 - Pte. Aime Joseph BRUNET, No. 9 District Depot, C.A., being duly sworn, states:

Well, we were just -- I was in the regiment. We went back to Vernon after we went -- passed four days at Vancouver, and then went to Vernon and there at first I was a batman and then I had no rifle for a while and after I quit the job that they gave me a rifle and after that, you see, that rifle was taken off for me because they gave me a machinegun. I had it only for about a week. I don't remember exactly. And after that we were put on draft overseas and they took off machinegun of uss because there was kind a revolver on there for conscription and later on they gave us a rifle and just one day or two day before I went on pass for our embarkation leave they all took off the rifle. That's all I could say on that, sir.

Well, you know, that has always been against my principle to go active or to go overseas to kill because in my own opinion it would be, you see, as I would have always see the fact of my victim in front of me. I have read a lot of book and I had formed my own opinion that war is so -- I mean, so mix up that we have the best thing just to defend our own country on our own soil, this I believe. I have done all my duty when I was in Canada. As long as they keep me in Canada I was ready to fight everywhere. And then, when they were called for overseas, well, I saw the Army Examiner and I told him all about this, that my conscience couldn't permit me to kill overseas so he gave me no satisfaction about that. So, I just went A. W. L. and when I was on leave I didn't went back. In a while I was helping my brother-in-law on his farm for a while, he needed very badly there. And, I

bought a small farm not far from there and I start repair the building and I want to get that repaired before I went to come and be arrested, you see. Any time I was A.W.L. for Canada had been invaded or anything like that I would have tried to defend my country. Well, I can see maybe you can believe that. I don't want to say to my relatives that I am not go overseas and kill somebody. I read a lot of book and I read a book Cry Havoc, Lets Slip the Dog of War. I had read that book about five, six years ago and I read it again the in Army, after.

CROSS-EXAMINED BY THE PROSECUTOR:

Q. You were stationed at Vernon, were you?

A. Yes, sir.

Q. And you were given embarkation leave?

A. Yes. Well, we all went to embarkation leave, all the regiment.

Q. You were warned for draft first?

A. Yes, sir.

Q. And at the end of your embarkation leave you were to report to Toronto?

A. Well, you see, I was supposed to report in Montreal but on the train I ask to stop at Sudbury because I know my brother was there and I want to see him. Maybes that's why it changed it to Toronto.

Q. You were in the Midland Regiment?

A. Yes, sir.

Q. And you were to report at Toronto, Ontario, at 1200 hours on the 4th of January, 1945?

A. It was supposed to be for Montreal. Sudbury was supposed to reported at Toronto.

Q. Those getting off at Sudbury were supposed to report at Toronto, therefore you were supposed to report at Toronto?

A. My pass was for Casselman.

Q. But you got off at Sudbury?

A. I have my pass here.

Q. Isn't that correct, Pte. Brunet? You know the situation, don't you?

A. Yes, sir.

Q. And you were to report by 1200 hours on the 4th of January, 1945?

A. Yes, sir.

Q. And you didn't report?

A. Yes, sir.

Q. You didn't report, did you?

A. No, sir.

Q. And you stayed absent without leave until you were apprehended by the civil authorities at Casselman Ontario?

A. Yes, sir.

Q. And that was at 1545 hours on the 19th of September, 1945, and you were dressed in civlian clothes; is that right?

A. Yes, sir.

Q. And you say you were issued with a rifle and bayonet and scabbard and pullthrough and oil bottle, weren't you?

A. Not when I went on leave.

Q. You were issued with them?

A. Yes, sir.

Q. And don't troops reporting to another unit, proceeding on leave, take all their equipment with them? Didn't the others take their rifles with them?

A. No, sir.

Q. How many were on the train?

A. All the regiment.

Q. And nobody had their rifles?

A. No, sir.

Q. Where were their rifles?

A. The Q.M. had taken them. They were put in box and sent, I suppose, by freight. I don't know.

Q. And you say you turned in your rifle before you went on your embarkation leave?

A. Yes, sir.

Q. And to whom did you turn it in to?

A. The Q.M. stores, a Sergeant-Major.

Q. Did they have your 800? Did you see whether the Quartermaster took the rifle off your 800?

A. I don't know.

Q. You didn't have any intention of coming back to the Army, did you?

A. Well, I was worrying that I would be apprehended.

Q. You were worried that you might be caught but if you were not caught you would not have returned?

A. I would have later on, sure.

Q. You are under oath. You have read lots of books. You wouldn't have come back if you weren't caught?

A. I would have come back .

Q. When Canada was invaded?

A. If Canada was invaded, sure.

Q. But you weren't going to come back if it wasn't invaded?

A. Not to go overseas. I don't see what is the use if I don't want to go overseas to kill.

Q. Did you have any intention of coming back to the Army at all?

A. Well, really, I had no real intention but I was

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about sure I would be caught.

Q. You bought yourself a farm while you were absent?

A. Yes, sir.

Q. You didn't intend to return?

A. Yes, sir.

Q. You didn't intend to return to the Army, did you?

A. Well, you know, I was expecting to go after --

Q. You were expecting to be caught; isn't that the truth?

BY THE COURT: Let him finish his answer.

BY THE PROSECUTOR: All right.

Q. Repeat your answer? What were you going to tell me? If I stop you in the middle of an answer you go ahead and finish your answer?

A. Well, I wanted to come here to work in Ottawa and I was sure I was going to be caught but really my principle was that I couldn't go because it look as if I want to just, to get through after that, you see, and I didn't want to show that, I didn't want to look like a coward who had just went to escape to be killed and then when it was all over come and be out. I knew I was going to be caught coming in Ottawa and I was ready to come here. I was sure I would be taken in about fifteen days. I was going to get a job from Selective Service.

Q. You told me you bought a farm?

A. Yes. On farm in winter we have spare time in winter.

Q. That's not what most of the boys tell me here. You have work on the farm in the winter?

A. Not just now because I have no livestock there and I was just going to buy them in the spring.

---The Defending Officer declines to re-examine.

QUESTIONED BY THE COURT:

Q. Did you make known your feelings to military authorities when you were called up for service?

A. Well, not at first but later on I told - when they asked me to sign active - I told them why I didn't sign. I told them at Vernon when I was in the Regiment de Hull there.

Q. You didn't object when you were called up?

A. No; because we were called under the Act for home defence, for the country.

Q. Parliament said that we would call you up for home defence?

A. Yes, sir.

Q. And you agreed in that?

A. I was ready to fight. [redacted]

Q. You were ready to fight for the safety of Canada?

A. Yes, sir.

Q. Parliament asked you to do it and you agreed and went in the Army?

A. Yes, sir.

Q. And you say the reason you went absent when you were to go overseas was that you could not fight anybody overseas; is that right?

A. Well, yes; I couldn't go and kill anybody in another country.

Q. If they invaded Canada you could kill them?

A. Yes.

Q. I just can't see your distinction in your conscience between killing a man in Canada or killing a

man outside of Canada?

A. Then I am sure I won't to do some harm to my country.

Q. Do you feel that when there is a threat to your country that you should remain on the shores of your own land and wait until the invader comes to you?

A. Well, if it is very clear, of course, that he is ready to come, invade your country, if we know for sure, well, --

Q. Then, you don't agree to going outside the country to defend it?

A. Yes.

Q. You feel then that there was no danger to Canada in this war?

A. Well, there was no real danger. I never believe they would come and attack Canada, except if they were provoked, you see. If he could show something and make damage, if they come down balloons or bombs.

A. Did you read about the Jap balloon bombs coming over Canada?

A. Yes, sir.

Q. Do you believe that?

A. Yes; I believe.

Q. Don't you think that was a real threat?

A. Yes; that was a threat to make some damage but I never thought they were --

Q. Didn't it indicate to you that they were probably sincere, that if they could get this far they would attack Canada?

A. If they --

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Q. If they had enough success in their conquest of other lands the fact that they were trying to drop bombs on Canada, didn't it indicate to you they might come to

Canada?

A. For the Japs I believe -- I wasn't so sure as for Germany. Maybe the Japs might come if they got very big.

Q. Sure, if they defeated the people outside of Canada they would come to Canada?

A. I knew the United States was there. I don't think very mich that they might have come.

Q. You don't. And that's why you didn't go overseas. If you had felt that they might have come you would have gone overseas?

A. Yes; if I had been sure they would come to Canada I would have gone to get them in their own country; not fight them in another country, keep them in their borders.

Q. You were ready to obey the government when they called you up for duty in Canada?

A. Yes, sir.

Q. But you weren't ready to obey them when they were going to send you overseas?

A. Yes, sir.

Q. You thought they were wrong?

A. Yes; I thought they were wrong.

Q. And you took the law into your own hands?

A. Well, I didn't like it very well. At first I was going to go overseas, then I thought it would be no use for me to go there and refuse to kill after. If they had transferred me in the Medical Corps, just to save life I would have been ready for it.

Q. Did you ask for that?

A. Yes; I ask a few times to go in the Medical Corps.

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QUESTIONED BY THE PROSECUTOR THROUGH THE COURT:

Q. What religon are you, Brunet?

A. Roman Catholic.

Q. And it is not against your religion to go overseas?

A. No, sir.

---The witness resumes his seat.

---The Prosecutor does not desire to make a closing address.

---The Defending Officer does not desire to make a closing address.

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E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

---The Prosecutor presents to the Court M.F.B.355 and M.F.M.6.

--These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir; through my Defending Officer.

BY THE DEFENDING OFFICER: The accused has been found guilty of desertion. Pte. Brunet is quite willing to assist in defending his own country in the event of an attack by enemy forces but to proceed overseas and join our forces to combat the enemy on his own soil, this he felt he could not do because his conscience would have bothered him. Had he been thrown into action and taken a human life would have meant the end of any peaceful existence for him. Previous to going absent he was interviewed by an Army Examiner to whom he explained his case but apparently he was not given any satisfaction. As a result of that Pte. Brunet decided to go absent. During the time he was away he purchased a farm from money he had saved before enlisting in the Army. Also, before going absent, he had requested two exemptions from the service to help out on the farm owned by his brother-in-law. The first request was submitted to higher authority but not granted. The second was not considered by Pacific Command because they did not think that they would consider such exemptions at the time. Prior to enlisting Pte. Brunet was employed as a painter, carpenter and also

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

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performed clerical work. He has only had one other charge against him during his 34 months of service, for which he was given C.B. In view of the above I would ask the Court to show leniency when passing sentence on the accused.

F

RECORD of the declaration of a Court of Inquiry, assembled at Exhibition Barracks, Toronto, Ontario, on the 28th day of March, 1945, for the purpose of investigating and recording the absence without leave from his duty and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of

C-427765 - Pte. BRUNET, A.J.

D E C L A R A T I O N

The Court declare that No.

C-427765 - Pte. BRUNET, A.J.

(Midland Regiment) illegally absented himself without leave from Midland Regiment at No.2 District Depot, C.A., Toronto, Ontario, at 1200 hrs, on the 4th day of January, 1945, that he is still so absent, and that on the 28th day of March, 1945, the Court was unable to say whether or not this soldier was deficient in Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing.

G.I. Alexander, Lt-Col., President,
48th HofC (HME) No.2 District Depot, C.A.

E.O. King, Major, Member,
QOR (HME) No.2 District Depot, CA.

B. Crossberg, Captain, Member,
Ir.R.of C. (HME) No.2 District Depot, CA.

Signed at Exhibition Barracks, Toronto, Ontario, this 3rd day of April, 1945.

SIGNATURE of Commanding Officer, O.S. Hollinrake, Col.
Officer Commanding, No.2 District Depot, CA.

CERTIFIED TRUE COPY J.E. Eyles Capt.
Adjutant, No.2 District Depot, C.A.
(Signature of Officer having custody of original record)

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CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY [redacted] SERVICE AUTHORITIES)

I, Major P. Gray (Number) O.C. 33 Coy.C.Pro.C. (Rank) (Name) (Unit)

hereby certify that C.427765 (Number) Pte. (Rank) Aime Joseph BRUNET (Name in full)

of the Midland Regt. (Unit and attachment, if any)

Strike out words not applicable ~~(a)~~ was apprehended by ([redacted] Cst. (Rank) R.W. Christy (Number)

R.C.M.P. Ottawa, Ont. (Name) (Unit or appointment)

at Casselman, Ont. (Place) at 1545 (Hour)

on the 19th day of September 19 45

Strike out words not applicable ~~(b)~~ as a deserter ([redacted] and that at the time of his arrest he was [redacted] (dressed in civilian clothes). and on 19 day of Sep 45 was taken into military custody by 33 Coy.C.Pro.C. on arrest.

Dated at Ottawa, Ont. this 19th day of Sep. 19 45

(P. Gray) Major
(Signature, Number, Rank, Unit or appointment)
O.C. 33 Coy.C.Pro.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

No costs of apprehension in this case.

Reg. No. 93308

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CLOTHING SIZES RECORD

ARTICLE	SIZES
lets	2
tle Dress, blouse	5
tle Dress, trousers	3
or bonnet	7¼
ts, ankle	8F
ves	M
epiece, respirator	N
atcoat	4
imet steel, lining	
eralls, combination	36
sey, pullover	M
irts, Angola, drab	14½
st, woollen	36
awers, cellular	36
awers, woollen	36

20 A.

certified True copy

OVERSEAS—Militia Book M. 1 Part III
CANADA

40/P & S/1894 (5975)
—M.F.C. 800
350M 11-44 (5975)
H.Q. 1772-35-1843
K.P. 21110

6427765

No. 8 DISTRICT DEPOT
OTTAWA

CANADIAN ARMY
CLOTHING AND EQUIPMENT
STATEMENT

Regt'l. No. 6 427765

Rank Pte

Name Brunet A. J

Date of Attestation March 13 1942

Original Unit #3 P.D. Station OTTAWA

Home Address (Reserve Unit Personnel Only)

Pte Brunet A J

INSTRUCTIONS TO SOLDIER
(OVERSEAS ONLY)

1. You will always carry this book on your person and are responsible for its safe custody. (Officers need not carry this book on their person but will be responsible for its safe custody).

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS ONLY)

1. Unit equipment (e.g. compasses, binoculars, special clothing for cooks, m/cyclists, etc.) will not be recorded on this statement.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS AND CANADA)

1. This statement will be used to record articles of personal clothing and equipment issued to each soldier.

2. All entries will be made in ink. Blank spaces in columns will be ruled through. All columns used will be initialled in the space provided by soldier and by the QM, or his representative.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AT EACH KIT INSPECTION

Certified that the record detailed in this statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE	DATE	SIGNATURE	DATE
[illegible]	1/10/41		

ARTICLE	QUANTITY					
.....	/					
.....	/					
.....	/					
...dges, shoulder, Canada, drill, prs..	/					
...acking, tins.....	/					
...ot dressing, tins.....	/					
...ootlaces, prs.....	/					
.....	/					
...rotectors, ear.....	2					
...ponge, pipeclay.....	/					
...anyard, pistol.....	/					
.....	/					
.....	/					
.....	/					
.....	/					
Initials of Soldier.....	[illegible]					
Initials of QM or Rep.....	[illegible]					

3. Items withdrawn from soldier will be marked off by an "X" in ink, over the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS
(CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner.

ARTICLE	QUANTITY					
Anklets, web, prs.	2	1				
Blouses, Battle-dress	2					
Bonnet, tam-o'shanter	1					
Boots, ankle, prs.	1	2				
Boots, rubber, high, prs.	1					
Boots, leather, high, prs.	2					
Bonnet, drab, Irish	1					
Cap, field service	1					
Cap, mechanic	1					
Cap, tank battalion	1					
Drawers, Cellular (cotton) short, prs.	2					
Drawers, Woollen, prs.	2					
Gloves, knitted, drab, prs.	1					
Greatcoat, drab	1					
Initials of Soldier	[illegible]	[illegible]				
Initials of QM or Rep.	[illegible]	[illegible]				

ARTICLE	QUANTITY					
Mit[illegible]ullover, leather, prs.	1					
Muffler, khaki	1					
Necktie, black	1					
Pin, collar, safety	1					
Puttees, prs.	1					
Rubbers, prs.	1					
	1					
Shirts, khaki, cotton	2					
Shirts, undercotton	2					
Shoes, leather, black, prs.	1					
Socks, black, prs.	2					
Trousers, khaki drill, prs.	1					
Trousers, khaki drill, short, prs.	2	1				
Trousers, serge, drab, N.P. prs.	1					
Initials of Soldier	[illegible]	[illegible]				
Initials of QM or Rep.	[illegible]					

ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY					
Belts, waist, leather, brown or web 1½"	1	1	1			
Boots ankle, felt, prs.						
Boots, insoles, prs.						
Boots, lumberman's rubber prs.						
Buttons, G.S., large	4	4	8			
Buttons, G.S., small	4	4	8			
Cap, winter, melton cloth			1			
Coat waterproof. ARMY		1	1			
Helmet, sun						
Jackets, Khaki drill	1	1	1			
Jackets, serge, drab, O.C.						
Buckle Brass K.D	1	1	1			
Initials of Soldier	[illegible]	[illegible]	[illegible]			
Initials of QM or Rep.	[illegible]	[illegible]	[illegible]			

ARTICLE	QUANTITY					
Jacket, sweater, or ~~jersey pullover~~	1					
Overalls, combination	1					
Overalls, blouses, denim						
Overalls, trousers, denim						
Shirts, Angola, drab or flannel khaki	2					
Shoes, canvas, prs.	1					
Socks, prs.	4					
Trousers, battle-dress, prs.	2					
Vests, woollen	2					
Badges, cap. M.R	1					
Badges, arm, drab, crowns						
Badges, arm, drab, crown in wreath						
Badges, arm, Tank Bn.						
Badges, shoulder, "CANADA", prs	1					
Initials of Soldier	[illegible]					
Initials of QM or Rep.	[illegible]					

ARTICLE	QUANTITY					
ges, arm, drab, Royal Arms	1					
ges, arm, drab, Royal Arms in Wreath	1					
s, kit, universal	1	2				
ces	1					
s, cleaning	1					
sh, button, brass	1					
sh, clothes	1					
sh, hair	1					
sh, shaving	1					
sh, shoe, blacking	1					
sh, shoe, polishing	1					
sh, tooth	1					
, comforter	1					
wrons	1					
ials of Soldier	[illegible]					
ials of QM or Rep.	[illegible]	[illegible]				

ARTICLE	QUANTITY					
Rifle No. ~~[illegible]~~ (Regt'd No.) (3[illegible])	2	1				
Bayonet No. ..... w/scabbard	2	1				
Bottles, oil	2	1				
Pullthroughs, single	2	1				
Rods, cleaning, pistol	1					
Carbine, Mach. (Regt'd No.) (.....)	1					
Magazines, Carbine	1					
Pistol Revolver (Regt'd No.) No. ..... (.....)	1					
Ctges, SA, revolver .380 in.	1					
Ctges, SA, .303 in Mk VII	1					
	1					
	1					
	1					
	1					
Initials of Soldier	[illegible]	[illegible]				
Initials of QM or Rep.	[illegible]	[illegible]				

ARTICLE	QUANTITY					
...il, face, camouflage	1	1				
...ice	1	1				
	1	1				
	1	1				
...apes, A/G	1	1				
...espirators, A/G, complete with haversack	3	1				
...atfits, A/D	1	1				
...intment, A/G	2	2				
...yeshields, A/G, pk of 6	1	1				
...etectors, Individual prs.	2	2				
...allet, A/G	1	1				
...lanket	1	1	1			
...lug, drinking	1	1	1			
...heet, ground	1	1				
...nitials of Soldier	[illegible]	[illegible]	[illegible]			
...nitials of QM or Rep.	[illegible]	[illegible]	[illegible]			

ARTICLE	QUANTITY					
Com[illegible]air	1					
Discs, identity, sets, with cord	1					
Dressing, field	1					
Fork, NS Table	1					
Holdall	1					
Housewife, complete	1					
Knife, clasp	1					
Knife, table	1					
Lanyard, knife	1					
Razor, safety, with blade	1					
Patches, distinguishing, prs.	1					
Shorts, gymnasium	1					
Spoons, NS dessert	1					
Vest, cotton, gym	1					
Initials of Soldier	[illegible]					
Initials of QM or Rep.	[illegible]					

ARTICLE	QUANTITY					
vels, hand	2					
it or Corps titles, prs.	5					
	/					
	/					
tachments, brace						
g, ration	1					
dts, waist	1					
ottles, water	1					
races, WE (Right)	1					
(Left)	1					
arriers, cartridge	2					
arriers, waterbottle	1					
ases, binoculars	/					
ases, pistol	/					
Covers, breech, rifle		1				
Initials of Soldier	(RJB)	(RJB)				
Initials of QM or Rep.						

ARTICLE	QUANTITY					
Cove[illegible]ess tin	1	1				
Frogs, web, bayonet	1	1				
Haversack	1	1				
Helmet, steel	1	1				
Net camouflage helmet	/	1				
Packs	1	1				
Pockets Compass	/	/				
Pouches, amm, pistol	/	/				
Pouches, basic	/	2				
Pouches, utility Front	/					
Pouches, utility Rear	/					
Slings, rifle, web	1	2	1			
Straps, shoulder, haversack left	1	2				
Straps, shoulder, haversack right	2	2				
Straps, web, supporting	1	1				
Tins, mess, TP	(RJB)	(RJB)	(RJB)			
Initials of Soldier						
Initials of QM or Rep.						

M.F.B. 358
75M—5-43 (145)
H.Q. 1772-39-420
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 427765	Pte.	Aime Joseph BRUNET,	No. 9 District Depot, C.A.M.C.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery, Conduct Sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	neglect to the prejudice of	one times	neglect to the prejudice of	one times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct nil

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by~~

~~Previous convictions of the accused by a Court-martial or a civil court, of summary awards under~~ Air Force Act ~~Section 47 of the Army Act and dispensations with trial under~~ A.F.A. 73 A.A. 73 are set out in the Schedule ~~annexed to this Statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~of~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment form ~~attestation paper~~ is 28 years 8 months

6. The date of his ~~commission~~ enrolment ~~attestation~~ specified in his ~~record of service~~ enrolment form ~~attestation paper~~ is 13 March 1942

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward. military.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

5

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial ~~is a true extract~~ from the regimental books in my custody.

Signed this 29th day of Sept 1945

(W.A. Stewart) Captain,
Officer i/c Records,
No. 9 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. O-427765 Name BRUNET, A.J.

Sqn., Battery, or Company } 1st Bn. Midland Regt., Corps

Enrolled 13 Mar 42

Date of last entry in Company Conduct Sheet }

No. and date of last drunk }

Period not reckoning towards freedom from extra fine }

Date of enlistment }

G.C. Badges }

Service or Proficiency Pay }

Sheet No. ONE

Signature O.C. Company, etc. }

Character

M.F.M. 6 (A.F.B. 122) 300M—11-45 (30287) H.Q. 1772-48-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vernon, B.C.	31 Oct 1944	Pte.		NEGLECT TO THE PREJUDICE etc. failed to carry out his duties as a batman. AA 40.	RSM F.ROSS	7 days C.B.	1 Nov 44	Lt. Col. H.E.BRICKER	(sgd) P.W. Cr

CERTIFIED TRUE COPY

W. A. Cameron Captain,
Officer i/c Records,
No. 9 District Depot, C.A.

H.Q.C.55-B-2032 (JAG/D-8)
Your PCO: B-23

12 Oct 45

The District Officer Commanding,
Military District No. 3, Kingston, Ont.

STANDING COURT-MARTIAL

C.427765 Pte. Aime Joseph Brunet,
No. 9 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

MO/MM

3

BM-7-45(M-188)

THIS COPY FOR:

H.Q. 55-B-2032
M.P.C.O: B-23

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. C-427765 Name Aime Joseph BRUNET

Rank Pte. Unit No. 9 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion.....

AA 24 (2)
(2) Losing by neglect.....

Date of Crime 4-1-45 (2) 24-9-45

Date of Arrest 10-9-45 Charge Signed 25-9-45

Orders for D.C.M.

Place and Date of Trial Court Martial Bldg, Lansdowne Park 29-9-45

Sentence Detention 10 mos. Stoppages $26.75

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40223

Date 10-10-45

MEMO.

M.D. 3

Absent
8 mos. 6 days.

No. 9 D.D. C.A.

Sentence
Det. 10 mos.

2

-9-45(M-185)

for Judge Advocate-General

CANADA

IN REPLY PLEASE QUOTE
No. PCO: B-23

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Ottawa, Ontario, 29th Sept., 1945.

C.55-B-2032

Judge Advocate General,
Department of National Defence (Army),
Ottawa, Ontario.

Standing Court-Martial
C-427765 - Pte. A. J. Brunet
No. 9 District Depot, C.A.

Herewith record of proceedings of the trial of the m/n by Standing Court-Martial, together with M.F.B.246.

10223

(R. K. Laishley) Major,
President Courts-Martial,
Military District No. 3.

N.D. 23
9M—10-44 (5769)
SQ. 1772-101-23

H.Q.C. 55-B-2033 CONFIDENTIAL

N.F.R. 1939
15M—4-43 (3655)
H.Q. 201-3-89

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BRETON, JOHNNY E-610552 PTE.

H.Q.C. 55-B-2033

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 11 1945	11/10/45			JAG	NEW FILE	CR	9-10-45
					With Papers C.R. OCT 24 1945		
OCT 25 1945	26/10/45						
DEC 22 1945	21/12/45				For Jurisdiction C.R. NOV 19 1945		
					With Papers C.R. DEC 30 1945		
JAN 8 1946 JAN 9 1946	9/1/46			CMBR	To note	ELM	7-1-46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. Q:-39-B-3241. (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE 28 DEC 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

Central Registry Army
OTTAWA ONT.
17823
DEC 30 1945
File
Chg to
Referred to

REMISSION OF SENTENCE

E 610552 Pte BRETON Johny
Gen List (Att No 5 DD)

1. Ref HQC. 55-B-2033 (JAG/D-6) 25 OCT 45.

2. A remission of sentence in this case has been granted w.e.f. 22 DEC 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

Noted.
JAG Capt.

Q'ty. CMBR 3

NAT. DEF. B. 140
2500M 4 49 (4321)
H.Q. 1772-39-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-B-2033. (AAG/D-6)
District File No. R.39-B-3241. (D4)

PART I

No. E.610552 Rank Pte Name BRETON, Johny

Unit Gen.List.(Att.No.5.DD)

PART II

Date of trial 27.SEP.45.

Charges Sec. 12(1)(a) AA. Sec. 24(2) AA

Sentence 150 days of detention & stoppages of pay for $23.58.

Date of Sentence 28 SEP 45.

Confirmation - (a) Authority SCM

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E.610552 Pte BRETON Johny Gen List (Att.No.5.DD)

22 DEC 45.

Signed at QUEBEC, P.Q., this 17th day of DEC 45.

Edmond Blais

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon

this 24th day December 194 5

(B. TASCHEREAU) Liut.
R 22 e R. att 5DD
Officer i/c Documents (1)

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-610552 Rank Pte Name BRETON Johny

The sentence of 150 days detention and stpRD 23.58

awarded by Court-Martial on the 28 Sep 194 5

has been remitted

on the 22 Dec 194 5 by Brig EDMOND BLAIS CBE MC
D.O.C. MD 5

Unit No 5 District Depot.

Certified true Extract of Daily Orders Part II of

No. 316 Place Lauzon Date 26 Dec 45.

(J. A. BROCHU) Lieut.
Gen List att 5DD
Adjutant.

f. 39-B-3241

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-610552 (Number) Pte. (Rank) J. BRETON (Name in full)

Gen. Lt. (Unit) 5DD (Attachment (if any))

Sentenced to 150 days'det.

on 27-Sep-45 at Datzon

being served at Valcartier (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 25 yrs 2 mths

Medical grade or category -

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on 30 November 1945, (date)) for reasons given in paragraph X.

Place QUEBEC QUE

Date 23 Oct 45.

Edmond Blais
(Edmond BLAIS) - Brigadier
D.O.C., MD No.5.
(Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
(Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 288
(Army Form A-3104)
15M—4-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
28 DEC 45.	Remission of sentence granted effective		22 DEC 45.
		Edmond Blais (EDMOND BLAIS) Brigadier District Officer Commanding Military District No 5	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA SEc 12(1)(a) AWL from 0800 hrs 31 Mar 45 until 0015 hrs on 13 Sep 45, in uniform.	31-3-45	27-9-45
AA SEC 24(2) LOS BY NEGL HIS EQUIP CLOTH AND REGT'L NEC. for $14.92	21-9-45	27-9-45
Jules Pariseau Capt. Signature of Officer making entry		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
17 Oct 45	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	G.L. Taschereau (G.L. TASCHEREAU) A/Commanding Officer

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

CANADA

IN REPLY PLEASE QUOTE
No. Q: 39-B-3241 (DA)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters
Military District No 5
QUEBEC QUE 18 DEC 45 194

The Secretary
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY Army
16100
DEC 19 1945
CMBR
CMBR

E610652 Pte BRETON J

Ref HQC 55-B-2033 (CMHR-3) EMA dated 13 DEC 45.

2. The mn has been granted remission of sentence wef 22 DEC 45.

(Edmond BLAIS) Brigadier
District Officer Commanding
Military District No 5

List amended.
AG Capt.
CMBR-3

N.D. 28
(1)—5-43 (321)
A-772-101-23

MFM 288 or AFA 3104 have been requested

DEC 13 1945

HQC 55-B-2033 (JAG/D-6)

25 Oct 45

District Officer Commanding,
Military District No. 5,
Quebec, Que.

Standing
E.610552 Pte. Johnny BRETON
GL CA Att No. 5 DD CA
.....Court-Martial

Q. 39-B-3241 (JA)

23rd October 5

Receipt is acknowledged of the
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.L.M.
for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

28

IN REPLY PLEASE QUOTE No. Q. 39-B-3241 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 23 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

CENTRAL REGISTRY Army
COMT. SECT.
4812
OCT 24 1945
File CIT- B-2033
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL

E-610552 Pte Johnny BRETON
GL,CA, Att No.5 DD CA.

1. Ref HQC. 55-B-2033 (JAG/D-7) dated 11 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

27

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Dépôt Régional No.5,A.C.,Lauzon,P.Q.

levingt-septième jour de septembre 1945 à 1540 heures,

pour le procès de E-610552 Soldat Johnny BRETON
Matricule Grade Nom et prénoms

Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C.,
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Quartiers-Généraux, R.M. No. 5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent, Quartiers-Généraux, Région Militaire No.5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant F. MARTINEAU,
Grade Nom et prénoms

Régiment de la Chaudière, attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

" LA COUR DECLARE LE PREVENU:-

E-610552- Soldat Johnny BRETON, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C., innocent de l'accusation de désertion mais coupable d'absence sans permission sous le premier chef d'accusation et coupable sous le deuxième chef d'accusation".

D

SENTENCE: " LA COUR CONDAMNE LE PREVENU:-"

E-610552- Soldat Johnny BRETON, Liste Générale,A.C., attaché au Dépôt Régional No. 5, A.C., à subir une peine de cent cinquante (150) jours de détention et à une supression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, à savoir:-$14.91", ainsi que le coût de son apprehension et de son retour à l'unité, à savoir:- $23.58".

D

26

Signé à 5DD,A.C., Lauzon, P.Q. ce vingt-huitième jour de septembre 1945.

Pierre Decary - Major.
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 40222 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 10 day of Oct 1945.
L.J.R.

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.*~~ ~~Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à Mademoiselle HELENE LAVOIE comme sténographe ?

Réponse: Non, monsieur.

La sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermentés.

(POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir document marqué "F" ci-joint).

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

~~*Question à l'accusé.*~~ ~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

25

(L'accusé s'étant avoué coupable sur le deuxième chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

ACTE D'ACCUSATION

Le prevenu, E-610552Soldat Johnny BRETON, Liste Generale, A.C., attache au Depot Regional No.5, A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(1)(a)
N.D.Y Act

D'AVOIR EN ACTIVITE DE SERVICE,
DESERTE LE SERVICE DE SA MAJESTE,

en ce que,

a Lauzon, P.Q., a 0800 heures, le 31 mars 1945, il s'est absente sanspermission du Depot Regional No.5, A.C., jusqu'a ce qu'il soit apprehende par les autorites militaires, a Stornowy, P.Q., a 0015 heures, le 13 septembre 1945, en uniforme militaire, le cout de son apprehension et de son retour a l'Unite etant de $23.58.

DEUXIEME CHEF
Art. 24(2)
N.D.Y Act

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES SES EFFETS D'EQUIPEMENT D'HABILLEMENT ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Lauzon, P.Q., le 21 septembre 1945, il etait deficient des articles suivants:

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "A"		
1 Anklet web pr	.74	.55
1 M.tts pull. leat.	.93	.70
HABILLEMENT DIVISION "B"		
1 Boot ankle pr	4.78	3.58
2 Drawers cotton short	.84	.63
2 Drawers woollen	2.80	2.10
1 Shoes canvas pr	2.29	1.72
1 Shoes leather black pr	4.84	3.63
2 Socks woollen prs	.92	.69
HABILLEMENT DIVISION "C"		
1 Blacking tin	.05	.04
1 Brass button	.04	.03
1 Cap comforter	.41	.31
1 Comb hair	.04	.03
1 Razor set	.42	.31
2 Towels hand	.62	.46
HABILLEMENT DIVISION "A-1"		
1 Frog bayonet	.18	.13
TOTAL:	$ 19.80	$ 14.91

24

Lauzon, P.Q.
25 septembre 1945

Pierre Taschereau

(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent, 5e District Militaire

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~Le premier témoin cité,~~

~~étant dûment assermenté, est interrogé par le procureur.~~

~~Question~~

" LE PROCUREUR REMET AU PRESIDENT

LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE"

1.- Une formule M.F.B. 375, en date du 30 avril, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2.- Une formule M.F.M. 216, en date du 13 septembre, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

3.- Une formule M.F.B. 1481, en date du 14 septembre, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "I", signé par le Président et versé au dossier.)

4.- Une formule M.F.B. 1481, en date du 17 septembre, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "J", signé par le Président et versé au dossier.)

5.- Une formule M.F.B. 1482, en date du 17 septembre, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "K", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-

Le procureur n'a pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sous serment. (voir page D-3 et suivantes)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

~~*Question à l'accusé.*~~ ~~Entendez-vous uniquement un témoin à l'appui de votre réputation?~~

~~*Réponse:*~~

TEMOIN POUR LA DEFENSE:-

L'accusé:- Mat. E-610552- Soldat Johnny BRETON, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C.

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR:-

Q.- Depuis quand êtes-vous dans l'armée?
R.- Le 28 août 1941.

Q.- Où avez-vous été stationné la plupart du temps?
R.- A Valcartier.

Q.- Quel était votre ouvrage à Valcartier?
R.- Chauffeur de camion.

Q.- Avez-vous toujours fait cela?
R.- Non, monsieur, j'ai travaillé dans la cuisine, travaillé sur les camions.

Q.- Voulez-vous dire à la Cour pourquoi vous vous êtes absenté?
R.- Je me suis absenté par rapport qu'ils ont refusé de me soigner, premièrement; deuxièmement par rapport que mon père est âgé, il avait besoin de moi pour travailler sur la terre.

Q.- Vous dites qu'ils ont refusé de vous soigner? voulez-vous raconter à la Cour comment ça?
R.- Par rapport que l'armée a dit que c'était une opération qui ne se faisait pas dans l'armée, trop grave pour se faire dans l'armée. J'ai été à l'hôpital de Valcartier trente-deux jours pour cela; j'ai été transféré à l'Enfant-Jésus, l'armée a refusé l'autorisation de m'opérer.

Q.- Avez-vous été longtemps à l'Hôpital de l'Enfant-Jésus?
R.- Quarante jours.

Q.- Quel était votre pulhem quand vous êtes sorti de l'Enfant-Jésus?
R.- Quand j'ai sorti mon pulhem était P-5, ils m'ont descendu à P-3, il y en a qui ont marqué P-5 et un autre P-3.

Q.- Avez-vous demandé l'autorité de l'armée pour être opéré?
R.- J'ai pas demandé parce-qu'ils m'ont envoyé à l'hôpital pour cela pour me faire opérer, j'étais accepté, l'armée a refusé. Le médecin de l'hôpital a demandé l'autorisation et l'armée a refusé.

21

Q.- Savez-vous pourquoi l'armée a refusé?
R.- Ils ont dit que c'était trop grave, que c'était un cas que je pouvais mourir.

Q.- Êtes-vous encore malade?
R.- C'est la même maladie, j'ai mal à la tête quand même.

Q.- Avez-vous été soigné?
R.- Je me suis soigné moi-même, j'ai pris des pastilles.

Q.- Qui vous disait que ces pastilles étaient bonnes?
R.- C'est moi-même parce que ça me faisait un peu de bien.

Q.- Etes-vous fils de cultivateur?
R.- Oui, monsieur.

Q.- Avez-vous demandé une exemption comme fils de cultivateur?
R.- Oui, monsieur.

Q.- Plusieurs?
R.- Trois, je les ai eu toutes les trois.

Q.- Est-ce que vous en avez demandé d'autres?
R.- Oui, monsieur.

Q.- Est-ce que vous l'avez obtenue?
R.- Non, monsieur.

Q.- Savez-vous pourquoi?
R.- Je ne sais pas pourquoi.

Q.- Quelles étaient vos intentions au sujet du service militaire quand vous êtes parti du camp?
R.- Travailler sur la terre jusqu'à l'automne, quand les labours auraient été finis je me serais rapporté.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:

Q.- Soldat Breton, est-ce que c'est parce-que vous étiez malade ou c'est pour travailler sur la terre que vous êtes parti?
R.- C'était pour travailler sur la terre, venir en aide à mon père.

Q.- C'est pour cela que vous êtes parti? 20
R.- Oui, monsieur.

Q.- Quand vous avez demandé votre dernière exemption?
R.- Au mois de novembre.

Q.- En 1943?
R.- En 1944.

Q.- Quand avez-vous eu une réponse?
R.- A peu près quinze jours après.

Q.- Vous n'avez pas fait d'autre demande?
R.- Ils ont dit de me rapporter à mon unité au dépôt, à Lauzon.

Q.- On dit que vous avez été absent du 31 mars au 13 septembre 1945, est-ce exact?
R.- Oui, monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

-o-o-o-o-o-o-

- LE TEMOIN REPREND SON SIEGE-

Le Procureur soumet la cause telle que prouvée et l'Officier Défenseur prononce une plaidoirie

-o-o-o-o-o-o-o-

D

19

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au deuxième chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

LE PROCUREUR:- " Si l'accusé avait plaidé non coupable au deuxième chef d'accusation, j'aurais établi au moyen de la formule 375 et du témoignage du quartier-maître que le 21 septembre, 1945, l'accusé a été trouvé déficient d'articles pour un montant de $14.91".

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d). Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: (l'accusé par son Officier-Défenseur, dit:)

" J'ai des lettres ici à produire. J'ai ici une lettre de l'agronome et une lettre du maire".

(Ces documents sont lus par la Cour, marqués respectivement "L" et "M", signés par le Président et versés au dossier.)

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

"P"

" MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE "

" A 1542 heures, le vingt-septième jour de septembre, 1945, la Cour s'est ajournée".

-o-o-o-o-o-o-

" A 1700 heures, le vingt-septième jour de septembre, 1945, la Cour se rassemble".

-o-o-o-o-o-o-o-

" A 1702 heures, le vingt-septième jour de septembre, 1945, la Cour s'est ajournée".

-o-o-o-o-o-o-o-

" A 1120 heures, le vingt-huitième jour de septembre 1945, la Cour se rassemble".

16

-o-o-o-o-o-o-o-o-

- LE PROCES SE POURSUIT -

"G"

RECORD of the Declaration of a Court of Inquiry assembled at LAUzon, P.Q. on the 30th day of APRIL 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-610552 Pte BRETON J. NRMA No.5 DD.

DECLARATION

The Court declare that No. E-610552 Pte BRETON J. NRMA No.5 D.D. illegally absented himself without leave from No.5 D.D. LAUZON CAMP at LAUZON,PQ at 0800 hours on the 31st day of MARCH 1945 that he is still so absent, and that on the 30th APRIL 1945 he was deficient, and that he is still deficient of the following articles:-

ARTICLES		VALUE		ARTICLES		VALUE	
CLO. DIV. "A"							
Anklets Web Pr	1		74				
Coat Waterproof Army	1	6	91				
Dressing First Field	2		26				
Mitts Pullover Leather Pr	1		93				
CLO. DIV. "B"							
Battle Dress Blouse Serge	1	8	50				
Battle Dress Trousers Serge	1	6	55				
Boots Ankle Pr	1	5	82				
Cap Field Service	2	1	40	40			
Boots Ankle Feat Pr	1	4	78				
Drawers Cotton Short	2		84				
Drawers Woollen	2	2	80				
Jacket Sweater	1	1	37				
Shirts Khaki Cotton	3	4	62				
Shirts UnderCotton	2		86				
Shirts Woollen	2	2	40				
Shoes Canvas Pr	1	2	29				
Shoes Leather Black Pr	1	4	84				
Socks Woollen Prs	4	1	85				
CLO. DIV. "C"							
Blacking Tin	1		05				
Boot Dressing Tin	1		05				
Boots Laces Pr	1		03				
Brass Button (Stick)	1		04				
Brush Boot Polishing	1		21				
Brush Button	1		11				
Brush Shaving	1		42				
Brush Tooth	1		09				
Cap Comforter	1		41				
Comb Hair	1		04				
Holdall	1		22				
Housewife	1		35				
Pin Collar	1		06				
Razor Set	1		42				
Socks Black Prs	2		56				
Towels Hand	2		62				
CLO. DIV. "D"				TOTAL:-	$	59	70
Badge Cap Ass.	1		09				
SECTION "A-1"				75% VALUE:-	$	44	78
Frog Bayonet	1		15				

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Pierre Decary
(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

Signed at LAUzon,P.Q.
this 30th day of APRIL 1945

(J.U.G. GIRARD)Capt 5 D.D. President
(G. BEAUCHAMP)Capt 5 D.D. Member
(P.G. BLAIS)Lieut 5 D.D. Member

Signature of Commanding Officer(Jean LA FONTAINE)Colonel
M.C. OC No.5 D.D.

Certified True Copy
Signature of Officer having custody of original record)

Benoit Tremblay
RECORDS OFFICE
No.5 District Depot
Lauzon, P.Q.

C.F.B. 375

R01(500) 18-4-45

"H"

Pierre Decary

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Captain (Number) P.P. Belzile (Rank) 1/c. Megantic Detachment. No.36 Co'y, C. Pro. C. (CA) (Name) (Unit)

hereby certify that E-610552 (Number) Pte. (Rank) J. BRETON. (Name in full)

of the N.R.M.A. LAUZON. (Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~XXXXXXXX~~ E-34879 (Number) Sgt. (Rank)

J. Bonenfant. (Name) Megantic Detachment No.36 Co'y, C. Pro. C. (CA) (Unit or appointment)

at Stornowy, P.Q. (Place) at 0015 (Hour)

on the 13th day of September, 1945.

Strike out words not applicable } as a ~~XXXXXXXX~~ absentee without leave), and that at the time of his arrest he was wearing military ~~XXXXXX~~ uniform ~~XXXXXXXXXXXXXXXX~~).

Dated at Megantic, P.Q. this 13th day of September, 1945.

P.P. Belzile Capt

(P.P. Belzile.)- Captain
(Signature, Number, Rank, Unit or appointment)
1/c. Megantic Detachment.
No.36 Co'y, C. Pro. C. (CA)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

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"I"

(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description / Strike out word not applicable / Complete / Full description of soldier being escorted / Strike out phrase not applicable

I, Capt. Marc Pelletier (Rank) A/O.C. 36 Coy., C. Pro. C. (Name) (Unit) hereby certify that I ~~[illegible]~~ (authorized) the hereinafter itemized transportation for escort to proceed from Megantic, P.Q. (Place) to Stornowy, P.Q. (Place) and return to Colinsville Jail, P.Q. (Place) for the purpose of escorting E-610552 (Number) Pte. (Rank) J. BRETON (Name in full) N.R.M.A. Lauzon (Attachment, if any) alleged to be ~~[illegible]~~ an absentee without leave, the facts, date and particulars of ~~the~~ ~~[illegible]~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

	PARTICULARS	COST
13-9-45	D.N.D. Vehicle from Megantic, P.Q. to Stornowy and from Stornowy, P.Q. to Colinsville Jail.	
	68 miles at $0.06 per mile.....	$4.08
	TOTAL	$4.08

Dated at Cove Fields, Que. this 14th day of September A.D. 19 45

(Marc Pelletier)-Capt. A/O.C. 36 Coy, C.Pro.C. (Ca

Signature, rank, unit, attachment (if any) and appointment of officer ~~[illegible]~~ (authorizing transportation)

(Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1481
(35m—10-42 (4468)
H.Q. 1773-99-2555

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CENTRAL REGIONS
SEP 18 1945
U.S. DISTRICT DEPOT
LAUZON, QUE.

"J"

Pierre Decary

ABSENTEES AND DESERTERS

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1099, 1941

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieutenant R. Drapeau, Off.i.c. Transport, D.S. & T.O., M.D.5
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) ~~authorized~~ the hereinafter itemized transportation for escort

Complete — to proceed from Quebec, P.Q. (Place) to Sherbrooke, P.Q. (Place)

and return to Quebec, P.Q. (Place)

Full description of soldier being escorted — #-010552 Pte. Breton. J. ~~E-C01466 Pte Cartier R.~~ for the

Strike out phrase not applicable — purpose of escorting absent without leave, the facts, date and particulars of (the transport warrants issued) ~~[illegible]~~ No.5 D.D. alleged to be a deserter or absentee ~~without leave~~ ~~[illegible]~~ and the cost thereof for said soldier and escort being as follows:—

Particulars	Cost
Transport Warrant No. D-122094-5 issued	
on 16-9-45 covering transportation	
of E-57755 Cpl. Roberge J.P.	8.20
E-21389 Pte Bouly R.	Tax 1.20
No. 5 D.D.	
escort from Quebec P.Q.	
to Sherbrooke P.Q. and return to Quebec.	
Transport Warrant No. D-122094-5 issued	
on 16-9-45 covering transportation	2.05
for the absentee from Sherbrooke P.Q.	Tax .30
to Quebec P.Q.	
Total	$ 11.75

Dated at Quebec, P.Q. this 17 th day of September A.D. 19 45

R. Drapeau
Lieut., Off.i.c. Transport
D.S. & T.O., M.D., No.5
Signature, rank, unit of officer issuing transport warrants
~~authorizing transportation~~
Strike out description not applicable

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

M.F.D. 1461
9681—7-41 (1178)
H.Q. 1772-39-1461

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"K"

(PIERRE DECARY) MAJOR
PRESIDENT, S. C. M.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(INCIDENTAL EXPENSES)

Complete description — I, E-57755 Cpl. ROBERGE, J.P. (No. Rank Name) No. 5 DD LAUZON (Unit)

Strike out words not applicable — as (escort) (~~[illegible]~~) consisting of myself and E-21389 Pte. BOULY R.

Members of escort

detailed to proceed from Quebec, P.Q. (Place) to Sherbrooke, P.Q. (Place)

Name and description of soldier escorted — to return E-610552 Pte. Breton, J.

alleged to be a deserter ~~or absentee without leave~~, to No. 5 D.D. LAUZON, P.Q. (Place)

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
14 sep 45 Dinner for 2 escorts @ 0.75	$1.50
14 sep 45 Room for 2 escorts @ 1.50	3.00
15 sep 45 Breakfast for 2 escorts @ 0.50	1.00
15 sep 45 Lunch for 2 escorts @ 0.75	1.50
15 sep 45 Taxi for 3 Passengers from Levis to No. 5 D.D. LAUZON, P.Q.	0.75
Total	$ 7.75

Dated at Lauzon, P.Q. this 17th day of sep A.D. 19 45

Roberge J P Cpl
(E-57755 Cpl. Roberge J.P.) Signature and rank
(escort)
Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized *cost of all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1482
7154—3-43 (8628)
H.Q. 1772-39-1856

"L"

MINISTÈRE DE L'AGRICULTURE

PROVINCE DE QUÉBEC

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

DISTRICT AGRONOMIQUE No 5

Re-Johny Breton, Stornoway, Cté. Compton,
E-616552.

A qui de droit, la présente atteste que Monsieur Johny Breton, est fils de cultivateur et essentiel sur la ferme paternelle.

Comme Monsieur Breton, père, a 150 arpents de terre dont environ 60 sont en culture, avec un cheptel de 3 chevaux, 9 vaches, 6 jeunes bovins, 11 moutons, 2 porcs, et une sucrerie de 1200 érables, il requiert les services du précité.

Ce cultivateur âgé de 65 ans, n'a qu'un autre fils avec lui, âgé de 19 ans et a besoin de toute sa main d'oeuvre pour les travaux d'automne, labour et battage.

Connaissant le cas précité, je sais sa demande de libération motivée et je la recommande dans le sens demandé.

Bien à vous,

Felix Arsenault
agronome officiel,

F/A Lambton, Cté. Frontenac.
13 septembre 1945.

"M"

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

M. Ernest Bourque, Mai
Stornoway,
Cté. Frontenac, P.Q.

Stornoway le 13 septembre 1945.

À qui de droit,

Re-Johny Breton, Stornoway,
Cté. Frontenac, P.Q.
E-616552.

Je sous-signé E. Bourque maire de la municipalité de Winslow, certifie que M. Johny Breton de Stornoway est fils de cultivateur et essentiel sur la ferme de son père car ce dernier n'a qu'un autre jeune fils pour lui aider et il a besoin de ses deux garçons pour lui aider à faire tous les travaux d'automne.

Espérant que vous prendrez cette demande en considération, je suis,

Bien à vous,

E. Bourque Maire,

E. Bourque, Maire,

EB/CB

9

"Y"

Pierre Decary
(PIERRE DECARY, W.P.R. 136)
PRÉSIDENT, S.O.T. 430
A.F.B. 291

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-610553	Private	BRETON Johnny	N.R.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General~~ ~~Regimental and~~ Squadron, Battery Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA Sec 15(1)	1	times	AA Sec 15(1)	2 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheet of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act or Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for on beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 15 days in military ~~Air Force~~ custody, making a total of 15 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 25 years, 2 months.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 28-8-41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

8

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the [redacted] of
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—
.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(B. TASCHEREAU) Lieut.
Ass. Records Officer,
No.5 D.D. Lauzon, Que.

Signed this 28th day of SEPTEMBER 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. K-610552 Name BRETON Johnny Sqn., Battery, or Company

Corps N.R.M.A.

Date of enlistment 28-[illegible]-41 G.C. Badges

Tradesmen's Rates of Pay

Character

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Farnham, Que.		Pte	nil	AA Sec 15(1) AWL 7 days, 11hrs, 1mn.	Documentary	10 days' pay	6-1-42	O.C.	Forf 8 days' pay.
Lauzon, Que.	27-10-44	Pte	nil	AA Sec 15(1) AWL from 0800hrs 27-10-44 until 0800hrs 31-10-44. Total; 4 days.	Documentary	Admonished	31-10-44	Capt Boulanger J.H.	Forf 4 days' Pay.

CERTIFIED TRUE COPY
(B. TASCHEREAU) Lieut,
Ass. Records Officer,
No.5 D.D. Lauzon, Que.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. E610550 Pte Burton J

of 2245 is in a good state of health,

and fit to undergo Trial by Court martial.

J. Wilson Capt.

Medical Officer

Station Lauzon Guard Room

Date 27 Sep 45

Medical Inspection Room
D.D. M.D. No. 6
SEP 27 1945
LAUZON, P.Q.

M. F. B. 246

50M—12-43 (3222)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. EL10552 Pvt Dutton, J.

of DD #5 is in a low state of health,

and fit to undergo Trial by Court martial.

Agnelis Capp
Medical Officer

Station Lauzon Guard Room

Date 28 Sept 45

Medical Inspection Room
S.D. No. 6
SEP 28 1945
LAUZON, P.Q.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-30-480

5

RESUME DE LA PREUVE

Proces de E-610552 Soldat Johnny BRETON, Liste Generale, A.C. attache au Depot Regional No.5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No. 81 d/ 31 mars 1945, date a Lauzon, P.Q.

2. M.F.B. 375

3. M.F.M. 216

4. M.F.B. 1481

5. M.F.B. 1481

6. M.F.B. 1482

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE: P-38788 CMS LEBLANC, M. Liste Generale, A.N. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (9-6-45)

4

H.Q.C.55-B-2033 (JAG/D-7)
Your Q. 39-B-3241

11 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 610552 Pte. Johnny Breton,
Gen.List, C.A.,att.No. 5 District
Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LJR/MM

(R.J.Orde) Brigadier
Judge Advocate-General.

3

THIS COPY FOR: H.QC. 55-B-2033
M.D.Q. 39-B-3241

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E610552 Name Johnny BRETON

Rank Pte. Unit Gen. List. Att No. 5 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion....

(2) AA 24 (2) Losing by neglect...

Date of Crime 31-3-45 (2) 21-9-45

Date of Arrest 13-9-45 Charge Signed 25-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. 27-9-45

Sentence Detention 150 days. Stoppages $38.49

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40222

Date 10-10-45

MEMO. Guilty AWL

Balance of sentence remitted by Conf. Auth. 22-12-45

M.D. 5
Absent
5½ mos.

GEN. List. Att No. 5 D.D. C.A.
Sentence
Det. 150 days.

2

R. J. Ryan Lt.
for Judge Advocate General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No.

Q:39-B-3241

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Oct. 5th. 1945.

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

6.55-B-2033

STANDING COURT MARTIAL

E/610552, Pte. Johnny BRETON.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

40222

1

NAT. DEF. B. 440
25000M-4-44-4321
H.Q. 1772-39-187

H.Q.C. 55-B-2034 CONFIDENTIAL

N.F.B. 5038
15M-4-43 (5626)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BRAZEAU, MARCEL D-653213 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 16 1945				JAG	NEW FILE	CR	9-10-45
				JAG	Papers Cit. OCT 24 1945		
OCT 27 1945	18 10 45	P.A.		Admin	To note		26-10-45

CONFIDENTIAL
H.Q.C. 55-B-2034

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an portunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2034 (JAG/D-6)

25 Oct 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ.

Standing
D.653213 Pte. Marcel BRAZEAU
CIC CA att No. 4 DD CA
.....Court-Martial

M. 1-B-18492(J)

23rd October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned your explanation in the delay in this case
of the marginated noted Court-Martial.

EXM

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

IN REPLY PLEASE QUOTE No. M.1-B-18492(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
23rd October, 1945.

REGISTERED R218

CENTRAL REGISTRY
CONF. 4852
OCT 24 1945
File CJS-B-2034
Chgd. to
Referred to JAG.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
-653213 Pte. Marcel BRAZEAU,
IC,CA, attached to No. 4 D.D.,CA.

Reference your HQC.55-B-2034(JAG/D-4) dated 15 Oct 45.

2. Hereunder, for your information, an explanation as to why the accused spent 26 days in custody awaiting trial:

5 Sep 45	Surrendered.
6 Sep 45	Wired for status, documents and Part II's.
12 Sep 45	Tracer for documents
13 Sep 45	Documents received. Released to Open Arrest.
14 Sep 45	Part II's. received.
14 to 18 Sep 45	Documents being checked
19 Sep 45	Kit inspection
21 Sep 45	Results of Kit inspection
22 Sep 45	Remanded for S of E.
27 Sep 45	Proceedings completed.
28 Sep 45	Application for the Standing Court-Martial received at this H.Q. and trial of the accused scheduled to take place on 1st Oct 45.
1 Oct 45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

Jean Renaud Capt
for (E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

NAT. DEF. B. 440
2500M-4-44-(5021)
H.Q. 1035-29-767

MEDICAL OFFICER'S REPORT

I certify that No. D-653213. Pte. BRAZEAU, Marcel.
of C.I.C. C.A. att'd 4 DD,CA., is in a good state of health,
and fit to undergo Trial by Court martial.

O. Gray Capt RCAMC.
(O. GRAY) CAPT Medical Officer
No. 4. Dist. Coy. RCAMC.
Att'd. No. 4. District Depot,C.A.

Station JACQUES CARTIE R BARRACKS, Montreal South Que.,

Date 1 Oct. 45.

M. F. B. 246

50M—5-43 (254)
H.Q. 1772-39-400

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A.

le premier jour ~~du~~ d'octobre 1945 à 1100 heures,

pour le procès de D-653213 (Matricule) private (Grade) Marcel BRAZEAU (Nom et prénoms)

C.I.C., CA, (Unité) attached to No. 4 District Depot, CA (Détachement, le cas échéant)

PRÉSIDENT: Major L.-J.-E. BELLEAU, Quartiers-Généraux, District Militaire No. 4

PROCUREUR: Lieutenant (Grade) R.-O. CRAIG (Nom et prénoms)
Quartiers-Généraux, (Unité) District Militaire No. 4 (Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) P. GIRARD (Nom et prénoms)
C.I.C., CA. (Unité) No. 4 District Depot, C.A. (Détachement, le cas échéant)

VERDICT

La cour déclare l'accusé, D-653213, Private Marcel BRAZEAU, C.I.C., CA, attached to No. 4 District Depot, C.A., coupable à l'égard du chef d'accusation.

SENTENCE:

La cour condamne l'accusé, D-653213, Private Marcel BRAZEAU, C.I.C., CA, attached to No. 4 District Depot, C.A., à la détention pendant quatre-vingt-dix jours.

Extracts entered as No. 40221 in the Roll of Courts-Martial kept in the office of the Judge Advocate-General this 10 day of Oct 1945

Signé à Montréal-Sud, P.Q. ce premier jour ~~du~~ d'octobre 1945.

(L.-J.-E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. [redacted]

Réponse: [redacted]

Question à l'accusé. Vous opposez-vous à D-126762, S/M (WO I) Joseph La Rivière, No. 4 Det., comme sténographe ? C.M.S.C., CA,

Réponse: Non, monsieur.

Le sténographe [redacted] est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur le [redacted] chef mentionné dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du [redacted] chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse: .....

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: .....

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: .....

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

W. E. Bullen Insp.
Pres. Gen.

82

CHARGE SHEET

The Accused, D-653213, Private Marcel Brazeau, C. I. C., C. A., attached to No. 4 District Depot, C. A., an N. R. M. A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Valcartier, Quebec, at 0700 hours on 5th of March 1945, absented himself without leave from C. I. (B) T. C. No. 54, C. A., until he surrendered to the Military Authorities at Montreal South, Quebec, at 1020 hours on 5th of September 1945.

Signed at
Montreal South, Quebec,
24th of September 1945.

J. Bibeau

(J. Bibeau) Lieutenant Colonel
Assistant Officer Commanding No. 4 District Depot,
C. A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au .....
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

(voir la page CC-3 ci-jointe)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

Monsieur le président,

Quand j'ai parti A.W.L., mon père est décédé. Ma mère a 45 ans. J'ai deux p'tits frères, un qui a dix ans et l'autre en a huit. Je suis le seul soutien de la famille chez nous.

Avant de partir, j'ai contracté $300.00 de dettes avant Les Fêtes, et je suis parti pour aller payer ça, parce que la pension de ma mère ne suffisait pas. J'ai demandé une exemption mais ils m'ont refusé; j'avais demandé l'exemption pour aller chez nous aider ma mère.

Avant d'entrer dans l'armée, je travaillais à la Compagnie de Tramways comme "fitter".

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Quand j'ai dit: "Viens pas me baver", c'est un patois que j'avais et j'ai dit ça. On disait toujours ça.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

(voir la page E-3 ci-jointe)

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

PLAIDOYER DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE

Monsieur le président,

Le père de l'accusé est mort et la mère se trouvait avec les deux petits frères de l'accusé, qui n'étaient pas en état de travailler ni l'un ni l'autre, à cause de leur jeune âge.

Quoique sa mère soit jeune un peu --à 45 ans on est encore jeune-- elle ne pouvait pas aller travailler parce qu'il lui fallait tenir sa maison et avoir soin des enfants.

Ce qui est arrivé, c'est que l'accusé a contracté une dette pour la famille de $300.00, et avec le salaire de l'armée, il ne pouvait pas arriver à payer sa dette. Il a demandé une exemption pour aller aider chez lui mais on ne le lui a pas accordée.

Durant son congé, il a travaillé dans la construction à 75 cents de l'heure, ce qui représente un salaire assez élevé par semaine, parce que si vous travaillez à 75 cents de l'heure pendant 48 heures, et après les 8 heures par jour vous gagnez temps et demi, ça représente un bon $50.00 par semaine.

Alors, l'accusé a payé sa dette, mais il en a contracté une autre parce que la famille était encore dans le trou.

DAILY ORDERS PART II

No. 61

BY

Place Valcartier, P.Q.

Lt.-Col. C.A. FAGES V.D.,

Commanding

Date 26 Mar 45.

C. I. (B) T.C. # 54. (C.A)

(Last Order Issued No. 60 of 23 Mar 45.)

"H O L D I N G E S T A B L I S H M E N T"

"B" OTHER RANKS

RECEIVED
SEP 14
GENERAL

8. ABSENCE WITHOUT LEAVE:

(a) A.W.L. from 0700 hrs. 5 Mar 45. Still A.W.L. 0700 hrs. 26 Mar 45. (22nd day)

D-653213 Pte. BRAZEAU, M.J.E.

(Signed) F. Fournier Capt.
(F. FOURNIER) Capt., Adj.,
C.I. (B) T.C. # 54.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE SEP 11 1945

Prepared by:
and
Checked by:

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. S. ECHENBERG, Commanding No. 4. District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-653213. Pte. BRAZEAU, Marcel.
(Number) (Rank) (Name in full)

of the INF. A-54. Valcartier. C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) D-126960. SGT.
(Number) (Rank)

PATENAUDE, L. Attached No. 4. District Depot Police, C.A.
(Name) (Unit or appointment)

at MONTREAL SOUTH QUE., at 1020 hours,
(Place) (Hour)

on the 5 day of Sep 1945.

Strike out words not applicable } ~~an absentee~~ (or absentee without leave), and that at the time of ~~his arrest~~ Surrendered. he was wearing military (~~civilian~~) uniform (~~civilian clothes~~).

Dated at MONTREAL SOUTH QUE., this 5 day of Sep 19 45.

(Signature, Number, Rank, Unit or appointment)
(S. ECHENBERG,) Colonel.
Commanding No. 4. District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

W.E. Bullard Major, Pres. CM. "Y"

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-630
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-653713	Private	Marcel Brageau, C. I. C., C. A.,	attached to No. 4 District Depot, C. A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery Conduct sheets or (Ordnance)~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act ~~Air Force Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Conduct to the prejudice..	1 times	A. W. L.	1 times
~~For~~	~~times~~			~~times~~
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 26 days in military ~~Air Force~~ custody, making a total of 26 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is attested on paper~~ enrolment 20 years 1 month (27th of August 1945)

6. The date of his ~~completion~~ enrolment specified in his ~~record of service is attestation~~ enrolment ~~attested on paper~~ 12th of December 1944

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or if in possession of or entitled to). State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ..... Air Force~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Air Force Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1 Oct 45 ~~day of~~

L. R. Hamelin, Lieutenant,
C. I. C., C. A., attached
to No. 4 District Depot, C. A.
Assistant Officer I/C Records
No. 4 District Depot, C. A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

Date of Birth 27th of August 1[illegible]

Reg. No. D-653213 Name Brazeau, Marcel Eugene, Joseph. Corps C. I. C., C. A. Date of enlistment or enrolment 16th of May 1944.

Sheet No. one of *1, 2, 3, 4, 5

Signature O.C. Company, etc. R. Mercier, Capitaine.

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Petawawa, Ontario.	16th Sept., 1944.	Gunner		A. W. L. from 0100 hours on 16th of September 1944 until 0600 hours on 21st of Sept., 1944.	Documentary	10 days C.B. 3 days ord. pay.	22 Sept., 1944.	A. H. Turner Lt.-Col.	6 days F. F. & I.
Petawawa, Ontario.				Blood Donoer, Canadian Red Cross, 3rd of October 1944.					
Toronto, Ontario.	12th Dec. 1944.			Conduct to the Prejudice of Good Order, in that he on 12th of December, 1944 at 0910 hours gave this answer to an N. C. O.: "Viens pas me baver".....	Sgt. J. C. Savard. L/Cpl J. M. Bourcier.	7 days C. B.	12th Dec. 1944.	Capt. O. Deluca.	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY

(L.R. RAMLIN) LIEUTENANT,
C. I. C., C. A.,
Attached to No. 4 District Depot, C. A.,
Assistant Officer i/c Records,
No. 4 District Depot, C. A.

H.Q.C.55-B-2034 (JAG/D-4)
Your M. 1-B-18492

15 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 653213 Pte. Marcel Brazeau,
CIC., CA.,att. No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 26 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

(R.J. Orde)
Judge Advocate General.

JOGR/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2034
M.D. M.1-B-18492

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-653213 Name Marcel Brazeau

Rank Pte. Unit C.I.C. C.A. Att No. 4 D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 5-3-45

Date of Arrest 5-9-45 Charge Signed 24-9-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 1-10-45

Sentence Detention 90 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40221

Date 10-10-45

MEMO.

M.D. 4
Absent
6 mos.

C.I.C. C.A. Att No. 4 D.D. C.A.
Sentence
Det. 90 days.

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M.1-B-18432

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, P.Q.
October 6, 1945

Judge-Advocate General
National Defence Headquarters
OTTAWA, Ont.

C.55-B-2034

STANDING COURT-MARTIAL
D-653213, Private Marcel BRAZEAU
C.I.C.,CA, att'd to No. 4 District Depot,CA

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court

b) Medical Officer's Report, dated October 1, 1945.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E.BELLEAU)Major,
Headquarters, Military District No. 4
President, Standing Court-Martial

encl.

4021

DEF. 8. 441
OCM 4-44 (432)
No. 1772-39-767

H.Q.C. 55-B-2035 CONFIDENTIAL

H.F.B. 1938
45M—4-42 (M615)
H.Q. 201-1-5

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BOUVIER, ALBERT D-643004 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2035

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		cancelled					
OCT 16 1945				JAG	NEW FILE	CR	9-10-45
				Admin	Per Requisition C.R. NOV 1 1945		
				Trans	& pass to DM.	wof	2.11.45
				DM	Nick transl		NOV 5 1945
NOV 7 - 1945	20.11.45		wof	admin		Lm	6-11-45
				JAG	With Papers C.R. NOV 8 1945		
NOV 10 1945	12.11.45			Admin	To note pls.		10-11-45
NOV 12 1945				JAG	With Papers C.R. NOV 13 1945		
NOV 14 1945				Admin	—	Jm	13-11-45
				Trans	& pass to DM.	wof	16.11.45
NOV 21 1945				DM	With transl		NOV 19 1945
NOV 22 1945	21.11.45		wof	admin		Lm	20-11-45
				CMBR	Per Requisition C.R. NOV 23 1945		
JAN 8 1946	8-1-46			Adm 3	Recommendation		DEC 17 1945
JAN 17 1946	16-1-46			Admin	Per Requisition C.R. JAN 16 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

File. M.1-B-11849 A(DIS)
MONTREAL QUE. 22nd December, 1945.

17121

C55-B-2035-
Admin 18-12-45
CMBQ

Secretary,
Department National Defence,
Ottawa Ontario.

REVIEW OF SENTENCES CM CARO 5913

D-643004 - Pte. BOUVIER, Albert

Reference HQC 9039-1, Adm 3(b),3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Attached hereto MFM 288 duly completed in respect to the m/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(E.J.Renaud) Major-General,
DOC MD No. 4.

ENCL.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-643004 Pte. BOUVIER, Albert.
Number Rank Name in full

C.I.C., C.A., attached to No.4 District Depot, C.A.
Unit Attachment (if any)

Sentenced to 9months detention

on 25 th September, 1945 at Montreal South, Que.

being served at No.65 Military Detention Bks, Longueuil, Que.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19years and 4months- 9 Dec. 1942.

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be ~~xxx~~ committed to undergo his sentence, which I recommend should ~~xxx~~ be ~~xxxxxxx~~ (put into execution) (re~~xxxxxxx~~) for reasons given in paragraph X.
date

Place MONTREAL, P.Q.

Date 5 Nov 45

Confirming Authority
(E.J. RENAUD) Major General,
D.O.C., M.D. No.4

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Superior Military Authority

Date

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Confirming Authority

Date

M.F.M. 288
(Army Form A-3104)
30M—9-43 (1869)
H.Q. 1772-39-3014

Part V

I direct that the sentence (which I hereby commute to.....

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
14 Nov 45	No suspension Recommended 10 Feb 46	[illegible] capt for DOC HAD	
22 DEC 45	Sentence remitted wef 24 DEC 45.	(E.J. RENAUD) Major-General, D.O.C., M.D. 4.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE s.15(1) Act. ABSENTING HIMSELF WITHOUT LEAVE, in that he at Lauzon, Que. absented himself without leave from His Unit No.5 D.D., C.A., until he was apprehended by Military Authorities at Montreal, Que. at 1155 hrs on 29th August, 1945. (E.I. AUERBACK) Capt., General List, C.A., att'd to No.4 District Depot, C.A. Signature of Officer making entry	23 Nov 44	25 Sep 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
22Oct 45	I do not recommend any remission of sentecne in this soldier's case.	(G. SCHENBERG) Colonel, Commanding No.4 D.D., C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Nov 45	Sentence is considered fair and reasonable 1st review on 10 Nov 45	(E.J. RENAUD) Major General, D.O.C. MD No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

M. 8-1-20 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE

/ A R M Y /

MONTREAL, Quebec,
29 Dec 45.

CENTRAL REGISTRY Army
COURT M.C.
17904
DEC 30 1945
File 8-1-20 B 2035
Chgd. to Admin 1/1/12
Referred to MGK

The Secretary,
Department of National Defence,
OTTAWA.

SOLDIERS UNDER SENTENCE:

Attached hereto Forms for Remission for the under-mentioned soldiers, duly completed.

D-625897	AUCLAIR, R.
D-645081	BOUCHARD, A.
D-143653	BOUCHARD, J.M.
D-625163	BOULANGER, J.
D-643004	BOUVIER, A.
D-607777	CARPENTIER, A.
D-651675	CHAGNON, J.
D-615854	CHAMBERLAND, C.
D-616519	CHARBONNEAU, S.
D-710059	CHENARD, G.
D-639642	CONFORTATI, J.
D-641455	COTE, R.
D-59367	COUTURE, J.N.
D-646019	DIGIOVANNI, M.
D-147273	DUROCHER, M.
D-636276	GERMAIN, E.
D-645089	HARPIN, P.E.
D-146377	HEON, J.M.R.
D-150170	LACHAPELLE, J.
D-132982	LAROCQUE, R.
D-636603	LECLER, D.
D-641835	LEVESQUE, L.
D-649131	McDERMOTT, J.C.
D-650621	MURRAY, H.
D-135551	OUELLETTE, R.
B-526584	PARIZEAU, E.
D-646187	POULIN, J.
D-615195	PREZEAULT, M.
D-645870	PROVOST, E.G.
D-638134	RAYMOND, E.
D-655481	ROBILLARD, L.
D-652598	SISKA, P.
C- 49013	TURPIN, C.
H-22541	WESLEY, C.W.

Capt

pc (E.J.RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

Encl.

Admin
17-12-45

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. 55-B-2035
District File No. M. 1-B-11849.(A/DIS)

PART I

No. D.643004 Rank. Pte. Name. BOUVIER, Albert
Unit. 4 D.D.

PART II

Date of Trial. 25th September, 1945.
Charge(s). ABSENTING HIMSELF WITHOUT LEAVE
Sentence. nine months detention
Date of Sentence. 25th September, 1945
Confirmation -- (a) Authority: D.O.C. M.D.No.4
(b) Date : 25th Sept. 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit ~~commutation mitigation~~ sentence wef 24 Dec 45.

Signed at MONTREAL QUE this 20 day of DECEMBER 1945.
(Appointment)(E.J. Renaud), Maj Gen, DOC MD No. 4.
To be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission (~~commutation~~)(mi~~tigation~~) promulgated and extracts taken at Montreal South, Que. this 20th day of December, 1945. (1)

Ass- Officer i/c Documents. (A.R.HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-643004 Rank. Pte. Name. BOUVIER, Albert Standing
The sentence of 9 months detention awarded by ~~District~~ Court Martial on the 25th September, 1945 has been remitted on the 24th December, 1945 by D.O.C.
UNIT. Military District No. 4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A.
No. 309 Place. Jacques Cartier Barracks, Montreal South, Que. Date. 26th December, 1945
Adjutant

(J.[illegible] CHARLEBOIS) Capt-Adjt., General List, C.A., att'd to No.4 District Depot, C.A.

~~Strike out and initial words not applicable.~~

HQC 55-B-2035
Adm 3(b)2

CONFIDENTIAL

OTTAWA Ont 20 Dec 5

District Officer Commanding
Military District No 4
MONTREAL PQ

.643004 Pte BOUVIER A

Ref M-1-B-11849 ADIS and Ranks 1521 dated 19 Dec 45:

2. Returned herewith MFM 288 for this soldier.

G.D.B.

(A.E. Walford)
Major-General
Adjutant-General

Encl

GDB/jh

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

HQC 55-B-2035
Adm 3(a)

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE

PLACE	DATE
OTTAWA ONTARIO	19 DEC 45

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 4
MONTREAL P Q

RANKS 1521 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REFERS D 643004 PTE BOUVIER A (.) CMHR

RECOMMENDS REMISSION OF SENTENCE WEF 23 DEC 1945 (.) AG CONCURS (.) ACK (.)

ADJUTANT/GENERAL

INFM COPY TO: CMHR

JAG

GDB/MA

G D Rich Capt
Major-General
Adjutant-General

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	THIS MESSAGE IS LIABLE TO BE PUBLISHED. INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
		IMMEDIATE	1406

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

IN REPLY PLEASE QUOTE No. M-1-B-11849 ADIS

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que. Nov. 28th, 1945.

Secretary,
Department of National Defence,
OTTAWA, Ontario.

12297
NOV 30 194
File CMBR 23-11-45
Chge. to
Referred to CMBR

D-643004 BOUVIER, Albert.

Reference your HQC 55-B-2035 (CMBR 4) dated 26 Nov. 45.

2. Herewith enclosed MFM 288 and latest report on conduct pertaining to the m/n soldier.

3. This Headquarters does NOT recommend suspension or remission prior to half-sentence being served.

(E.J. RENAUD), Major-General,
D.O.C. M.D. No. 4.

encls.

M.-1-B-11849 ADIS

REPORT ON CONDUCT

District Headquarters,
Montreal, Que.
5 Nov. 45.

TO: COMMANDANT,

65 Military Detention Barracks.

1. Soldier under sentence	D-643004 BOUVIER A.
2. PLEASE STATE:	
(i) Date of sentence	25 Sepm45
(ii) Sentence	9 months
(iii) Date you received soldier	28 Sep 45
(iv) (a) Can soldier read and write	Yes
(b) Religion	RLC.
(c) Married, Widower, Single	Single
(d) What army trade has soldier?	None
(v) (a) Conduct of soldier	Good
(b) Industry of soldier	Good
(c) Remission earned:-	Yes
(i) Number of days actually earned	14 days
(ii) Number of days obtainable to date	14 days
(vi) Medical Officer or Surgeon's Report on physical and mental condition; if soldier is ill, should state:-	Fit
(a) Whether detention will seriously aggravate soldier's condition	No
(b) Whether further confinement is likely to prove fatal.	No
(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence	Too soon to judge, refer back when half sentence completed, 10 Feb 46.
(b) Moral effect confinement has had	Good
(c) If returned to Army, is soldier likely to become a good soldier?	No
(viii) Date term will expire if all remission earned from now on.	10 February 46.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

(C.Potter) Major
Commandant
No. 65 Mil.Det.Barracks

MFM 288 or AFA 3104 have been requested.....

NOV 26 1945

B-2035 (CMHR 4)

Case No. 1509

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

26 Nov 45

1. No, Rank and Name: D.643004 Pte. BOUVIER, A.

2. Unit at date of offence: 5 D.D. CA, Lauzon, Que.

3. Charge: AA 15(1): AWL
(Absent from 23 Nov 44 until apprehended 29 Aug 45 - approximately 9 mos.)

Plea: Guilty

4. Place and Date of Trial: 4 D.D. 20 Sep 45
~~(GCM)~~ ~~(DCM)~~ (SCM)

5. Finding: Guilty

6. (a) Sentence: 9 mos detention.
(b) Date of Sentence: 25 Sep 45.

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 65 MDB

In MD 4
1521

(N.B. Discharged under RO 1029( ) for
wef)

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PAGE 3 CONDUCT Case No.....

11. (a) Prior to conviction. Offence Date Sentence

1) Civil Convictions: Nil

2) Courts-Martial: Nil

3) Summary Convictions:

AWL (38 dys)	6 May 43	96 hrs detention
AWL (30 dys)	30 Jun 43	21 dys detention
AWL(14½ mos)	28 Oct 44	28 dys detention

(b) After Conviction: Good - expected date of release 10 Feb 46

(c) Date of enrolment/~~XXXXXXXXXXX~~ 9 Dec 42 Age: 22

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show any mitigating circumstances)

(1) STATEMENT BY ACCUSED IN MITIGATION:

Suffers from a hernia-that is why he went absent. "They asked me if I would consent to an operation. I did not accept." While absent, being a musician, he played in night clubs.

(2) A letter from the Speaker of the House of Commons indicates that representations were made to him for remission of sentence.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc.)

DOC MD4: On review on 5 Nov 45, recommended no remission prior to half sentence being served.

REVIEWING OFFICER: (1) Considering previous convictions and (2) because it is felt that his refusal to undergo a surgical operation was probably motivated by a desire to avoid active Military Service, Recommend no remission other than that earned by good conduct.

Reviewed by.....

(A.B. Gold) Lieut.

---

14. Recommendation of the Board: Release on 23 Dec 45 26

Date DEC 17 1945

G.A. Stelwell mj

Secretary, Courts-Martial Board Revi

HDC/GS

Q.G.C. 55-B-2035 Adm 3(b)2

le 17 novembre 1945.

Cher monsieur Fauteux,

Je viens faire suite à ma lettre du 5 novembre 1945 au sujet du soldat A. Bouvier, matricule D-643004.

On m'informe que la sentence imposée au soldat Bouvier a été revisée le 5 novembre 1945. Vu les infractions dont il avait déjà été trouvé coupable, on n'a pas jugé devoir lui accorder une remise de peine avant qu'il ait purgé la moitié de sa sentence, c'est-à-dire avant le 10 février 1946.

Bien sincèrement,

L'honorable Gaspard Fauteux,
Président de la Chambre des Communes,
Ottawa, Ontario.

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CANADA

QUOTE NO. HQC 55-B-2035
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE
ARMY

OTTAWA, CANADA,

16 November, 1945

Dear Sir:

Further to my letter of the 5th November, 1945 with reference to D.643004 Pte A. Bouvier:

I am informed that the sentence awarded this soldier was reviewed on the 5th November, 1945. In view of his previous convictions, it was not considered that any remission was warranted prior to his having served one-half of the sentence awarded on 10th February, 1946.
(that is to say before)

Yours truly,

Deputy Minister,
(Army)

Honourable Gaspard Fauteux,
Speaker of the
House of Commons,
OTTAWA, Ontario

WOP:da

TO: TRANS

For translation, pls.

W. O. Parker Capt

(H M Cathcart)
Colonel
D Adm

BUREAU FOR TRANSLATIONS
NOV 16 1945
NOV 19 1945

24

Nat. Def. A-168-A
1,000M—3-43 (9028)
H.Q. 1772-39-376

IN REPLY PLEASE QUOTE No. M-1-11849 "A. Dis".

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CENTRAL REGISTRY Army
CONF. SEC.
NOV 13 1945
Confidential B-2035
Referred to

Montreal, Que. 12 Nov. 45.

8830

Secretary,
Department of National Defence,
OTTAWA, Ontario.

D-643004-Pte. BOUVIER, Albert.

Reference your HQC 55-B-2035, dated 2 Nov. 45, relative to the m/n.

2. This case was reviewed on 5 Nov. 45, and although the conduct of this soldier while in detention has been good, this Headquarters does NOT feel that the situation warrants any remission prior to half-sentence being served, Feb. 10th, 1946.

(E.J. RENAUD), Major-General.
D.O.C., M.D. No. 4.

23

NAT. DEF. B 445
DNDHM 4-44 (5120)
H.Q. 1772-39-767

HQS 55-B-2035 (JAG/D-6)

10 Nov 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
D.042004 Pte A Bouvier
GIC CA, att No. 4 DD CA
Court-Martial

M. 1-B-11849 (J)

7th November 5

Receipt is acknowledged of your dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

Your explanation of the delay in this case has been noted.

E.L.M.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/rdf

Noted C.
D. Ch.
OJ

12 Nov

22

IN REPLY PLEASE QUOTE No. M.1-B-11849(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
7th November, 1945.

REGISTERED

CENTRAL REGISTRY (ARMY)
7739
NOV 8 1945
File 655-B-2035
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT MARTIAL
B-843004 Pte. A. BOUVIER,
CIC,CA, attached to No.4 DD,CA.

Reference your HQC.55-B-2035(JAG/D-4) dated 15 Oct 45.

2. Hereunder, for your information, an explanation as to why the accused spent 27 days in custody awaiting trial:

29 Aug 45	Apprehended
30 Aug 45	Wired for status, docs and Part II's
4 Sep 45	Received status - T.O.S.
7 Sep 45	Kit inspection
9 Sep 45	Tracer for docs and Part II's
11 Sep 45	Remanded for S.C.M.
13 Sep 45	Part II's received
17 Sep 45	Proceedings completed.
19 Sep 45	Application for S.C.M. received at this H.Q. and trial of the accused scheduled to take place on 20 Sep 45
20 Sep 45	Trial began and request for adjournment made by accused until 25 Sep 45
25 Sep 45	Trial of the accused finished.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

J.E. Renaudmoreau Capt.
(E.J.Renaud), Major-General,
for D.O.C., M.D. No. 4.

Enc.

21

MEDICAL OFFICER'S REPORT

I certify that No. D-643004 Pte. BOUVIER, A.
C.I.C., C.A.,
of att. No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

W. L. Fisher Capt

(W.L.Fisher) Capt. Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, C.A.

Station J.C.Bks., Montreal South, Que.,

Date 20th September 1945

J. C. G. Dulmage major
President SCM

20

M. F. B. 246

50M—5-43 (254)
H Q 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. D643004 Pte. BOUVIER A.
C.I.C.,C.A.,
of Att'd No. 4 DD is in a good state of health,
and fit to undergo Trial by Court martial.

(W.Fisher)Capt.
Medical Officer
No. 4 Dist. Coy. R.C.A.M.C.
Att'd No. 4 DD C.A.

Station J.C. Bks. Mtl South, Que.

Date Sep. 25th 1945

M. F. B. 246
50M—5-43 (254)
H.Q. 1773-39-480

19

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot, C.A., Montréal-Sud, P.Q.

le 20ième jour de septembre 1945 à 10.00 heures,

pour le procès de D-643004 (Matricule) Private (Grade) Albert BOUVIER (Nom et prénoms)

C.I.C., C.A., attached to No.4 District Depot, C.A. (Unité) (Détachement, le cas échéant)

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers Généraux, District Militaire No4.

PROCUREUR: Capitaine (Grade) P.J.F. Bousquet (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité) (Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) J.R. Panet-Raymond (Nom et prénoms)

C.I.C., C.A., attached to No.4 District Depot, C.A. (Unité) (Détachement, le cas échéant)

PAR L'OFFICIER DEFENSEUR:

Je demanderais un ajournement pour le soldat Bouvier parce que la défense n'est pas prête. Comme il a reçu son "charge sheet" seulement ce matin, il n'a pas eu le temps d'avoir ses documents.

Le procureur déclare ne pas s'objecter à un tel ajournement.

Sur l'application soumise par l'officier défenseur, à 10.05 heures le 20ième jour de septembre 1945, la cour ajourne le procès du présent accusé à 10.00 heures le 25ième jour de septembre 1945.

SENTENCE

Extracts entered as in Found of Courts-Martial kept in the office of the Judge Advocate-General this day of 19

Signé à Montréal-Sud, P.Q. ce 20ième jour de septembre 1945

J. A. G. Dubeau

(J.A.G. Dubeau) Major
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot, C.A., Montréal Sud, P.Q.

le 25ième jour de septembre 1945 à 10.40 heures,

pour le procès de D-643004 (Matricule) Private (Grade) Albert BOUVIER (Nom et prénoms)

C.I.C., C.A., attached to No.4 District Depot, C.A. (Unité) (Détachement, le cas échéant)

PRÉSIDENT: Major L.J.E. Belleau, Quartiers Généraux, District Militaire No.4.

PROCUREUR: Lieutenant (Grade) R.O. Craig (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité) (Détachement, le cas échéant)

OFFICIER DÉFENSEUR: ~~ADVOCAT~~ Lieutenant (Grade) P.Girard (Nom et prénoms)

Les Fusiliers Mont-Royal, C.A., attached to No.4 District Depot, C.A. (Unité) (Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-643004 Private Albert BOUVIER, C.I.C., C.A., attached to No.4 District Depot, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-643004 Private Albert BOUVIER, C.I.C., C.A., attached to No.4 District Depot, C.A., à la détention pendant neuf mois.

40220

10 oct 45

Signé à Montréal-Sud, P.Q. ce 25ième jour de septembre 1945

L.J.E. Belleau

(L.J.E. Belleau) Major
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé. Vous opposez-vous à comme interprète.~~

~~Réponse:~~

Question à l'accusé. Vous opposez-vous à D-625377 Cpl.H.Turcot,No.4Det.C.M.S.C.,C.A. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté~~s~~.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. E. Belleau Major.
Pres. CM.

"B2"

CHARGE SHEET

The Accused, D-643004, Private Albert Bouvier, C. I. C., C. A., attached to No. 4 District Depot, C. A., an N. R. M. A. Soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE
SEC. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Lauzon, Quebec, at 0800 hours on 23rd of November, 1944, absented himself without leave from his unit, No. 5 District Depot, C. A., until he was apprehended by Military Authorities at Montreal, Quebec, at 1155 hours on 29th of August 1945.

Signed at,
Montreal South, Quebec,
12th of September 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C. A.

-5-

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~La déclaration de l'accusé doit être consignée sur une feuille séparée.~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

C'est parce que je souffrais d'une hernie. Ils m'ont donné une bande herniaire pour supporter. J'avais déjà eu une cour martiale au dépôt de Lauzon. Ma cour martiale m'a jugé comme quoi j'étais pas "fit" pour faire de la détention. La cour martiale a reviré. J'ai été paradé devant le colonel. Ils m'ont donné seulement une "job" légère comme quoi j'étais pas fit pour faire de la détention. Le médecin ici m'a dit que c'était un cas de "discharge". Il m'a demandé si je voulais accepter une opération. J'ai pas accepté. C'est pas parce que j'aimais pas l'armée; mais qu'on me donne un support pour supporter mon hernie, je prendrai ma punition. Comme c'est là quand même que je voudrais je suis pas capable de faire de la détention. Le médecin qui m'a examiné pour m'envoyer en cour martiale m'a dit que j'avais une hernie, il m'a dit que mon cas était pas assez grave pour prendre une opération, il m'a dit que dans une couple de mois...

Durant mon absence, je suis musicien, je jouais dans les clubs, c'est la seule manière que je peux gagner ma vie. J'ai appris le métier de barbier et j'ai appris la musique à part de çà.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

Monsieur le Président,

J'ai pas grand'chose à dire. La seule chose, l'accusé aujourd'hui est obligé de porter une bande herniaire qui lui fait mal, qui n'est pas appropriée à lui. Il demanderait à en avoir une autre. Ensuite de çà, c'est parce qu'il est pas capable de faire l'ouvrage général de l'armée qui n'est pas trop dur, mais assez dur.

12

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

DAILY ORDERS PART II

BY

COLONEL Jean La FONTAINE, MC.,

Commanding

NO 5, DISTRICT DEPOT

No. 299

Place Lauzon, P.Q.

Date 16 Dec 44

(Last Order issued No. 298 of 15 Dec 44

HOIDING ESTABLISHMENT.

"B" OTHER RANKS.

RECEIVED
SEP 14 1945
CENTRAL REGISTRY
NO. 5 DISTRICT DEPOT

26. ABSENT WITHOUT LEAVE

d) Absent without leave at hrs, dates shown. Still absent at hrs, dates shown. (22nd day)

D-643004 Pte BOUVIER, A. (App.W)
A.W.L. 0800 hrs 23 Nov 44 Still A.W.L. 0800 hrs 14 Dec 44

(Signed) G. Bonhomme Capt.,
(G.BONHOMME) Capt. & Adj't.
No. 5 DISTRICT DEPOT,
LAUZON, Que. P.Q.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Rec'd N.D.H.Q.
DATE AUG 31 1945

Prepared by:
and
Checked by:

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W.POULIOTTE, O.C. Composite Provost Companies, M.D.4
(Number) (Rank) (Name) (Unit)

hereby certify that D-643004 Private BOUVIER, Albert
(Number) (Rank) (Name in full)

of the C.I.C., C.A. att'd to No. 4 D.D., C.A.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by [redacted] D-139760 Corporal
(Number) (Rank)

PASSO, A. Composite Provost Companies, M.D.4
(Name) (Unit or appointment)

at Mont real, Que., at 1155
(Place) (Hour)

on the 29th. day of August 1945

Strike out words not applicable } as a [redacted] absentee without leave), and that at the time of his arrest he was wearing military ([redacted]) uniform [redacted]

Dated at Montreal, Que., this 30th. day of August 1945

MB.

(R.W.POULIOTTE) Major [signature]
(Signature, Number, Rank, Unit or appointment)

O.C. Composite Provost Companies, M.D.4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

An "R" Recruit called under N.R.M.A.

10

J. E. Belleau, Major.
Pres. Com.

M.F.B. 355
75M—5-43 (145)
H.Q. 1773-30-630
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment (or unit)

D-643004, Private Albert Bouvier, C. I. C., C. A.., attached to No. 4 District Depot, C. A.,

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron/Battery~~ ~~Conduct sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	AWL times	3 times
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by a court-martial or a civil court, of summary awards under A.F.A. 73~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence of ..... beginning on the ..... day of .....~~

4. The accused has been in confinement ~~awaiting~~ trial on the present charges, for Nil days in civil custody, and 27 days in military custody, making a total of 27 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is attested paper~~ enrolment 22 years 1 month (25th of August 1923)

6. The date of his ~~compulsory~~ enrolment specified in his ~~record of service is attested paper~~ enrolment 9th of December 1942.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force military decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

9

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps) the rank of .....dated.....

Permanent Force
unit

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Air Force
Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 Sep 45 ~~day of~~

L. R. Hamelin, Lieut.,
C. I. C., C. A.,
Attached to No. 4 D. D., C.A.
Ass't Officer i/c Records,
No. 4 District Depot, C. A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

Reg. No. D-643004 Name Albert Bouvier Corps C. I. C., C. A. Date of enlistment or enrolment 9th of December 1942. Date of Birth

Signature O.C. Company, etc. P. Paradis, Lieut. Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
				Created from MFm 103 at No. 4 D.D., Mtl-Sth., Que., on 17th of September 1945.					
Rimouski	24th March 1943	Private		AWL from 0730 hours on 24th of March 1943 to 0900 hours on 1st of May 1943. (total abs.: 38 days, 1 hour, 30 minutes) Def. in kit, stop of pay $4.91 Cost of apprehn.: $23.27	Documentary	96 hours detention, Forfeiture: 39 days' pay.	6th of May 1943	O. C. (certified) (P. P.)	Stop. of pay $4.91, cost of apprehension $23.27 Total forf.: 43 days pay.
Amendment on Db 118 d/20 May 43 TC 55, Rimouski: 39 days pay confiscation is cancelled.									

(P.T.O.)

-21-

P.S. Delivered to Pte. Chrs. Officer

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
Rimouski	25th May 1943	of Pte		A. W. L. from 0630 hours on 25th of May 1943 to 0245 hours on 25th of June 1943. Def. in Kit: $32.87. Cost of apprehension: $29.49	Documentary	Forfeiture: 21 days Pay, 21 days detention	30th of June 1943.	O. C.	Stoppage of pay amount $62.27 & Total Forf: 26 days pay.
5 DD	22nd July 1943	of Pte		A. W. L. from 2359 hours on 22nd of July 1943 to 0305 hours on 9th of October 1944. Stoppage of pay $66.03	Documentary	28 days detention	28th of October 1944	O. C. (P. P.)	Forfeiture: 492 days Pay.

CERTIFIED TRUE COPY

L. R. Hamelin, Lieut, C. I. C., C. A.,
Att'd to No. 4 D. D., C. A.,
Ass't Officer i/c Records,
No. 4 District Depot, C. A.

HDC/DL

Q.G.C. 55-B-2035 Adm 3(b)2

le 5 novembre 1945

Cher monsieur Fauteux,

Je vous accuse réception de votre lettre du 30 octobre 1945 au sujet du soldat A. Bouvier, matricule D.643004.

Les autorités militaires m'informent que le soldat Bouvier a été traduit devant une cour martiale permanente le 25 septembre 1945, pour répondre à une accusation d'absence illégale à compter du 23 novembre 1944 jusqu'au 29 août 1945, alors qu'il a été arrêté. Il a été trouvé coupable et condamné à neuf mois de détention.

La sentence qui lui a été imposée sera revisée vers le milieu du mois. Il me fera plaisir de communiquer de nouveau avec vous lorsque j'aurai appris le résultat de cette revision.

Votre bien dévoué,

le sous-ministre,

L'honorable Gaspard Fauteux,
Président de la Chambre des
Communes,
Ottawa, Ontario.

CANADA

QUOTE No. HQC 55-B-2035
Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE
ARMY

OTTAWA, CANADA.

2 Nov 45

Dear Sir:

This will acknowledge your letter of the 30th October, 1945 with reference to D.643004 Pte A. Bouvier.

I am informed by the Military Authorities that this soldier was tried by Standing Court-Martial on the 25th September, 1945 on a charge of absenting himself without leave from the 23rd November, 1944 until he was arrested on the 29th August, 1945. He was found guilty and was sentenced to nine months detention.

The sentence awarded will be reviewed about the middle of this month. I will be pleased to communicate with you further when I am informed the result of this review.

Yours truly,

Deputy Minister,
(Army)

Honourable Gaspard Fauteux,
Speaker of the
House of Commons,
OTTAWA, Ontario

WOP:da

TO: TRANS

For translation, pls.

W.O. Sarlen capt NOV 3 1945

for (H M Cathcart)
Colonel
D Adm

BUREAU OF TRANSLATIONS
Rec'd
NOV 5 1945

NAT. DEF. A-168-A
2,000M—11-43 (2777)
H.Q. 1772-39-176

HQC 55-B-2035
Adm 3(b)2

CONFIDENTIAL

2 Nov 45

District Officer Commanding,
Military District No 4,
MONTREAL, P Q

D.643004 Pte BOUVIER, A

Ref M.1-B-11,849:

2. It is noted that the first review of the sentence awarded this soldier will take place on 9 Nov 45.

3. May this HQ be infm, pls, the result of the review as soon as is practicable following the 9 Nov 45.

(M Noel)
Brigadier
Acting Adjutant-General

WOP:da

C-55-B-2035

PRÉSIDENCE DE LA CHAMBRE DES COMMUNES
CANADA

Ottawa, le 30 octobre 1945.

L'Adjudant-Général,
Département de la Défense Nationale,
O t t a w a, Ontario.

Cher monsieur,

Re: D-643004 - Albert Bouvier
1567 est, rue Ontario, Montréal.

Le soldat ci-haut mentionné a été condamné à une période de quatre mois de détention. Il est actuellement au camp de Longueuil.

Des représentations me sont faites à son sujet et on me demande de faire des instances pour lui obtenir une remise de peine.

Je vous serais donc bien redevable s'il y avait possibilité de faire quelque chose pour ce dernier.

Veuillez accepter mes remerciements anticipés pour tout ce que vous pourrez faire en ce sens, et me croire,

Votre bien dévoué,

Gordon Fournier

D'Admin
Consultez file
Et

A. E. WALFORD
Adjt.-General
Adjoint-Général

OCT 31 1945

H.Q.C.55-B-2035 (JAG/D-4)
Your M. 1-B-11849

15 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 643004 Pte. Albert Bouvier,
CIC.,CA.,att. No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused was 27 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

(R. J. Orde) Brigadier
Judge Advocate-General.

JOR/MM

3

8M-7-45(M-188)

THIS COPY FOR:

H.Q.C. 55-B-2035
M.D. M.1-B-11849

NFMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

D-643004 Name Albert BOUVIER

ank Pte. Unit C.I.C. Att No. 4 D.D. C.A.

harge AA 15 (1) AWL

Date of Crime 23-11-45

Date of Arrest 29-8-45 Charge Signed 12-9-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 25-9-45

Sentence Detention 9 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40220

Date 10-10-45

MEMO.

M.D. 4
Absent
9 mos.

C.I.C. Att No. 4 D.D. C.A.
Sentence
Det. 9 mos.

2

for Judge Advocate-General

10M-8-45(M-169)

IN REPLY PLEASE QUOTE No. M. 1-B-11849

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 6th October 1945.

CONFIDENTIAL.

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

C.55-B-2035

STANDING COURT MARTIAL
D-643004 Private Albert BOUVIER,
C.I.C., C.A., attached to No.4
District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's reports dated 20th and 25th September 1945, respectively.

2. Submitted for your information, consideration and approval, please.

W.E. Belleau
(L.J.E.Belleau) Major
Headquarters, Military District No.4
President of Standing Court-Martial

40220

H.Q.C. 55-B-2036

CONFIDENTIAL

H.F.B. 2178
DM—4-46 (9625)
H.Q. 351-1-48

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BONNETEAU, LEON H-510007 PTE.

H.Q.C. 55-B-2036

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and write here "With Minutes")		
OCT 12 1945				JAG	NEW FILE	CR	9-10-45
OCT 21 1945				JAG	With Papers C.R. OCT 18 1945		
				JAG	With Papers C.R. NOV 2 1945		
NOV 5 - 1945	7/11/45	P.A.	Wam	Amer	Remove file	Jm	5-11-45
NOV 7 - 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

W.44-B-5092 (J)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

Winnipeg, Manitoba.
27th October, 1945.

6648
NOV 2 1945
File 055-B-2026
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

REMISSION OF SENTENCE
H-510007, Pte. BONNETEAU, L.

Herewith, for custody, is Form of Remission of Sentence relative to the marginally-named, duly completed in accordance with C.A.R.O. 3974.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

vep

encs.

APPENDIX 'G' TO C.A.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CsM

NDHQ File No. HQC55-B-2036(JAG/
District File No. W.44-B-5092(J)

PART 1

No. H-510007 Rank Private Name Leon BONNETEAU

Unit No. 10 District Depot, C.A.

PART 11

Date of Trial 2nd October, 1945.
Charge(s) When on active service, deserting His Majesty's Service
Sentence 90 days detention: Stoppages - $3.54.
Date of Sentence 2nd October 1945.
Confirmation - (a) Authority N/A SCM
(b) Date

PART 111

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit the balance of the sentence of detention as of the 24th day of October, 1945.

Signed at Winnipeg, Man. this 24 day of October 45.
R O G Morton
(R.O.G. Morton) Brigadier, District Officer Commanding, Military District No. 10.
(Appointment)
To be signed by the Competent Authority or Superior Military Authority personally.

PART 1V

PROMULGATION

Remission( ) promulgated and extracts taken at Winnipeg, Manitoba. this 24 day of October 1945
(1)
W Shorf Capt. Adj.
Officer i/c Documents, No. 10 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART 11

No. H510007 Rank Private Name Leon BONNETEAU

The sentence of 90 days detention awarded by (Standing) Court-Martial on the 2nd day of October 1945 has been remitted as of the 24th day of October, 1945, on the 24th day of October, 1945 by Brigadier R.O.G. Morton, District Officer Commanding, Military District No. 10.
Unit No. 10 District Depot, C.A.

Certified true Extract of Daily Orders Part 11 No. 253 para. 54 d/24 9

Place Winnipeg, Manitoba. Date 24 October 1945.

Adjutant W Shorf Capt.
No. 10 District Depot, CA.

HQC 55-B-2036 (JAG/D/6)

19 Oct 45

District Officer Commanding,
Military District No. 10,
Winnipeg, Manitoba.

Standing
H.510007 Pte. BONNETEAU, L
.....Court-Martial

W.44-B-5092 (J)

15th October 5

Receipt is acknowledged of your Summary
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

EKM
for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdr

IN REPLY PLEASE QUOTE
No. W.44-B-5092 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Winnipeg, Manitoba. 15th Oct. 1945

CENTRAL REGISTRY Army
CONF. SEC.
3717
OCT 18 1945
File 55-B-2036
Chgd. to
Referred to Jab.

Judge Advocate-General,
Dept. of National Defence (Army),
OTTAWA, Ontario.

STANDING COURT-MARTIAL
H-510007, Pte. BONNETEAU, L.

Reference H.Q.C.55-B-2036 (JAG/D-9) dated 11th October, 1945.

2. The proceedings of the marginally-noted Court-Martial, having been reviewed, are returned herewith for custody.

(E.A. Fletcher) Major,
A.J.A.G., M.D. No. 10.

vep
enc.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

on the 2nd day of October 19 45 at 1445 hours,

for the trial of: No. H-510007 Private Leon BONNETEAU
Number Rank Full Name

No. 10 District Depot, C.A.,
Unit Attachment, if any

PRESIDENT: Major F. J. Killeen, District Headquarters, M.D. No. 10.

PROSECUTOR: Captain D. R. Chapman, District Headquarters, M.D. No. 10.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Captain S. A. RODWAY, No. 10 District Depot, C.A.,
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, No. H-510007 Private Leon BONNETEAU, No. 10 District Depot, C.A., is not Guilty of Desertion but is Guilty of Absence Without Leave on the charge, with the exception that he was absent from 0700 hours on the 23rd day of April, 1945, instead of from 0100 hours on the 20th day of April, 1945, as alleged in the charge.

SENTENCE: The Court sentence the accused, No. H-510007 Private Leon BONNETEAU, No. 10 District Depot, C.A., to undergo detention for ninety (90) days, and to be put under stoppages of pay until he has made good the sum of $3.54 in respect of the cost of apprehension and return to his Unit.

Extracts entered as No. 40219 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 11 day of Oct 1945

Signed at Winnipeg, Manitoba, this 2nd day of October 194 5.

F. J. Killeen Major
(F. J. Killeen) Major
President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused.

Do you object to be tried by me as President of the Court ?

Answer:

No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

~~*Question to the accused.*~~

~~Do you object to~~ ~~as interpreter ?~~

Question to the accused.

Do you object to No. H-35618 S.M.(A/W.O.I) A. C. Bryant, District Headquarters, M.D. No. 10, acting as shorthand writer ?

Answer:

No, Sir.

The shorthand writer ~~and interpreter (if any)~~ is ~~are~~ duly sworn.

Question to the prosecutor

Has the accused elected to be tried by a Standing Court-Martial ~~or vice versa~~ ~~Court-Martial ?~~

Answer:

No, Sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused.

Is that your number, rank, name and unit ?

Answer by accused.

Yes, Sir.

Question to the accused.

Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer:

Not Guilty, Sir.

Question to the accused.

Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

"B-2"

5

CHARGE SHEET

G J Billeen Major.
President. S.C.M.

The accused, No. H-510 007 Private Leon BONNETEAU, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, is charged with:-

CHARGE:
Sec. 12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

- in that he -

at Winnipeg, Manitoba, at 0100 hours on the 20th day of April, 1945, absented himself from the No. 10 District Depot, C.A., until he was apprehended by the Civil Power, at 1445 hours on the 26th day of September, 1945, in Haywood, Manitoba, dressed in civilian clothes. Cost of apprehension and return to Unit $3.54.

Winnipeg, Manitoba,
29th September, 1945

D R Chapman
(D.R.Chapman) Captain,
Prosecutor,
Courts-Martial, M.D. No. 10.

J J K

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

First Witness for prosecution.

The Prosecutor proceeds to call witnesses.

being duly sworn, is examined by the Prosecutor.

Question

By the Prosecutor: Sir, there are three documents which I am submitting as evidence in this case, and under the authority mentioned in Routine Order 5126 I am producing these documents; namely, M.F.B. 375, M.F.M. 215, and M.F.B. 1481, all of which relate to the accused.

By the Court to Defending Officer: Have you any objection, Captain Rodway?

By the Defending Officer: No, Sir.

M.F.B. 375 is read, marked "F", signed by the President, and attached to the proceedings.

M.F.M. 215 is read, marked "G", signed by the President, and attached to the proceedings.

M.F.B. 1481 is read, marked "H", signed by the President, and attached to the proceedings.

By the Prosecutor: That is the case for the Prosecution, Sir.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. By Defending Officer: I would like the accused placed under oath, Sir, to make a statement to the Court.

Question to the accused. Do you intend to call any witness in your defence?

Answer. By the Defending Officer: No, Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

First Witness for the Defence: } No. H-510007 Private Leon BONNETEAU, No. 10 District Depot, C.A., having been first duly sworn, is examined by the Defending Officer:

Q Where do you live, Bonneteau?

A On a farm, Sir.

Q How big is the farm?

A Eighty acres.

Q Who is living on the farm?

A There is no one in the meantime. I was called into the Army.

Q When you were called into the Army who was with you on the farm?

A I was with my Mother and sister, Sir.

Q Have you any brothers?

A Yes, I have a brother Overseas since the beginning of the War.

Q And what kind of a condition did that leave the farm when you were called up?

A I was on the farm with my Mother, alone there.

Q And when you were called up were you able to get Dependents Allowance for your Mother?

A No, Sir. Applications were made and I never had any Dependents Allowance for my Mother. I made applications at different places where I was in the Army, Sir.

Q Up until this time she hasn't received any Dependents Allowance?

A Not yet, Sir; she hasn't received anything on it.

Q And you decided then to ask for a discharge, did you not?

A Yes, Sir. I made application for farm leave first, and after that application they turned me out on six months' farm leave from August, 1944, and I was granted an extension of two months.

Q And this time that you were granted farm leave were you able to plant a crop?

A No, Sir; it was in the Fall. All I could do was to make up the feed for the winter on the farm.

Q So you applied for an extension and was granted two months' extension of your farm leave?

A Yes, this Spring, Sir.

Q Was your work finished up then?

A Pardon, Sir.

Q What did you have to do when your extension was up?

A I was on the farm with my extension -- I was with my Mother, Sir.

Q Did you apply for another extension?

A Yes, Sir, I made application but never had a reply yet.

Q So you remained on the farm?

A Yes, Sir, I remained on the farm until I was able to fix up my Mother before I could come back.

Q What did you do with your Mother then?

A My Mother moved in town -- she lived in town.

Q Where was your sister at this time?

A She is married, Sir.

Q Is your Mother well?

A No, Sir, she is not -- it is in my documents, I can show you proof of it.

Q What were you doing when the Mounties picked you up?

A I was coming home with a load of wood with me, Sir.

Q Were you in Civilian clothes?

A Yes, Sir.

Q Why were you in Civilian clothes?

A Because I had turned in all my equipments in the Quartermaster Stores, Sir, before I went on my farm leave.

Cross-examined by the Prosecutor:

Q During the past winter you were at home on your compassionate leave, were you?

A I was home on farm leave, Sir.

Q And you had that extension up until the 20th April, 1945, did you?

A Yes, Sir.

Q You were due to report back to No. 10 District Depot by the 20th April, 1945, were you?

A On the 20th April I came to No. 10 District Depot for an extension.

Q You had reported in to No. 10 District Depot on that day?

A Yes, on the 20th April.

Q You didn't report by one o'clock on that day?

A No, Sir, I came in at noon, just about after dinner.

Q Who did you see then?

A Lieutenant Argue.

Q And how long did you stay here?

A I was here about an hour and a half.

Q Then where did you go?

A I went back home on a three days' leave.

Q Not after the 20th April on a three days' pass? You mean from the 17th April you had three days' leave, do you not, not after the 20th April?

A Yes, Sir.

Q You had leave up to the 23rd April from the 20th April?

A Yes, Sir.

Q So you got leave up until the 23rd April, did you? Is that right?

A That is right, Sir.

Q And what Unit were you to report back to?

A No. 10 District Depot, Sir.

Q When?

A On the 23rd April at 0700 hours.

Q At 0700 hours on the 23rd April, 1945?

A Yes, Sir.

Q You haven't got any pass now in your pocket?

A No, Sir.

Q Did you have one?

A Yes, Sir. I forgot to put it in my papers and bring it back.

Q You say the pass is still at your home?

A Yes, Sir.

Q And you didn't come back to Fort Osborne or No. 10 District Depot on the 23rd April, did you?

A No, Sir.

Q What did you do -- stay at home after that?

A I sprained my foot.

Q You didn't go to the Hospital, did you?

A No, Sir; it just lasted about a week and a half.

Q You didn't see any Doctor or let them know at No. 10 District Depot about your foot, did you?

A Yes, Sir. The Doctor gave me a telegram and signed it himself and gave it to me to send myself.

Q And how was the telegram addressed? Addressed to what Officer?

A To the O.C., No. 10 District Depot, Winnipeg.

Q What date did you send that?

A I couldn't say, Sir.

Q Perhaps it was before the 20th April, was it?

A It was 23rd April.

Q After the 23rd April?

A Yes, Sir.

Q What day did you sprain your foot?

A The same night I came in the City.

Q But that was after the 23rd April?

A When I came here on the 20th April to No. 10 District Depot, and when I came back on the farm I went to get a load of feed and it turned upside down and hurt my foot.

Q Your foot didn't hurt you so badly as to make you go to the Hospital, did it?

A It was swollen -- I couldn't walk.

Q You could have been brought into Winnipeg or Fort Osborne?

A There was no transportation in the meantime, Sir.

Q When you came in on the 20th April how did you travel?

A I come up with the horses uptown, and from town I had a ride with my brother-in-law.

Q Where does your brother-in-law live?

A He lives in Haywood.

Q Right near your farm?

A No, Sir.

Q How far away?

A He is working every place -- his wife lives in Haywood.

Q He has an automobile, has he?

A He had at that time.

Q So you could have travelled in with him again, couldn't you?

A I couldn't say, Sir.

Q Who owns that small farm, your or your Mother?

A It is my own, Sir.

Q What size is it; eighty acres, is it?

A Right, Sir.

Q How many acres ~~ix~~ are under cultivation?

A It has been pretty well all in Broom grass the last six years and there is Broom grass on it now; and four horses.

Q There are four horses on the farm?

A Yes, Sir.

Q Any cattle?

A No, Sir.

Q Any pigs?

A No, Sir.

Q So your Mother could have lived on the farm -- she wouldn't have had much to do?

A The farm had to be built -- she couldn't live on it -- she lives right in town; I had to move the house to town. I was going to fix it up -- it was just a small house.

Q But in April this year the house was still on the farm, was it?

A Yes, Sir.

Q And had your Mother been living in it for several years?

A No, Sir.

Q How long had she lived in it?

A About three months. After I got in the Army she went in town and stayed in town.

Q When did you get these four horses?

A I had them before I was called up for the Army.

Q And who looked after them while you were serving in the Army?

A They were outside all the time, Sir.

Q So they could have stayed outside for another year, couldn't they?

A Yes, Sir.

Q When were you called up for the Army?

A 9th October, 1940, for one month.

Q And then when did you get in to stay in the Army?

A 1941.

Q What month, the end of October, was it?

A 29th October, 1941.

Q You have been in the Army ever since then, have you?

A Yes, Sir.

Q You said you reported to No. 10 District Depot at Winnipeg on the 20th April? You didn't come in to Fort Osborne after that until just a few days ago, is that right?

A Until I was picked up by the Mounties, Sir.

Q And you didn't report to any other unit in the Canadian Army before that date?

A No, Sir.

Q So the Mounted Police picked you up on the 26th September, 1945; is that right?

A Yes, Sir.

Q Was it about 1445 hours?

A Yes, Sir.

Q And it was where?

A At Haywood, Manitoba.

Q And you were dressed in Civilian clothes?

A Right, Sir.

Q But you had turned your Military uniform in when you went on farm leave?

A All of my equipments was turned in to the Quartermaster Stores before I went on farm leave, Sir.

Q How were you brought to Fort Osborne from Haywood?

A Up to Carman by the Mounties, and then to Fort Osborne by the Provosts.

Q When did you move the house you had on this farm?

A On the 25th September, 1945.

Q How far is that farm away from the town of Haywood?

A Five and a half miles, Sir.

Q Did the Police visit that farm, looking for you?

A I couldn't say -- I don't think so; I have always been around there.

Q How was it they found you just one day after you moved the house?

A Well Sir, before I was picked up I had been talking to them.

Q How long before?

A I couldn't say the date, Sir.

Q Had they been around to your farm?

A Yes, Sir, they were around, but they never stopped at the farm.

Q And you say your Mother is not well?

A No; my Mother is in bad health and she couldn't live there on the farm, and she is old.

Q Did you intend to live with her in Haywood after you moved this house?

A Yes, Sir; I always did.

Re-examined by the Defending Officer:

Q What were your intentions after you had moved your Mother into town?

A I was getting the crop on the farm and coming back to the Army.

Questioned by the Court:

Q How many farm leaves did you have, Bonneteau?

A Just one, Sir, six months and extension for two months.

Q And that commenced in September, 1944?

A Yes, Sir; 23rd August, 1944.

Q For six months?

A For six months.

Q And you had this extention, which expired on the 20th April, 1945?

A Right, Sir.

Q And you say you came in and saw Mr. Argue and got three days' pass?

A I went to apply for extension on my leave, Sir, and he gave me three days.

Q He gave you three days, did he?

A Not quite three days, Sir. The third day I was to be here at seven o'clock in the morning.

Q At 0700 hours?

A Yes, Sir.

Q Were you notified later on that your extension would not be granted, that your application for an extension would not be granted?

A No, Sir.

Q Didn't you hear from Mr. Argue at all?

A No, Sir.

Q So you just stayed on until you were apprehended?

A Yes, Sir. I was trying to get my Mother ready for the winter, Sir; for the fuel.

By the Court: That will be all.

The Witness resumes his seat.

The Prosecutor makes a closing address.

The Defending Officer makes a closing address.

D/13

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. No, Sir.

(Defending Officer speaks on behalf of the accused -- See Page "I" attached).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

J. F. Miller Major
President, S. C. M.

Fort Osborne Barracks, Winnipeg, Manitoba.

RECORD of the Declaration of a Court of Inquiry assembled at on the 16th day of May 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H-510007 Gunner Leon BONNETEAU No.10 District Depot(CA)

DECLARATION

The Court declare that No. H-510007 (Regt'l No.) Gunner (Rank) Leon BONNETEAU (Full Name) No.10 District Depot (CA) (Unit) illegally absented himself without leave from No.10 District Depot (CA) at WINNIPEG, Manitoba (Place) at 0100 hours on the 20th day of April, 1945, that he is still so absent, and that on the 20th day of April, 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
NIL		NIL	

Captain A.R. Dahlstrom (Name) (Rank) No.10 District Depot(CA) (Unit) President

Member

Signed at Winnipeg, Manitoba. (Name) (Rank) (Unit)

Member

this 16th day of May 1945 (Name) (Rank) (Unit)

Signature of Commanding Officer C.M. Ackland - Lt.Col., (C.M. Ackland) Lt.Col (Rank) No.10 District Depot(CA) (Unit)

Certified true copy W. Thrift (W. Thrift) Capt. & A.A.G. (Rank) No.10 District Depot(CA) (Unit) (Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (8530)
H.Q. 1772-39-257

"G" President, S. C. M. 29

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by

Strike out words not applicable

Constable A. J. Leas
(Name of Constable)

at Haywood, Manitoba. (Place) at 2.45 P.M. (Hour)

on the 26th. day of September 1945

Strike out words not applicable

and at the time of arrest he was (dressed in civilian clothes).

Regimental particulars of soldier referred to above.

No.	H-510007
Rank	Pte.
Name	BONNETEAU, Leon
Unit	RCA-Ft.Osborne Barracks,Wpg,Man

Description

Age	26 Yrs.
Height	5' 4½"
Complexion	Medium.
Hair	Dk.Brown.
Eyes	Brown.
Marks	Scar above left eyebrow.

Signature of constable by whom arrest, was made,

A. Leas Const.
(Constable)

Strike out words not applicable

(A.J. Leas) Reg. No. 14030.
Carman Detachment - RCMP.

M.F.M. 215
75M—12-43 (3178)
H.Q. 1772-39-1935

M.F.B. 1481
125[redacted]43(2206)
H.Q. 772-39-1851

"H"

F J Gillen Major
President, S.C.M.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major E.K. Carter, (Rank) Officer Commanding, No. 40 Coy. Cdn. Provost Corps. (Name) (Unit)

Strike out word not applicable — hereby certify that I (~~issued~~) (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Winnipeg, Man., (Place) to Carman, Man., (Place) and return to Winnipeg, Man. (Place) for the purpose of escorting

Full description of soldier being escorted — H-510007 (Number) Gunner (Rank) BONNETEAU, Leon (Name in full) No. 10 District Depot, CA (Unit) Winnipeg, Man. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter ~~[illegible]~~, the facts, date and particulars of (~~the [illegible]~~) (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
	COST OF RETURN BY GOVERNMENT OWNED VEHICLE:	
26 Sep. 45	Mileage, ~~Winnipeg to~~ Carman ~~and return~~ to Winnipeg, 59 miles, at .06¢ per mile ..... $ 3.54	$ 3.54
	TOTAL	$ 3.54

Dated at Winnipeg, Man. this 27th day of Sep. A.D. 19 45

(E.K. Carter)
Officer Commanding,
No. 40 Coy. Cdn. Provost Corps

Major
Signature, rank, unit, attachment (if any) and appointment of officer (~~issuing transportation~~) (authorizing transportation)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.
This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

"W. J. Gillies"
President, S. C. M.

M.F.B. 355
12M—8-40 (6433-6)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-510 007	Private	Leon BONNETEAU	No. 10 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ Regimental and Squadron, Battery ~~Conduct Sheets or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act ~~of summary awards under Section 47 of the Army Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	nil	times	Absence without leave	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 6 days in military custody, making a total of 6 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment ~~attestation paper~~ is 26 years 4 months

6. The date of his ~~commission~~ enrolment ~~attestation~~ specified in his ~~record of service~~ enrolment ~~attestation paper~~ is 30th October, 1941

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~). State any ~~air force~~ military decoration or reward. nil

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~the regimental rank of .....~~

84

11. (In the case of an officer.) The accused holds in the ~~Royal Canadian Air Force~~ Permanent Force the rank of unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name .....of .....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

W. Throp Capt. & Adj.
(W. Throp)
No. 10 District Depot, C.A.

Signed this 2nd day of October, 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

President, S.C.M.

H010007 Bonnesteau Leon RCMA personnel-No. 10 Clearing Depot

No. | Name | Sqn., Battery, or Company 52nd | Corps 1st (H)C. Regt., RCA | Date of enlistment 30-10-41 | O.C. Badges | Tradesmen's Rates of Pay | Character

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.

M.F.M. 6 (A.F.B.122) 750M—12-42 (7537) H.Q. 1772-39-1562

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		First Sheet Destroyed 30-4-42 Auth: C.A.R.O. 393							
Devil's Bty	Issued with Special Warrant #A199935 to Haywood, Winnipeg								
Devil's Battery	12-9-42	Gnr	Nil	1. A.W.L. from 2359 hrs. 12-9-42 until 2130 hours, 15-9-42. Absent 2 days 21 hrs 31 minutes, Sec. 15 (1) AA	L/Sgt Connor	3 days C.B.	17-9-42	Major F.J. B. Corbett	Forfeits 3 days pay F.R.&.I.

Certified true copy

Capt

(D.H.T. EVANS) Officer i/c Records.
No 10 District Depot.(CA)

(initials are illegible)

37

"I" A. J. Gillen Major
S.C.M.

DEFENDING OFFICER'S STATEMENT IN MITIGATION

Sir, I would like to point out that this man has very little in the way of this World's possessions, and naturally, like any man, he wants to keep them all together. The call-up was a real hardship for this man, Sir, and through it he has lost the development of his little farm, such as it is. He has had to sell his livestock that he had when he was called up, at sacrifice prices, in order to get them away, not being able to look after them, and all he has left is four horses and a lot of land that needs attention.

I would to ask, Sir, that you remember those things, and also the fact that he is the sole means of looking after his Mother; and also in view of those facts avoid discharge with ignominy because he would lose what little gratuity he would have coming to him.

7 J 13

PRECIS OF EVIDENCE

H-510 007 Private Leon BONNETEAU, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service.

CHARGE: DESERTION

TO PROVE THE CHARGE: the following evidence is available.

Documentary M.F.B. 375

M.F.M. 215

M.F.B. 1481

NOTICE

TAKE NOTICE: that I propose to present H-510 007 Private Leon BONNETEAU, No. 10 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on Active Service, the accused, for trial by Standing Court-Martial, at 1400 hours, Tuesday, the 2nd day of October, 1945, in Building 15, Fort Osborne Barracks, Winnipeg, Manitoba.

Winnipeg, Manitoba,
29th September, 1945

(A. Thomson) Lieut. Colonel
Commanding Officer,
No. 10 District Depot, C.A.

TRIAL OF:

H-510 007 Gunner Leon BONNETEAU
No. 10 District Depot (CA)

I, H-510 007 Gunner Leon BONNETEAU
No. 10 District Depot (CA), desire ~~do not desire~~
an officer assigned to defend me at my trial by
Court-Martial.

Leon Bonneteau

Winnipeg, Manitoba,
29th September 1945

MEDICAL OFFICER'S REPORT

I certify that No. H-510007 Pte. Bonneteau, Leon

of No.10 District Depot is ~~not~~ in a fit state of health,

and able to undergo Trial by Court martial.

Medical Officer RCAMC
No.10 District Depot, C.A.

Station Winnipeg, Manitoba

Date ~~2 October, 1945~~

Judge Advocate S.G.M.

M. F. B. 246
25M—9-40 (7120-1)
H.Q. 1772-39 489

H.Q.C.55-B-2036 (JAG/D-9)
Your W. 44-B-5092 (J)

11 Oct 45

The District Officer Commanding,
Military District No. 10, Winnipeg, Man.

STANDING COURT-MARTIAL

H. 510007 Pte. Leon Bonneteau,
No. 10 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

RMM/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2036
M.D. 44-B-5092

NRMA

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. H-510007 Name Leon BONNETEAU

Rank Pte. Unit No. 10 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion.....

Date of Crime 20-4-45

Date of Arrest 26-9-45 Charge Signed 29-9-45

Orders for D.C.M.

Place and Date of Trial Ft. Osborne Barracks, 2-10-45

Sentence Detention 90 days. Stoppages $3.54

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40219

Date 10-10-45

MEMO Balance of sentence remitted by Conf. Auth. 24-10-45 Guilty AWL

M.D. 10

ABSENT

5½ mos.

No. 10 D.D. C.A.

SENTENCE

Det. 90 ~~days~~ days.

Per Maclaud Cook
for Judge Advocate-General

10M-8-45(M-188)

DEPARTMENT OF NATIONAL DEFENCE W.44-B-5092 (U)
- ARMY -

Winnipeg, Manitoba
3rd October, 1945.

Judge Advocate-General
Department of National Defence (Army)
OTTAWA, Ontario.

6.55-B-2036

STANDING COURT-MARTIAL
No. H-510007 Pte. Leon BONNETEAU
No. 10 District Depot, C.A.,

Herewith for review, are the proceedings of the marginally-noted Standing Court-Martial.

ACB.
Enc.

H-219

J. J. Killeen Major
President
Standing Court-Martial

H.Q.C. 55-B-2037 CONFIDENTIAL

M.F.R. 2078
15M—4-43 (3020)
H.Q. 300-1-69

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BIENVENUE, ANDRE D-147974 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 16 1945 OCT 31 1945	cancelled	cancelled		JAG	NEW FILE	CR	9-10-45
				JAG	With Papers C.R. OCT 29 1945		
NOV 2 - 1945	1/45	P.A.					
		cancelled					
DEC 7 - 1945	17 DEC 45		GBE	GMBR	For Requisition DEC 7 1945		
				GMBR	For Requisition C.R. DEC 10		
DEC 10 1945	10 Dec	PA		Adm	To 2d file	GBE	10 DEC 45

H.Q.C. 55-B-2037 CONFIDENTIAL

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an portunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2037
(JAG/D-6)

P.A.

OTTAWA, 7 December, 5

District Officer Commanding
Military District No 4
MONTREAL, Que

D-147974, Pte BIENVENUE, A

Receipt is acknowledged of your M.1-B-18539 A(DIS) dated 5th December, 1945, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MFM 288 in respect of the m/n soldier.

EJM

for (R J Orde) Brigadier
Judge Advocate General

/jm

Place for legislation
RCR

15F 17

FILE NO: M.1-B-18539 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

MONTREAL, QUE. 5th December, 1945.

13511
DEC 6 1945
Referred to 195

The Secretary,
Department National Defence,
Ottawa Ontario.

D-147974 - Pte. BIENVENUE, A.

Ref HQC 55-B-2037.

2. Attached hereto form for remission in respect to the m/n soldier.

3. Also attached is MFM 288.

(E.J.RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

ENCL.

Noted
CMBR 4
10DEC45

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE
BY COURT-MARTIAL

N.D.H.Q. File No. HQ. 55-6-2037

District File No. M.1-B-18539 (4/DIS)

PART I

D.147974. Pte. BIENVENUE, A.

No.....Rank.....Name.....

Unit.....4 D.D.....

PART II

Date of Trial....25th September, 1945.....
Charge(s).....ABSENTING HIMSELF WITHOUT LEAVE.....
Sentence.....120 days detention.....
Date of sentence...25th September, 1945.....
Confirmation - (a) Authority:.....DCC 4.....
(b) Date :.....28 Sep 45.....

PART III

REMISSION

I, the undersigned, being the competent military authority under Sec. 57 (2) of the Army Act, do hereby remit ~~xxxxxxxxxxxxxxxxxxxx~~ sentence wef 25 Nov 45.

Signed at Montreal this 29th day of Nov 45.

(Appointment) (E.J. Renaud), Maj Gen, DCC MD 4.
to be signed by the Remitting Authority personally.

PART IV

PROMULGATION

Remission ~~(xxxxxxxxxx)~~ ~~(xxxxxxxx)~~ X promulgated and extracts taken at Montreal South, Que. this 29th day of November, 1945 (1)

(L.R. HAMELIN) Lieut.,
ASS- Officer i/c Documents. C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D-147974 Rank Private Name BIENVENUE, Andre
The sentence of 120 days detention
awarded by ~~xxxxxx~~ Court-Martial on the 25th September, 1945 has been remitted
on the 25th November, 1945 by D.O.C.
UNIT Military District No.4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No. 289 Place Jacques Cartier Barracks, Date 30th November, 1945
Montreal South, Que.

Adjutant

(J. MdN CHARLEBOIS) Capt.-Adjt.,
General List, C.A., att'd to
No.4 District Depot, C.A.

X Strike out and initial words not applicable.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-147974 (Number) Private (Rank) BIENVENUE, Andre (Name in full)

C.I.C.,C.A.,attached to No.4 District Depot,C.A. (Unit) (Establishment or area)

Sentenced to 120 days detention and Stoppages of pay the sum $0.65

on 25th September, 1945. at Montreal South,Que.

being served at No.88 Military Detention Barracks,St.Helen's Island,Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18yrs and 7 months.- 9 Nov. 1944

Medical grade or category PULHEMS 11111121

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should ~~XXX~~ be ~~XXXXXXX~~ (put into execution) ~~XXXXXXXX~~ (.....) (date) for reasons given in paragraph X.

Place MONTREAL P Q.

Date 26 Oct 45

(Confirming Authority) (E.J. RENAUD) Major General, D.O.C., M.D. No.4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date .....

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

(Confirming Authority)

M.F.M. 263
(Army Form A-2101)
(8M—9-43 (1899))
H.Q. 1772-97-2058

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc. considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
9 Nov 45	Sentence remitted wef 25 Nov 45	(E.J. Renaud), Maj Gen. DOC MD 4.	Released from detention on 26 Nov 45 (S.ECHENBERG) Colonel, Commanding No.4 D.D.CA.

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15(1) Army Act.	ABSENTING HIMSELF WITHOUT LEAVE, in that he at Sherbrooke, Que. at 0700 hrs on the 22nd January 1945, absented himself without leave from his Unit C.I.(B)T.C.no.43,C.A., until he was apprehended by the Military Authorities at Stanbridge Station, Que. at 1800 hrs on the 29th August, 1945, dressed in civilian clothes the cost of apprehension and return to this unit being in the amount of $0.65.	22Jan.45	25Sep.45

Signature of Officer making entry

(E.I. AUERBACK) Capt.,
General List, C.A., att'd
To No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
20 Oct.45	I do not recommend any remission of sentence in this soldier's case.	(S.ECHENBERG) Colonel, Commanding No.4 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26 Oct 45	Sentence is considered fair and reasonable 1st review on 10 Nov 45	(E.J. RENAUD) Major General, D.O.C., M.D. No. 4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2037 (JAG/D-6)

30 Oct 45

District Officer Commanding,
Military District No. 4,
Montreal, P.Q.

Standing
D.147974 Pte. Andre BIENVENUE,
CIC CA att No. 4 DD, CA
.....Court-Martial

M. 1-B-18539 (J)

27th October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned Your explanation of the delay in this case has
of been noted. Court-Martial.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

Noted for Ch. D. Admin
BG.

ELM/fdr

IN REPLY PLEASE QUOTE No. M. 1-B-18539 (J)

R-38

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

Montreal, P.Q., Oct. 27th, 1945.

5894
OCT 29 1945
File 55-B-2037
Chgd. to
Referred to Jag

The Secretary
Department of National Defence
O T T A W A , Ontario.

STANDING COURT MARTIAL
D-147974, Pte. Andre BIENVENUE,
C.I.C., C.A., attached to No. 4
District Depot, C.A.

Reference your H.Q.C. 55-B-2037 (JAG/D-4), dated 15th October, 1945.

2. Hereunder, for your information, an explanation as to why the accused spent 27 days in custody awaiting trial:

29-8-45	Surrendered.
31-8-45	Wired to A12 to return body.
1-9-45	Body received. Wired for status, documents and Part II Orders.
10-9-45	Tracer for documents and Part II Orders.
13-9-45	Documents received.
13-9-45	Kit inspection held.
15-9-45	Remanded for Standing Court Martial.
21-9-45	Proceedings completed and forwarded to this HQ.
24-9-45	Application for Standing Court Martial received at this Headquarters and trial of the accused scheduled to take place on the 25th September.
25-9-45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court Martial.

(E.J. Renaud), Major-General,
For District Officer Commanding,
Military District No. 4.

Capt.

enc.

MEDICAL OFFICER'S REPORT

I certify that No. D-147974 Pte. BIENVENUE A.
C.I.C. C.A.
of Att'd No. 4 DD is in a good state of health,
and fit to undergo Trial by Court martial.

(W.Fisher) Capt. Medical Officer
No.4 Dist. Coy. R.C.A.M.C.
Att'd No.4 DD C.A.

Station J.C. Bks. Montreal South, Que.

Date 25th September, 1945.

M. F. B. 246
50M—5-43 (254)
H.Q. 1773-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot, C.A., Montréal-Sud, P.Q.

le 25ième jour de septembre 1945 à 10.20 heures,

pour le procès de D-147974 (Matricule) Private (Grade) Andre BIENVENUE (Nom et prénoms)

C.I.C., C.A., attached to No.4 District Depot, C.A. (Unité / Détachement, le cas échéant)

PRÉSIDENT: Major L.J.E. Belleau, Quartiers Généraux, District Militaire No.4

PROCUREUR: Lieutenant (Grade) R.O. Craig (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4 (Unité / Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) P. Girard (Nom et prénoms)

Les Fusiliers Mont-Royal, C.A., attached to No.4 District Depot, C.A. (Unité / Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-147974 Private Andre BIENVENUE, C.I.C., C.A., attached to No.4 District Depot, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-147974 Private Andre BIENVENUE, C.I.C., C.A., attached to No.4 District Depot, C.A., à la détention pendant cent vingt jours et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $0.65, en ce qui concerne le coût de son arrestation et de retour à son unité.

Extracts entered as No. 40218 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 10 day of oct 1945.

Signé à Montréal-Sud, P.Q. ce 25ième jour de septembre 1945

L.J.E. Belleau

Président de la cour martiale permanente.

(L.J.E. Belleau) Major

M.F.E. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé. Vous opposez-vous à comme interprète ?~~

~~Réponse:~~

Question à l'accusé. Vous opposez-vous à D-625377 Cpl.H.Turcot,No.4 Det. C.M.S.C.,C.A. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est ~~sont~~ dûment assermenté~~s~~.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ---------- chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J.E. Billeau, Major,
Pres. Cmt

"B2"

CHARGE SHEET

The Accused, D-147974, Private Andre BIENVENUE, C.I.C., C.A., attached to No. 4 District Depot, C.A., a G.S. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1),
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Sherbrooke, Quebec, at 0700 hours on the 22nd of January, 1945, absented himself without leave from his unit, C.I.(B)T.C. No. 43, C.A., until he was apprehended by the Military Authorities at Stanbridge Station, Quebec, at 1800 hours on the 29th of August, 1945, dressed in civilian clothes, the cost of apprehension and return to this unit being in the amount of $0.65.

Signed at
Montreal South, Quebec,
21st September, 1945.

J. Bibeau

(J. Bibeau) Lieutenant Colonel,
Acting Officer Commanding No. 4 District Depot, C.A.

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur. (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d). Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

J'ai déserté de l'armée parce que mon père avait besoin de moi. Je suis le plus vieux de la famille. Mon père est pas capable de travailler, il est seul sur une terre pour le moment. Mon petit frère, le plus vieux après moi, a dix ans. Vu que j'avais demandé une exemption à Sherbrooke, ça été refusé. Quand j'ai vu ça j'ai déserté l'armée pour aller aider mon père. Il est pas capable de travailler, il a quarante-cinq ans. Il a eu un accident, il était malade à quatorze ans. Il est resté le dos courbé, il est plus capable de marcher. Après moi c'est seulement des filles qu'il y a pour aider. On a 160 arpents de terre. Jusqu'à présent je lui aidais. J'ai dix-neuf ans. Depuis l'âge de quatorze ans que je lui aide. Avant çà il faisait la malle à Granby. Il a toujours été cultivateur; seulement il avait seulement une petite terre, il avait des hommes pour lui aider. Dans ce temps-là il "runnait" la malle à Granby.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

PAR L'OFFICIER DEFENSEUR:

Monsieur le Président,

L'accusé ici a déjà demandé une exemption pour aller travailler sur la terre aider son père parce que dans leur famille il y a neuf enfants. Lui-même est le plus vieux et il a seulement dix-neuf ans. Il y a trois enfants qui suivent après lui, trois filles. Les autres garçons sont très jeunes pour pouvoir aider à leur père. C'est dans ce cas-là pour pouvoir aller aider son père qui est malade et qui n'avait personne pour l'aider qu'il a parti et qu'il est pas revenu.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

DAILY ORDER - PART II

BY

LIEUTENANT-COLONEL, E.J. NANTEL, V.D.

COMMANDING

C.I. (B) T.C. No-43, CA

Order No..35.....
Date..12. Feb. 45...
Sherbroo e, Quebec

==========

Last order issued No: 34 Dated 10 Feb 45.

ABSENCE WITHOUT LEAVE

Absent without leave since 0700 hours.....22 Jan 45.
(21st day)

D-147974 Pte BIENVENUE, A.

(Original signed by)
G. Amideneau, Lieut
for (M.R. GREGOIRE) Capt-Adjt.,
for (E.J. NANTEL) V.D., Lt-Col.,
O.C., C.I. (B) T.C. No-43, CA
Sherbrooke, Que.

Certified True Extract

M Gregoire

(M.R. GREGOIRE) Capt-Adjt.,
.....
C.I.(B) T.C. No. 43, CA.,
Sherbrooke, Que.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W.POULIOTTE, O.C.Composite Provost Companies, M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-147974 Private BIENVENUE, Andre
(Number) (Rank) (Name in full)

of the C.I.C.C.A. Inf. C.I.(B).T.C.#43 Sherbrooke, Que.,
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~(surrendered)~~ D-148846 Lance Corporal
(Number) (Rank)

CARON, R. Composite Provost Companies, M.D. 4
(Name) (Unit or appointment)

at Stanbridge Station, Que., at 1800
(Place) (Hour)

on the 29th. day of August 19 45

Strike out words not applicable } as a ~~deserter~~ absentee without leave), and that at the time of his arrest he was ~~wearing military or civilian uniform~~ (dressed in civilian clothes).

Dated at Montreal, Que., this 30th. day of August 19 45

MB.

(R.W.POULIOTTE) Major
(Signature, Number, Rank, Unit or appointment)

O.C.Composite Provost Companies, M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Soldier of the ACTIVE ARMY

M.F.R. 1481
125M—[illegible] (2206)
[illegible] 1772-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut C.A.Lafrance, C.S.& T.O. A-12 C.I.T.C. Farnham, Que.
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Farnham, Que (Place) to Montreal, Que (Place)

and return to Farnham, Que (Place) for the purpose of escorting

Full description of soldier being escorted — D-147974 Pte BIENVENUE, A. C.I.C. CA QR
(Number) (Rank) (Name in full)
Att'd 6 Inf Trng Bn, Sherbrooke, Que
(Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation required~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
31 Aug 45	Prisoner: T.W. D 24118 Farnham, Que to Montreal, Que.	
	39 miles at 1 2/3¢ per mile	0.65
	No tax.	
	No charge for escorts.	
	TOTAL	$0.65

Dated at Farnham, Que this 31 st day of August A.D. 19 45

(C.A.Lafrance) Lieut C.S.& T.O. A-12 C.I.T.C. Farnham, Que.
Signature, rank, unit, attachment (if any) and appointment of officer
(issuing transport warrants) (~~authorizing transportation~~)
Strike out description not applicable

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.R. 1482.
This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

If Bellevue Major, Pres. CM.

M.F.B. 355
75M—9-43 (145)
H.Q 1773-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

"Y"

Number Rank Name Regiment (or unit)

D-147974, Private Andre Bienvenue, C. I. C., C. A., attached to No. 4 District Depot, C. A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A. W. L.	1 times	~~times~~
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
~~Number of instances of gallantry or distinguished conduct~~		

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 27 days in military ~~Air Force~~ custody, making a total of 27 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 years 5 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is (13th of April 1926)

7. ~~The service which the accused is allowed to reckon towards discharge is~~ 9th of November 1944.

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward military.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps) the rank of Permanent Force unit .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Name.....of..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

L. R. Hamelin, Lieut.
C. I. C., C. A.,
Attached to No. D. D. C. A
Ass't Officer i/c Records,
No. 4 District Depot, C. A

Signed this 25 Sep/45 ~~day of~~

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

Reg. No. D-147974 Name Andre Bienvenue, Corps C. I. C., C. A. Date of enlistment or enrolment 9th of November 1944 Date of Birth 13th of April 19[illegible]

Signature O.C. Company, etc. Gaudette, Lieut.

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order disposing with trial	By whom awarded	Remarks
Sherbrooke	Jan. 3rd 1945			A. W. L. from 0700 hrs 3 Jan 45 to 1920 hrs 3 Jan 45 Abs. 12 hrs 20 min. (Sec. 15 A. A.)	Documentary	Admonished	4 Jan 45	Lt.-Col E.-J. Nantel	Auto. Forf. 1 day's Pay F. R. & I. 14

(P.T.O.)

H.Q. 1179-39-1652

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Certified True Copy (L. R. Hamelin) Lieut. C. I. C., C. A., Attached to No. 4 D. D., C. A., Ass't Officer i/C Records, No. 4 District Depot, C. A.					

H.Q.C.55-B-2037 (JAG/D-4)
Your M.1-B-18539

15 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 147974 Pte. Andre Bienvenue,
CIC., CA.,att. No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 27 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

(R. L. Orde) Brigadier
Judge Advocate-General.

JOGR/MM

8M-7-45(M-188)

THIS COPY F...

H.Q.C. 55-B-2037
M.D.M. 1-B-18539

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-147974 Name Andre BIENVENUE

Rank Pte. Unit C.I.C. C.A. Att No. 4 D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 22-1-45

Date of Arrest 29-8-45 Charge Signed 21-9-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 25.9.45

Sentence Detention 120 days. Stoppages 65¢

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40218

Date 10-10-45

MEMO.

M.D. 4

Absent
7 ½ mos.

C.I.C. C.A. Att No. 4 D.D. C.A.

Sentence
Det. 120 days.

D.G. Rolyat capt
for Judge Advocate-General

GM-8-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-18539

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 6th October 1945.

CONFIDENTIAL.

C.55-B-2037

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL.
D-147974 Private André BIENVENUE,
C.I.C., C.A., attached to No.4 District
Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/25th September 1945.

2. Submitted for your information, consideration and approval, please.

H E Belleau

(L.J.E.Belleau) Major
Headquarters, Military District No.4
President of Standing Court-Martial.

10218

NAT. DEF. B. 440
2300M 4 44 (522)
HQ (722-10-767)

H.Q.C. 55-B-2038 CONFIDENTIAL

M.F.R. 2038
15M—4-43 (16664)
H.Q. 291-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BELLEMARE, HENRI JEAN D-645208 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2038

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes")	INITIALS	DATE
OCT 16 1945	cancelled	cancelled		JAG	NEW FILE	CR	9-10-45
OCT 31 1945				JAG			
OCT 31 1945	1 11/45	PA	GBR.		With Papers C.R. OCT 29 1945		
NOV 2 - 1945					To note file		30-10-45
DEC 6 - 1945				JAG	With Papers C.R. DEC 5 1945		
DEC 7 - 1945	8/11/45	PA	GBR.	UMBK	To note file		6-12-45
DEC 8 - 1945					To note file		7 DEC 45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CENTRAL REGISTRY Army
PERS. SEC.
DEC 7 1945
File
Chgd. to
Referred to

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

File. M.1-B-12814 A(DIS)
MONTREAL QUE. 4th December, 1945.

CENTRAL REGISTRY Army
C5713785
DEC 7 1945
File 8-55-12-2036
Chgd. to Admin 7-12-45
Referred to Admin

Secretary,
Department National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM CARO 5913.
D-645208 - Pte. BELLEMARE, H.J.

Reference HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to th m/n soldier.

2. Attached hereto MPH 288 duly completed in respect to the m/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(E.J. Renaud) Major-General,
DOC MD No. 4.

Encl.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-645208 (Number) Private (Rank) BELLEMARE, Henri Jean (Name in full)

C.I.C., C.A., attached to No.4 District Depot, C.A. (Unit) (Attachment (if any))

Sentenced to 120 days detention

on 28th September, 1945 at Montreal South, Que.

being served at No.88 Military Detention Bks, St.Helen's Island (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19years and 2months - 17Feb. 1943

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~XXX~~ committed to undergo his sentence, which I recommend should ~~XXX~~ be (~~XXXXXXX~~) (put into execution) ~~(reviewed on~~ ~~XXXXXXXX~~ date) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 26 Oct.45

(Confirming Authority) (E.J. RENAUD) Major General, D.O.C., M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

(Confirming Authority)

RECEIVED DEC 4 1945 DEPUTY REGISTRAR H.Q. MLA 4

M.F.M. 258
(Army Form A-2084)
(HM—9-43 (1500))
H.Q. 1772-30-2615

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
7 Nov 45	Do impose the remission of at 12 mnt of Nov 45	[illegible] Capt for DCMD	
27 Nov 45	Sentence remitted wef 29 Nov 45.	(E.J. Renaud), Maj Gen, DCC MD No. 4.	
29 Nov 45.	RELEASED 496 MARKS.		(E. Belle) Capt. O.C. NO. 88 MIL. DET. BKS.

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE: Sec.15(1) Army Act. ABSENTING HIMSELF WITHOUT LEAVE, in that he at Camp Borden, Ontario at 1300 hrs on the 20th Jan 1945, absented himself without leave from his Unit, Technical and Schools Wing A-33 C.A.C. Training Establishment, C.A., until he surrendered to the Military Atuhorities at Montrea South, Que. at 1100 hrs on the 20 August, 19 45.	20Jan 45	28Sep 45

Signature of Officer making entry

(E.I. AUERBACK) Capt.,
General List, C.A., att'd to
No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
22Oct 45	I do not recommend any remission of sentence in this solider's case.	(S. ECHENBERG) Colonel, Commanding No.4 District Depot

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26 Oct 45	Sentence considered fair and reasonable. 1st review on 13 Nov 45	(E.J. RENAUD) Major General, D.O.C. MD No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FILE NO: M.1-B-12814 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

MONTREAL, QUE.
3rd December, 1945.

The Secretary,
Department National Defence,
Ottawa Ontario.

D-645208 - Pte. BELLEMARE, H.J.

CENTRAL REGISTRY Army
13081
DEC 4 1945
Referred to BS

Ref HQC 55-B-2038.

2. Attached hereto form for remission in respect to the m/n soldier.

(E.J.RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

ENCL.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-6-2038
District File No. M.1- B-12814 (A/DIS)

PART I

D.645208 Rank Pte. Name BELLEMARE, H.J.
Unit M.D.4.

PART II

Date of Trial 28th September, 1945.
Charge (s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence 120 days detention
Date of sentence 28th September, 1945
Confirmation -- (a) Authority: Dec
(b) Date : 28/9/45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 29 Nov 45.

Signed at Montreal this 29 Nov day of 1945.

(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~xxxxxxxxxx~~)(~~xxxxxxxxx~~)* promulgated and extracts taken at Montreal South, Que. this 29th day of November, 1945.

(1)

Officer i/c Documents (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, CA.

Ags-

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-645208 Rank Pte. Name BELLEMARE, H.J. Stability
The sentence of 120 days detention awarded by ~~xxxxxx~~ Court Martial on the 28th September, 1945 has been remitted on the 29th November, 1945 by D.O.C. UNIT Military District No. 4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No. 288 Place Jacques Cartier Barracks Date 29th November, 1945
Montreal South, Que.

Adjutant

(J. ~~xxx~~ CHARLEBOIS) Capt-Adjt., General List, C.A., att'd to No.4 District Depot, C.A.

* Strike out and initial words not applicable.

HQC 55-B-2038 (JAG/D-6)

30 Oct 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
D.645208 Pte. Henri Jean BELLEMARE
CIC CA, att No. 4 DD, CA.
.....Court-Martial

M. 1-B-12814 (J)

27th October 5

Receipt is acknowledged of your Standing dated 194 , under cover of which you returned the proceedings of the marginally noted Court-Martial.

Your explanation of the delay in this case has been noted.

E.L.M.
for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

Noted to Ch. D. Admin. DJA.

1/45.

IN REPLY PLEASE QUOTE No. M. 1-B-12814 (J)

R-40

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

Montreal, P.Q., Oct. 27th, 1945.

5832
OCT 29 1945
File 055-B-2038
Chgd. to
Referred to JAG

The Secretary
Department of National Defence
O T T A W A, Ontario.

STANDING COURT MARTIAL
D-645208, Pte. Henri Jean BELLEMARE,
CIC, CA, att'd to No. 4 District Depot, C.A.

Reference your H.Q.C. 55-B-2038 (JAG/D-4), dated 15th October, 1945.

2. Hereunder, for your information, an explanation as to why the accused spent 39 days in custody awaiting trial:

20-8-45	Surrendered. Wired for status, documents and Part II Orders.
25-8-45	Status received.
27-8-45	Tracer for documents.
3-9-45	Tracer for documents.
10-9-45	Tracer for documents.
10-9-45	Kit inspection.
11-9-45	Remanded for Standing Court Martial.
14-9-45	Tracer for Part II Orders.
20-9-45	Tracer for Part II Orders.
21-9-45	Part II Orders received.
24-9-45	Proceedings completed and forwarded to this HQ.
26-9-45	Application for Standing Court Martial received at this Headquarters and trial of the accused scheduled to take place on the 28th September.
28-9-45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court Martial.

Jules Moreau Capt
for (E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

MEDICAL OFFICER'S REPORT

I certify that No. D-645208 Pte. BELLEMARRE Henry
of Att'd No. 4DD is in a good state of health,
and fit to undergo Trial by Court martial.

A-33, T.&.S., C.A.C., C.A.,

C.H.Elshout

(C.H.Elshout) Lieut. Medical Officer R.C.A.M.C.
No.4 Distr Coy.
Att'd No.4 District Depot C.A.

Station J.C.Bks Mtl. South, Que.

Date Sep. 28th 1945.

M. F. B. 246

50M—3-43 (254)
H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à u Dépot du District No. 4, C.A., Montréal-Sud, Qué.

le 28e jour de septembre, 19 45 à 1400 heures,

pour le procès de D-645208 Pte. Henri Jean BELLEMARE,
Matricule Grade Nom et prénoms

C.I.C., C.A., attaché au Dépot du District No. 4, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. BELLEAU, Quartiers-Généraux, District Militaire 4

PROCUREUR: Lieutenant R.O. CRAIG,
Grade Nom et prénoms

Quartiers-Généraux, District Militaire 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant Pierre MONGEON,
~~DÉFENSEUR~~ Grade Nom et prénoms

C.I.C., C.A., attaché au Dépot du District No. 4, C.A.
Unité Détachement, le cas échéant

VERDICT: La Cour déclare l'accusé, D-645208, Pte. Henri Jean BELLEMARE, C.I.C., C.A., attaché au Dépot du District No. 4, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La Cour condamne l'accusé, D-645208, Pte. Henri Jean BELLEMARE, C.I.C., C.A., attaché au Dépot du District No. 4, C.A., à la détention pendant cent-vingt (120) jours.

Extracts entered as No. 40217 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 10 day of oct 1945

Signé à Montréal-Sud, Qué. ce 28e jour de septembre, 1945.

(L.J.E. BELLEAU) Major
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.O. 1772-39-2296
K.P. 26109

B

Question à l'accusé.

Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé.

~~Vous opposez-vous à~~ HSB
~~comme interprète ?~~ HSB

Réponse:

Question à l'accusé.

Vous opposez-vous à D-136118 CSM (WO II) DeKoninck, P., CMSC, CA comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est HSB dûment assermentés.

Question au procureur.

L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur ~~chacun des~~ le HSB chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé.

Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé.

Etes-vous coupable ou non du ~~premier~~ HSB chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé.

~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé.

Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé.

Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

HSB

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

H.E. Bellemare, Major
Pres. CM.

B2

CHARGE SHEET

The Accused, D-645208, Private Henri Jean BELLEMARE, C.I.C., C.A., att'd to No. 4 District Depot, C.A., an N.R.M.A., Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he

at Camp Borden, Ontario, at 1300 hours on the 20th of January, 1945, absented himself without leave from his Unit, Technical and Schools Wing, A-33 Canadian Armoured Corps Training Establishment, C.A., until he surrendered to the Military Authorities at Montreal South, Quebec, at 1100 hours on the 20th of August 1945.

Signed at
Montreal South, Quebec.
12th September, 1945

J. Bibeau

(J. BIBEAU) Lieut.-Col.,
A/Officer Commanding,
No. 4 District Depot, C.A.,

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur. (Voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

M. le Président,

Ma mère était malade. J'ai un certificat de médecin attestant la maladie de ma mère. Je désire produire les documents suivants à l'appui de ma déclaration:

a) Une lettre du Dr. Ernest, Rousseau, en date du 27 juillet 1945, attestant l'état de santé de ma mère.

b) Une lettre du Dr. P. LaHaye, du Cap de la Madeleine, en date du 27 juillet 1945, certifiant qu'il a soigné ma mère.

c) Une lettre du Curé Lupien de la paroisse Cap de la Madeleine, en date du 27 juillet, 1945.

d) Une lettre du maire de Cap de la Madeleine, Irené Rochefort, en date du 31 juillet 45.

Les documents précités sont lus, marqués pièces "F", "G", "H" et "I", respectivement, signés par le Président et versés au dossier.

Depuis que je suis entré dans l'armée que ma mère est malade; elle fait des crises cardiaques. Chaque fois que j'allais en passe et que je me préparais pour m'en retourner à mon unité, elle faisait des crises.

Mon père vit et travaille dans un moulin à papier à Trois-Rivières. Je j'ai pas de frères, je suis le seul garçon.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR

M. le Président,

Je voudrais souligner dans quel état d'esprit était l'accusé quand il s'est absenté sans permission. Il était dans un milieu Anglais, ce qui ne le convenait pas très bien et il recevait des lettres de sa mère, qui souffrait de maladie cardiaque. Il n'a pas réalisé la gravité de sa faute et est parti surtout sous l'influence de sa mère. Pour ces raisons, je demanderais que la cour soit clémente envers l'accusé.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

F

Dr Ernest Rousseau

Ex-Elève des Hôpitaux de Chicago et de St-Louis. Directeur des Laboratoires et Chef du Service de Transfusion à l'Hôpital St-Joseph.
SPECIALITE : Diagnostic clinique appliqué aux méthodes de Laboratoire.
HEURES DE BUREAU :
Tous les jours à 2 heures P.M. excepté le Samedi.
LE SOIR : Lundi, Mercredi et Vendredi à 7 heures.
Tél. 302 — Résidence 1123
TROIS-RIVIERES, Qué.
857 rue St-Pierre

le 27 juillet, 1945.

Re: Mme Wilbrod Bellemare.

Ceci est pour certifier que cette Dame est sous mes soins depuis la fin de février 1943; c'est une cardiaque asthmatique et depuis l'appel de son fils pour le service militaire ses crises d'asthme sont devenues subintrantes au point que pendant quelque temps il lui fallait une injection par jour.

Il est évident que cette Dame a un fond asthmatique et que sa cardiopathie la rend sensible au moindre choc moral ou physique.

L'appel de son fils a certainement eu une influence sur son état, car à partir de cette date l'état de cette Dame s'est aggravé. La présence de son fils à la maison serait aussi importante que le traitement médical.

Bien obligé,

Ernest Rousseau M.D.

ER/YL

Ernest Rousseau, M.D.
857, rue St-Pierre,
Trois-Rivières, P.Q.

Cap de la Madeleine 27/7/45. G

A qui de droit,

Je soussigné certifie que j'ai eu sous mes soins depuix 30 mois Madame Wilbrod Bellemare mère du soldat Henri-Jean Bellemare laquelle est une asthmatique chronique et une cardiaque. J'ai eu le regret de constater une agravation de sa maladie lors du depart de son fils pour l'armée, pour des raisons d'ordre psychique surtout.

Evidemment nous reconnaissons que le moral a une influence très marquée sur l'évolution de certaines affections en particulier chez les cardiaques.

Depuis que son fils est en dehors de l'armée, depuis le début de fevrier, son etat de santé s'est de beaucoup amélioré diminuant de beaucoup les dépenses du mari Mr. Wilbrod Bellemare lequel est un journalier.

Il conviendrait donc à mon point de vue que pour l'amélioration de l'etat general de Madame Bellemare que le retour de son fils au foyer s'effectue le plus tôt possible dans des conditions normales.

Docr Lafaille
612 Notre Dame

Cap de la Madeleine 27/7/45.

"H"

A qui de droit,

Je soussigné certifie que Madame Wilbrod Bellemare, mère du soldat Henri-Jean Bellemare fut gravement malade, atteinte de crises cardiaques.

Je l'ai visitée plusieurs fois et j'ai constaté que ses crises cardiaques etaient très fréquentes.

Depuis que son fils est en dehors de l'armée, c'est-à-dire depuis fevrier, elle est beaucoup mieux et même je puis vous dire qu'elle peut venir à l'église assez régulièrement.

Je puis certifier que la maladie de Madame Bellemare a occasionné de fortes dépenses.

Le retour du soldat Henri-Jean Bellemare au foyer paternel serait de nature à parachever la guérison de sa mère.

Bien à vous, J. Ad. Lupien ptre curé

Cap de la Madeleine 31/7/45

I

Ministere Defense Nationale
Ottawa

Monsieur

Ceci pour certifier que M.Henri Jean Bellemare etait dans l'armee. Je le connais bien ainsi que sa famille. Il a du quitter l'armee en raison de l'etat de sante de sa mere,atteinte de crise cardiaque.Je puis vous assurer que depuis son retour l'etat de sante de sa mere s'est beaucoup ameliore. Cependant la maladie de sa mere a occasionne de grandes depenses et il s'est vu dans l'obligation d'aider sa famille . Tout ce que vous pouvez faire dans le but d'aider cette famille et ce jeune homme sera pris en serieuse consideration par le conseil de ville et sa famille

Votre tout devoue

Lucien Rochefort
Maire

Ville du Cap de la Madeleine Que.

DAILY ORDERS PART II

No. 20

BY

Place Camp Borden, Ont.

COLONEL P.G. GRIFFIN, D.S.O.

Commanding

Date 23 Jan 45

TECHNICAL AND SCHOOLS WING, A-33 CANADIAN ARMOURED CORPS
TRAINING ESTABLISHMENT

Last Order Issued No. 19 of 22 Jan 45

HOME WAR ESTABLISHMENT

"B" OTHER RANKS

RECEIVED
SEP 21 1945
CENTRAL REGISTRY
NO. 4 DISTRICT DEPOT

6. ABSENCE WITHOUT LEAVE

(c) A.W.L. from 1300 hrs. 20 Jan 45
D-645208 PTE. BELLEMARE, H. (Admn.)

(Signed) G.M. McClelland, Lt.,
(G.M. McCLELLAND) LIEUT.,
Adjutant, T & S Wing, A-33, CACTE

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE SEP 17 1945

Prepared by:
and
Checked by:

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. S. ECHENBERG, Commanding No. 4. District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-645208. Pte. BELLEMARE, H.J.
(Number) (Rank) (Name in full)

of the C.I.C., C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXXXX~~ (surrendered to) D-126460. SGT.
(Number) (Rank)

PATENAUDE, L. No. 4. District Depot Police, C.A.
(Name) (Unit or appointment)

at MONTREAL SOUTH QUE. at 1100 hours,
(Place) (Hour)

on the 20 day of AUG. 19 45.

Strike out words not applicable } ~~XXXXXXXXXX~~ absentee without leave), and that at the time of his ~~XXXX~~ surrender he was wearing military ~~XXXXXX~~ uniform (~~XXXXXXXXXXXX~~

Dated at MONTREAL SOUTH QUE., this 20 day of Aug. 19 45.

(Signature, Number, Rank, Unit or appointment)
(S. ECHENBERG,). Colonel.
Commanding No. 4. District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Lt/Colonel Mason
Pres. CM.

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-020
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-645208	Pte.	H.J. BELIEMARE, C.I.C., C.A., att'd to No. 4 D.D.	C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery, Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	Cond. to the Prej. etc. 1 times
For	times	A.W.L. 1 times
~~For~~	~~times~~	~~times~~
For	times	~~A.W.L.~~ times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations for trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement ~~awaiting~~ ~~A.F.A.~~ trial on the present charges, for Nil days in civil custody, and 39 days in military custody, making a total of 39 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is attached paper~~ enrolment 21 years, 9 months. (5th Dec. 1923)

6. The date of his ~~commission~~ enrolment specified in his ~~record of service is attached paper~~ enrolment 17th Feb. 1943.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension or~~

9. The accused is in possession of or entitled to no ~~airforce~~ military decoration, or ~~airforce~~ military reward ~~(or is in possession of or entitled to). State any airforce decoration or reward.~~

10. ~~(If the accused is a resident officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Unit Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

L.R.Hamelin, Lieutenant,
C.I.C., C.A., att'd to
No. 4 District Depot, C.A.,
Officer i/c Records,
No. 4 District Depot, C.A.

Signed this 28 Sep 45 ~~day of~~

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

Date of Birth

Reg. No. D-645206 Name BELIEMARE, H. J. Corps T&S Wing A-33 C.A.C. Date of enlistment or enrolment 17-2-43

Signature O.C. Company, etc. (Sgd) n?????????? Major

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed 18-8-43 entries nil (Sgd) ?????(as above) Major.					
Barriefield Ont.	3 Jan 43	Pte.		Illegal possession of property belonging to person subject to Military Law, etc. Sec. 40 A.A.	Pte. MacDonald F.K. L/Cpl. Trotter	10 days Det.	4-11-43	Lt. Col Wurtele	
Camp Borden, Ont.	12-6-44	Pte.		Sec. 15(1) AA "AWL" from 0600 hours on 12 June 44 until 1200 hours on 13 June 44 (Absent: 1 day and 4 hours)	Documentary	7 days C.B.	15-6-44	(J.W. McMahon) Major	Forf 2 days' pay under FR3.I

(Over)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY L.R.Hamelin L.R.Hamelin, Lieutenant, C.I.C., C.A., att'd to No. 4 District Depot, C.A., Ass't Officer i/c Records, No. 4 District Depot, C.A.					

H.Q.C.55-B-2038 (JAG/D-4)
Your M. 1-B-12814 (J)

15 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D.645208 Pte. Henri Jean Bellemare,
CIC., C.A., att. No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 39 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

Judge Advocate General.

JOGR/MM

SM-7-45(M-188)

THIS COPY FOR

H.Q.C. 55-B-2038
M.D.M. 1-B-12914

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-645208 Name Henri Jean BELLEMARE

Rank Pte. Unit C.I.C. C.A. Att No. 4 D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 20-1-45

Date of Arrest 20-8-45 Charge Signed 12-9-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 28-9-45

Sentence Detention 120 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40217

Date 10-10-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 4
Absent
7 mos.

C.I.C. C.A. Att No. 4 D.D. C.A.
Sentence
Det. 120 days.

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-12814 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, Que.,
5 Oct 45

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

C.55-B-2038

STANDING COURT-MARTIAL
D-645208 Pte. H.J. BELLEMARE,
C.I.C., C.A., attached to
No. 4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report dated 28 Sep 45.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. BELLEAU) Major
Headquarters, Military District No. 4
President, Standing Court-Martial.

Encl.

40217

H.Q.C. 55-B-2039

CONFIDENTIAL

M.F.R. 2879
15M—4-43 (9625)
H.Q. 201-1-88

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BEGNOCHE, ARMEL D-647554 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2039

CENTRAL REGISTRY	DATE	P.A. OR S.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 16 1945		cancelled		JAG	NEW FILE	CR	9-10-45
					With Paper C.R. NOV 7 1945		
NOV 10 1945	12 11 45	PA			For note pls		10.11.45
NOV 12 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to S.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2039 (JAG/D-6)

10 Nov 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
D.647554 Pte. Armel BEGNOCHE
1st Bn. Les Fus de St.Laurent CA
attached to No. 4 DD, CA.
Court-Martial

M.1-B-4355 (J)

5th November 5

Receipt is acknowledged of the Standing Court-Martial dated 194 , under cover of which you returned the proceedings of the above-mentioned.

Your explanation of the delay in this case has been noted.

(R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdr

IN REPLY PLEASE QUOTE No. M.1-B-4355(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
5th November, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CONFIDENTIAL
CONFIDENTIAL
7490
NOV 6 1945
File C55-7B-2039
Chgd. to
Referred to

Standing Court-Martial
D-847554 Pte. Armel BEGNOCHE,
Lst Bn. Les Fus.de St.Laurent,CA,
attached to No.4 D.D.,CA.

Reference your HQC.55-B-2039(JAG/D-4) dated 15 Oct 45.

2. Hereunder, for your information, an explanation as to why the accused spent 83 days in custody awaiting trial:

10 Jul 45	Surrendered - Wired for status and docs.
12 Jul 45	Status received - T.O.S.
14 Jul 45	Request to CI(B)TC 48 for documents
19 Jul 45	Documents received
23 Jul 45	Part II's received - remanded for S.C.M.
25 Jul 45	Wired to Ottawa for correct Part II
26 Jul 45	Proceedings received at this H.Q. stating Part II will be forwarded upon receipt.
26 Sep 45	Proceedings re-submitted to this H.Q.
28 Sep 45	Application for S.C.M. received at this H.Q. and trial of the accused scheduled to take place on 1st Oct 45
1 Oct 45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

Enc.

for (E.J.Renaud),Major-General,
D.O.C., M.D. No. 4.

NAT. DEF. B. 440
3000M—12-45 (3283)
H.Q. 1772-39-767

MEDICAL OFFICER'S REPORT

17

I certify that No. D-647554. Fus. BEGNOCHE, Armel,
of Les Fusiliers du St. Laurent, C.A. att'd to No. 4 DD,CA., in a good state of health,
and fit to undergo Trial by Court martial.

O.Gray Capt. RCAMC.
(O.Gray) Capt. Medical Officer
No. 4. Dist., Coy., RCAMC.
Att'd. No. 4. Dist., Depot, C.A.

Station JACQUES CARTIER BARRACKS, Montreal South Que.,

Date 1 Oct. 45.

M. F. B. 246

50M—5-43 (254)
H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No. 4 District Depot, C.A.

le premier jour ~~du~~ d'octobre 1945 à 1450 heures,

pour le procès de D-647554 (Matricule) Private (Grade) Armel BEGNOCHE (Nom et prénoms)

1st Bn, Les Fusiliers du St-Laurent, CA, att'd to No. 4 D.D., CA (Unité, Détachement, le cas échéant)

PRÉSIDENT: Major L.-J.-E. BELLEAU, Quartiers-Généraux, District Militaire No.4

PROCUREUR: Lieutenant (Grade) B.-Q. CRAIG (Nom et prénoms)
Quartiers-Généraux, District Militaire No.4 (Unité, Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) J.-R. PANET-RAYMOND (Nom et prénoms)
C.I.C., CA, No. 4 District Depot, CA (Unité, Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-647554, Private Armel BEGNOCHE, 1st Bn, Les Fusiliers du St-Laurent, C.A., attached to No. 4 District Depot, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-647554, Private Armel BEGNOCHE, 1st Bn, Les Fusiliers du St-Laurent, C.A., attached to No. 4 District Depot, C.A., à la détention pendant quatre-vingts jours.

Extracts entered as No. 40216 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 10 day of Oct 1941

Signé à Montréal-Sud, P.Q. ce premier jour ~~du~~ d'octobre 1945.

(L.-J.-E. BELLEAU) Major,
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 28109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. [redacted] ?

Réponse:

Question à l'accusé. Vous opposez-vous à D-126 762, S/M (WOI) Joseph La Rivière, No. 4 Det., C.M.S.C., CA, comme sténographe ?

Réponse: Non, monsieur.

Le sténographe [redacted] est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur [redacted] les chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du [redacted] chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

W E Bellcan, major
Pres. CMS

B2

CHARGE SHEET

The Accused, D-647554, Private Armel BEGNOCHE, 1st Battalion Les Fusiliers du St. Laurent, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Acrive Service, is charged with:-

CHARGE
Sec. 15 (1),
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Lauzon, Quebec, at 0800 hours on the 27th of December, 1944, absented himself without leave from his unit, No. 5 District Depot, C.A., until he surrendered to the Military Authorities at St. Johns, Quebec, at 1830 hours on the 10th of July, 1945.

Signed at
Montreal South, Quebec,
26th September, 1945.

J Bibeau

(J. Bibeau) Lieutenant Colonel
Acting Officer Commanding No. 4 District Depot, C.A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au .....
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur. Chez nous, nous sommes neuf. Mon père est malade; il souffre d'ulcères d'estomac; il y a seulement mes deux soeurs qui pouvaient travailler; j'ai resté pour les aider un peu. Quand j'ai vu que mon père prenait du mieux, je suis venu me rapporter. J'ai un frère de 23 ans qui a été refusé par l'armée parce qu'il a la maladie du sommeil. Il ne travaille pas parce qu'il ne peut pas garder de "jobs" - il dort tout le temps.

(~~La déclaration de l'accusé doit être consignée sur une feuille séparée.~~)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: .....

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'officier défenseur s'adresse à la cour:

Dans le cas du soldat Begnoche, il y a eu des troubles de famille; ils sont neuf à la maison; le père était malade; deux petits frères sont à l'école et l'autre ne peut pas travailler à cause de sa maladie fort peut intéressante. Une des soeurs va encore à l'école, et les deux autres ne gagnent pas de gros salaires; alors, comme ça n'arrivait pas à la maison, l'accusé est allé les aider. Il a travaillé à la Centrale Catholique de St-Jean; je crois que c'est une association de prêtres ou un monastère. Il faisait $25.00 par semaine et là-dessus il en donnait $15.00 à la maison.

Je demanderais la clémence de la cour pour l'accusé qui a déjà passé 83 jours en détention en attendant son procès et qui n'a qu'une petite infraction sur sa feuille de conduite.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

DAILY ORDERS PART II

by

COLONEL Jean LA FONTAINE, MC.,
Commanding

NO 5, DISTRICT DEPOT.

No. 26

Place Lauzon, P.Q.

Date 29 Jan 45

(Last Order issued No. 25 , d/27 Jan 45)

HOLDING ESTABLISHMENT

"B" OTHER RANKS.

19. ABSENT WITHOUT LEAVE

f) Absent without leave from 0800hrs 27 Dec 44 Still A.W.L. at 0800 hrs 17 Jan 45 (22nd day)

D-647554 Pte BEHNOCHE, A. (Rft)

(Signed) G. Bonhomme Capt.
(G. BONHOMME) Capt. & Adj't.
No. 5 District Depot.
Lauzon P.Q.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE JUL 19 1945

Prepared by:
and
Checked by:

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major C. Lavallee, A/Offr Cmd, No. 48, C.I.(B)T.C.
(Number) (Rank) (Name) (Unit)

hereby certify that D-647544 Pte Begnoche, A.
(Number) (Rank) (Name in full)
Les Fusilie-s du St. Lau-ent, CA

of the att'd No. 4 District Depot
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended~~ (surrendered to) D-147907 Cpl
(Number) (Rank)

Fleming, B., C.I.C., C.A., attd No. 48, C.I. (B) T.C., C.A.
(Name) (Unit or appointment)

at St.Johns, Que. at 1830
(Place) (Hour)

on the 10th day of JULY 1945

Strike out words not applicable } as a ~~deserter~~ (or absentee without leave), and that at the time of his ~~arrest~~ SURRENDER he was wearing military ~~(uniform)~~ uniform ~~[illegible]~~

Dated at St. Johns, Que this 11th day of JULY 19 45

(Signature, Number, Rank, Unit or appointment)
(C. LAVALLEE) Major, A/Offr Cmd.,
No. 48, C.I. (B) T.C.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6000)
H.Q. 1772-39-1936

H.E. Bureau, Major,
Pres. C.M.

"Y"

M.F.B. 358
50M—9-43 (5962)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-647554	Pte.	Armel BEGNOCHE	Fus. du St. Laurent, C.A. , att'd to No. 4 D.D. C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service or General, Regimental and Separate Battery Conduct sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	~~times~~	Cond. to the prej.good order-1 times
For	~~times~~	~~times~~
For	~~times~~	~~times~~
For	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 83 days in ~~military~~ Air Force custody, making a total of 83 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ enrollment ~~attestation paper is~~ 21 years, 2 months (27 April 1924)

6. The date of his ~~commission~~ enrollment specified in his ~~record of service or~~ enrollment ~~attestation paper~~ 7th June, 1943

7. ~~The service which the accused is allowed to reckon towards discharge is .....~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military ~~reward (or is in possession of or entitled to). State any air force decoration or reward, military.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~

Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

W. Baird, Captain,
C.G.G., C.A., att'd to
No. 4 District Depot, C.A.
Officer i/c Records,
No. 4 District Depot C.A.

Signed this 1 Oct 45 ~~day of~~

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. D-64755 Name Begnoche, A. Sqn., Battery, or Company: 1st BN. FUSILIERS du ST. LAURENT C.A. Corps Date of enlistment: 7-6-43 G.C. Badges: Tradesmen's Rates of Pay:

No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. Signature O.C. Company, etc.: (Signed) Louis Lachart Capt. Character:

M.F.M. 6. (A.F.B.122) 750M—12-43 (7437) H.Q. 1772-38-1942

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Oyster River B.C.	29-5-44	Fus		Conduite prej au bon ordre et a la discipline militaire lorqu'il attaqua une fatigue de cuisine A.A. Sec. 40	L/Sgt Gagne SGT Cayouette	14 jrs C.B.	1-6-44	G. Gagnon Major.	

CERTIFIED TRUE COPY

W. Baird, Captain, C.G.G., C.A.,
att'd/to No. 4 District Depot, C.A.,
Officer i/c Records, No. 4 District Depot C.A.

"Z"
Welcome Harbour
Prov. Corr.

H.Q.C.35-3-2039(JAG/D-4)
Your M. 1-3-4355

15 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 647554 Pte. Armel Begnoche,
1st Bn. Les Fus du St. Laurent, C.A.
att. No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 83 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

(R. J. O'G. Biggar)
Brigadier
Judge Advocate General.

JOGR/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q. C. 55-B-2039
M.D. M. 1-B-4335
43355

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

o. D-647554 Name Armel HEGNOCHE

ank Pte. Unit No. 4 D.D. C.A. Lst Bn. Les. Fus. de St. Laurent Att.

harge AA 15 (1) AWL

Date of Crime 27-12-44

Date of Arrest 10-7-45 Charge Signed 26-9-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 1-10-45

Sentence Detention 80 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40216

Date 10-10-45

MEMO

M.D. 4

ABSENT
6½ mos.

1st Bn. Les Fus. du St. Laurent,
Att. No. 4 D.D. C.A.

SENTENCE
Det. 80 days.

for Judge Advocate-General

OM-8-45(M-189)

IN REPLY PLEASE QUOTE No. M.1-B-4355

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, P.Q.
October 6, 1945

Judge-Advocate General
National Defence Headquarters
OTTAWA, Ont.

6.55-B-2039

STANDING COURT-MARTIAL
D-647554, Pte. Armel REGNOCHE
1st Bn, Les Fusiliers du St-Laurent, CA
att'd to No. 4 District Depot, CA

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court

b) Medical Officer's Report, dated October 1, 1945.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E.BELLEAU) Major,
Headquarters, Military District No.4
President, Standing Court-Martial

encl.

40216

H.Q.C. 55-B-2040 CONFIDENTIAL

M.F.B. 3478
55M—2-45 (6600)
H.Q. 301-1-63

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT FIELD GENERAL COURT-MARTIAL

BEAUDOIN, ARTHUR D.58081 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2040

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and)		
				ADMIN	NEW FILE	CR	10-10-45
OCT 18 1945	7-10-45	43	pm	Day	To DOS	wol	12-10-45
				CMBR	For Registration C.R. OCT 25 1945		
NOV 1 3 1945	22-1-46		wol	Adm 3	Recommendation	gas	NOV 9 1945
JAN 10 1946	10-1-46	Pa	4	Admin	For Registration C.R. DEC 28 1945		
JAN 21 1946	21-1-46		4	D. Adm	PER B.F. JAN 22 1946		
JAN 28 1946	11-2-46		4	D. Adm	PER B.F. JAN 28 1946		
FEB 2 1 1946	11-2-46	Pa	4	Admin	PER B.F. FEB 11 1946		
AUG 1 3 1946	12 Aug 46	Pa	Ael	DAG	For Registration C.R. JUL 11 1946		
DEC 9 - 1946	9/12/46			CMB	For Registration C.R. DEC 9 1946		
FEB 1 5 1947	15/2/47			WAR	For Registration C.R. FEB 3 1947		

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PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-58081 Pte Arthur BEAUDOIN R de Mais att 1 Cdn Disc Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 12(1)(a)	Not Guilty	Not Guilty of desertion but guilty of being AWL from 1300 hrs 17 Oct 44 to 1600 hrs 2 May 45 (Total absence 197 days 3 hrs)	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 26 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majesty's Service.

(Sgd) N/A — Judge-Advocate, if any. 28 May 45 — Date awarded. (Sgd) "Donald Mackenzie" Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~XXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~to JA, DMK~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge~~(s)~~, "DM" call witnesses as to character and make an address in mitigation of punishment.[2]

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans. No [5]

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court notes the accused's statement (if any) in reply to the charge(s) that he is guilty as to Guilty xxxx

"DM"

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined D-58081 Pte Boudoin, A. and in my opinion he is fit to undergo trial by Court-Martial.

"A. Morris" Capt (Sgd)
(Medical Officer)

Unit - 1 Cdn Disc Centre.

Station: 1 Cdn Disc Centre

Date: 28 May 45

"DM"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(3).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-58081	Pte		Arthur	BEAUDOIN	R de Mais att 1 Cdn Disc Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 24 May 45 endorsed by me, ~~for by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~ "JGS

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~As senior to any other Offr named on the Court, the Offr as President on the Court have authorized hereunder~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D MacKenzie	Essex Scot X-9 List 3 Cdn NETD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G.T. Clark RCA	Cdn CM Centre
Capt	P.E. Dowler	Cdn CM Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.) "JG Sprague" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(J.G. Sprague)

Dat 24 May 45 Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use in trial.)

"DM"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-58081	Pte		Arthur	BEAUDOIN	R de Mais att 1 Cdn Disc Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 May 45 endorsed by me, ~~for my office of my staff for rory~~, " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~AND WHEREAS I am of opinion that it is not practicable to delay the trial for reference to a superior qualified offr~~

(Delete part in brackets when not required for compliance with RP 105(C).)

"JG

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~AND WHEREAS I AM OF OPINION THAT THE COURT SHOULD BE PRESIDED OVER BY A FIELD OFFICER PRESIDENT, FOR THE REASONS NOW STATED HEREUNDER~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D MacKenzie	Essex Scot X-9 List 3 Cdn NETD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G.T. Clark RCA	Cdn CM Centre
Capt	P.E. Dowler	Cdn CM Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.) "JG Sprague" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(J.G. Sprague)

Dat 24 May 45 Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In Ltu of AFA 3) 40/P&S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

"DM"

CHARGE SHEET

The accused, B-58081 Pte Arthur DESNDOUE, R de Rais, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
s 15 (1)
my Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1200 hrs 13 Sep 44 until 0830 hrs 2 Oct 44.

(Total absence: 18 days 20 hrs 30 minutes)

SECOND CHARGE
s 15 (1) (a)
my Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, absented himself from his unit from 1300 hrs 17 Oct 44 until apprehended in CAEN, France at 1600 hrs 2 May 45, wearing Civilian Clothes.

(Total absence: 197 days 3 hrs)

Remanded for Summary of Evidence

In the Field
14 May 45

(J W Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
14 May 45

(J W Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
24 May 45

"JG SPRAGGE"
(J.G. Spragge) Brigadier
Commander
2 Cdn Base Rft Gp

D-58081 Pte Beaudoin, A.

Second Charge AA Sec 12(1)(a)

For the Prosecution

Exhibit A R de Mais Part 11 Order Form d/14 Apr 45

Exhibit B Certificate of arrest d/2 May 45

Defence

st Witness Accused D-58081 Pte Beaudoin, Arthur, R de Mais sworn states:

On 17 Oct I left my regiment. I had permission from my officer to go into town. I bought what I wanted and it was time to return but I lost my way and I went to an English Arty Regt and stayed there all night. Next morning I tried to find my regiment. I went back to town and tried to find a Canadian reg't in town and the French police came and arrested meas a suspect together with two English MP. They sent me to Commander and kept me 4 or 5 days. I do not know the name of the town it was far away from my unit. Then they sent me to Leopold Barracks in Ghent. I do not know the date, I was kept in Leopold Barracks for one month certainly 2 or 3 weeks. Then they let me go from custody. I went AWL to various towns. I went to a regiment where my two brothers were around the 20 Jan 44. I did not see my brothers and was told they were killed by some soldiers there. I went away discouraged. At this time I intended to return to my unit. I was walking about Caen and slept and visited with friends there. I had 12,000 francs when I left my unit. I did not wear my uniform in Caen. Yes I often wore my uniform. I have only one. When picked up by the police I was wearing army boots and civilian clothes and had my identity discs on, and had photos received from women and photos of myself inkhaki. My pay book was left in Ghent. The rest of my uniform was at the tailors being repaired. I planned to leave it there about ten days. I was arrested as a suspect by the French Police. I gave them my identity, I said I was a Canadian AWL. I told them I was a French Canadian soldier. I showed them my identity discs and photos of myself in uniform. They took me to the French Barracks and informed the Commander and they took me to Caen and handed me over to the Provost Corps. I never said to anyone that I was a civilian. I was waiting for my uniform to go back to my unit when picked up.

Cross-examined:

After leaving Leopold Barracks I visited several towns and people I knew. Some RCE told me where my brothers were. They were from the 2nd Division. I belong to the 2nd Division. No I did not know where the R de Mais were because I went there to inquire about my brothers. I intended to return to my regt about 10 days later. From 17 Oct 1944 to 10 Jan 45 I did not try to locate my regiment I was too discouraged. When arrested the first time I had 150 francs left. After leaving Leopold Barracks I met a young girl, she gave me no money. I did not want money. I bought the civilian clothes I had 1200 francs. I paid 1800 francs for the clothes.

At this time I had 3-4000 francs. It was the second time

arrested I had only 150 francs. I was mistaken when I said it was the first time I had 3-4000 francs then. I cannot tell exactly how much I had left. After paying for my civilian clothes I had between 2,500 and 3,000 francs left. I was not living with the girl but wandering at this time. I wore my civilian suit for three days in Paris. This was the only time I wore the suit. I was not arrested in Caen in civilian but at Laire. About 15 or 20 Apr I wore these clothes in Paris. I was arrested about the 25th April. I bought the civilian suit about this same month in the suburbs of Paris. I do not remember the name. I spent about 2 mos & ½ in Paris. I left my uniform at the tailors in Paris to be repaired. I bought the suit before I took my uniform to the tailors about 2 or 3 days before. I was forced to wear my civilian clothes when I took my uniform to the tailors. I do not know how much but had little money when arrested at Loire. I lived with a few girls, sometimes they gave me money. When I left my regiment I did not intend to desert. I intended to return in ten days after I failed to find my brothers at their regiment. When I was told my two brothers were killed I was discouraged. I do not know when but I did intend to return.

Questioned by the Court.

I can read and write. I was told by two others soldiers that my brothers were killed and have had no word from them since I saw them in England in March 1943. Capt David gave me permission to go into town on 17 Oct 44. I do not remember the name of the town as we had just arrived there. It is in France, near the Belgium frontier I believe. I was not with my regiment in Holland but was with it in Belgium for about a week.
I was an equipment repairer and tailor with B Echelon. I do not remember if my regiment was fighting at the battle or Moth Dieppe on the 17 Oct. I lost my way trying to return to my regiment. I was arrested by civilian police with an English soldier. They were French police. I do not know if my regiment was in Holland on 17 Oct 44. I do not remember Hoogerheide but I do remember Honchodte. I cannot say it is in France or Belgium but is near the frontier. I do not know the names of my friends in Caen justsoldiers in my regiment I was there about a week. The last time I was arrested at Loire. Father and three sisters are living. I get a letter from them about every six months. I received no news from them that my brothers were dead. I am single. Last time I received news from home I was in England.

RP 83(B) complied with.

Summary by Prosecution p. 6

Summary by Defence p. 7

Plea in Mitigation by Defence p. 8

Mr President and Members of the Court,

There are two types of desertion. General desertion and Special Desertion. General Desertion concerns a person who goes absent with the intention of avoiding service with any formation. This is the type of desertion covering this case.

The accused went absent on the 17 Oct 44 and was absent for a period of 197 days until apprehended on the 2 May 45, in civilian clothes.

The accused spent approx 9000 frs in the first two to 2½ months of AWL, yet he lives for a period of approx 130 days on about 4000 frs. Out of this he bought a suit of civilian clothes for 1800 frs. He admits that a few girls helped support him.

He claims he intended to return to his Regt. He could question 2nd Div troops as to the whereabouts of his brothers Regt, but failed to inquire as to his own Regts whereabouts, although he states that he was trying to locate them.

On further questioning he states that he intended to return to his Regt after he saw his brothers, in about ten days. This occurred on about the 20 Jan 45. Yet approx 3½ months later he is still AWL until apprehended and is not sure when he intended to return.

These points along with the fact that he was arrested in civilian clothes proves quite conclusively that the accused intended to desert.

Gentlemen, if this evidence has convinced you of the guilt of the accused, then he is guilty of desertion. If, however, it does not convince you of this, then you can only find him guilty of AWL.

"GK Bissett" Lt
Prosecuting Officer.

"DM"

Summing up for the Defence in the case of
Pte Beaudoin, A.

The law of desertion is very clearly defined. On this case the accused was rightly charged with desertion because it did appear that some intention to desert existed.

Once charged, the onus is on the prosecution to prove, to the satisfaction of the court, that the accused did in fact intend never to return to His Majesty's service.

What has the Pros presented?

Two slips of paper - documentary evidence showing that the accused was absent and that he was picked up in Caen in plain clothes. The circumstances of the apprehension are not given. No witnesses have been called.

Gentlemen - I fail to see how the prosecution has proven the intention - Not has he complied with his duties so clearly outlined in MML p.55 para 32.

That the accused was absent - we do not question, but his statement must have convinced you that he did intend to return - at the very least - a real doubt has been established as to his intentions.
AA Sec 56(3) gives you to power to find a man charged with desertion - not guilty of desertion but guilty of AWL. MML goes further. Page 20 para 24.

Let us review the facts

The accused - AWL in Caen, thinking of returning to his unit, and anxious to appear a smart soldier, he left his uniform at a shop to be cleaned. He then obtained a civilian suit and carefully took his wallet - containing pictures of himself in uniform and his identy discs with him. When some few hours later he was questioned by the French Police - he produced his pictures in uniform, his discs and stated "I am a French Canadian soldier".

Surely these are not the actions of a man whose nature tongue is French - If he really intended to lose himself and never return to the army.

Gentlemen "The criterion between desertion and absence without leave is intention."

"M. Dale" Capt

28 May 45.

Plea in Mitigation

in the case of B-58681 Pte Beaudoin A

Mr President: Gentlemen,

You have now to decide on a punishment becoming to the offence which Pte Beaudoin has committed.

I am not calling a character witness but am asking the court to accept in lieu the written statement of Lt-col Guy Laromie, Sr Chaplin (RC) who had no difficuly in remembering Pte Beaudoin.

- Exhibit

Now Gentlemen, let me briefly review the facts for you.

Pte Beaudoin - a young man - age 26 - and having served for five years without crime or offence against the army act, except for a few days or hours absent.

He did however find himself lost - away from his unit - and took advantage of that opportunity to call on his brothers - the first opportunity he had had since he had heard of the death of his mother. Imagine his shock when he was told that his brothers had been killed in action.

These were the conditions which Pte Beaudoin to stay away such a long time - Saddened by the thought of his motherless home - Shocked to despondency by the report of the untimely deathof his two brothers.

From his MFM 6 - he must be given the benefit of being a first offender. I suggest to you that a very light sentence would not embark him on a career of crime but rather return a sorry but wiser Beaudoin home to useful civil occupation.

MRM Dale" Capt

Exhibit "A"
"M. Rousseau" Capt

PART II ORDER EXTRACT FORM

Ex A
"DM"

TO: Disc & Pay

R de Mais/1(A5c)
14 Apr 45

EXTRACTS FROM: Unit R de Mais
Part 11 Order No 71 dated 30 Dec 44

ABSENT WITHOUT LEAVE

(a) AWL from 1200 hrs 13 Sep 44 Ret from AWL 0830 hrs 2 Oct 44

(b) AWL from 1300 hrs 17 Oct 44 Still absent 1300 hrs 25 Oct 44(8th day)
still absent 1300 hrs 6 Nov 44 (22nd day)

D-58081 Pte BEAUDOIN A

"FENELON" Capt
Officer in Records
Cdn Sec 2 Neh HQ 21 A Gp

Certified true copy of Exh "A"

M. Rousseau Capt

Exhibit "B" "DM"

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163 (1)(iii)

I certify that No 58081 Rank (Pte) Name Beaudoin A.
of HQ Coy R D H (Unit) was arrested at CAEN (Place)
at 1600 hours on 2nd May 45 (date)
was dressed in plain clothes

Date 2-5-45

"CHARLES EM PITTMAN" Capt
DAPM 25 Garrison

Certified true copy of Exh "B"

M. Rousseau Capt

Ex "C"

"DM"

Summary of Evidence in the case of [illegible] Pte [illegible] A. B de Mais, attached to 1 Can Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charges - (1) Absence without leave

(2) Deserting His Majesty's Service

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as exhibits and are attached to the proceedings.

See Ex A for second charge "DM" ← Exhibit "A" - Certified true copy of Extract from Part II Order No 71 dated 30 Dec 44

Second charge only "DM" ← Exhibit "B" - Certificate of apprehension dated 2 May 45

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that ss 4 (a)(b)(c)(e) and (d) have been complied with.

M. Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field
14 May 45

"DM"

LIST OF WITNESSES

N/A

Certified true copy of extract from Pt 11 Order No. 71 dated 30 Dec 44 "A"

Certification of apprehension dated 2 May 45 "B"

I, D-58081 Pte BEAUDOIN A acknowledge having received one copy of the charge sheet and one copy of the Summary of Evidence free of charge on 14 May 45.

"A Beaudoin"
D-58081 Pte Beaudoin A

Ex D
"DM"

HQ 2 CBR Gp

28 May 45

TO WHOM IT MAY CONCERN

I have been for four years Regimental Chaplain in the Regiment de Maisonniere. At that time I have known D-58081 Pte Beaudoin A, who joined the unit in England in March 1942 and was employed as regimental tailor. He was still with the unit when I left in September 1943.

I can assure that at that time he was known in the unit as a very reliable man, non-drinker, with very good behaviour.

He was always very worried about the situation at home. His mother was the only one writing to him, but as she was a sick person she did not write very often, and he often kept thinking and worrying about her.

This might account for a part in his getting more unsettled later on, especially after he was falsely informed of the death in action of two of his brothers.

"Guy Laramee"
H/Lt-col
DAPC (RC)
Cdn GHQ and L of C Troops

Ex "E"

"DM"

Army Form B 296 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martials only)

Number	Rank	Name	Regiment (or as the case may be)
L-58081	Pte	BEAUDOIN A	R de Mais-1 Cdn Disc Centre

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court-martial or a civil court:-

For ~~15(1) AWL~~ ~~1~~ ~~4~~ times

For ~~AO~~ ~~1~~ times

For _____ _____ times

For _____ _____ times

Date of first entry in Field Conduct Sheet ~~1 May 41~~

Date of last entry in Field Conduct Sheet ~~1 Jun 44~~

2. Previous convictions of the Accused by a Cour-Martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for ~~Nil~~ beginning on the ~~N/A~~ day of ~~N/A~~.

4. The accused has been awaiting trial on the present charges for No days in civil custody and for 26 days in military custody, i.e. No days in Open Arrest 26 days in Close Arrest, of which No days were spent in hospital.

5. The present age of the accused is 25 years 1 month old.

6. The date of his Attestation is ~~19-7-40~~.

7. The service which the accused is allowed to reckon _____.

8. The accused is in possession of G.V.S.M. with bar.

9. (If the accused is a Warrant Officer or NCO). The accused has served continuously without reduction, to the present date:-

	Date of Promotion
In the substansive rank of //////	
In the War substansive rank of //////	
In the acting rank of //////	

No record of convictions by Court-Martial on MFM 6

I hereby certify that the foregoing particulars which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief.

signed this day of May 45

M A Goodeight

FILE NO: M. 1-B-1226 A(DIS)

RECEIVED
JAN 28 1946
D.M.J.A.
3B3

DEPARTMENT OF NATIONAL DEFENCE
/ A R M Y /

MONTREAL, Que.,
25 January 1946.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONFIDENTIAL
4134
JAN 26 1946
Chief to Dadmus 28-1-46
Referred to admin

REVIEW OF SENTENCES CM CARO 5913.
D-58081 - Pte. BEAUDOIN, Arthur HQC 50-8-2040

Reference HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Attached hereto MFM 3104 duly completed with respect to the m/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

3. Also appended is Form of Remission.

(S. Echenberg) Colonel.
~~(A.D.M.J.A.) Judge Advocate~~,
A/DOC MD No. 4.

Encl.

Pa on file
1-8-1946

Ex "F" "DM"

3/17 MFM 6 (APB 122) 40/P&S/136 (5413)

No. D56081 Name [illegible] Arthur | Sqn, Battery, or Company | Corps GIC | Date of enlistment 19-7-40 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier	1-5-41	Pte	NIL	AWL from 0800 hrs 1-5-41 until 2.00 hrs 8-5-41 (3 days 14 hrs)		Forf 4 days py		J Bibeau Capt	FRI 149(1a)
Valcartier	29-[illegible]-41	Pte	"	AWL from 0800 hrs 28-5-41 until 2130 hrs 28-5-41(13 hrs 30 min)		Forf 1 Days py 158 hrs detn		H Dupuin for J Bibeau Maj	149 (1b) & 149(1a)
Field	16-2-43	Pte		AA 40 Not complying with Group order 1/51 d/15/2/43	Sgt Hopley L/C Malley	Forf 2 dys py	19-2-43	Maj Miller	
Field	4-10-43	Pte		15(1) AWL from 0800 hrs 4 Oct to 2215 hrs 4 Oct 43 (14hrs 15 min)	Capt David	Forf 5 dys py	8-10-43	Lt col Sicaillon	forf 1 dy pY FRAI 149(1a)
Fd	31-5-44	Pte		15(1) AWL from 2230 hrs till 2230 hrs on 31-5-44 (24 mins)	Sgt Rochelleau CPL Marcotti	3 days CB	1 Jun44	Capt Bouzui	

Certified true copy of MFM 6 in my possession

Substitute
AF A3104

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

1. Case of No. D58081 Pte BEAUDOIN A Unit R de Mais

Sentenced to 2 yrs IHL & DI on 28 May 45

Age on, and date of, enlistment 21 yrs 19 Jul 40 Term of service, duration.

II. To

Superior Military Authority

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place

Date

Confirming Authority

III. I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) and be reviewed on

Place
Date

Superior Military Authority

(For action on review, see Paragraph VI.)

IV. To

Superior Military Authority.

This man was again convicted on and sentenced to and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place
Date

Confirming Authority

V. I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) with the previous sentence of and be reviewed on

Place
Date

Superior Military Authority.

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VI. - Action on Review
(Whether the sentence or sentences are suspended or in execution)

Any Reviewing Authority under Section 57 of the Army Act may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence so commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 571 of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc, considered upon review should be posted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of OC Prison or Detention Barracks.
	NO REMISSION- RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters	
16 Jan 46	Sentence remitted wef 21 Jan 46	17 JUL 1945 (R.J. Renaud), Maj Gen, DOC MD No. 4.	Released from det on 21st Jan 46. (S.ECHENBERG) Colonel, Commanding No.4 D.D.,

(Continued on page 4.)

Charge or charges giving particulars	Date of Offence	Date of Trial
VII.- First Trial (1) AA Sec 15(1) AWL from 1200 hrs 13 Sep 44 to 0830 hrs 2 Oct 44. (Absent 18 days 20 hrs 30 mins) (2) AA Sec 12 (1)(a) Not guilty of desertion but guilty of AWL from 1300 hrs 17 Oct 44 to 1600 hrs 2 May 45. (Absent 197 days 3 hrs) D L Macdonell Capt. Signature of Officer making entry	13 Sep 44 17 Oct 44	28 May 45
VIII. - Second trial. Signature of Officer making entry		

IX. - CO's remarks and recommendations on First Trial.

Date		Signature
Jun 45	Normal review Accused committed to: Awaiting despatch to 1 Cdn Detn & FP Bks.	W Richmond, Lt-Col. Comdg, 1 Cdn Disciplinary Centre

X. - Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
JUN 45	Recommend full sentence be served	J S H Lind (J S H Lind) Brigadier Commander 3 Cdn Base Rft Gp

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FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5-5
District File No. M.1- B-1226 (A/DIS)

PART I

No. D.58081 Rank Pte. Name BEAUDOIN, Arthur

Unit 4.D.D.

PART II

Date of Trial 28th May, 1945

Charge (s) Absenting himself without leave

Sentence 2years impr with H.L. and to be discharged with ignominy

Date of Sentence 28th May, 1945

Confirmation -- (a) Authority:

(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 21 Jan 46.

Signed at Montreal 16 Jan 1946.

(E.G. RENAUD), Major-General
D.O.C. M.D. No. 4

PART I V
PROMULGATION

Remission (~~xxxxxxxxxx~~) (~~xxxxxxxxxx~~) promulgated and extracts taken at Montreal South, Que. this day 21st of January, 1946.

(1)

Ass-Officer i/c Documents. (~~L.R. HAMBIN~~) Lieut., C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D-58081 Rank Pte. Name BEAUDOIN, Arthur Field General

The sentence of 2years impr with H.L. awarded by ~~xxxxxxx~~ Court-Martial on the 28th May 1945 has been remitted on the 21st January 1946 by D.O.C.

UNIT. Military District No.4, Montreal, Que.

Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.

No. 18 Place Jacques Cartier Bks Date 21st January, 1946

Montreal South, Que.

Adjutant

H.de G. STEWART, Capt-A/Adj
General List, C.A., att'd to
No.4 District Depot, C.A.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

~~XVX VX VX VX VX VX VX VX~~ Adm 3(b)2 HQC 55-B-2040

9 Jan 46

District Officer Commanding,
Military District No 4,
MONTREAL, Que.

D.58081 Pte BEAUDOIN, A.
SUS - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is ADA3104 and CMHQ letter.

3. ~~XVX VX VX VX VX VX VX V

HQC 55-B-2040 (CMBR-5) /N
1 Nov 45.
Case No. 0723

REVIEW OF SENTENCE
BY
COURTS-MARTIAL REVIEW BOARD

1. No, Rank and Name: B-58081 Pte. BRABCOIN, A.

2. Unit at date of offence: Regt. de Mais. Att 1 CDC

3. Charge: AA Sec 15 (1)
AWL from 1200 hrs. 13 Sep 44 until 0830 hrs 2 Oct 44.
Length of absence - 18 days.

AA Sec 12 (1) (a) DESERTION:
AWL from 1300 hrs 17 Oct 44 until apprehended at 1600 hrs 2 May 45 wearing civilian clothes.
Length of absence - 197 days.

PLEA: (1) Guilty
(2) Not guilty.

4. Place and Date of Trial: Belgium 23 May 45
(FGCM)

5. Finding: (1) Guilty.
(2) Guilty of AWL

6. (a) Sentence: Imp WL for 2 yrs. and discharge with ignominy.

(b) Date of sentence: 23 May 45.

7. Date of Confirmation: 12 Jun 45.

8. Date of Promulgation: 16 Jun 45.

9. Being served at: to be ascertained in N.D._____

(N.B. - Discharged under RO 1029 ( ) for
wef

Case No

CONDUCT

11. (a) Prior to conviction:

Date of enlistment: 10 Jul 40

~~xxxxxxxxxxxxxxxxxx~~ Age: 26

4 Offences of AWL and one other.

(b) After conviction: Good

Expected date of release 27 Sep 46.

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(1) Item 10 has been omitted.

(2) Went to town on pass, got lost on returning, wandered around for a day or two until arrested by French police who sent him to Base. Went AWL again to find his two brothers, was informed that both were killed. Became very despondent. Does not hear from home very often. Pulhems grading now M2, S3.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Offr, etc.)

CMHQ - Serve sentence in full and thereafter be discharged with ignominy.

Reviewing Officer: in view of long active service, service in action and relatively good conduct record recommend release after 3 mos. Approx. 27 Jan 46.

Reviewed by A M Stephenson
A.M. Stephenson, Major.

Recommendation of the Board:

For remission on 21 Dec 45
or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date NOV 9 1945 19

H. A. Stickell Maj
Secretary
Courts-Martial Board of Review.

Note
H

H.Q.C. 55-B-2040
M.D.10/ Beaudoin A/

THIS COPY FOR

MEMORANDUM - ~~DISTRICT~~ FIELD GENERAL COURT-MARTIAL

No. D-58081 Name Arthur BEAUDOIN

Rank Pte. Unit R. de Mais, Att. No. 1 C.D.C. C.A.O.

Charge AA 15 (1) AWL

(2) AA 12 (1) (a) WOAS Desertion.....

Date of Crime 13-9-44 (2) 17-10-44

Date of Arrest (1) 2-10-44 (2) 2-5-45 Charge Signed 14-5-45

Orders for ~~D~~ F.G.C.M. Brig. Comd. 2 C.B.R.G.

Place and Date of Trial In the field. 28-5-45

Sentence To be imprisoned WHL 2 years. Discharge with ignominy.

Date of Confirmation 12-6-45

Date of Promulgation 16-6-45

Entered in Records of J.A.G. as No. 4308

Date 15-10-45

REMO (2) Guilty AWL

Reviewed at C.M.H.Q.

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L.J. Ryan Lt

for Judge Advocate-General

OM-8-45(M-189)

Quote No. HQC. 55-B-2040 (JAG/D-5)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
16th October 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

~~Field General Court Martial~~
~~D-5502, Pte. A. Beaudoin.~~

1. Receipt is acknowledged of your dated 1 Oct. 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

Beaudoin A.F. 4

EKM

LCC:EJ

for (R.J. Orde), Brigadier
Judge Advocate-General.

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BOMB CONFIDENTIAL

AIR MAIL

Quote No. 10/Beaudoin, A/4

CANADIAN MILITARY HEADQUARTERS

LONDON 1 Oct 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-B-2040

D-58081 Pte Beaudoin, A.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour and discharge with ignominy awarded by FGCM 28 May 45 for an absence without leave from which he surrendered after 18 days (AA Sec 15(1)) and an absence without leave from his unit from which he was apprehended wearing civilian clothes after 197 days (AA Sec 15(1)).

2. The earliest date on which his sentence of imprisonment with hard labour should terminate if he earns full remissions for good conduct while serving this sentence is 27 Sep 46.

3. This soldier enlisted 19 Jul 40 at Montreal, P.Q., and he is now 26 years of age. In addition to the offences mentioned in para 1 above he has since enlistment been found guilty of 4 offences under AA Sec 15(1) and of 1 offence under AA Sec 40. He has had no previous FGCM.

4. This soldier was medically reboarded on 31 Jul 45 and placed in Pulhems Grades M2, S3 on a diagnosis of "psychopathic personality, inadequate". He has been certified as fit to undergo detention.

5. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he served with R de Mais in France as a rifleman from 7 Jul 44 until committing his present offences; that he claims that he became fed up as he had heard his brother had been killed in action and he was not hearing from home; that he shows no shame or remorse over his behaviour; that he states that he is willing to carry on in a limited capacity but cannot stand up under operational conditions; and that he is a quite unreliable individual of low average intelligence, with little or no self discipline and who is not of operational calibre.

6. In view of the extreme length of the illegal absences of which this soldier has been convicted while serving with his unit in the field as a result of which he rendered himself incapable of further effective service in action, it is considered despite his previous reasonably good record that his sentence including discharge with ignominy is appropriate and that he should be required to serve his sentence of imprisonment with hard labour in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered that this soldier deliberately misconducted himself in order to avoid further action and very probably for the purpose of obtaining his discharge.

7. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 28 May 45, together with original A.F.A3104 in respect thereof on which this direction has been endorsed.

(E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters.

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Enc. 2.

Copy to OIC Records.

1/39B CMHQ 1000-77 40/P&S/3216 (8147)

RECORDED AT [illegible] 5M-62.

RECEIVED 30 AUG 1945 JAG BRANCH G.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of APA3) 40/P & S/1608 (4630) 4/38B

Convened by Order of Brig J G Spragge DSO OBE ED Comd 2 CBRG dated 24 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-58081	Pte		Arthur	BEAUDOIN	R de Ma att to Cdn Disciplinary Centre

PROCEEDINGS REVIEWED

REVIEWING OFFICER 3 July 45 JAG BRANCH G.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date*) 28 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/132

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 14.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to MR E. TEELT as interpreter? Ans NO

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D MacKENZIE	Essex Scot X-9 List 3 Cdn NETD
Member	CAPT	G.T. CLARK	CDN CM CENTRE
Member	CAPT	P.E. DOWLER	CDN CM CENTRE
Judge-Advocate	N/A		
Prosecutor	LT	G.K. BISSETT	CDN CM CENTRE
Defending Offr	CAPT	M.R.M. DALE	CDN CM CENTRE

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D-58081 Pte Arthur BEAUDOIN before arraignment make(s) (no) (~~the~~) plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

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PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG 160 Vol VII Page 82

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*B*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea." If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO .....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. C, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him ~~(them)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-58081 Pte Arthur BEAUDOIN, R de Mais, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1200 hrs 13 Sep 44 until 0830 hrs 2 Oct 44.

(Total absence: 18 days 20 hrs 30 minutes)

SECOND CHARGE
Sec 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, absented himself from his unit from 1300 hrs 17 Oct 44 until apprehended in CAEN, France at 1600 hrs 2 May 45, wearing Civilian Clothes.

(Total absence: 197 days 3 hrs)

Remanded for Summary of Evidence

In the Field
14 May 45

(J N Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
14 May 45

(J N Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
24 May 45

(J [illegible]) Brigadier,
Commander
2 Cdn Base Rft Gp

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FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D-58081	Pte		Arthur	BEAUDOIN	R de Mais att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D MacKENZIE	Essex Scot X-9 Liat 3 Cdn NETD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G T CLARK	RCA Cdn CM Centre
Capt	P E DOWLER	Cdn CM Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(Appointed)

Date 24 May 45

Commanding 2 Cdn Base Rft Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (Ib Repl of AFA2) 40/P & S/1897 14991)

(See overleaf for oaths and notes for use on trial.)

17

DM

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined D58081
(No.)

Pte Boudreau A.
(Rank) (Name) and in my opinion he is

fit to undergo trial by Court-Martial.

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Station 1 Cdn Disc Centre (Sgd) [illegible] Capt.
(Medical Officer)

Date 28 May 45 Unit 1 Cdn Disc Centre.

D58081 Pte Beaudoin A.

Second Charge A.A. Sec. 12 (1)(a)

For the Prosecution

Exhibit A. R de Mais Part II Order Form dated 14 Apr 45

Exhibit B. Certificate of Arrest dated 2 Nov 45

Defence

1st Witness

Accused, D58081 Pte Beaudoin, Arthur, R de Mais. sworn, states.

On 17th Oct I left my regiment, I had permission from my officer to go into town I bought what I wanted and it was time to return but I lost my way and I went to an English Arty Regt. and stayed there all night. Next morning I tried to find my regiment I went back to town and tried to find a Canadian reg't in town and the French Police came and arrested me as a suspect ~~they were escorted by~~ together with two English MP's. They send me to Commander and kept me 4 or 5 days I do not know the name of the town it was far away from my unit. Then they sent me to Leopold Barracks in Ghent. I do not know the date. I was kept in Leop. Barr. for one month certainly 2 or 3 weeks. Then they let me go on leave. I went AWL to various towns I went to a regiment where my two brothers were around the 20 Jan. 44. I did not see my brothers and was told they were killed, by some soldiers there. I went away discouraged, At this time I intended to return to my unit. I was walking about Caen

15

and slept and visited with friends there.
I had 12,000 francs when I left my
unit. I did not wear my uniform in
Caen - yes I often wore my uniforms
I have only one. When picked up by the
police I was wearing army boots and
civilian cloth and had my identity discs
on. and had photos received from women
& photos of myself in khaki. My pay book
was left in Ghent. The rest of my
uniform was at the tailors being repaired
I planned to leave it there about 10 days
I was arrested as a suspect by the French
Police I gave them my identity. I said
I was a Canadian A.W.L. I told them
I was a French Canadian soldier. I
showed them my identity discs and photos
of myself in uniform. They took me
to the French barracks and informed the commander
They took me to Caen and handed me over
to the Provost Corp. I never said
said to anyone that I was a civilian
I was waiting for my uniform to go
back to my unit when picked up

Cross. Examined.
After leaving Leopolds Barr. I visited
several towns and people I knew. Some
R C E told me where my brothers were.
They were from the 2nd Division. I
belong to the 2nd Division

No I did not ask where the R. de Mais were because I went there to inquire about my brothers I intended to return to my regt. about 10 days later From 17 oct 1944 to 10 Jan 45 I did not try to locate my regiment I was too discouraged. When arrested the first time I had 150 francs left. After leaving Leopold barracks I met a young girl, she gave me no money I did not want money. I bought the civilian clothes I had 1200 francs I paid 1,800 francs for the clothes. At this time I had 3-4000 francs. It was the second time I was arrested I had only 150 francs. I was mistaken when I said it was the first time I had 3-4000 francs then. I cannot tell exactly how much I had left After paying for my civilian clothes I had between 2,500 & 3000 francs left I was not living with the girl but wandering at this time. I wore my civilian suit for three days in Paris This was the only time I wore the suit. I was not arrested in Caen in civilian cloth but at Laval. I wore these clothes in Paris I was arrested about the 25th April About 20 apr 1944

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I bought the civilian suit this same month in the suburbs of Paris I do not remember the name. I spent about 2 mos & 1/2 in Paris. I left my uniform at the tailors in Paris to be repaired. ~~This was~~ I bought the suit before I took my uniform to the tailors about 2 or 3 days before. I was forced to wear my civilian clothes when I took my uniform to the tailor. I do not know how much but had little money when arrested at ~~Soirs~~. I lived with a few girls. Sometimes they gave me money. When I left my regiment I did not intend to ~~return~~ desert. I intended to return in ten days after I failed to find my brothers at their regiment. When I was told my two brothers were killed I was discouraged I do not know when but I did intend to return.

Questioned by Court.

I can read and write. I was told by other soldiers that my brothers were killed and have had no word from them since ~~[illegible]~~ I saw them in England in March 1943. Capt. David gave me permission to go into town on 14 Oct 1944. I do not remember the name of the town as we had just arrived ~~there~~. It is in France near the Belgium frontier I believe. I was not with my regiment in Holland but was with it in Belgium for about a week.

DW

I was an equipment repairer and tailor with "B" Echelon. I do not remember if my regiment was fighting at the battle of North Steppe on the 17th Oct. I lost my way trying to return to my reg't. I was arrested by civilian police with an English soldier. They were French police. I do not know if my reg't was in ~~town~~ Holland on 17 Oct 44. I do not remember ~~Hoogerheide~~ HOOGERHEIDE but I do remember Bonchotte. I cannot say it is in France or Belgium but is near the frontier. I do not know the names of my friends in Caen just soldiers in my regiment. I was there about one week. The last time I was arrested at ~~Loisir~~ Loisir. My father and three sisters are living. I get a letter from them about every six months. I received no news from ~~them~~ ~~that~~ my brothers were dead. I am single. Last time I received news from home I was in England.

R.P. 83(B) Complied with

Summary by Prosecution ~~Exhibit~~ Pg. 6

Summary by Defence ~~Exhibit~~ Pg. 7

Plea in Mitigation by Defence Pg. 8

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Mr President and Members of the Court.

There are two types of desertion General desertion and Special desertion. General Desertion concerns a person who goes absent with the intention of avoiding service with any formation. This is the type of desertion covering this case.

The accused went absent on the 17 Oct 44 and was absent for a period of 197 days until apprehended on the 2 May 45 in civilian clothes.

The accused spent approx 4000 frs in the first two to 2½ months of A.W.O.L. yet he lives for a period of approx 170 days on about 4000 frs. Out of this he bought a ~~two~~ suit of civilian clothes for 800 frs. He admits that a few girls helped support him.

He claims he intended to return to his Regt. He could question 2nd Lt. Trevjas as to the whereabouts of his brothers Regt. but failed to inquire as to his own Regts whereabouts, although he states he was trying to locate them.

On further questioning he states that he intended to return to his Regt. after he saw his brothers, in about two days. This occured on about the 20 Jan 45. Yet approx 3½ months later he is still A.W.O.L. until apprehended and is not sure when he intended to return.

These points along with the fact that he was arrested in civilian clothes proves quite conclusively that the Accused intended to desert.

Gentlemen if this evidence has convinced you of the Guilt of the Accused, then he is guilty of desertion. If however it does not convince you of this, then you can only find him guilty of A.W.L.

G. K. Bissett Capt
Prosecuting Officer.

Summing up for the Defence
in case of
Pte Beaudoin A.

The law of desertion is very clearly defined. In this case the accused was rightly charged with desertion because it did appear that some intention to desert existed.

Once charged, the onus is on the prosecution to prove - to the satisfaction of the court, that the accused did in fact intend never return to His Majesty's service.

What has the Pros. presented?

Two slips of paper - documentary evidence showing that the accused was absent and that he was picked up in Quebec in civilian clothes. The circumstances of the apprehension are not given. No ~~witness~~ witnesses have been called.

Gentlemen - I fail to see how the prosecution has ~~shown th~~ proven the intention - nor has the complied with his duties as clearly outlined in MML P.55 Para 32

MML P.55 Para 32

That the accused was absent - we do not question, but his statement must have convinced you ~~that~~ he did intend to return - at any least - a real doubt has been established as to his intentions.

A.A. Sec 36(2) gives you the power to find a man charged with desertion - not guilty of desertion but guilty of A.W.L. MML. goes further Page 20 Para 20

Page 20 Para 20

"~~Leaving room of doubt as~~

(over)

11

Let us review the facts

The accused - P.W.L. in Caen, thinking of returning to his unit, and anxious to appear a smart soldier, ~~to~~ left his uniform at a shop to be cleaned. He then obtained a envelope and carefully took his wallet - containing pictures of himself in uniform and his identity discs - out of them. When some few hours later he was questioned by the French Military Police - he produced his pictures - in uniform -, his discs, and stated "I am a French Canadian Soldier"

Surely these are not the actions of a man whose native tongue is French - if he really intended to desert himself and never return to the army.

Gentlemen: The criterion between desertion and absence without leave is intention.

Arthur Wade Capt

28 May 45

Dm

Plea in Mitigation (8)
in case of D58081 Pte Beaudoin A.

Mr President: Gentlemen

You have now to decide on a punishment becoming to the offence which Pte. Beaudoin has committed.

I am not calling a character witness but am asking the court to accept in lieu the written statement of Lt. Col. Guy Laramie, Sr. Chaplain (R.C.) who had no difficulty in remembering Pte Beaudoin.

– Exhibit

Now Gentlemen, let me briefly review the facts for you.

Pte. Beaudoin – a young man – age 26 – and ~~not~~ having served for five years without crime or offence against the army act enjoyed for a few days or hours absence.

He did however find himself – lost – away from his unit – and took advantage of ~~that~~ opportunity to call on his brothers – the first opportunity he had had since he had heard of the death of his mother. Imagine his shock when he was told that his brothers had been killed in action.

Those were the conditions which had Pte Beaudoin to stay away such a long time. – Saddened by the thoughts of his motherless home – ~~shocked~~ now ~~despondent~~ Shocked to despondency by the report of the untimely death of his two brothers.

~~I grant that he stayed away a long time~~

10

in ~~that~~

From his MPM 6 - he must be given the benefit of being a first offender. I suggest to you that a very light sentence would not embark him on a career of crime but rather return a sorry but wiser Beaudoin, home, to useful civil occupation.

Respectfully

Exhibit A
M. Rousseau Capt

PART II ORDER EXTRACT FORM

R de Mais/1(A5c)

99/20/

TO: Disc & Pay

14 Apr 45 19

Ex H
CM

R de Mais

EXTRACTS FROM: Unit

Part II Order No. 71 dated 30 Dec 44

ABSENT WITHOUT LEAVE

(a) AWL from 1200 hrs 13 SEP 44 Ret from AWL 0830 hrs 2 Oct 44

(b) AWL from 1300 hrs 18 Oct 44 Still absent 1300 hrs 25 Oct 44 (8th day) Still absent 1300 hrs 8 Nov 44 (22nd day)

D58081 Pte BEAUDOIN A.

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Certified to be a true extract from the regimental books and documents in my custody.

Officer i/c Records
Cdn. Sec. 2 Ech. HQ 21 A Gp.

Originating Clerk's Initials

(J.R. Fenelon)Capt for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

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EGM—6
40/P & S/1276 (5787)

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT, SECTION 163 (1) (iii).

Exhibit B

I CERTIFY THAT No. 58081 Rank. Pte. Name. BRAUDELY P. M. Rousseau Capt

of H.Q. Gov. R.P.M. (Unit) was arrested at Caen

(place) at 1600 hours on 2nd May 45 (date).

was dressed ~~in uniform~~/plain clothes.

Date 2.5.45

Signature of Provost Marshal, AEM or other officer into whose custody the above-named person was taken on arrest.

Charles R Pettman Capt

Rank Capt

(Unit or appointment) DAPM

DS Hanson

NOTES.

1. This certificate MUST be signed personally by the officer concerned.

2. In no circumstances may it be signed by one officer "for" another, or by anyone who does not hold commissioned rank.

3. In no circumstances should the place of apprehension be described as "in the Field". The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

(See 21 Army Group General Routine Order No. 56 (677) dated 13th October 1944)

8

Ex C.

Summary of Evidence in the case of D-58081 Pte BEAUDOIN R de Mais, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas. A.

Charges - (1) Absence without leave

(2) Deserting His Majesty's Service

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as exhibits and are attached to the proceedings.

See Ex A for 2nd Charge

Exhibit "A" - Certified true copy of Extract from Part 11 Order No 71 dated 30 Dec 44

Exhibit "B" - Certificate of apprehension dated 2 May 45

2nd Charge only

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

M. Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field
14 May 45

7

Can.

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of extract from Pt 11 Order No 71 dated 30 Dec 44 "A"

Certificate of apprehension dated 2 May 45 "B"

I, D-58081 Pte BEAUDOIN A acknowledge having received one copy of the Charge Sheet and one copy of the Summary of Evidence free of charge on 14 May 45

A Beaudoin
D-58081 Pte Beaudoin A

6

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

HQ, 2 C'BR Gp.
28 May 45

To whom it may concern.

I have been for four years Regimental Chaplain in the Regiment de Maisonneuve. At that time I have known W58081 Pte Beaudoin A, who joined the unit in England in March 1942, and was employed as regimental tailor. He was still with the unit when I left in September 1943.

I can assure that at that time he was known in the unit as a very reliable man, non-drinker, with very good behaviour.

He was always very worried about the situation at home. His mother was the only one writing to him, but as she

CFA 170 PLEASE WRITE ON BOTH SIDES

was a sick person, she did not write very often, and he often kept thinking and worrying about her.

This might account for a part in his getting more unsettled later on, especially after he was falsely informed of the death in action of two of his brothers.

Guy Laramée
H/Lt-Col.
DAPC (RC)
Cdn GHQ and L of C Troops.

4

Ex E
Dm

Army Form B 296 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martials only)

Number	Rank	Name	Regiment (or as the case may be)
D-58081	Pte	BEAUDOIN A	R de Mais-1 Cdn Disc Centre

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court-martial or a civil court:-

For 15(1) AWL 1 4 times

For 40 1 times

For _____ _____ times

For _____ _____ times

Date of first entry in Field Conduct Sheet 1 May 41

Date of last entry in Field Conduct Sheet 1 Jun 44

2. Previous convictions of the Accused by a Cour-Martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for Nil

beginning on the N/A day of N/A.

4. The accused has been awaiting trial on the present charges for NO days in civil custody and for 26 days in military custody, i.e. NO days in Open Arrest 26 days in Close Arrest, of which NO days were spent in hospital.

5. The present age of the accused is 25 years, month old.

6. The date of his Attestation is 19-7-40.

7. The service which the accused is allowed to reckon _____.

8. The accused is in possession of C.V.S.M. with Clasp.

9. (If the accused is a warrant Officer or NCO). The accused has served continuously without reduction, to the present date:-

		Date of Promotion
In the substansive rank of	//////	
In the War substansive rank of	//////	
In the acting rank of	//////	

3

No record of convictions by Court-Martial on MFM 6

I hereby certify that the foregoing particulars which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief.

signed this 28 day of May 45

Major

No. D58081 Name BEAUDOIN Arthur | Sqn, Battery, or Company | Corps CIC | Date of enlistment 19-7-40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/135 (54)

Date of last entry in Company Conduct Sheet	No. and date of last drunk	Period not reckoning towards freedom from extra fine	Sheet No 2	Signature OC Company, etc	Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier	1-5-41	Pte	NIL	AWL from 0600 hrs 1-5041 until 2200 hrs 4-5-41 (3 days 16 hrs)		Forf 4 days py		J Bibeau Capt	FRI 149(1a)
Valcartier	24-5-41	Pte	"	AWL from 0800 hrs 24-5-41 until 2130 hrs 24-5-41(13 hrs 30 min)		Forf 1 Days py 168 hrs detn		R Dupuin for JBibeau Maj	149 (1b) 149(1a)
Field	18-2-43	Pte		AA 40 Not complying with Group order 13/51 d/15/2/43	Sgt Hopley L/C Halley	Forf 2 dys py	19-2-43	Maj Miller	
Field	4-10-43	Pte		15(1) AWL from 0800 hrs 4 Oct to 2215 hrs 4 Oct 43 (14hrs 15 min)	Capt David	Forf 5 dys py	8-10-43	Lt col Bisaillon	forf 1 dy py FR&I 149(1a)
Fd	31-5-44	Pte		15(1) AWL from 2230 hrs till 2250 hrs on 31-5-44 (20 mins)	Sgt Rocheleau CSM Marrotti	3 days CB	1 Jun44	Capt Boucui	

Certified copy of MFM 6 in my possession

Adm. Offr

(PTO)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ NO ~~opening~~ opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. MYSELF AS WITNESS ON OATH. Do you intend to call witnesses on your behalf? Ans. NO. Are they witnesses as to character only? Ans. N/A.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the SPECIAL FINDING charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. Submit documentary evidence Ex D.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. E and Ex. F respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES THRU MY DEFENDING OFFICER.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4308 in the Record of [illegible] kept in the office of the Judge-Advocate-General this 15 day of Oct 1945.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-58081 Pte Arthur BEAUDOIN R de Mais att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AH SEC 15(1)	GUILTY	GUILTY	
2nd AH SEC 120(A)	NOT GUILTY	NOT GUILTY	of desertion but guilty of being AWL from 1700 hrs 17 Jan 45 to 1600 hrs 2 May 45 (total absence 107 days 3 hrs)
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 26 days, of which Nil days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two (2) years and to be discharged with ignominy from His Majesty's service

(Sgd) N/A Judge-Advocate, if any. 28 May 45 Date awarded. (Sgd) Donald Mackenzie Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date 12 Jun 45 Commanding [illegible] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D58081 PTE ARTHUR BEAUDOIN	16 JUN 45	[illegible] Richmond Lt Col Comdg, 1 Cdn Disciplinary Centre

Ref 563 21/15 June 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

H.Q.C. 55-B-2041 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT FIELD GENERAL COURT-MARTIAL

BEAUDOIN, LUCIEN E.29403 PTE.

CONFIDENTIAL H.Q.C. 55-B-2041

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on this line, add minute to file and enter here "With Minutes")		
				ADMIN	NEW FILE	CR.	10-10-45
OCT 13 1945	12-10-45	PA	jm	Oag	To note		12.10.45
				CMBR	[redacted] OCT 25 1945		
NOV 13 1945	22-1-46	BF		Adm 3	Recommendation		NOV 9 1945
JAN 9 1946	2-1-46	Pa		Admin	[redacted] DEC 29 1946		
JAN 21 1946				D. Adm.	[redacted] JAN 22 1946		
JAN 28 1946	cancelled			D. Adm.	[redacted] B.F. JAN 28 1946		
FEB 6 - 1946	4-2-46	Pa		Admin	[redacted] C.R. JAN 31 1946	K	
				PRB	[redacted] JAN 28 1947		
OCT 25 1947	24-10-47	PA	MJL	WCR	[redacted] 405-C-41425		12 Mar 47

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another research.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : E29403 Pte Beaudoin L 8 CIB Coy RCASC Att 1 Cdn Dis Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	Or DESERTING His MAJESTY'S SERVICE BUT GUILTY Or ABSENTING HIMSELF WITHOUT LEAVE FROM 0800 HRS 21 OCT 44 to 0030 HRS 5-MAR 45.
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 63 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for two years

(Sgd) ..... Judge-Advocate, if any. 22 MAY 45 Date awarded. (Sgd) "Gordon H Jermyn" President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) JSL

(1. AA 57A. Delete if not used.)

(Sgd) "JS Lind" Brig

Date 24 May 45 Commanding 3 C B R Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E29403 Pte BEAUDOIN L	29 MAY 45	"J N Medhurst" Lt Col Comdg, 1 Cdn Disciplinary Centre

Cn #377
d/30 MAY 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CM-34

CPA96 (In lieu of AFA31 40/P & S/1698 (49101)
4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J S n Lind Comd 3 CBRG dated 2 may 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E29403	Pte		Lucien	Beaudoin	8 CIB Coy RCASC att 1 Cdn Disc Centre

CERTIFIED TRUE COPY
A/JA 1 Cdn HQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 22 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95. for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(s)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(s)~~ brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(s)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For elect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans .....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs and instr, if any, are sworn~~.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	JH	Jermyn	Cdn C M Centre
Member	Major	AE	Lefroy	Seafroth Highrs Cdn CM Centre
Member	Capt	RGL	Miles	Cdn C M Centre
Judge-Advocate				
Prosecutor	Lt	V	Pope	Cdn C M Centre
Defending Offr	Capt	F	Matte	Cdn C M Centre

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused E29403 Pte Beaudoin L before arraignment make(s) (no) ~~(s)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(s)~~ arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does ~~(s)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~s~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D R & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CLH 3 Jun 45

64

HQ 3 CBRG vol 1 p.99

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir. (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No Sir. (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. I will do neither. Do you intend to call witnesses on your behalf ? Ans. No Sir. Are they witnesses as to character only ? Ans. N.A.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the 1st charge, being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), ~~and certified copy (copies) of Charge Sheet(s)(2)~~, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. D and ~~Ex respectively.(3)~~
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement ~~and Certificate~~, and in mitigation of punishment ?(1) Ans. Yes Sir By my Defending Officer
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 553-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. 59

MEDICAL OFFICER'S CERTIFICATE

(KR (Can) Para 557)

I certify that I have this day examined E 29403 Pte

Beaudoin L and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station 1 Cdn Disciplinary Centre

"A A Toms" Capt
Medical Officer

Date 22 MAY 45

Unit

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E.29403	Pte		Lucien	BEAUDOIN	(RCASC) att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person ~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence ~~(s)~~ set forth in the Charge Sheet ~~(s)~~ attached and on *(date)* 2 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence ~~(s)~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person ~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G.H. JERMYN	1 Cdn Court Martial Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	A.H. LEFROY	(Seaforth Hlghrs) 1 Cdn Court Martial Centre
Capt	R.C.L. MILES	(X-10) 1 Cdn Court-Martial Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.) — (Signed personally. RP 105 fn 2.) — Brig (Rank.)

(J S H Lind)

Date 2 May 45 — Commanding 3 Cdn Base Rmt Cp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

N

CHARGE SHEET

The accused, 2-29403 Pte Lucien BEAUDOIN, 8 GTB Coy RCASC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE -

in that he

in the Field, at 0830 hrs 21 Oct 44 absented himself from his unit until surrendering himself in PARIS, France at 0030 hrs 5 Mar 45 wearing civilian clothes.

(Total absence: 134 days 16 hrs)

SECOND CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1 Cdn Disciplinary Centre at 1535 hrs 1 Apr 45 until apprehended in PARIS, France at 1515 hrs 14 Apr 45.

(Total absence: 12 days 23 hrs 40 minutes)

Remanded for Summary of Evidence

In the Field
24 Apr 45

J Medhurst
(J J Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
24 Apr 45

J Medhurst
(J J Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
2 May 45

J S H Lind
(J S H Lind) Brig
1 Cdn Base Rft Cp

CASE Or E29403 Pte BEAUDOIN L. 8 C.I.B. Coy R.C.A.S.C. G.J.

D-3

(1) Prosecutor submits Extract Pt II Orders 8th Cdn Inf Bde Coy RCASC # 29 dated 23 Nov 44. Signed by Pres and attached as Exhibit "A".

(2) Prosecutor submits certificate under A.A. Sec 163(1)(j) of surrender dated 5th Mar 45. Signed by Pres and attached as Exhibit "B".

DEFENCE The accused declines to say anything.

D-6

Prosecution Length of time establishes a Prima Facie case. The surrender of the accused could have been induced by many circumstances. During time of absence Cdn Army was involved in heavy action.

DEFENCE The only evidence produced so far is that the accused was absent for 134 days. Further he surrendered himself, thereby disproving any intention of not returning at any time. No prima facie case of desertion has been established.

Court closes to consider finding.

The accused is cautioned on his plea of guilty in the second charge and advised as to the procedure.

Accused is satisfied with his plea and declines to make any statement. Summary of evidence read to accused who makes no objection. Summary included as Exhibit "C".

Defence in Mitigation.

Pte Beaudoin enlisted 13 Jul 1940, came to Eng in Feb 41 to Europe Jul 44. He surrendered himself at a time when the military situation was still critical. He was under close arrest waiting trial xxxx on first charge for 10 days and on the second charge 27 days a total of 37 days.

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EXHIBIT 'A' EXHIBIT B

M. Rousseau Capt.

PART II ORDER EXTRACT FORM

TO: D & P
Ad' Echelon

39/20/5 CIB Coy/1(A&E)

16 Mar 45

EXTRACTS FROM: CMH. 6 Cdn Inf Bde Coy RCASC
Part II Order No 29 Dated 23 Nov 44

STRENGTH DECREASE

SOS as des wef 13 Nov 44 having been dec illegally absent by a Ct Inquiry from 0830 hrs 21 Oct 44 Deficiencies in kit nil

H-29463 Pte BEAUDOIN L

Certified to be a true extract from the regimental books and documents in my custody.

"Ga MARTIN Lt
Officer IC Records
Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of Exh "A"

M. Rousseau Capt

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EXHIBIT 'A' EXHIBIT B
M. Rousseau Capt

PART II ORDER EXTRACT FORM

TO: D & P
2nd Echelon

99/20/8 CIB Coy/1(A5E)

16 Mar 45

EXTRACTS FROM: UNIT 8 Cdn Inf Bde Coy RCASC
Part 11 Order No 29 dated 23 Nov 44

STRENGTH DECREASE

SOS as des wef 13 Nov 44 having been dec illegally absent by a Ct Inquiry from 0830 hrs 21 Oct 44 Deficiencies in kit nil

E-29403 Pte BEAUDOIN L

Certified to be a true extract from the regimental books and documents in my custody.

"GE MARIN" Lt
Officer IC Records
Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of Exh "A"
M. Rousseau Capt

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CERTIFICATE UNDER THE ARMY ACT SECTION 163 (1) (1)

I, C Beaulne Capt DAPM Paris certify that Reg No E-29403 Rank Pte
Name BEAUDOIN L Regiment 8 CIB
Unit HQ Company 3 Canadian Div
Stationed at In the Field
Surrendered himself to American Military Police (Paris)
and turned over to the Cdn Provost Corps
on the 5 day of March 1945 at 0030 hours as an absentee without leave
at the time of his surrender he was wearing civilian clothes.

5 March 45
Field

"C BEAULNE" Capt
(C. Beaulne)
DAPM
Canadian Mil Staff (Paris)

Certified true copy of Exh "B"

M. Rousseau Capt

Summary of Evidence in the case of E-29403 Pte Lucien BEAUDOIN, 6 Cdn HCASC, attached to 1 Con Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charges (1) Deserting His Majesty's Service

(2) Absence without leave

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused and are sworn to by him and are attached to the proceedings.

Exhibit "A" - Certificate [illegible] Order [illegible] 29 Feb 44

Exhibit "B" - Certificate of surrender [illegible] Apr 45.

Exhibit "C" - Certificate of [illegible] dated 2 Apr 45

Exhibit "D" - Certificate of apprehension dated 14 Apr 45.

Q. Do you desire to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but what you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing summary of evidence consisting of one page was taken down by me in the presence of the accused and that sp - (C)(D)(E)(F) and (G) have been complied with.

"Maurice Rousseau" Capt
(Maurice Rousseau) Capt
Officer detailed to take the Summary of Evidence

Dated in the Field
24 Apr 45

M.A.

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COPY

X-9 LIST RCASC

(Margin for filing purposes)

Army Form W. 3011A.

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—OTHER RANKS.

Serial No. 0

Number of sheets to this return L & Last

Army No.	Rank	Name and Initials	Corps or Regt.	Casualty: Nature of Casualty	Casualty: Date	Remarks
		ABSENTEES AND DESERTERS				
E29403	PTE	BEAUDOIN L	RCASC	AWL from 1 Cdn Disciplinary Centre wef 1535 hrs 1 Apr 45. 1st day of absence (Escaped custody)		
		CERTIFIED TRUE COPY OF ORIGINAL OR IN MY POSSESSION				

(Date) 3 APR 1945 Sgd: J.E. DIBB. Capt

(Signature and representative of officer)

1 CDN DISCIPLINARY CENTRE (Unit)

(Bde, Div, Area, etc., with which unit is serving)

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163(1)(1

I certify that No..E29403...Rank.Pte...Name.Beaudoin....L.....

of...No.1.Con.Disciplinary.Centre.... unit was arrested at .Paris..

...(France).....(place) at.1515..hrs on.14Apr45

(date). He was dressed in uniform/XXXXXXXXXXXXXXXXXX

Date...14..Apr.45. Signature of Provost Marshal, APM, or other officer into whose custody the a/m person was taken on arrest.

Signature & Rank.....".R.O.Donn".Capt.....
(R O Donn) Capt

Unit or appointment ...No.11.Cov.Cdo.Pro.Corps.

NOTES

1. This certificate must be signed personally by the officer concerned.
2. In no circumstances may it be signed by one officer 'for' another or by anyone not holding commissioned rank.
3. In no circumstances should the place of apprehension be described as 'In the Field'. The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

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Exhibit "D"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
E29403	Pte	BEAUDOIN L	8 CIB Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For No MFM 6 available ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for NO

beginning on the ..... day of .....

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NO days in civil custody; and for Z63 days in military custody, *i.e.*, NO days in open arrest, Z63 days in close arrest; of which NO days were spent in hospital.

5. The present age of the accused is 22 years old

6. The date of his attestation / ~~calling up for military service~~ is 12 Feb 1940

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of‡ C. V.S.M. with Clasp

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

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(27533) Wt.24939/3494 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

escription of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		no MFX 6 available		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ..... day of .....

Paul Dawson Capt

Correspondence to be PINNED here.

Army Form A.3. D-338

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 20th day of OCTOBER, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 6th CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[~~I am unable to appoint:—~~

*(1. ~~Three Officers to form the Court.~~)

*(2. ~~A Field Officer as President.~~)

~~for the following reasons, namely:—~~]

In my opinion, military exigencies, namely the dispertion of units, and difficulties of communication, and other difficulites, render it inexpedi nt to observe the provisions of those rules inconsistent with appendix "A" to D.R.O. 472 in the trial of the person named in the annexed schedule.

Lieut. S.G.Parent, C.M.H.Q. is hereby appointed Judge Advocate.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.T. LAW	Camerons of C.

Members.

Rank.	Name.	Regiment.
Capt.	to be appointed by O.C. Regt de Maisonneuve	
Lieut.	L.E. Clermont	Fus M R
	WAITING MEMBERS	
Capt.	F.H. McDougall	S.Sask.R.
Capt.	W.E. Osler	Camerons of C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed, [signature] Brig

Commanding 6 CDN INF BDE

Convening Officer.

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SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E 29403 Pte. Beaudoin, Lucien, 18 Cdn Fd Amb, R.C.A.M.C. att'd Fus.M.R.	1st Charge A.A. Sec 18(1) See charge sheet attached.	Guilty.	Guilty.	
	2nd Charge 1st Alternative A.A. Sec 18(2) See charge sheet attached	withdrawn by prosecution		
	3rd Charge 2nd Alternative A.A. Sec 40 See charge sheet attached	withdrawn by prosecution		
	The Court find the accused guilty of the 1st Charge & sentence him to 90 days Detention from date of trial.			
				Confirmed but I remit thirty (30) days ~~Field Punishment~~ detention. J. E. Columbus Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) T. P. Macdonald (Signed) A. L. Lee Major

Commanding *Convening Officer (e)* A. Parent Lt. A. *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Les Fusiliers Mont Royal, CA(AF)
M.I.Room
23rd Oct 41.

3

MEDICAL INSPECTION

I hereby certify that I have examined L 29403

Pte Brandoin L
18 Coy Fd Amb.

this morning and I have found him mentally and physically FIT to undergo trial by F.G.C.M.

(C. H. Alleyn) Capt. RCAMC
Medical Officer

Les Fusiliers Mont Royal, CA(AF)
M.I.Room
24 Oct 41.

5

MEDICAL INSPECTION

I hereby certify that I have examined E.29403 Pte. Beaudoin, E.
this morning and that I found him fir to undergo trial by F.G.CM.

(C. H. Alleyn) Capt., RCAMC
Medical Officer

Rebellion
Pte.

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attached Fm M.R.

CHARGE SHEET

E 29403 Pte. Beaudoin, Lucien, 18 Cdn Fd Amb, R.C.A.M.C., is charged with:

1st Charge
A.A. Sec 18(1)

"Producing disease"

in that he, at Guillement Barracks, Cove, Hants, on the 23rd of June, 41, injected himself in the leg with some toxic substance, thereby causing extensive cellulitis, with intent to evade his duties as a soldier.

2nd Charge
A.A. Sec 18(2)
1st Alternative

"Wilfully injuring himself with intent to render himself unfit for service"

in that he at aforesaid place and date did inject himself with a syringue filled with a toxic substance thereby injuring himself and rendering himself unfit for service.

3rd Charge
A.A. Sec 40
2nd Alternative

"Neglect to the Prejudice"

in that he at aforesaid place and date, did negligently and wrongfully injur himself with a syringe filled with a toxic substance thereby causing extensive cellulitis in one leg, and rendering himself unfit to fulfill his duties as a soldier.

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The accused were questioned if they were willing to be tried by the President and Members. It was found that objection was raised to Lieut. L.E.Clermont, Fus M R, because he was present at the taking of evidence on D 61293 Pte. Tremblay, P, Fus M R, and D 61617 Pte. Bisson, D., Fus M R. Waiting Member, Capt. F. H. McDougall, S Sask R, was replacement.

Case of E 29403 Pte. Beaudoin, L., 18 Cdn Fd Amb, tried by Field General Court Martial, 24 Oct 41. 11

PRESIDENT: Major A.T.Law, Camerons of C

MEMBERS: Capt. N.H.McDougall, S Sask R
Capt. R. Tremblay, R de Mais.

JUDGE ADVOCATE: Lieut. G.G.S.Parent, C.M.H.Q.

PROSECUTING OFFICER: Capt. J. R. Painchaud, Fus M R.

DEFENDING OFFICER: Capt. J. Vezina, Fus M R.

1st Witness: Called by Prosecutor.

D 61418 Pte. Laurin, A., Fus M R, having been called as a witness was sworn in and declared himself a member of the Regimental Police of the Fus M R and identified the accused.

Question: Would you tell the Court if the signature on this document, which I wish to produce before the Court as exhibit P I, is your signature?
Answer: Yes sir.

Question: Would you tell the Court if the signature appearing opposite your own is the signature of the accused?
Answer: Yes sir.

Question: Would you tell the Court if to your Knowledge the accused was duly warned?
Answer: Yes sir.

2nd Witness: Called by Prosecutor.

Capt. Alexander Gage Shaw, 15 Cdn Gen Hospital having been called as a witness was sworn in and identified the accused.

Question: Will you tell the Court if the accused was admitted to the Hospital and if so at what date and at what date he left the hospital and if his stay at the hospital was in consequence of the effects mentioned in this case, which say he was suffering from extensive cellulitis?
Answer: Pte. Beaudoin was admitted on 24 Jun 41 and was suffering from extensive cellulitis of the left leg. He was discharged from the hoppital on 19 Jul 41, during that time he was unable to perform any military duties.

Witness questioned by Defending Officer.

Question: Will you tell us if this extensive cellulitis is a very painful one?
Answer: Yes sir, it is.

Question: Did he suffer for a long time?
Answer: For about two weeks.

3rd Witness: Called by Prosecutor.

Capt. J. de Saint-Victor, 18 Cdn Fd Amb, having been called as a witness was sworn in and identified the accused.

Question: What position do you hold in your unit?
Answer: I am Acting Adjutant for a week.

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Question: Would you please take knowledge of these documents which are going to be used before the Court, one is a statement of character and particulars of the accused and one is a certified true copy of the accused M.F.M.6. Would you please certify that these are true copies and that the signature appearing thereon is your signature.

Answer: These are true copies and signed by me.

Abstract of Evidence in the case of E 29403 Pte. Beaudoin, L., 18 Cdn Fd Amb, translated by Interpreter.

'I, E 29403 Pte. Beaudoin, L., 18 Cdn Fd Amb, RCAMC, make willingly the following declaration, without having received any promise or menace and knowing that this statement may be used in evidence against me.'

"On 23 Jun 41 the day before St. Jean Baptiste, I was in detention in the Fus M R clink with Muir of my unit and St. Georges and Girard of the Fus M R. We were talking together of the detention we had to do and the field punishment and we talked about the medicine and injection and we went out to take the air in the clink yard. After 15 minutes we went in the cells and I saw injection needle and blanco bottle on the shelf near the window. We began to talk that if we give ourselves the injection it would be the means to go to the hospital the time we have to pass in detention. I saw St. Georges the first to take the injection but I did not know what it had in the syringe. After St. Georges I took the injection. We were taken to have an examination by the doctor because we had to go to field punishment on the next morning. ½ hour after we go back to our cells and Girard took the injection to and that was half full and Girard told us that it was blanco and lamp oil that was in the needle and in the blanco bottle. I filled up the needle with the rest that was in the bottle and Muir took an injection, after that I took an injection with what was left in the needle. After half an hour it hurt and St. Georges and Girard decided to ask the officer on duty, and they told him they injected themselves. He come to see us and looked at our legs. After supper the first aid of the Fus M R came with Sjt. Bedard of the 18 Cdn Fd Amb and put some hot water towels on our legs. Before supper the M.O., Capt. Bundock, came and looked at our legs where we had taken the injection and the next morning the 24 Jun 41 we were carried out to the hospital all together. I was 19 days at the hospital because of the injection. We took the injection the four of us in the legs."

'I declare that what I have said and what was done and what I mentioned in that declaration is all the truth and I did that declaration voluntarily without promise or menace knowing that this declaration might serve as evidence against me. After I have read this declaration I signed in the presence of Pte. Laurin of the Regimental Police of the Fus M R, signed at Blackwater on 18 Oct 41.'

Statement of Defending Officer.

I have very few things to say, but I would like to draw the attention of the Court to the accused, the accused is not yet 20 years old and became an orphan very young and was kept by his uncle in Ottawa and left school when he was very young and began earning his own living. His education has been very limited by this and when he joined the army almost two years ago he was not 18 years old yet by a few months. He has served ever since without committing any serious offence and he has willingly signed a confession of this offence. It is through a series of circumstances over which he had no control although he is responsible for them. He had been absent without leave for two days and then reported to the unit. The unit was going on a scheme and he was warned that he would be brought before the C.O. and went on and did his duty as a driver. Although he is attached to the 18 Cdn Fd Amb he really belongs to the RCASC, and serves as a driver to the 18 Cdn Fd Amb. When he came back he was paraded before the C.O. and sentenced to 14 days field punishment. Waiting departure for the field punishment camp he was kept in the clink of the 18 Cdn Fd Amb. It was a warm June day and more like a child, than a grown up man or a criminal, he decided he would go for a swim. Came out of the clink and went for a swim and because of this was put in the clink of the Fus M R. There he met some others who were waiting to be sent to the field punishment camp. They talked how one on a previous occasion had taken an injection and had been sent to the hospital. To a mind with very little education and

and very little instruction, who is not yet a grown up man, this idea of taking an injection seemed to be quite a good trick and he went on with the plan. From the consequences of that injection he spent almost a month in the hospital. The doctor admitted he had suffered quite a great deal and after the ailment had been cured he was sent back to the unit and was kept in detention for a long period, since early June. I think that taking into consideration his youth, his very limited education and instruction, the fact that he came in contact with a group of other men who were his seniors in age, and that he acted on the spur of the moment, that he has suffered physically for this and that he he has been deprived of his liberty for a long time I think the sentence of the Court should show a great deal of leniency because he has already been heavily punished and I do not think a young man needs a great long punishment to learn his lessnn.

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ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
E-29403	PTE	BERNDOIN L.	12 CDN FIELD AMBULANCE (ATTA

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.W.L. (15(1))	2 times	3 times.
For Army Act Sec 40	2 times	2 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, ~~or~~ No

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of.~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~70~~ days in civil custody, and 82 days in military custody, making a total of 82 days, of which ~~70~~ 26 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is C.A. (A.F.) 17 June '40

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

~~8. The accused is entitled to deferred pay or gratuity in respect of service.~~

~~9. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, ~~or entitled to~~, no military decoration or military award (~~or is in possession of, or entitled to (state any military decoration or reward)~~).

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

~~12. (In the case of an officer.) The accused holds in the army the rank of since in his regiment (or corps or department) the rank of~~ ~~Sgt.~~

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Lt Col Mason
President

Lt Barrett

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of October '41

Lieut & Lieut Adjutant

ADJUTANT, 18TH FD. AMB.
R.A.M.C.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of years,

In the rank of years

In the rank of years,

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

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18 Cdn Field Ambulance.

No. E-2940 Name Beaudoin L. | Sqn., Battery, or Company "HQ"Coy | Corps R.C.A.M.C. | Date of enlistment 17-6-40 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded
Ottawa	6-10-40	Pte.		W.O.A.B. A.W.L. 4 hours.14min. A.A. s. 15(1).	Sjt.Todd.	7 days C.B.	7-10-40	A.K.Menton Capt. RCAMC.
Aldershot	23-4-41	Pte.		W.O.A.B. A.W.L. from 0900 hrs 23-4-41 until 1730 hrs 26-4-41. Total: 80 hours.30min.A.A.s.15(1).	Sjt.Therriault Sjt. L'Heureux.	27 days detention.	27-4-41.	Lt.Col.J.L. Petitclerc.
Cove.	2-6-41	Pte.		A.O.A.B. An act to the prejudice of good order and military discipline. A.A. s. 40.	Capt. H. Lesage. A.M.S. I.	7 days forfeiture of pay. A.A. sec. 48.	3-6-41.	Lt.Col.J.L. Petitclerc.
Cove.	2-6-41.	Pte.		W.O.A.B. An act to the prejudice of good order and military discipline. A.A. s. 40.	Chene. S/Sgt. L. Dallaire.			
Cove.	13-6-41.	Pte.		W.O.A.B. A.W.L. from 2100 hrs until 2340 hrs 13-6-41. while in actual 2 hours 40min.A.A.s.15(1).	Cpl.Baudeau Pte.Gallichand Pte. Yarch L.	14 days Field Punishment No.1	21-6-41	Lt.Col.J.L. Petitclerc.

(P.T.O.)

18th FIELD AMBULANCE R.C.A.M.C./C.A.S.F.

M.B.M. 1 A.M.S. 172 30M-1-40 (178) H.Q. 8772-24

Drawer [illegible]

ADJUTANT - 18th FD. AMB. R.C.A.M.C. C.A.S.F.

"ABSTRACT OF EVIDENCE"

In the case of E-29403 Pte. Beaudoin, Lucien, 18th Cdn Field Amb. R.C.A.M.C.
CHARGES as per charge sheet attached.

First Witness
D-61418 Pte. Laurin. A.
Regimental Police Fus. M.R.

Witness stated that on the 8th of October 1941, at Blackwater, Hants, the accused made and signed a written statement before him, after having been duly warnedl which atatement is herewith attached at appendix "A"

2nd Witness
Capt. J.B. Bundock R.C.A.M.C.
M.O. Fus. M.R.

Witness states that on 23rd June 1941, he examined the accused and found out that the accused was suffering from toxic cellulities due to the injection of a toxic substance in the cellular time of one leg.

3rd Witness
D-61883 Cpl. Bigeault. J.
Bn.H.Q. S.B. Fus. M.R.

Witness states that on 23rd June 1941 he was on service at the R.A.P., Fus. M.R. at Guillemont Barracks, Cove Hantsl witnwaa states that at or about 1830 hrs he was called at the F.M.R. Guard Room to examine the accused and found out that the accused was suffering from infection in one leg.

4th Witness
Capt. Alexander Gale Shaw
R.C.A.M.C.

Witness examined the accused at his arrival at 15 Cdn Gen Hospital, Bramsho on 24th June 1941.

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STRACT OF EVIDENCE IN THE CASE OF E-29403 Pte. BEAUDOIN, LUCIEN
18th CDN FIELD AMBULANCE. R.C.A.M.C.

APPENDIX "A"

E-29403 Pte. Lucien Beaudoin, 18 Cdn Fd Amb declare ce qui suit:- Le 23 Juin 1941, la veille de la St-Jean-Baptiste, j'etais en detention dans le clink des Fus. M.R. avec Aurelien Muir, de mon unite et Henri St-Georges et Lucien Girard des Fus. M.R.. Nous avons parle ensemble de la detention que nous avions afaire et du Field Punishment. Puis nous avons parle de la medecine et des piqures, et nous sommes alles prendre de l'air dehors dans la cour du clink. Au bout de quinze minutes environs nous sommes entres dans la cellule et j'ai apercu une syringue et une bouteille de Blanco sur le bord de la fenetre. On a alors commence a parler que si on se piquait avec la seringue ce serait un moyen de passer a l'hopital le temps qu'on devait passer en detention. J'ai vu St-Georges se piquer le premier mais je ne savais pas encore ce qu'il y avait dans la seringue. Aussitot apres que St-Georges s'est pique on est venu nous chercher pour aller se faire examiner par le docteur parce que on devait partir pour le Field Punishment le lendemain matin. Une demi-heure apres nous sommes revenus dans la cellule et Girard s'est pique avec la meme seringue qui etait encore a moitie remplie; puis Girard nous a dit que c'etaot du Blanco et de l'huile a lampe qu'il y avait dans la seringue et dans la boutelle de Blanco. J'ai alors rempli la seringue de nouveau avec ce qu'il y avait dans labouteille et Aurelien Muir s'est pique a son tour. Apres cela je me suis pique a mon tour avec ce qui restait dans la seringue. Environs une demi-heure apres cela faisait mal et St-Georges et Girard ont dicides de demander l'officier en devoiret il lui ont tout conte qu'on s'etait pique. L'Officier en devoir est venu nous voir et a regarde nos jambes. Apres le souper des ambulanciers du Fus. M.R. sont venus avec le Sgt. Bedard de la 18 Cdn Fd Amb et ont mis des compresses d'eau chaude sur nos jambes. Avant le souper l'officier medical, le Capt. Bundock, est venu regarder nos jambes ou on s'etait piques. Puis le lendemain matin, le 24 Juin on nous a transportes a l'hopital tous ensemble. J'ai ete dixpneuf joure a l'hopital par suite de cette piqure. On s'est pique tous les quatre dans une jambe. Je declare que les faits que je viens de mentionner contiennent toute la verite et que je fais cette declaration ci-dessus volontairement et sans aucune promesse ou menace et sachant que cette declaration peut servir d'evidence contre moi, et j'ai signe apres avoir relue la dite declaration en presence du soldat Laurin de la police regimentaire des Fus. M.R. signe a Blackwater le 18 Oct. 41

Temoin:- 66
Pte. A Laurin

Beaudoin Lucien

50

Charge sheet

The accused, Pte Beaudoin, Lucien, - E29403, of 186th Field amb. R.C.A.M.C. is charged with:

First Charge
Section 18(1) army act

"Producing disease"

in that he, at Trillemont Barracks, Cove, Hants, on the 23rd of June 41, injected himself in the leg with some toxic substance, thereby causing extensive cellulitis, with intent to evade his duties as a soldier.

"OR"

2nd Charge
section 18(2) army act (Alternative)

"Wilfully injuring himself with intent to render himself unfit for service"-

in that he at aforesaid place and date did inject himself with a syringe filled with a toxic substance thereby injuring himself and rendering himself unfit for service.

"OR"

3rd Charge
section 40 army act (2nd alternative)

"Neglect to the Prejudice of"

in that he at aforesaid place and date, did negligently and wrongfully

injured himself with a syringe filled with a toxic substance thereby causing extensive cellulitis, in one leg, and rendering himself unfit to fulfill his duties as a soldier.

Reminded for G.C.M.

Turner Lt. Col.

Oct. 18-41

The accused wishes to obtain the services of Capt. J. Vezina Lus Res. M.R. to act as defending officer on his behalf.

Turner Lt. Col.

Arthur Meyer
Recorder

A. Parent Lt.
J.A.

Extract of evidence in the case of E-29403 Pte Beaudoin, Lucien

Page 1 APPENDIX "A" to 184 Gen Field Amy Pol

E-29403 Pte Lucien Beaudoin, 184th Fd Amb

déclare ce qui suit : le 23 juin 1941, la veille de la St-Jean-Baptiste, j'étais en détention dans le clink des Fus M. R. avec Aurélien Noir, de mon unité, et Henri St-Georges et Lucien Girard des Fus M. R. Nous avons parlé ensemble de la détention que nous avions à faire et du Field Punishment. Puis nous avons parlé de la médecine et des figures, et nous sommes allés prendre de l'air dehors dans la cour du clink. Au bout de quinze minutes environ nous sommes rentrés dans la cellule et j'ai aperçu une seringue et une bouteille de blanco sur le bord de la fenêtre. On a alors commencé à parler que si on se piquait avec la seringue ce serait un moyen de passer à l'hôpital le temps qu'on devait passer en détention. J'ai vu St-Georges se piquer le premier, mais je ne savais pas encore ce qu'il y avait dans la seringue. Aussitôt après que St-G.

Pte Lucien Beaudoin
Witness
Pte Lucien Beaudoin
Witness

Georges s'est fiqué, on est venu nous chercher pour aller se faire examiner par le docteur parce qui on devait partir pour le Field Punishment le lendemain matin. Une demi-heure après nous sommes revenus dans la cellule et Girard s'est fiqué avec la même carrigue qui était encore à moitié remplie; puis Girard nous a dit que c'était du blanco et de l'huile à lange qu'il y avait dans la carrigue et dans la bouteille de blanco. J'ai alors remplie la carrigue de nouveau avec ce qu'il y avait dans la bouteille et Aurelien Muir s'est fiqué à son tour. Après cela je me suis fiqué à mon tour avec ce qui restait dans la carrigue.

Le matin une demi-heure après, cela faisait mal et St. Georges et Girard se décidé de demander l'officier au devoir et ils lui ont tout conté qu'on s'était fiqué. L.B.A.F. L'officier au devoir est venu nous voir et a regardé nos jambes. Après le surgeon des ambulanciers du Fus R.R. sont venus avec

Le Sgt. Bélard de la 18 du Field Amb.
et ont mis des compresses d'eau chaude
sur nos jambes — Avant le soupper l'offi-
cier médical, le Capt Brundock, est venu
regarder nos jambes où on s'est ébouillanté
Puis le lendemain matin, le 24 juin, on
nous a transportés à l'Hopital tous ensem-
ble. J'ai été dix-neuf jours à l'hopital par
suite de cette ébouillé. On s'est ébouillé tous
les quatre dans une jamble. Je déclare
que les faits que je viens de mentionner
contiennent toute la vérité et que je fais cette
déclaration ci-dessus solennellement
et sans aucune promesse ou menace et
sachant que cette déclaration peut servir
d'évidence contre moi, et j'ai signé après
avoir relu la dite déclaration en présence
du soldat Laurin, de la police régimen-
taire des Fus M. R. signé à Blackwater
le 8 oct 1941

Témoin A. Laurin

Beaubien Lucien

47

Evidence and Charge Sheets (if necessary) to be PINNED here.

21

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24th day of October 41, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. ~~The officers under instruction)~~ Shorthand writer

were duly sworn.

* Omit if not applicable.

Signed this 24th day of October 1941.

A. T. Law Mayor.

President of the Court Martial.

A. T. Parrott. Lt.

C. Certificate in case of death sentences.

I ~~certify that the terms of~~ *A.C.I. 570 of 1918 have been complied with.

* See footnote (*b*) on page 762 M.M.L. 1929.

Signed this day of 19

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named ~~in the margin~~ be not committed ~~to prison or~~ detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 12th day of Nov 1941.

J. C. Lobnitz Brig.

Confirming Officer.

Promulgated and extracts taken in the case of E 24903 Pte Beaudoin L.

(*a*) (Dated) 14 Nov 41 (Signed) A R Savoy Capt + Adjt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

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(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(B4) Wt. 38092/1316 70m 2/41 W. & Co., Ltd. Gp. 748/2

Correspondence to be PINNED here.

37N

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this SEVENTEETH day of AUGUST, 1942.

Whereas it appears to me, the undersigned, an officer in T/Command of 2nd CANADIAN DIVISION, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

GW

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~I am unable to appoint:—~~

*~~(1) Three Officers to form the Court.~~

*~~(2) A Field Officer as President.~~

*~~(3) Three Officers having more than one year's service.~~

~~for the following reasons, namely:—~~

GW

PROCEEDINGS REVIEWED.

Reviewing Officer C.A.V.C.M.G.
16 Sep 42.

President.

Rank.	Name.	Regiment.
MAJOR	E. R. Baker	Sigs 2 Cdn Div

Members.

Rank.	Name.	Regiment.
A Captain	JEAN de ST-VICTOR (To be detailed by ADMS 2 Cdn Div)	R.C.A.M.C.
A Lieutenant	D.G. DRUMMOND-YOUNG (To be detailed by CRASC 2 Cdn Div)	R.C.A.S.C.

US

*Signed, G.V. Whitehead (G.V. Whitehead) Brigadier

T/*Commanding* 2 Canadian Division

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E29403, Pte Lucien Beaudoin, 18 Cdn Fd Amb, R.C.A.M.C.	FIRST CHARGE A.A.Sec. 12(1)(a) WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE (See charge sheet attached)	GUILTY ~~Charged~~ ~~E~~ NOT GUILTY	~~GUILTY~~ NOT GUILTY OF DESERTION BUT GUILTY OF ABSENCE WITHOUT LEAVE.	
	SECOND CHARGE A.A.Sec. 40 COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING (See charge sheet attd)	GUILTY	GUILTY	
	THIRD CHARGE A.A.Sec. 24(2) LOSING BY NEGLECT ETC., (See charge sheet attached)	GUILTY	GUILTY	
	FOURTH CHARGE A.A.Sec. 15(1) ABSENTING HIMSELF WITHOUT LEAVE (See charge sheet attached)	GUILTY	GUILTY	I Confirm G.W.
	SIXTH CHARGE A.A.Sec. 40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE (See charge sheet attd)	GUILTY	GUILTY.	
attached	~~To UHD~~		GUILTY GUILTY TO UNDERGO DETENTION FOR TWO YEARS STOPPAGES £3-7-0½. 18 AUG 42. E R Baker major.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No Sir.
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) G.W. Whitehead (G.W. Whitehead) Brigadier
T/Commanding 2 Cdn Div.
Convening Officer (e)

(Signed) E R Baker major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 18 day of Aug 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 18 day of Aug 1942

E R Baker major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ GW

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 20 day of Aug 1942

G W Whitehead Brigadier
T/Comd 2 Can Div.
Confirming Officer.

Promulgated and extracts taken in the case of E-29403 Pte Beaudoin L

(Dated) Aug. 28th 42 (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

591 Wt. 40173—993 300 m 1/40 P. St. G. 640

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CHARGE SHEET

The accused No. E-29403 Pte Beaudoin L.
18 Cdn Field Ambulance R.C.A.M.C. C.A. O/S.
a soldier of the Canadian Army Overseas is charged
with, when on active service

1st Charge
Army Act
Section 12(1)(a)

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE.

in that he

at Staplefield, on the 15th June 1942, at about 0550 hrs escaped from the Detention Cell of his unit until apprehended by the Military Police at Birmingham at 2230 hrs on 4th July 1942 wearing civilian clothes, Costs of return £0-4-10

2nd Charge
Army act
Section 41

COMMITTING A CIVIL OFFENSE THAT IS TO SAY STEALING

in that he

at Pangbourne, Bershire on or about 23 June 42, stole 1 blue grey, single breasted sports coat, one pair grey flannel trousers to the value of £5-0-0, the propeity of Mr. H. Clements of 2 Lower Basildon, North Pangbourne, Berks.

3rd Charge
Army Act
Section 24(2)

~~LOSING BY NEGLECT PROPERTY ENTRUSTED TO HIM FOR HIS USE~~ LOSING BY NEGLECT HIS CLOTHING, EQUIPMENTS AND REGIMENTAL NECESSARIES

in that he

in the Field on or about 11th July 42 was deficient of:

Dressing First Field	1	0	1	1
Holdall	1	0	0	9
Jacket Sueater	1	0	8	6
Knife table	1	0	0	9½
Razer Safety	1	0	1	10½
Shirts flannel Khaki	2	0	18	4
Spoon table	1	0	0	4½
Boots Lumberman's rubber	1	0	7	7½
Brush boot polishing	1	0	0	9
" shaving	1	0	1	4
Comb hair	1	0	00	2
Attachments braces	1	0	3	6
Bags Ration	1	0	0	1½
Belts waist		0	6	7
Haversack		0	10	5
Straps Shoulder		0	6	8
Strap web supporting		0	2	2
Tins mess		0	3	1
Sheets Ground		0	10	9
Vests Gymnasium	2	0	3	0
		4	7	10½
Less 25%		1	5	8
Total Charge		3	2	2½

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4th Charge
Army Act
Section15(1)

Sdt mcl

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

at approximately 0800 hrs on 9 May 42, when in close arrest absented himself without leave until apprehended at Horsham on 13 May 42 at about 1000 hrs.

[illegible] Charge
[illegible]y Act
[illegible]ction 15 (1)

ABSENTED HIMSELF WITHOUT LEAVE

in that he,

at approximately 0630 hrs 18th May 42, while undergoing Field Punishment, absented himself without leave until apprehended at Guildford at about 0930 hrs on the 11th day of June, 1942.

[illegible]h Charge
[illegible]my Act
[illegible]ction 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

at Horsham, at about 1000 hrs on the 13th May 1942, was found improperly wearing three stripes equivalent to the rank of Sergeant, and to which he was not entitled.

In the Field
4th Aug. 42

(A.P.Plante) Lieut-Col.
O.C. 18 Cdn Field Ambulance
R.C.A.M.C. C.A. O/S.

TO BE TRIED BY F.C.C.M.

(G.V. Whitehead) Brigadier
T/Comd 2 Canadian Division,

17 Aug 42

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MEDICAL CERTIFICATE

I certify that I have examined this morning No. E29403 Pte.
Beaudoin L. of 18 Canadian Field Ambulance, R.C.A.M.C. and found him free from disease and capable to undergo Trial By Field General Court-Martial.

Date August 18. 1942.
In the Field.

Capt. RCAMC
Medical Officer.
18 Canadian Field Ambulance,
R.C.A.M.C. - C.A. C/S.

Trial of:- E 29403 Pte Lucien Beaudoin, 18 Cdn Fd Amb RCAMC
held at HQ. 2 Cdn Div on 18 Aug 42

President:- Major J R Baker HQ 2 Cdn Div Dep RCCS
Members:- Capt Jean de St Victor, RCAMC, 18 Cdn Fd Amb.
Lieut D.G. Drummond-Young, RCASC. 2 Cdn Div Sup Coy

Prosecutor:- Capt R.D. Landry, 18 Fd Amb RCAMC.
Defending Offr:- Lieut O. Mousseau, R. de Mais.

1. Convening order read
2. accused does not object to President or members
3. Court sworn
4. accused is arraigned & pleads "guilty" to first ~~offence~~ charge.
"guilty" to second charge.
"guilty" to third charge.
"guilty" to fourth charge.
"guilty" to fifth charge.
"guilty" to sixth charge.
5. R.P. 35 (B) complied with and on thorough explanation of charges the accused wishes to change plea on first ~~of~~ charge saying "I did intend to return". The court direct a plea of "Not guilty" be entered on first charge & accept plea on remaining five charges.
6. accused is asked question at bottom page 2 AFA3 and answers "No Sir".

1st Wit Pros. D81529, Cpl K.W. Bishop, 18th Cdn Fd Amb. RCAMC, duly sworn states:-
I identifies accused.
I was orderly corporal on 14 ~~Jul~~ June 42 - took over at 1700 hrs until 0550 made frequent visit to detention cell where accused was confined. at 0550 I found accused had escaped - iron strappings had been spread apart and one bar removed & accused was missing. Next saw accused when brought back under escort. Was absent continuously for some time

Cross-exam.
Can't say definitely how long he was absent but first time I saw him was when brought back under escort.

Defence admits certificate showing apprehension at 2230 hrs on 4 Jul 42 dressed in civilian clothes
Certificate showing costs of return to unit £0-4-10.

2nd Wit Pros Lieut J.R. Gagnon, 18th Cdn Fd Amb. RCAMC, duly sworn, states:-
I cleaned Pte Beaudoin's kit on 11 Jul 42.
No cross-exam.

Prosecution closed.
accused makes a statement "I had no intention of deserting - when I broke out I did not intend to desert the army."
Pros in closing - evidence of breaking out & wearing civilian clothes - most of kit missing.
Def. offr. closing - no intention shown - mere absence - had gone absent several times before.
Court closed to consider finding.

Not guilty of desertion. Guilty of AWL.
Court re-opened.
Charges on which pleaded guilty are re-read.
Abstract is read.
Proc. files AFB 296 + MFM 6.
No statement + no character evidence.
Def. offr in mitigation :- Evidence is against him but want court to take into account of youth who is only 19 - merely fully - minor education - lost his mother + father very early in life, by time he was six - Discipline of early life lost - enlisted when 16 - not really bad - lack of judgment and guidance - lacks wisdom of years - just foolish - has difficulty with army discipline, many absences - Do not treat as a deserter - admits his crime
Court closed to consider sentence.

Certified a true record
of this trial 18 Aug 42

President. E R Lake major.

Summary of Evidence in the
case of No. E-29403 Pte Beaudoin L.
18 Canadian Field Ambulance, C.A.O/S

The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution E-15027 M.E. Barrette, 18 Cdn Fd Amb. RCAMC CAOS. being duly sworn, states:—

On the 9th May, I was on duty on the guard, ~~Group~~ at Staplefield Court, Staplefield, Sussex. By 0700 hrs I was ordered by the N.C.O. in charge of the Guard ~~Cpl~~ Desbiens to serve as escort for Pte Beaudoin who was going to have his breakfast at Staplefield Place, located about one thousand yards from Staplefield Court. I was accompanied by Pte Lortie, the other ~~guard~~ and Pte Martin F.J. another prisonner. When we arrived in the dining-room Pte Lortie, left us to go to the kitchen and get ~~his~~ breakfast. While I was eating Pte Beaudoin disapeared. It was about between ~~0700~~ 0815 - ~~0710~~ hrs. I searched around, but in vain. Then I immediately reported the fact to Cpl Desbiens.

M. Rd. 13.

The accused declines to cross-examine this witness.

Marc Rd Barrette.

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2nd Witness for Prosecution E-15157 Corporal Lortie L, 18 Cdn Fd Amb. R.C.A.M.C. CAOS. being duly sworn, states:—

On the 9th May I was on guard duty for two prisonners, at Staplefield Court, Staplefield, Sussex. At 0700 hrs I was ordered by Cpl Desbiens to escort the prisonners: Ptes Beaud

Rd. 13

2nd Witness for Prosecution (Contd)

and Martin Y to the dining-room. I went to the kitchen to have my breakfast and within five minutes I came back to the dining-room. On my return, I noticed that Pte Beaudoin had disappeared. We immediately looked around to find him, but we did not. Then I took charge of the other prisoner and Pte Barrette reported the fact to Cpl Heskins, orderly N.C.O.

Cross-examined by the accused.

Q. At what time did you notice my disappearance?

A. Not later than 0800 hrs.

L. Potter CH.

3rd Witness for Prosecution. D-81529 Corporal Bishop K. H. 18 Cdn Fd Amb. RCAMC. CA OS. being duly sworn states:

On June 15th 1942, I was orderly Corporal, in charge of a Guard of six men, and one defaulter, Pte Beaudoin, who was held under close arrest in the unit Guard Room at Staplefield Court, Stapleheld Essex. I made frequent visits to the detention cell and ascertained the presence of the defaulter. I visited the cell at 0400 hrs and it appeared that the defaulter was sleeping by the shape of his bed being laid out. Upon revisiting the cell at 0550 hrs I noticed that the prisoner had escaped by removing one steel bar and pulling away iron strappings from the window. I reported the incident to the R S M immediately.

On his evidence being read to him the witness desires to make the following alteration: On line 4: delete Guard Room and read instead: detention Cell

The accused declines to cross examine that witness.

K W Bishop Cpl.

40

Cells
mea

4th Witness for the Prosecution

E-15268 Corporal Nesbitt J.G. 18 Canadian Field Ambulance, RCAMC, CAO/S having been duly sworn states:-

On the 12th May, 1942, I was detailed by the Adjudant to search for Pte Beaudoin, who had escaped when he was under arrest. The following morning, the 13th May, I proceeded to Lowood first and afterward to Horsham, Sussex. There we have found the accused in the Carfax, inside the Bus Station. He surrendered himself without resistance. I put him under close arrest. The accused was wearing some badges equivalent to the rank of Sergeant v.g. three stripes. I brought him back to the Unit and paraded him to the O.C. at 1100 hrs 13 May. After that, Corporal Bishop took charge of him. No cross-examination.

Correction: We found the accused by 1000 hrs: J.G.N.

Gerard Desilets Cpl.

5th Witness for Prosecution

N-15558 Sergeant Davis, T. H. Canadian Provost Corps.

I certify that in my opinion the attendance of this witness is, owing to this N.C.O. being employed on special duty, not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "A."

H.B. Bundock Capt

I do not require the attendance of this witness for the purpose of cross-examination.

Lucien Beaudoin.

39

2Lt May

The accused does not call any witness for the defence.

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with.

J B Bimdock. Capt
18 Cdn Fd Amb.
C A. O/S

In the Field
24th July 1942.

38

Additional Summary of Evidence in the case of No. E-29403 Private Beaudoin L. 18 Canadian Field Ambulance, RCAMC, CAOS.

The Commanding Officer directs that the evidence be taken on oath:—

6th Witness for Prosecution Lieutenant Gagnon, J.R. 18 Canadian Field Ambulance, R.C.A.M.C. CAOS, being duly sworn states:

I am Quarter Master for the 18 Canadian Field Ambulance, RCAMC.

On the 11th July 1942, the accused, whom I recognize, had a complete inspection of his kit made up and I certify that the items mentionned in the following list (see list attached) were missing.

The accused declines to cross-examine that witness.

Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

J.B. Bendock Capt
18 Cdn Fd Amb
CAOS

Evid recd

In the Field
25th July 1942

27

Documentary Exhibit.

Exhibit "A"

In the Field 1942
23rd July 1942

Statement of evidence in the case of Pte Beaudoin Lucien E. 29403. 18 Can Fd Amb. RCAMC. CA O/S.

5th Witness for the Prosecution. Sergeant Davies T.A.A. M-15338 Canadian Provost Corps. states:

On the 18th of May 1942, at #1 Field Punishment Camp, I was Camp Orderly Sergeant. At 0630 hrs I had occasion to have a Muster Parade. I found that Pte Beaudoin was missing. I notified C.S.M. Hurrell of the fact. He instructed me to make a thourough check of the Camp also the man's kit. This, I did and found Pte Beaudoin still missing. I checked his kit and found that he was short one battle-dress, military boots, respirator haversack, mineus forepiece, also shaving kit. Reminder, I turn to the Quarter Master stores.

M15338 T.A.A. Davies

T.A.A. Davies

36

DESCRIPTIVE RETURN OF § E. 29403 Pte Lynn BEAUDOIN, who was apprehended at Guildford (hour) 09.30 hrs. on the 11th, day June, and was committed to confinement at Guildford, on the 11th day of June, as a Deserter (or Absentee without leave) from the – Bn. of the R.C.A.M.C., Home Forces.

Regiment of R.C.A.M.C.

Age 21 years	Height 5 feet	11 inches	
Complexion fresh	Hair Brown	Eyes Brown	
Marks Burn mark left shoulder.	In uniform or plain clothes	Uniform.	

Probable date and place of attestation	Attested Ottawa, February, 1940.
Probable date of desertion or beginning of absence and from what place.	Absent since Sat. 16th May, 1942, from Field Punishment Camp, Leatherhead.
Name occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	P.C. 145 C. Grove, Guildford Borough Police.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	* Whilst Pte. Beaudoin was asking P.C. 145 Grove a question, he was asked to produce his pass. This he failed to do.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances wherein stated, and has declared in my presence that he† the before-mentioned Corps.

H.O.C. Westmore. Signature
Chillerton, S. George Cots Residence
Ewelme Village, Guildford Post Town
11.6.42. Date of Signature
of Committing Magistrate.

Signature of Prisoner

C. W. Grove PC 145 Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.
Date of Signature

E. B. [illegible]

‡ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be

35

Exhibit D.

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. Pte. BEAUDOIN E. 29403 of R.C.A.M.C. Home Forces,

Regiment at Guildford, on 11/6/42, by P.C. 145 C. Grove. Guildford Borough Police.

who was committed as a Deserter (or Absentee without leave) on the 11th June, 1942.

RECOMMENDATION FOR REWARD.

I RECOMMEND* P.C. 145 C. Grove,

Guildford Borough Police Force,

Address Guildford, Surrey.

for a reward of 10/-

H.O.C. Westmore. Signature of Committing Magistrate.

11th June 1942 Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

Exhibit D.

No. E-29403 Pte Beaudoin L.
18 Cdn Field Ambulance R.C.A.M.C. C.A. O/S.

Inspection List of deficiencies.

Dressing First Field	1	0	1	1
Holdall	1	0	0	9
Jacket Sweater	1	0	8	6
Knife table	1	0	0	9½
Razer Safety	1	0	1	10½
Shirts flannel Khaki	2	0	18	4
Spoon table	1	0	0	4½
Boots Lumberman's rubber	1	0	7	7½
Brush boot polishing	1	0	0	9
" shaving	1	0	1	4
Comb hair	1	0	0	2
Attachments Braces		0	3	6
Bags Ration	1	0	0	1½
Belts waist		0	6	7
Haversack		0	10	5
Straps Shoulder		0	6	8
Strap web supporting		0	2	2
Tins Mess		0	3	1
Sheets Ground		0	10	9
Vests Gymnasium	2	0	3	0
		66		
Total Charge		4	7	10½

Ebb mes

CERTIFIED TRUE COPY

(J.R. Gagnon) Lieut. Q.M.
18 Cdn Field Ambulance
R.C.A.M.C. C.A. O/S.

34

I hereby certify that the following photograph, Serial Number Exhibit B.1, and signed by the A/Adjutant, 18 Cdn Field Ambulance is the one of the soldier, who stayed at my home on the night 22nd - 23rd June 42 and whom I have reported to the Civilian Police for stealing me some clothings.

Some of my clothing. signed
H. C. Clements

DATE: 12/8/42.

Mr Harry Clements
9, Lower Basildon
Reading.

Exhibit "B"

Statement of:-

Name - Harry CLEMENTS.

Address - 9, Lower Basildon, Reading.

Occupation - Farm worker.

"At about 10.30 p.m., on the 22nd June, 1942 a Sergeant Major attached to the Calgary Highlanders stationed at Camberley, who had been to Oxford to see his brother, called and asked if we could put him up for the night, this we did.

He left about 10 a.m., on the 23rd June, 1942. When I came home from work at 5 p.m., I found that my boots were missing and a pair of Canadian army boots left in their place".

(Sgd) H.CLEMENTS.

Statement of:-

Name - Elizabeth CLEMENTS.

Address - 9, Lower Basildon, Reading.

"I find after a search that a sports coat and a pair of flannels belonging to my husband are missing, both garments were purchased about three weeks ago from Langston's, Oxford Road, Reading."

(Sgd) E.CLEMENTS.

Exhibit "B"

Elec 70-1
Dec 97

COUNTER NUMBER 78000

HOUR 10.15

OPERATOR'S INITIALS GG

RELIEVING OPERATOR JR

Description of the accused:

I certify that the man whose personal description is given below is the one who stayed at my home on the night of 22nd - 23rd June 42:

Age: 21 Years
Height: 5' 9/10"
Complexion: Dark
Hair: Dark, inclined wavy
Marks: Scar about size of farthing on right side of jaw.

Signed. H. C. Clements.

Mr Harry Clements
9, Lower Basildon
Reading.

DATE: 12/8/42.

Exhibit A

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. E-29403 Rank Pte. Name Beaudoin, L. Unit 18 Fld. Amb.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
July 5	Escorts return fare from LONDON To Three Bridges (½ portion)		2	5
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Three Bridges		2	5
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		4	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt. [illegible] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Certificate in accordance with the Army Act Section 163 (1) (jj)

I certify that REG'T.NO. 29403 RANK. PTE. NAME BEAUDOIN, L.

UNIT. 18th HD. AND R.C.A.M.C. was arrested at PLACE BIRMINGHAM

at HOUR. 22'30 on DATE. 4-7-42. and that at the time of his

arrest he was wearing ~~[illegible]~~ CIVILIAN CLOTHES.

Lieut.

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above named person was taken in arrest

O. i/c Detention Room

No. 6 Provost Company

Exhibit "B"

LIST OF EXHIBITS

1.- One Blue-grey single-breasted sports jacket.

2.- One pair of new grey flannel worsted trousers.

M.F.M. 8
(A.F.R. 127)
MOM.-4-29 (1729)
(H.Q. 171-4-14)

No. B-29403 Name Beaudoin L. Sqn., Battery, or Company H.Q. Coy Corps 18 Cdn Fd Amb. Date of enlistment 17-6-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ottawa	6-10-40	Pte		W.O.A.S. A.W.L. 4 hours. 14 mins A.A. sec 15(1)	Sgt Todd.	7 Days C.B.	7-10-40	A.E. Montenin Capt.	
Aldershot	23-4-41	Pte		W.O.A.S. A.W.L. from 0900 hrs 23-4-41 until 1730 hrs 26-4-41 Total: 80 hours 30 mins A.A.s 15(1)	Sgt Therriault Sgt L'Heureux	27 days detention	27-4-41	Lt.Col J.L. Petitclerc	
Cove	2-6-41	Pte		W.O.A.S. An act to the prejudice of good order and military discipline IA.A. sec 40)		7 days pay	3-6-41	Lt.Col J.L. Petitclerc	
Cove	2-6-41	Pte		W.O.A.S. An act to the prejudice of good order and military discipline (A.A. sec 40).	Capt H. Lesage AMS Chene				
Cove.	13-6-41	Pte		W.O.A.S. A.W.L. from 2100 hrs until 2340 hrs 13-6-41 while C.B. A.A. sec 15(1)	S/Sgt L. Dallain Cpl Trudeau Pte Caron H.	14 Days Field Punishment	21-6-41	J.L. Petitclerc Lt.Col.	

(P.T.O.)

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24-2-42	Pte		W.O.A.S. Improperly dressed was wearing the rank of W.O.2 and without respirator.	L/Cpl Busch L/Cpl Porter	7 Days C.B.	27-2-42	A.P.Plante Lt-Col.	
Field	29-4-42	Pte		W.O.A.S. A.W.L. from 2359 hrs 29-4-42 until 1110 hrs 5-5-42 Total: 141 hrs 11 mins(A.A. sec 15(1) W.O.A.S. Loosing by neglect his equipment (A.A. sec 24(2)	Sgt Tanguay R. Cpl Desbiens G.	27 Days Fd Punishment	8 May 42	A.P.Plante Lt-Col.	

CERTIFIED TRUE COPY

ADJUTANT - 13TH FD AMB.
N.C.A.M.C. C.A.S.F.

32

Statement as to Character and Particulars of Service of Accused.

Number E-29403 Rank. Private Name. Regiment (or as the case may be).

E-29403 Private Beaudoin L 18 Cdn Field Ambulance.RCAMC.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.W.L. A.A.sec 15(1)	1 times	4 times.
For A.A. sec 40	1 times	3 times.
For A.A. sec 24(2)	1 times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. Nil

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N.A. beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 45 days in military custody, making a total of 45 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ statement ~~attestation paper~~ is 19 years.

6. The date of his ~~commission~~ attestation as specified in his ~~regular service~~ pay book ~~attestation paper~~ is 27-6-40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is nil

8. The accused is entitled to deferred pay or gratuity in respect of nil service.

9. The accused is entitled to reckon nil service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). None

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N.A.

12. (*In the case of an officer.*) The accused holds in the army the rank of N.A. dated and in his regiment (*or* corps *or* department) the rank of dated

(*16548) Wt.30246/802 75,000 12/40 A.& E.W.Ltd. Gp.698

31

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E-29403 Rank Private Name Beaudoin L. of 18 Cdn Fd.Amb Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
	Date: Aug 1941			
F.G.C.M.	Field-England	Wilfully indured himself. A.A. sec 18(2).	90 days detention	?

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~28th~~ 18 day of ~~July~~ aug 1942.

A/ADJUTANT, 18th FD. AMB.
R.C.A.M.C. C.A.S.F.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be copied from the regimental books, the paragraph must be struck through, except that in the case of a trial by field general court-martial, the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

IN REPLY PLEASE QUOTE No. Q:-39-B-594 (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE. 30 JAN. 46.....

THE SECRETARY
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY ARMY
5017
JAN 31 1946
File
Chgd. to
Referred to admin

REMISSION OF SENTENCE
E 29403 Pte BEAUDOIN, L.
8 CIB RCASC (Att No 5 DD)

1. Ref HQC. 55-B-2041 Adm 3(b)2 9 JAN 46.

2. A remission of sentence in this case has been granted w.e.f. 25 JAN 46.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(EDMOND BLAIS) Brigadier
District Officer Commanding
Military District No 5.

24

NAT. DEF. R. 440
(300M 4-44 (4321)
HQ. 1772-39-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-B-2041 Adm 3(h)2
District File No. 9-39-B-594 (DA)

PART I

No. B 29403 Rank Pte Name BEAUDOIN, Lucien

Unit S.CIR RCASC (Att. No. 5 DD)

PART II

Date of trial 22 MAY 45

Charges Sec. 12(1)(a) AA Sec. 15(1) AA

Sentence Two years IHL

Date of Sentence 22 MAY 45

Confirmation - (a) Authority RGCM

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to B.29403 Pte BEAUDOIN Lucien S.CIR.RCASC (Att.No.5.DD)

25 JAN 46

Signed at QUEBEC, P.Q., this 23rd day of JAN 46

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon

this 28th day of Jan 1946

(W. G. LAROCHE) Capt.
RCCS att 5DD
Officer i/c Documents (1)

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. B-29403 Rank Pte Name BEAUDOIN L.

The sentence of 2 years imprisonment with hard labour

awarded by Court-Martial on the 22 May 1945

has been remitted

on the 25 Jan 1946 by Brig. EDMOND BLAIS CBE MC

B.O.C. M. D. 5

Unit No 5 District Depot

Certified true Extract of Daily Orders Part II of

No. 25 Place Lauzon Date 29 Jan 46

(J. A. BROCHU) Lieut.
Gen List att 5DD
Adjutant.

23

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of N [illegible] Pte [illegible] WTOON L [illegible]

Sentenced to two years PL [illegible] 22 May 45

Age on, and date of, enlistment 17 [illegible] 24 FEB 40 Total service Termination

FIRST TRIAL.

II.—T [illegible]

Superior Military Authority.

I have directed that the above-mentioned [illegible] should be suspended (put into execution) [illegible] which I recommend

Place

Date

Confirming Authority.

III.—I direct that the sentence [illegible] of which I recommend [illegible] (1) and be reviewed on

Place

Date

Superior Military Authority (1).

SECOND TRIAL.

IV. (5) I [illegible]

Superior Military Authority.

This man was [illegible] and sentence I [illegible] and I have directed that he shall not be [illegible] to undergo his sentence which I recommend should be (suspended) (put into execution) (or [illegible] consecutively) (concurrently) with the previous (6) sentence for the reasons given in paragraph XIII

Place

Date

Confirming Authority.

V. (5) I direct that the sentence (which [illegible] I hereby confirm) [illegible] (of which I remit [illegible] (1) (2) [illegible] suspended) [illegible] into execution [illegible] and [illegible] (concurrently) (consecutively) [illegible] with the previous [illegible] sentence [illegible] to be reviewed on [illegible] (3)

Place

Date

Superior Military Authority (1).

(1) Erase words not required. [illegible]

(2) A sentence of penal servitude [illegible] may be suspended. [illegible] Imprisonment may be suspended.

(3) A suspended sentence must be reviewed after a [illegible] every three months [illegible] be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be [illegible] the superior Military Authority [illegible]

(5) This paragraph to be left unused until required. If the case is [illegible] a third trial, a new [illegible] paragraphs IV and V will be made and attached to this form, and all [illegible] reviews which follow the attached [illegible]

(6) A previous sentence of imprisonment or detention [illegible] a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

[illegible] Wt. [illegible] A V C & S [illegible] Gp.698 Forms [illegible] Ltd.

22

VI. Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

NO REMISSION-
RETURN TO CANADA
IN CUSTODY
UNDER SENTENCE.

(Beverley Matthews), Brigadier,
Deputy Adjutant General,
Canadian Military Headquarters

[illegible] JUL 45

30 JAN 46 Remission of sentence granted effective 25 JAN 46.

(EDMOND BLAIS) Brigadier
District Officer Commanding
Military District No 5

Continued on page 14

	Charge or Charges giving particulars	Date of Offence	Date of Trial
VII. First Trial.	1st. Charge: AA Sec 15(1)(a) Finding: Not guilty of desertion but guilty of AWL from 0930 hrs 21 Oct 44 until 0930 hrs 5 Mar 45. (Absent 134 days 16 hrs) 2nd Charge: AA Sec 15(1) AWL from 1630 hrs 1 Apr 45 until 1715 hrs 1 Mar 45 (Absent 1 days 3 hrs 45 mins)	21 Oct 4 1 Apr 45	22 May 45

Signature of Officer making entry

VIII. Second Trial.

Signature of Officer making entry

IX. CO's remarks and recommendation on First Trial.

Signature

Normal review

[illegible] May 45

awaiting destination

[illegible] Lt-Col.
Commdg Disciplinary Centre

X. Confirming Officer's remarks and recommendation on First Trial.

Signature

[illegible] sentence

[illegible]
2 CBRep

14

DEPARTMENT OF NATIONAL DEFENCE

-SECRET-

OTTAWA, Ont.

9 Jan 46

~~XXXXXXXXXXXXXXXX~~ C 88-B-2041

District Officer Commanding,
Military District No. 5,
QUEBEC, P.Q.

E.29403 BEAUDOIN L.

1. [illegible]

2. [illegible]

3. [illegible]

4. The sentence awarded by [illegible] reviewed by [illegible] remission on 22 Jan 46.

5. Ack.

([illegible])
Major-General
Adjutant-General

20

A. M. Stephenson

Transmitted on 22 Jan 46
[illegible] may be after [illegible] of the
[illegible] new [illegible]

NOV 9 1945

W. A. Stokes · Maj

19

THIS COPY FOR H.Q.C. 55-B-2041
M.D. 10/Beaudoin L./2

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

E-29403 Name Lucien BEAUDOIN

Rk Pte. Unit 8 C.I.B. Com. R.C.A.S.C. Att No. 1 CDC

Charge AA 12 (1) (a) WOAS Desertion....

(2) AA 15 (1) WOAS AWL

Date of Crime 21-10-44 (2) 1-4-45

Date of Arrest (1) 5-3-45 (2) 14-4-45 Charge Signed 24-4-45

Orders for F.G. C.M Brig. Comd 3 C.B.R.G.

Place and Date of Trial In the Field. 22-5-45

Sentence Imp. RHL 2 yrs.

Date of Confirmation 24-5-45

Date of Promulgation 29-5-45

Entered in Records of J.A.G. as No. 4309

Date 13-10-45

MEMO (1) Guilty AWL.

Reviewed at C.M.H.Q.

L.J. Ryan Lt.
for Judge Advocate-General

10M-8-45(M-189)

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

9 Jan 46

~~HQ[illegible]~~ C 55-B-2041
Adm 3(b)2

District Officer Commanding,
Military District No. 5,
QUEBEC, P.Q.

E.29403 BEAUDOIN L.
SUS - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is ADA3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(8).

3. ~~It will be noted that this [illegible] was sentenced to be discharged with ignominy under CARO 1029(8).~~

4. The sentence awarded has been reviewed by CMBR who have recommended **remission on 22 Jan 46.**

5. Ack.

(E.G. Weeks)
Major-General
Adjutant-General

ack 11-1-46

21

MGC 55-B-2041 CMBR-5 /M

1 Nov 45. 0772

Case No ----------

RETURN OF PROCEEDINGS

GENERAL COURT MARTIAL

1. No. Rank and Name: E-29403 Pte. BRANDOIN, L.

2. Unit at Date of Offence: 8 Cdn. Inf. Bde. Coy. RCASC
att. 1 Cdn. Discharge Centre.

3. Charge:

(1) AA Sec 12 (1) (a)
DESERTION: AWL from 0830 hrs 21 Oct 44 until surrendering at 0030 hrs. 5 mar 45, wearing civilian clothes.
Length of absence: 134 days.

(2) AA Sec 15 (1) - AWL from 1 35 hrs. 1 Apr 45 until apprehended at 1515 hrs. 14 Apr 45.
Length of Absence: 12 days.

PLEA: (1) not guilty. (2) guilty.

4. Place and Date of Trial: Belgium - 22 May 45
(FDM) (xxx) (xxx)

5. Findings: (1) Guilty of AWL
(2) Guilty.

6. (a) Sentenced: IMP with HL for 2 yrs.
(b) Date of Sentence: 22 May 45.

7. Date of Confirmation: 24 May 45

8. Date of Promulgation: 26 May 45

9. Being served at: To be ascertained. in MD ----------

(N.B. - Discharged under RO 1029 ( ) for
wef)

20

 Case No ----------

CONDUCT

11. (a) Prior to conviction:

Date of enlistment: 12 Feb 40

~~Previous accomplishments~~ Age: 22

2 FGC's SM, 5 offences of AWL

(b) After conviction:

Good

Expected date of release 21 Sep 46

---

12. Remarks: (Here note any Petition or representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(1) Item 10 has been omitted.

(2) Accused called no witnesses and made no statement.

(3) Has had long active service, landed in France in July 1944.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Offr, etc.)

CMHQ: Serve sentence in full and thereafter be discharged for misconduct.

Reviewing Officer:
In view of previous record recommend serve sentence in full with norm 1 remission based on conduct.

Reviewed by A. M. Stephenson
A.M. Stephenson, Major.

Recommendation of the Board:

For remission on 22 Jan 46
or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date NOV 9 1945 19 -----

W. A. Stilwell - Maj
Secretary
Courts-Martial Board of Review.

Noted JJ

19

THIS COPY FOR: H.Q.C. 55-B-2041
M.D.10/Beaudoin L./2

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. E-29403 Name Lusien BEAUDOIN

Rank Pte. Unit 8 C.I.B. Coy. R.C.A.S.C. Att No. 1 CDC

Charge AA 12 (1) (a) WOAS Desertion....

(2) AA 15 (1) WOAS AWL

Date of Crime 21-10-44 (2) 1-4-45

Date of Arrest (1) 5-3-45 (2) 14-4-45 Charge Signed 24-4-45

Orders for F.C.M. Brig. Comd 3 C.B.R.G.

Place and Date of Trial In the field. 22-5-45

Sentence Imp. WHL 2 yrs.

Date of Confirmation 24-5-45

Date of Promulgation 29-5-45

Entered in Records of J.A.G. as No. 4309

Date 15-10-45

MEMO (1) Guilty AWL.

Reviewed at C.M.H.Q.

18

L.J. Ryan Lt.
for Judge Advocate-General

10M-8-45(M-139)

Quote No. HQC. 55-B-2041
(JAG/D-5)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada

16th October 1945

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial

E-29403, Pte. L.Beaudoin.

1. Receipt is acknowledged of your 10/ Beaudoin L./2 dated 1 Oct. 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

EXM

for (R.J. Orde), Brigadier
Judge Advocate-General.

LCC:MJ

17

BOMBER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Beaudoin, L/2

CANADIAN MILITARY HEADQUARTERS

LONDON 1 Oct 45.

C.55-B-2041

The Secretary,
Department of National Defence,
OTTAWA, Canada.

E-29403 Pte Beaudoin, L.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour awarded by FGCM 22 May 45 for an absence without leave from which he surrendered after 134 days (AA Sec 15(1)) and an absence without leave from which he was apprehended after 12 days (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 21 Sep 46.

3. This soldier enlisted 12 Feb 40 at Quebec, P.Q., and he is now 22 years of age. In addition to the offences mentioned in para 1 above he has since enlistment been found guilty of 8 offences under AA Sec 15(1) and of 1 offence under each of AA Secs 41, 40, 18(1) and 24(2). He has had 2 previous FGCsM, the first on 24 Oct 41, when he was awarded a sentence of 90 days detention for an offence under AA Sec 18(1) and the second on 18 Aug 42, when he was awarded a sentence of 2 years detention for 3 absences without leave of 20 days, 5 days and 25 days respectively (AA Sec 15(1)), deficiencies in kit (AA Sec 24(2)), theft of civilian clothing (AA Sec 41) and improperly wearing badges of rank to which he was not entitled (AA Sec 40).

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. On the basis of the illegal absences of which this soldier has been convicted having occurred whilst serving with his unit in the field and his previous very poor record, it is considered that he should be required to serve his sentence of imprisonment with hard labour in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier deliberately misconducted himself in order to avoid action and in all probability for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 22 May 45, together with original A.F.A3104 in respect thereof on which this direction has been endorsed.

for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters.

Enc. 2.

Copy to OIC Records.

16

4359

1/39B CMHQ 1006-77
40/P & S/9010 (8147)

RECORDED AT CMHQ IN AB 160 5-M-34

CPA96 (In lieu of APA31)
40/P & S/1698 (40/70)
4/38B

FIELD GENERAL COURT-MARTIAL

RECEIVED 13 JUN 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brig J.S.H. Lind Comd 3 C.B.R.G. dated 2 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-29403	Pte		Lucien	Beaudoin	3 C.B. Cay R.O.S.C.

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS RECEIVED 13 JUN 1945 JAG BRANCH C.M.H.Q.

Echo, H.Q. 3 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Belgium on (*date(s)*) 22 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 32/100-

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 567(e). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Jt~~ ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.H. Jennyns	Edm CM Centre
Member	Major	A.E. Lefroy	Capt'n Hughes Edm CM Centre
Member	Capt	R.G.L. Miles	Edm CM Centre
Judge-Advocate			
Prosecutor	Lt	V. Pope	Edm CM Centre
Defending Offr	Capt	F. Matte	Edm CM Centre

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Cenv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused E-29403 Pte Beaudoin, L. before arraignment make(s) (no) ~~(are)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D, B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

13

3 Jun 45

HQ 3 CBRG VOL 1 P 99

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if Offr~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(~~s~~), call witnesses as to character and make an address in mitigation of punishment.[2]

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans. No Sir .....[5]

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ } 2/-

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.[1]

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C , initialled and read aloud by the President.[1]

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO SIR (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. I will do neither. Do you intend to call witnesses on your behalf? Ans. NO SIR. Are they witnesses as to character only? Ans. NA.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the 1st charge(s), being subject to confirmation, will be promulgated later.(1)

~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. NO SIR

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), ~~and certified true copy (copies) of Conduct Sheet(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. D ~~and Ex. ..... respectively~~.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) ~~and Conduct Sheet(s)~~, and in mitigation of punishment?(1) Ans. yes sir by my defending officer.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4309 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 15 day of Dec 1945 LdR

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-29403 Pte Beaudoin, L. 8 CIB Coy RCASC att 1 Cdn Mov Centre.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	NOT GUILTY	OF DESERTING HIS MAJESTY'S SERVICE BUT
2nd	GUILTY	GUILTY	GUILTY OF ABSENTING HIMSELF WITHOUT
3rd			LEAVE FROM 0830 HRS 21 OCT 44 TO
4th			0030 HRS 5 MAR 45.
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~yrs~~ ..... beginning on ~~(date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 63 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two years

(Sgd) ..... Judge-Advocate, if any. 22 May 45 Date awarded. (Sgd) Gordon A Jermyn President (RP 45, 50.) Maj.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further order.~~(1) JAL

(1. AA 57A. Delete if not used.)

Date 24 May 45. (Sgd) J. Lind. Brig. Commanding 3 CAR Gp. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E 29403 PTE BEAUDOIN L	29 MAY 45	J M Lewis Lt-Col. Comd, 1 Cdn Mov Centre

RP#377 d/m May 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

45.

CHARGE SHEET

The accused, E-29403 Pte Lucien BEAUDOIN, 8 CIB Coy RCASC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, at 0830 hrs 21 Oct 44 absented himself from his unit until surrendering himself in PARIS, France at 0030 hrs 5 Mar 45 wearing civilian clothes.

(Total absence: 134 days 16 hrs)

SECOND CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1 Cdn Disciplinary Centre at 1535 hrs 1 Apr 45 until apprehended in PARIS, France at 1515 hrs 14 Apr 45.

(Total absence: 12 days 23 hrs 40 minutes)

Remanded for Summary of Evidence

in the Field
24 Apr 45

J Medhurst
(J H Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
24 Apr 45

J Medhurst
(J H Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
2 May 45

J. S. Lind.
(J S H Lind) Brig
Comd
Cdn Base Rft Gp

12

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E.29403	Pte		Lucien	BEAUDOIN	(RCASC) att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 May 45 endorsed by me, ~~(or by an offr of my staff for me),~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G.H. JERMYN	1 Cdn-Court Martial Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	A.E. LEFROY	(Seaforth Highrs) 1 Cdn Court-Martial Centre
Capt	R.G.L. MILES	(X-10) 1 Cdn Court-Martial Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) Brig (Rank.)

(J S H Lind)

Date 2 May 45

Commanding 5 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

11

MEDICAL OFFICER'S REPORT

I certify that No. E 29403 Pt Pendrin L
of Cellular Centre is in a fit state of health,
and able to undergo Trial by Court martial.

Medical Officer

Station Cellular Centre

Date 22 May 45.

M. F. B. 246
25M—6-41 (792)
H.Q. 1172-39 480

10

Case of E 29403 Pte Beaudoin. L.
8. C.I.B. by R.C.A.S.C.

D-3

Prosecution.

(1) Prosecution submits Extract Pt. II orders 8th Div Inf. Bde by RCASC #29 dated 23 Nov 44. Signed by Pres. & attached as Exhibit "A"

(2) Prosecution submits certificate under A.R. Sec 163 (1) (f) of surrender dated 5th Mar 45. Signed by Pres. attached as Exhibit "B".

DEFENCE. The accused declines to say anything.

D-6

Prosecution. Length of time establishes a Prima Facie case. The surrender of the accused could have been caused by many circumstances. During time of absence both Army was involved in heavy action.

Defence. The only evidence produced so far is that the accused was absent for 13 days. Further he surrendered himself. Thereby displaying any intention of not returning at any time. The prima facie case of desertion has been established.

Court closes to consider finding.

The accused is cautioned on his plea of guilty on second charge & advised as to the prescribe.

Accused is satisfied with his plea & declines to make any statement. Summary of evidence read to accused who makes no objection. Summary included as Exhibit "C".

E-3.

Defence in mitigation.

Pte Beaudoin enlisted 12 Feb 1940 - came to Eng in Feb 41 & to Europe July 44. He surrendered himself at a time when the military situation was still critical. He was under close arrest awaiting trial on 1st charge for 16 days & on the second charge 37 days, a total of 64 days.

9

EXHIBIT A Exhibit

PART II ORDER EXTRACT FORM

99/20/ 8 CIB COY/1(A5E)

TO: D & P
2nd Echelon

16 MAR 45 19

EXTRACTS FROM: Unit 8 Cdn Inf Bde Coy RCASC

Part II Order No. 29 dated 23 NOV 44

STRENGTH DECREASE

SOS as des wef 13 NOV 44 having been dec illegally absent by a CT INQUIRY from 0830 hrs 21 OCT 44 Defficiendies in kit NIL.
E 29403 PTE BEAUDOIN L

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

MAR 1 6 1945

The following documents are { attached. Please acknowledge receipt on attached duplicate. required. Please forward same.

INFORMATION

8

Originating Clerk's Initials gfk for (G E Marin) Lieutenant for
Officer in Charge
Canadian Section, GHQ. 2nd Echelon 21 A Gp

ECH—6
40/P & S/1276 (4032)

EXHIBIT B Exhibit 2

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) (j)

I C.Beaulne CAPT D.A.P.M. PARIS ..... Certify that

Reg No E.29403 ..... Rank Pte ..... Name Beaudoin L. .....

REGIMENT S.C.L.B. .....

UNIT H. Company 3 Canadian Div. .....

STATIONED AT In The Field .....

Surrendered himself to AMERICAN MILITARY POLICE (PARIS) .....

XXXXXX and turned over to the Cdn. Provost Corps .....

on the 5 day of March, 1945, at 0030 Hours .....

..... ABSENT WITHOUT LEAVE .....

at the time of his surrender he was wearing

(civilian clothes)

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

C. Beaulne Capt. ..... CAPT.

(C.Beaulne)
D.A.P.M.
Canadian Mil Staff (PARIS)

5 March 45
Field.

1

EXHIBIT C

Summary of Evidence in the case of E-29403 Pte Lucien BEAUDOIN, 8 CIB Coy RCASC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charges (1) Deserting His Majesty's Service

(2) Absence without leave

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 29 dated 23 Nov 44

Exhibit "B" - Certificate of surrender dated 5 Mar 45

Exhibit "C" - Certified true Extract from CR No 8 dated 3 Apr 45

Exhibit "D" - Certificate of apprehension dated 14 Apr 45.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

Maurice Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
24 Apr 45
M.R.

6

(Margin for filing purposes)

Army Form W.3011A.

COPY

Serial No. 8

X-9 1[illegible]T RCASC

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—OTHER RANKS.

Number of sheets to this return 1 & last

Army No.	Rank	Name and Initials	Corps or Regt.	Casualty: Nature of Casualty	Casualty: Date	Remarks
		ABSENTEES & DESERTERS				
B-29403	PTE	BEAUDOIN L.	RCASC	AWL from 1 Cdn Disciplinary Centre wef 1535 hrs 1 Apr 45. (1st day of absence) (Escaped custody)		

CERTIFIED TRUE COPY OF ORIGINAL OR IN MY POSSESSION,

(Date) 3 APR (Sig) [illegible] J.A. [illegible], Capt

1 CDN DISCIPLINARY CENTRE (Unit)
2 I.H.A.Gp.

CERTIFICATE OF ARREST IN ACCORDANCE WITH A.A. REG. 163(1)(jj)

I certify that No. E 29403 Rank P.C. Name BEAUDOIN . L of No. 1 CDN. Disciplinary Centre (Unit) was arrested at PARIS (France) (place) at 1315 hrs on 14 April 45 (date) He was dressed in uniform/~~civilian clothes~~.

Date 14 April 45

Signature of Provost Marshal, APM or other officer into whose custody the above-named person was taken on arrest.

R. C. Donn
Major (Rank) CDN Prov Corps.
(Unit or Appointment)

Notes:

1. This certificate MUST be signed personally by the officer concerned.

2. In no circumstances may it be signed by one officer "for" another, or by anyone who does not hold commissioned rank.

3. In no circumstances should the place of apprehension be described as "in the Field". The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

4

EXHIBIT

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E29403	Pte	BEAUDOIN L	8 CIB Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For No MFM 6 available ..... times.

For .... times.

For .... times.

For .... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for No .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for No .....

days in civil custody; and for ~~37~~ 63. days in military custody, *i.e.*,

NO days in open arrest, ~~37~~ 63 days in close arrest; of

which NO days were spent in hospital.

5. The present age of the accused is 22 years old

6. The date of his attestation / ~~calling up for military service~~ is 12 Feb 1940

7. The service which the accused is allowed to reckon is .....

State the military decorations (if any) held by accused.

8. The accused is in possession of‡ C. V. S. M. with Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

3

(7833) Wt.24939/3404 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		no MFM, o available		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 22nd day of May 1945

Stell Lawson Capt

LIST OF WITNESSES

NIL

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 29 dated 23 Nov 44	"A"
Certificate of surrender dated 5 Mar 45	"B"
Certified true Extract from CR No 8 dated 3 Apr 45	"C"
Certificate of apprehension dated 14 Apr 45	"D"

I, E-29403 Pte BEAUDOIN L hereby acknowledge receipt of one copy of Summary of Evidence and one copy of Charge Sheet free of charge on 24 Apr 45.

L Beaudoin.

E-29403 Pte BEAUDOIN L

2

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

H.Q.C. 55-B-2042 CONFIDENTIAL

N.F.B. 2078
(2-43 (60,000)
H.Q. 301-1-63

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BIRON, GASTON D.488692 FUS.

CONFIDENTIAL
H.Q.C. 55-B-2042

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 13 1945		cancelled		JAG	NEW FILE	CR	11-10-45
					With Papers C.R. NOV 8 1945		
NOV 10 1945	12 11 45			Admin	V.O. note pls.		10 11 45
DEC 7 1945				CMBR	Per Regulation C.R. DEC 4 1945		
NOV 12 1945	DEC 45	cancelled		CMBR	Per Regulation C.R. DEC 10 1945		
DEC 10 1945	11/12/45	PA	GSB	Adm	Note pls.		10/12/45
DEC 11 1945	13 Dec	PA	DOL	D. Adm.	Per Regulation C.R. DEC 12 1945		
DEC 13 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

File. M.1-B-13213 A(DIS)
MONTREAL QUE. 4th December, 1945.

CENTRAL REGISTRY ARMY
13392
DEC 13 1945
CMMBR 472
Referred to admin

Secretary,
Department National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM CARO 5913.
D-488692 - Pte. BIRON, G.

Reference HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to th m/n soldier.

2. Attached hereto NPM 288 duly completed in respect to the m/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(H.J. Renaud) Major-General,
DOC MD No. 4.

Encl.

Return for telegram
AVP

Biron 17 Dec 45
Pte. 7.12.45

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-488692 (Number) Fusilier (Rank) BIRON, Gaston (Name in full)

Les Fusiliers du St. Laurent, C.A., att'd to No.4 District Depot (Unit) (Attachment (if any))

Sentenced to 120 days detention

on 28th September, 1945. at Montreal South, Que.

being served at No.88 Military Detention Bks., St.Helen's Island, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23 years and 6 months -- 12 March 1942

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence, Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~XXX~~) committed to undergo his sentence, which I recommend should ~~XXX~~ be (~~XXXXXXX~~ (put into execution) (~~XXXXXXX~~ ..... date) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 5 Nov 45

(E.J. RENAUD) Major General, D.O.C., M.D. No.4 (Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority

M.F.M. 268
(Army Form A.4104)
25M—9-43 (18691)
H.Q. 1772-39-2015

NATIONAL DEFENCE LIBRARY 1946

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
16 Nov 45	Sentence remitted wef 28 Nov 45.	(E.J. Renaud), Maj Gen, DOC MD No. 4.	
28 Nov 45.	RELEASED 496 MARKS.		(E. Belle) Capt. O.C. NO. 88 MIL. DET. BKS.

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE; Sec.15(1) Army Act. ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Lauzon, Que. at 0900 hrs. on 27th Dec.44, absented himself without leave from his Unit n .5 D.D., C.A., until he surrendered himself to the Military Police at Montreal South, Que. at 2230 hrs. on 8th August, 1945. (E.I. AUERBACK) Capt., General List, C.A., att'd to No.4D.D., C.A. Signature of Officer making entry	27Dec.44	28Sep 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
22Oct 45	I do not recommend any remission of sentence in this soldier's case.	(J. BUCHENBERG) Colonel Commanding No.4 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Nov 45	Sentence is considered fair and reasonable 1st review on 12 Nov 45	(E.J. RENAUD) Major General, D.O.C., M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

FILE NO: M.1-B-13213 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

MONTREAL, QUE.
3rd December, 1945.

P.A. → H.Q.C. 55-B-2042

The Secretary,
Department National Defence,
Ottawa Ontario.

13083
DEC 4 1945

D-488692 - Pte. BIRON, G.

Ref HQC 55-B-2042.

2. Attached hereto form for remission in respect to the m/n soldier.

(E.J.RENAUD) Major General,
District Officer Commanding,
Military District No. 4.

ENCL.

13E for 17

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-B-29
District File No. M.1-B-13213 (L/DIS)

PART I

No. D.488692 Rank Pte. Name BIRON, G.
Unit 4.R.D.

PART II

Date of Trial 28th September, 1945
Charge (s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence 120 days detention
Date of sentence 28th September, 1945
Confirmation -- (a) Authority: D.O.C.
(b) Date : 29 Sept 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 28 Nov 45.

Signed at Montreal this 16 day of 19[illegible].

(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (xxxxxxxxxx)(xxxxxxxxxx)x promulgated and extracts taken at Montreal South, Que this 29th day of November 1945.
(1)

Ass-Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, CA

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-488692 Rank Pte. Name BIRON, G. Standing
The sentence of 120 days detention awarded by xxxxxxx Court Martial on the 28 September, 1945 has been remitted on the 28 November, 1945 by D.O.C. Montreal, Que.
UNIT. Military District No. 4, District Depot, C.A.
Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A. No. 288 Place Jacques Cartier Barracks, Montreal, South, Que. Date 29 November 1945.

Adjutant

(J. M. L. CHARBOIS) Capt.-Adjt.
General List, C.A., att'd to
No.4 District Depot, C.A.

x Strike out and initial words not applicable.

HQC 55-B-2042 (JAG/D-6)

10 Nov 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
D.488622 Fus. G Biron
Les Fus du St Laurent CA Att No. 4 DD CA
Court-Martial

M. 1-B-13213 (J)

7th November 5

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

Your explanation of the delay in this case has been noted.

(R.J. Orde) Brigadier,

Judge Advocate-General.

KIM/fdf

IN REPLY PLEASE QUOTE No. M. 1-B-13213 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
November 7th, 1945.

REGISTERED

The Secretary
Department of National Defence
O T T A W A, Ontario.

CENTRAL REGISTRY Army
7715
NOV 8 1945
File 55-B-2042
Chg.
Referred to JAG

STANDING COURT MARTIAL
D-488692, Fus. Gaston BIRON,
Les Fusiliers du St. Laurent, C.A.,
att'd to No. 4 District Depot, C.A.

Reference your H.Q.C. 55-B-2042 (JAG/D-4), dated 16th October, 1945.

2. Hereunder, for your information, an explanation as to why the accused spent 51 days in custody awaiting trial:

8-8-45	Surrendered.
9-8-45	Wired for status and documents.
16-8-45	Status received.
22-8-45	Tracer for documents.
29-8-45	Tracer for documents.
30-8-45	Received documents.
1-9-45	Standing Court-Martial remanded.
4-9-45	Tracer for Part II Orders.
11-9-45	Tracer for Part II Orders.
18-9-45	Tracer for Part II Orders.
19-9-45	Part II Orders received.
24-9-45	Proceedings completed and forwarded to this Headquarters.
26-9-45	Application for Standing Court Martial received at this Headquarters and trial of accused scheduled to take place on the 28th September, 1945.
28-9-45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

E.J. Renaud Capt.
(E.J. Renaud), Major-General,
for District Officer Commanding,
Military District No. 4.

enc.

NAT. DEF. B. 44
250M-4-44 (4321)
H.Q. 1772-39-761

MEDICAL OFFICER'S REPORT

I certify that No. D-488692 Fus. BIRON Gaston
Les Fusiliers du St.Laurent, C.A.,
of Att'd No. 4 DD is in a Good state of health,
and fit to undergo Trial by Court martial.

(C.H.Elshout) Lieut. Medical Officer
No.4 District Coy. R.C.A.M.C.
Att'd No. 4 Dist. Depot C.A.

Station J.C.Bks. Mtl. South, Que.

Date Sep. 28th 1945

M. F. B. 246
50M—3-43 (254)
H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à u Dépot du District No. 4, C.A., Montréal-Sud, Qué.

le 28e jour de septembre, 1945 à 1500 heures,

pour le procès de D-488692 (Matricule) Fus. (Grade) Gaston BIRON (Nom et prénoms)

Les Fusiliers du St. Laurent, C.A. (Unité) attaché au Dépot du District No.4, C.A. (Détachement, le cas échéant)

PRÉSIDENT: Major L.J.E. BELLEAU, Quartiers-Généraux, District Militaire 4

PROCUREUR: Lieutenant R.Q. CRAIG, (Grade) (Nom et prénoms)

Quartiers-Généraux, (Unité) District Militaire 4 (Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant P. GIRARD, (Grade) (Nom et prénoms)

~~AVOCAT~~

Fus. Mont-Royal, C.A. (Unité) attaché au Dépot du District No. 4, C.A. (Détachement, le cas échéant)

VERDICT: La Cour déclare l'accusé, D-488692 Fus. Gaston BIRON, Les Fusiliers du St. Laurent, C.A., attaché au Dépot du District No. 4, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La Cour condamne l'accusé, D-488692, Fus. Gaston BIRON, Les Fusiliers du St. Laurent, C.A., attaché au Dépot du District No. 4, C.A., à la détention pendant cent-vingt (120) jours.

Signé à Montréal-Sud, Qué. ce 28e jour de septembre, 1945.

(L.J.E. BELLEAU) Major Président de la cour martiale permanente

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 40296 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 13 day of nov 19 44

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B.B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à comme interprète~~

Réponse:

Question à l'accusé. Vous opposez-vous à D-136118 CSM (WO II) DeKoninck, P. CMSC, CA, comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète ont été dûment~~ est dûment assermenté~~s~~.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur ~~chacun des~~ le chef mentionné~~s~~ dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. E. Bellman Major, Pres. CM.

"B2"[5]

CHARGE SHEET

The accused, D-488692, Fusilier Gaston BIRON, Les Fusiliers du St. Laurent, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Lauzon, Quebec, at 0900 hours on 27th of December 1944, absented himself without leave from his Unit, No. 5 District Depot, C.A., until he surrendered himself to the Military Police at Montreal South, Quebec, at 2230 hours on 8th August, 1945.

Signed at
Montreal South, Quebec,
24th September, 1945.

J. Bibeau

(J. BIBEAU), Lieutenant-Colonel
A/Officer Commanding No. 4 District Depot, CA

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au .....
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: .....Non, monsieur.....

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: .....Oui, monsieur.....
(Voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: .....Non, monsieur.....

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: .....Non, monsieur.....

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

M. le Président,

Je suis fils de cultivateur. Mon père est âgé de 78 ans. J'ai un de mes frères qui est sous observation du médecin depuis un an. J'avais demandé une exemption et j'en ai pas entendu parler.

J'ai 28 ans et mon frère a 33 ans. J'ai deux autres frères plus vieux que moi, qui ne sont pas chez-nous. Un a 37 ans et l'autre a 32 ans. Un est marié. L'autre a été appelé par l'armée et a été "dischargé" mais il n'a jamais travaillé chez-nous; il travaille sur la construction. Celui qui est marié travaille pour le C.P.R.

-0-0-0-0-0-0-0-0-

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé.- Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: N on, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR AU NOM DE L'ACCUSE

M. le Président,

Le père de l'accusé a 73 ans et ne peut pas être très efficace au travail de la ferme. En plus de ça un de ses frères, le seul qui pourrait aider à son père, est sous observation d'un médecin; il souffre de pleurésie et demande un repos assez prolongé.

Le but de l'accusé était d'aller aider à son père un peu. En plus de ça, il a fait une demande d'exemption et il n'a jamais reçu aucune réponse.

Prenant toutes ces raisons en considération, je demande la clémence de la cour envers l'accusé.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

DAILY ORDERS PART II

BY

COLONEL Jean La FONTAINE, MC.,

Commanding

NO 5, DISTRICT DEPOT.

No. 26

Place Lauzon, P.Q.

Date 29 Jan 45

(Last Order issued No. 25 d/ 27 Jan 45)

HOLDING ESTABLISHMENT

"B" OTHER RANKS

RECEIVED
SEP 19 1945
CENTRAL REGISTRY
NO. 4 D.S. C.D. DEPOT

18. ABSENT WITHOUT LEAVE

d) Absent without leave from hrs, dates shown, Still Absent at hrs, dates shown, (22nd day)

D-488692 Pte BIRON, J.G.(Rft)
A.W.L. 0900hrs 27 Dec 44 Still A.W.L. 0900hrs 17 Jan 45

(Signed) G. Bonhomme Capt.,
(G. BONHOMME) Capt. & Adj't.
No. 5 District Depot.
Lauzon P.Q.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of
Regimental PART II ORDERS
Kept by the Officer i/c.
Records N.D.H.Q.
DATE SEP 13 1945

Prepared by:
and
Checked by:

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942. and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG, Commanding No. 4 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-488692 Fus. BIRON, Gaston
(Number) (Rank) (Name in full)

of the Fus de St. Laurent, C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) D-137283 Cpl.
(Number) (Rank)

KLOPFER, P. No. 4 District Depot Police, C.A.
(Name) (Unit or appointment)

at Montreal South, Que., at 2230
(Place) (Hour)

on the 8th day of August 19 45

Strike out words not applicable } ~~a deserter~~ (or absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military ~~dress~~ uniform (~~description of dress~~)

Dated at Montreal South this 9th day of August 19 45

(S. ~~Echenberg~~ Colonel
(Rank) (Appointment)
Commanding No. 4 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

J. E. Belleau, Major, Pres. Cm.

M.F.R. 355
75M—5-43 (143)
H.Q. 1772-39-630
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 488692	Fusilier	Gaston Biron,	Les Fusiliers du St.Laurent, C. A., attached to No. 4 District Depot, C. A.

1. The following is a fair and true summary of the entries in the Field ~~Service and Regimental and Squadron, Battery, Conduct Sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army ~~Air Force Act~~ Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement ~~awaiting~~ ~~Air Force~~ trial on the present charges, for Nil days in civil custody, and 51 days in military custody, making a total of 51 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is attestation paper~~ enrolment 27 years (26th September 1918)

6. The date of his ~~completion~~ enrolment specified in his ~~record of service attestation~~ enrolment ~~attestation paper~~ 12th March 1942.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). Add any air force decoration or reward. military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(P. Paradis) Lieut.
Reg. de Maisonneuve, C. A.
Att'd to No 4 District Depot,
C. A.
Ass't Officer i/c Records,
No. 4 District Depot, C. A.

Signed this 28 Sep 45 at

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president and annexed to the proceedings.

M.F.M. 9

Reg. No. D 488692 Name Gaston Biron Corps Les Fusiliers du St.Laurent C. A. Date of enlistment of enrolment 12th March 1942 Date of Birth 26th September 1918.

Signature O.C. Company, etc. A. L. Brassard, Major. Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				First Sheet destroyed 14-6-43					

(P.T.O.)

"Z"

19

Pers. Emp.

H.E. Bellemare Major

M F M 9 (2000-8-44) (1200)
H.Q. 5113-99-1082

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY (P. PARADIS) LIEUT. Regt de Maisonneuve, C. A., Att'd to No. 4 District Depot, C. A. Ass't Officer i/c Records, No. 4 District Depot, C. A.					

H.Q.C.55-B-2042 (JAG/D-4)
Your M. 1-B-13213 (J)

16 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 488692 Fus. Gaston Biron,
Les Fus. du St.Laurent,C.A.,
att. No. 4 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 51 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

Judge Advocate General
(R.J.Orde) Brigadier

JOGR/MM

8M-7-45(M-188)

THIS COPY FOR

H.Q. C.55-B-2042
M.D. M.1-B-13215

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-488692 Name BIRON, Gast Yvon

Rank Fus Unit Les Fus du St LaurentCA, att No 4 DD CA

Charge AA 15(1) AWL

Date of Crime 27-12-44

Date of Arrest 8-8-45 Charge Signed 24-9-45

Orders for D.C.M.

Place and Date of Trial No 4 DD CA; 28-9-45.

Sentence Det 120 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40296

Date 13-10-45

MEMO

MD 4 - att No 4 DD CA

Absent	Sentence
7 1/3 mos;	det 120 days.

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-13213 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que.,
6 Oct 45

CONFIDENTIAL

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

L. 55-B-2042

STANDING COURT-MARTIAL
D-488692 Fus. G. BIRON,
Les Fus. du St.Laurent, CA,
Att'd. to No. 4 Dist. Depot, CA.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report dated 28 Sep 45.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. BELLEAU) Major
Headquarters, Military District No. 4,
President, Standing Court-Martial

Encl.

40296

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 172-29-167

H.Q.C. 55-B-2043 CONFIDENTIAL

M.F.D. 5078
2551—2-45 (6696)
H.Q. 201-1-58

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BORTOLOTTO, DOMINIC FRANK A.609051 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2043

CENTRAL REGISTRY	DATE	P.A. OR B.C.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 16 1945				JAG	NEW FILE CR 11-10-45		
NOV 10 1945	cancelled	cancelled	cancelled	J. A. G.	PER C.R. NOV 11 1945		
NOV 14 1945	14 11 45	P.A.	E.L.M.	JAG	With Papers C.R. NOV 12 1945		
					Per Requisition C.R. JAN 11 1946		
JAN 24 1946	23-1-46			Adm 3	Recommendation		JAN 17 1946
					With Papers C.R. JAN 30 1946		
JAN 31 1946 FEB 1 1946	1-2-46			Adm 3	To note remission pls		31 Jan 46

(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

File: L28-B-1290 (DAPM)

HQ MD 1 London, Ont. Date: ....29.Jan..46.

The Secretary,
N.D.H.Q.,
OTTAWA, Canada.

4884
JAN 30 1946
8-55-B-2043
C. M. B. 30/1
Adjms

MFM 288 for Disposal.

Re: A-609051 Pte. BORTOLOTTO, D.F.

Herewith returned in accordance with HQC 9039-1 Adm. 3(b)3 d/8 Sep 45 (Rd52a) para 4, MFM 288 XXXXXXXXXXXX concerning the m/n soldier, duly completed.

2. For disposal on remission XXXXXXXXXXXX of sentence.

for (P. Earnshaw) Brigadier,
D.O.C., M.D. 1.

Encl.-- 1

Pa auple
1 31 Jan 46

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of A-609051 (Number) Pte. (Rank) Dominic Frank BORTOLOTTO (Name in full)

No. 1 District Depot, C.A. London, Ontario. (Unit) (Attachment (if any))

Sentenced to Det'n for a period of 6 months

on 4 October 1945 at No.1 District Depot, C.A.

being served at No. 60 M.D.B. London, Ontario. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18 years 7 months 27 Apr 44.

Medical grade or category P U L H E M S 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... (date)) for reasons given in paragraph X.

Place .....

..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... (Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-3104)
30M—9-45 (1864)
H.Q. 1772-99-3015

PART V

I direct that the sentence (which I hereby commute to.....

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

PART VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
17 Nov.	No remission other than earned by good conduct contemplated	P. Earnshaw Brig DOC MD1	
15 Jan.	No Remission except as earned by good conduct	P. Earnshaw Brig	
22 Jan 46	See duplicate for remission entry other		

PART VII—FIRST TRIAL

Charge or Charges giving Particulars	Date of Offence	Date of Trial
The Accused, No. A-609051 Pte. Dominic Frank BORTOLOTO No.1 District Depot, C.A. London, Ontario is charged with ABSENTING HIMSELF WITHOUT LEAVE in that he at Halifax, Nova Scotia, on the 10th day of February, 1945 absented himself without leave from 1A.A. Bty., 21st A.A. Reg't R.C.A. Halifax, N.S. at 2200 hours on the 10th day of February, 1945 until surrendering to R.P. at No.1 District Depot, C.A. London, Ontario at 1300 hours on the 24th day of September 1945.	10 Feb 45	4 Oct 45
Signature of Officer making entry	(H.L.Petrie) Lt.Col. C.O. No.1 District Depot, CA	

PART VIII—SECOND TRIAL

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

PART IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
9 Oct 45	" I concur with the decision of the Court and recommend that the sentence be put into effect forthwith."	(H.L.Petrie) Lt. Col. C.O. #1 District Depot, C.A.

PART X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
7 Nov.	Review vide R05913.	P. Earnshaw Brig DOC MD1.

PART XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Duplicate

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of A.609051 (Number) Pte. (Rank) Dominic Frank BORTOLOTTO (Name in full)

No.1 District Depot, C.A. (Unit) London, Ontario. (Attachment (if any))

Sentenced to Det'n for a period of 6 months

on 4 October 1945 at No.1 District Depot, C.A.

being served at No.60 M.D'B. London, Ontario. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18 years 7 months 27 Apr 44

Medical grade or category P Ü L H E M S 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~ S) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended~~) (put into execution) (reviewed on ..... (date)) for reasons given in paragraph X.

Place London Ont.

Date 7 Nov 1945

Brian Law Brig (Confirming Authority)

Doc MSI.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-2104)
25M—4-43 (3684)
H.Q. 1773-49-2013

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
15 Jan 46	No remission except as earned by good behaviour	[illegible] Doc MSI	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
The Accused, No. A.609051 Pte. Dominic Frank BORTOLIOTO No.1 District Depot, C.A. London, Ontario is charged with ABSENTING HIMSELF WITHOUT LEAVE in that he at Halifax, Nova Scotia, on the 10th day of February 1945 absented himself R.C.A. Halifax leave from 1A.A. Bty., 21st A.A. Reg't R.C.A. Halifax until [illegible] at 2200 hours on the said 10th day of February, 1945 [illegible] to R.P. at No.1 District Depot, C.A. London, Ontario on the 24th day of September 1945.	10 Feb 45	4 Oct 45

Signature of Officer making entry (H.I.Petrie) Lt.Col. C.O. No.1 District Depot, CA.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
9 Oct 45	" I concur with the decision of the Court and recommend that the sentence be put into effect forthwith."	(H.I.Petrie) Lt.Col. C.O. No.1 District Depot. (CA)

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
Nov.	Review vide Ro 5913.	[illegible] Doc MSI

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
15 Jan 46	No remission except as earned by good behaviour	F. Farnham Bing Doc MBI	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
The Accused, No. A.609051 Pte. Dominic Frank BORTOLOTO No.1 District Depot, C.A. London, Ontario is charged with ABSENTING HIMSELF WITHOUT LEAVE in that he at Halifax, Nova Scotia, on the 10th day of February 1945 absented himself without leave from 1A.A. Bty., 21st A.A. Reg't R.C.A. Halifax, N.S. at 2200 hours on the said 10th day of February, 1945 until surrendering to R.P. at No.1 District Depot, C.A. London, Ontario at [illegible] hours on the 24th day of September 1945.	10 Feb 45	4 Oct 45

(H.I.Petrie) Lt.Col.
C.O. No.1 District Depot, CA.
Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
9 Oct 45	" I concur with the decision of the Court and recommend that the sentence be put into effect forthwith."	(H.I.Petrie)Lt.Col. C.O. No.1 District Depot. (CA)

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
7 Nov.	Review vide Ro 5913.	F. Farnham Bing Doc MBI

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Triplicate

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of A-609051 (Number) Pte. (Rank) Dominic Frank BORTOLOTTO (Name in full)

No. 1 District Depot, C.A. London, Ontario. (Unit) (Attachment (if any))

Sentenced to Det'n for a period of 6 months

on 4 October 1945 at No.1 District Depot, C.A.

being served at No. 60 M.D.B. London, Ontario. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18 years 7 months 27 Apr 44.

Medical grade or category P U L H E M S 1 1 1 1 1 1 1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... (date)) for reasons given in paragraph X.

Place .....

..... (Confirming Authority)

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

..... (Superior Military Authority)

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... (Confirming Authority)

Date .....

M.F.M. 288
(Army Form A-2104)
(8M)—2-45 (1605)
H.Q. 1772-30-2013

Part V

I direct that the sentence (which I hereby commute to.....

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
22 Jan	Remitted w.e.f. 24 Jan 946	[illegible] Brig DOC HQ.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
The Accused, No. A-609051 Pte. Dominic Frank BORTOLOTO No.1 District Depot, C.A. London, Ontario is charged with ABSENTING HIMSELF WITHOUT LEAVE in that he at Halifax, Nova Scotia, on the 10th day of February, 1945 absented himself without leave from 1A.A. Bty., 21st A.A. Reg't R.C.A. Halifax, N.S. at 2200 hours on the said 10th day of February, 1945 until surrendering to R.P. at No.1 District Depot, C.A. London, Ontario at 1300 hours on the 24th day of September 1945.	10 Feb 45	4 Oct 45

(H.L.Petrie) Lt.Col.
Signature of Officer making entry C.O. No.1 District Depot, CA

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
9 Oct 45	" I concur with the decision of the Court and recommend that the sentence be put into effect forthwith."	(H.L.Petrie) Lt. Col. C.O. #1 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Quadruplicate

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of A.609051 (Number) Pte. (Rank) Dominic Frank BORTOLOTTO (Name in full)

No.1 District Depot, C.A. (Unit) London, Ontario. (Attached to or of)

Sentenced to Det'n for a period of 6 months

on 4 October 1945 at No.1 District Depot, C.A.

being served at No.60 M.D.B. London, Ontario. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 18 years 7 months 27 Apr 44

Medical grade or category PULHEMS 1 1 1 1 1 1

FIRST TRIAL—PART II

To ..... (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended~~) (put into execution) (~~reviewed on~~ ..... date) for reasons given in paragraph X.

Place London Ont.

Date 7 Nov 1945

Ramsay Brig (Confirming Authority)
Doc 7 Dec

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 286
(Army Form A-2104)
28M—9-43 (1849)
H.Q. 1772-28-2015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

.....(and) be reviewed on .....

Place .....

.....
Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
The Accused, No. A.609051 Pte. Dominic Frank BORTOLOTO No.1 District Depot, C.A. London, Ontario is charged with ABSENTING HIMSELF WITHOUT LEAVE in that he at Halifax, Nova Scotia, on the 10th day of February 1945 absented himself without leave from 1A.A. Bty., 21st A.A. Reg't R.C.A. Halifax, N.S. at 2200 hours on the said 10th day of February, 1945 until surrendering to R.P. at No.1 District Depot, C.A. London, Ontario at 1300 hours on the 24th day of September 1945.	10 Feb 45	4 Oct 45

Signature of Officer making entry

(H.I.Petrie) Lt.Col.
C.O. No.1 District Depot, CA.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
9 Oct 45	" I concur with the decision of the Court and recommend that the sentence be put into effect forthwith."	(H.I.Petrie)Lt.Col. C.O. No.1 District Depot. (CA)

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
7 Nov 1945	Received vide RO 5913.	Brammstaw Brig Dec 1945.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

File: L28- B-1290(DAPM)

HQ MD 1 London, Ont., Date: 29 Jan. 46.

4812

JAN 30 1946

File B-2043

Chgd. to

Referred to

The Secretary,
N.D.H.Q.,
OTTAWA, Canada

Appendix "G" to CARO 5913 (Remission, Etc., of Sentence by C.M.)

Re: A-609051 Pte. BORTOLOTTO, D.F.

Herewith forwarded for N.D.H.Q., files the m/n pro forma, concerning the m/n soldier, duly completed.

for (P. Earnshaw) Brigadier
D.O.C., M.D. No. 1

Noted Wanted
E MB R
31 Jan 46.

(Appendix "G" to CARO 5913)
FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY COURTS MARTIAL

ADHQ File No. HQC 55-B-2043 District File No. L28-B-1290

PART I

No. A-609051 Rank Gnr. Name BORTOLOTTO, D.F.

Unit No. 1 District Depot, London, Ont.

PART II

Date of Trial 4 Oct. 1945

Charge (x) A.W.L.

Sentence 6 months detention Date of sentence 4 Oct. 45.

Confirmation—(a) Authority R. Earnshaw, Brig., D.O.C., M.D. No. 1
(b) Date 7 Nov. 45.

PART III
(REMISSION)

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~, do hereby remit (~~XXXXXXXX~~ (~~XXXXXXXXX~~ (~~XXXXXXXX~~ (~~XXXXXXXXXXXXXXXXXXXX~~ the balance of the sentence of imprisonment concerning A-609051 Gnr. BORTOLOTTO, D.F. effective 1400 hrs. 24 Jan. 46

Signed at London this 22nd day of January 19.46.

R. Earnshaw

(R. Earnshaw) Brigadier,
D.O.C., M.D. No. 1.

PART IV
(PROMULGATION)

Remission (~~XXXXXXXXXXXX~~ (~~XXXXXXXXXXX~~ (~~XXXXXXXXXXX~~ (~~XXXXXXX~~ ~~XXXXXXXXXXXXXXX~~ promulgated and extracts taken at No. 1 D.D., C.A. London, Ont. this 28th day of January 19.46.

(1) (W.L. Kress) Capt. (Rank)
Officer i/c Documents.
O.C. Legal Section, No. 1 D.D., C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

Number A-609051 Rank Gnr. Name BORTOLOTTO D.F.

The sentence of 6 months detention

awarded by S. Court-Martial on the 4 Oct. 19.45.

has been remitted

on the 24 Jan 1946 by the District Officer Commanding Military District No. 1.

Certified true Extract of Daily Orders Part II, No. 27

or No. 1 D.D., C.A. place London, Ont. date 27 Jan 46

R.M. Agnew

(R.M. Agnew) Capt. (Rank)
Adjutant, No. 1 District Depot, C
London, Ont.

L38-1-15
File: L28-B-129(OAPM)
HQ MD 1 London, Ont. Date...22.Jan.46.

The Secretary,
N.D.H.Q.,
OTTAWA? Cana da.

Release of S.U.S. on recommendation of C.M.E.R.

This will acknowledge receipt of Ranks 1593 (Restricted) dated 19 Jan.46re A-609051 Gnr. BORTOLOTTO, D.F.

2. An order of release has been directed to Commandant, No.60 MDB, London, Ont. effective 1400 hrs. 24 Jan. 46.

J. Lawhitton Lt
for (R. Earnshaw) Brigadier
D.O.C., M.D. 1.

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

HRQ 55-B-2043
ADM 3(b)3
FILE

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 1
LONDON ONT

OTTAWA ONT 19 JAN 46

RANKS 1593 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REFERS A 609051 PTE BORTOLOTTO D F (.)

OMBR RECOMMENDS IMMEDIATE RELEASE (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: OMBR

JAG

EDM/MA

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
Major-General Adjutant-General		IMMEDIATE	0950

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

PART 1

RAO 57 B-2043 (CNHR-5)
14 Jan 46
Case No. [illegible]

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: A-609051 Pte BORTOLOTTO D.F.

2. Unit at date of offence: 21 AA Regt RCA CA

3. Charge: AA 15(1) - AWL : AWL from 2200 hours 10 Feb 45 until surrendering at 1300 hours 24 Sep 45. (Dength of absence - 7½ months).

Plea: Guilty

4. Place and Date of Trial: London, Ontario
XXXXX XXXX (SCM) 4 Oct 45

5. Finding: Guilty

6. (a) Sentence: 6 months detention

(b) Date of Sentence: 4 Oct 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 60 MDB in MD 1
15-93

(N.B. - Discharged under RO 1029( ) for
wef)

22

CONDUCT

11. (a) Prior to Conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	NIL		
(ii) Courts-Martial:	NIL		
(iii) Summary Convictions:	AWL	Jan 45	20 days pay

(b) After Conviction: Good. Expected date of release - 3 Feb 46.

(c) Date of enrolment/[redacted]: 27 Apr 44 Present Age: 20

12. Remarks: (Here note any Petition or Representation other than in Item 10, but if Item 10 has been omitted so state, and show here any mitigating circumstances).

(a) Item 10 has been omitted.

(b) In mitigation, the accused states that he had borrowed money from his parents to buy a car. Then his parents needed the money back, so he went AWL for a month to earn the extra money. Then he found that the farmers he was working for needed him more and more. After the harvest he decided to come back.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.).

Reviewing Officer: As this man has now served over one-half of his sentence, recommend immediate release.

Reviewed by... A. M. Stephenson
(A.M. STEPHENSON) Major

14. Recommendation of the Board:

Immediate Release

Date. JAN 17 1946

N. A. Stilwell Maj.
Secretary
Courts-Martial Board of Review

21

VER V CIL NR 21

FROM COMD ONE LONDON 121200R

TO SECTY OTTAWA

GR 75 BT

LPM 75 UNCLAS RETEL CMBR 92 CONCERNS A 609051
PTE BORTOLOTTO DF PRESENTLY NO 60 MDB LONDON ONT
STOP COMMANDANTS REPORT ON CONDUCT DATED 11 JAN 46
STATES QUOTE CONDUCT AND INDUSTRY GOOD DAYS EARNED
AND DAYS OBTAINABLE BOTH THIRTY THREE MENTAL AND
PHYSICAL HEALTH GOOD MAY BE CONSIDERED FOR REMISSION
AT ANY TIME UNQUOTE THIS CASE FOR REVIEW ON 14 JAN 46

BT 121320R CS B

121338R

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE
BELOW AND RETURN TO A.S.O. WOODS

BRANCH	TIME	SIGNATURE

ROYAL CANADIAN SIGNALS
Woods Bldg.
OTTAWA
JAN 12 1946
Phone
Army Signal Office

61180

61180

ARMY MESSAGES — ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE

20

ARMY MESSAGE
(OUTGOING)

CLEAR

FILE

MGC 55-B-3043
55-B-1169
55-L-1600
55-[illegible]

PLACE

OTTAWA, Ontario 11 Jan 46

District Officer Commanding,
Military District No. 1,
LONDON, Ontario.

CMHR 92 UNCLASSIFIED

WIRE LATEST REPORT ON CONDUCT AND LOCATION OF

FOLLOWING MARKED ATTENTION CMHR

A-609051 PTE BORTOLOTTO D.F (L.28-B-1290 (JAG)

A-608306 PTE PARKER R G (L.28-P-643 (JAG)

B-162819 PTE LAMBERT O E (L.28-L-914 (JAG)

B-158441 PTE DOUCETTE J L (L.28-D-1081(JAG)

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING WIRELESS	DEGREE OF PRIORITY	TIME OF ORIGIN
W. A. Stewart (E.G. WOODS) Major-General, Adjutant-General		1435

COPY 5 FOR ORIGINATOR'S FILE

19

HQC.55-B-2043 (JAG/D)

14 Nov 45

District Officer Commanding,
Military District No. 1,
LONDON, Ontario.

Standing Court-Martial
A.609061, Pte. Dominic Frank BORTOLOTTE
No. 1 DD, CA.

Receipt is acknowledged of your L.28-B-1290 (JAG) dated 8 November, 194 5, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E. L. M

/AB

for (E. L. Ould) Brigadier,
Judge Advocate General.

17

IN REPLY PLEASE QUOTE
No. L.28-B-1290 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

H.Q. MD 1, London, Ont., 8 Nov 1945

GEN. JUDGE ADVOCATE
COURT
8397
NOV 10 1945
File 55-B-2043
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

STANDING COURT-MARTIAL
A.609061 Pte. Dominic Frank Bortolotto
No. 1 District Depot, C.A.

Reference your H.Q.C. 55-B-2043 (JAG/D-3), dated 15 Oct 45.

2. The proceedings of the m/n Standing Court-Martial are returned herewith for custody as directed.

for (P. Earnshaw), Brigadier
D.O.C. M.D. 1

N.D. 23
2 Mil—5-43 (321)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 1 District Depot (CA)

on the 4th day of October 1945 at 1030 hours,

for the trial of: A.609051, Pte. Dominic Frank BORTOLOTTO
Number Rank Full Name

No. 1 District Depot (CA)
Unit Attachment, if any

PRESIDENT: Major D.R. Nairn, E.D., Pres. Standing Court-Martial, M.D. 1

PROSECUTOR: Lieut. W.D. Roberts, Permanent Prosecutor, M.D. 1
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ DEFENDING OFFICER: Lieut. E.G. Crosbie, No. 1 District Depot (CA)
Rank Full Name Unit Attachment, if any

FINDING: Guilty

SENTENCE: To undergo detention for a period of 6 months.

Signed at London, Ont. this 4th day of October 1945.

D R Nairn
(D. R. Nairn) Major
President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2298

Extracts entered as No. 40297 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 15 day of Oct 19 45
Ethel Cronk

15

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to an interpreter?~~

Answer:

Question to the accused. Do you object to A.106.902, Cpl. L.R. Easdown, CMSC HQ MD 1 as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter if any~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Guilty, Sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

14

'B 2'
D Shaughnessy
President SCM

CHARGE SHEET

The Accused, No. A.609051 Pte. Dominic Frank BORTOLOTTO, No.1 District Depot, C.A., London, Ontario, an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Section 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

IN THAT HE

At Halifax, Nova Scotia, on the 10th day of February 1945 absented himself without leave from 1 A.A. Bty, 21st A.A. Reg't R.C.A. Halifax, N.S. at 2200 hours on the said 10th day of February, 1945 until surrendering himself to Regimental Police at No.1 District Depot, C.A. London, Ontario at 1300 hours on the 24th day of September 1945.

(H.L.Petrie) Lt.Col.
C.O. No.1 District Depot, C.A.

No.1 District Depot, C.A.
London, Ontario
2 October, 1945

12

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[s]. when

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, Sir.

(Statement of the accused to be recorded on a separate page.)

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. I have a written statement, Sir.

(Statement of the accused to be recorded on a separate page.)

(See Page C.C.3)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, Sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, Sir.

R.P. 37 *(d)*. *If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did* ***not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty"*** *and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

12

CC3
Unknown major
Prudent SCM.

Sirs:

The reasons for my being absent without leave are - that I owed my parents money due to the fact that I was in debt. By buying a car which my parents loaned me money to pay for. And at a later date my parents needed the money that could not wait on my Army Pay Cheque. So I decided to go out and work for a month to pay my parents back. At the end of the period I found that the farmers that I was working for needed me. So as time went by the farmer getting busier every day needing me more than ever so I stayed until Harvest was over. At the end of the Harvest he gave me a two weeks vacation and I decided to come back.

.....Bortolotto D.F.....
A-609051 Pte. Bortolotto D.F.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. My Defending Officer will speak for me.

DEFENDING OFFICER: The statement in mitigation of the accused I believe covers everything in this case.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

'Y'
withdrawn major
Preceded SCM

M.F.B. 355
7M—8-40 (5400-1)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-609051	Pte.	Dominic Frank BORTOLOTTO	No.1 D.D. Field C.A.

1. The following is a fair and true summary of the entries in the ~~Service and Conduct sheets~~ ~~Regimental and Squadron (Battery) Conduct sheets~~ Conduct sheets ~~Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.I.	1 times	A.W.I.	1 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct.~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~service or attestation paper in~~ enrolment form 20 years 1 month

6. The date of his ~~enrolment~~ specified in his ~~service or attestation paper~~ enrolment form is 27 Apr 44.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward ~~Air Force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of~~ Air Force

9

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....

Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank .....

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Unit
Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of October, 1945 (W.L.Kress) Capt.
O.C.Legal Section No.1 DD. CA.
Officer 1/8 of Original Documents.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

A-[illegible]
No.

Name BORTOLOTTO DF. Sqn., Battery, or Company

Corps R.C.A.

Date of enlistment 27 Apr 44 G.C. Badges

Tradesman's Rates of Pay 'Z' [illegible] Pay

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. One

Signature O.C. Company, etc. G.Haltio Major

(A.F.B.-[illegible]) 500M—11-41 H.Q. 1773-39-[illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Dartmouth N.S.				ORIGINAL SHEET DESTROYED - NO Entries - 5 Nov 44				G.Haltio Major.	
Morris Lade N.S	4 Jan 45	Gnr.		Sec.15(1) AA AWL from 0800 hrs 4 Jan 45 until 0730 hrs 11 Jan 45 Absent 6 days 23 hrs 30 min.	Bdr Wetero Bdr Fowler	14 dys C.B. 20 dys Pay FR&I 149(2)	15 Jan 45	G.L.Kent Lt.Col.	7 dys pay FR&I 149(1)a

CERTIFIED TRUE COPY

(W.L.Kress) Capt. O.C.Legal Section No.1 DD CA.
Officer i/c of Original Documents.

(P.T.O.)

MEDICAL OFFICER'S REPORT

Dishonourably discharged

I certify that No. A-609051 Pte. BORTOLOTTO, D.F.
of No, 1 D.D. is in a fit state of health,
and is able to undergo Trial by Court martial.

D J Broadwell Capt.
Medical Officer
(D.J. Broadwell)Capt.
R.C.A.M.C.

Station No. 1 District Depot,CA

Date 4 Oct 45.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-99-480

1

STANDING COURT MARTIAL

PRECIS OF EVIDENCE

At the trial of A.609051 Gnr. Dominic Frank BORTOLOTTO, No.1 District Depot, C.A., London, Ontario:

CHARGE: ABSENTING HIMSELF WITHOUT LEAVE
Section 15(1) Army Act.

To prove the charge the following evidence is available:-

DOCUMENTARY - M.F.B. 375

M.F.M. 216

W.L.Kress

(W.L.Kress) Captain
O.C.Legal Section No. 1 DD. C.A.
Officer detailed to take Precil of Evidence.

6

RECORD of the Declaration of a Court of Inquiry assembled at Halifax, N.S.

on the 5th day of March 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A-609051 Gunner Dominic Frank BORTOLOTTO, 1 A.A. Bty., 21 A.A. Regt., R.C.A.

DECLARATION

The Court declare that No. A-609051 (Regtl. No.) Gunner (Rank) Dominic Frank BORTOLOTTO (Full Name), 1 A.A. Bty., 21 A.A. Regt., R.C.A. (Unit) illegally absented himself without leave from 1 A.A. Bty., 21 A.A. Regt., R.C.A. at Halifax, N.S. (Place) at 2200 hours on the 10th day of February 1945, that he is still so absent, and that on the 13 Feb 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	No.	CARO 3464 100% Price	CARO 3464 VALUE 75%
Clo. Section "A"			
A250 Anklets	1	.74	56
A13000 Gloves	1	.66	50
A13700 Greatcoat	1	15.54	1165
Clo. Section "B"			
B 400 Blouses	1	6.50	488
B 700 Boots	1	5.82	436
B 1800 Caps	1	.70	53
B 3550 Drawers	1	1.40	105
B 6400 Jersey	1	1.65	123
B 10200 Trousers	1	6.55	489
Clo. Section "C"			
C 650 Braces	1	.28	21
C 850 Brushes	1	.17	13
C 950 Brushes	1	.42	32
C 1000 Brushes	1	.09	06
Clo. Sec. "C"			
C 1100 Comb	1	.04	03
C 1400 Housewives	1	.35	27
C 1450 Knives	1	.99	74
C 1850 Razor	1	.42	32
Clo. Sec. "D"			
D 19650 Badges	1	.06	05
TOTALS	-	42.38	$31 78

Sgd: T.E. Young Lt. 1st A.A. Bty., RCA President
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at Halifax, N.S.

Member
(Name) (Rank) (Unit)

this 5th day of March 1945

Signature of Commanding Officer Sgd: G.L. Kent, Lt.-Col., 21 A.A. Regt. RCA
(Name) (Rank) (Unit)

Certified true copy
(Name) (Rank) (Unit) (Signature of Officer having custody of original record)

(C.S. SMITH) Capt.,
Adjutant,
21 A.A. Regt., R.C.A.

M.F.B. 375
A.F.B. 115
200M—1-44 (3576)
H.Q. 1772-39-257

6

TRO 16

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Lt. Col. H. L. Petrie C. O. No. 1 District Depot C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that A-609051 Pte. Bortolotto, Dominic, Frank
(Number) (Rank) (Name in full)

of the 1st A/A Battery R.C.A. Dartmouth, Nova Scotia.
(Unit and attachment, if any)

Strike out words not applicable } ~~apprehended~~ (surrendered to) A-88022 Cpl.
(Number) (Rank)

Sims, C. E. No. 1 District Depot C.A.
(Name) (Unit or appointment)

at London, Ontario. at 1300
(Place) (Hour)

on the 24th day of September 19 45

Strike out words not applicable } as a deserter (or absentee without leave), and that at the time of his arrest he was wearing military (~~civilian~~) uniform (~~not~~).

Dated at London, Ontario. this 24th day of September 19 45

(Signature, Number, Rank, Unit or appointment)
(H. L. Petrie) Lt. Col.
C. O. No. 1 District Depot C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

4

H.Q.C.55-B-2043 (JAG/D-3)
Your L. 28-B-1290

15 Oct 45

The District Officer Commanding,
Military District No. 1, London, Ont.

STANDING COURT-MARTIAL

A. 609061 Pte. Dominic Frank Bortolotto,
No. 1 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(E.L. Orde) Brigadier
Judge Advocate-General.

EBL/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-2043
M.D. 1.28-B-1290

NRMA

MEMORANDUM - STANDING DISTRICT COURT-MARTIAL

No. A-609051 Name BORTOLOTTO, Dominic Frank

Rank Pte Unit No 1 DD CA

Charge AA 15(1) AWL

Date of Crime 10-2-45

Date of Arrest 24-9-45. Charge Signed 2-10-45

Orders for D.C.M.

Place and Date of Trial No 1 DD CA; 4-10-45

Sentence Det 6 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. ~~-40297-~~ 40297

Date 15-10-45

MEMO

MD 1 - No 1 DD CA

Absent	Sentence
7½ mos;	det 6 mos.

for Judge Advocate-General

10M-8-45(M-189)

CANADA

IN REPLY PLEASE QUOTE
No. L.28-B-1290 (JAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

H.Q. MD 1, London, Ont., 9 Oct 1945

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

L.55-B-2043

STANDING COURT-MARTIAL
A.609051, Pte. Dominic Frank BORTOLOTTO
No. 1 District Depot, C.A.

Enclosed herewith are the proceedings of the m/n Standing Court-Martial which took place at No. 1 District Depot, C.A. 4 Oct 45.

(D.R. Nairn), Major
Pres. S.C.M. M.D. 1

40247

N.D. 23
2 Mil.—5-43 (321)
H.Q. 1772-101-23

1

H.Q.C. 55-B-2044 CONFIDENTIAL

N.F.B. 5175
25M—2-45 (6000)
H.Q. 301-1-43

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOURQUE, LEON D.147042 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2044

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 16 1945					If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute"		
	(Cancelled)				JAG NEW FILE	CR	11-10-45
OCT 24 1945	22-10-45	PA	JB	JAG	With Papers C.A. OCT 2 V 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2044 (JAG/D-6)

22 Oct 45

District Officer Commanding,
Military District No. 4,
Montreal, P.Q.

Standing
D.147042 Pte. Leon BOURQUE
Le Regiment de Maisonneuve, CA,
~~att'd to C.M.P.~~ Court-Martial CA No. 44

M. 1-B-18222 (J)

18th October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

EKM

for (R.J. Orde) Brigadier,

KLM/fdf Judge Advocate-General.

IN REPLY PLEASE QUOTE No. M. 1-B-18222 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
October 18th, 1945.

REGISTERED

The Secretary
Department of National Defence
-O T T A W A, Ontario.

CENTRAL REGISTRY ARMY
4089
OCT 20 1945
File C55-B-2044
Class. to
Referred to D.A.G.

OCT 20 1945

STANDING COURT MARTIAL
D-147042, Private Léon BOURQUE,
Le Régiment de Maisonneuve, C.A.,
att'd to C. I.BT. C.CA No. 44

Reference your H.Q.C. 55-B-2044 (JAG/D-4), dated 16th October, 1945, enclosing the proceedings of the marginally-noted Standing Court Martial.

2. Same are returned, herewith, for custody, as requested in paragraph 2 of your letter under reply.

J. Desbarats Capt.
for (E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

NAT. DEF. B-642
2500M-4-44-14211
H.Q. 1772-39-767

MEDICAL OFFICER'S REPORT

I certify that No. D-147042 Pte Bourque, L.

of St-Jerome, Qué. is in a good state of health,

and fit to undergo Trial by Court martial.

J. Hetu CAPT.

Medical Officer

(J. HETU) CAPT. RCAMC (AF)

M.O. i/c M.I.R. NO 44 C.I. (B) T.C.

Station St-Jerome 44 CI(B)TC.

Date 12 Sept 45.

J. A. G. Hubert, major

President SCM

M. F. B. 246

50M—9-44 (5437)

H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à C.I.(B) T.C. No. 44, C.A., St. Jérôme, Qué.

le 12e jour de septembre, 1945 à 1100 heures,

pour le procès de D-147042 Pte. Léon BOURQUE,
Matricule Grade Nom et prénoms

Régiment de Maisonneuve, C.A., attaché à C.I.(B) T.C. No. 44, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. DUBEAU, ED, Quartiers-Généraux, District Militaire 4.

PROCUREUR: Capitaine P.J.F. BOUSQUET,
Grade Nom et prénoms

Quartiers-Généraux, District Militaire 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant G.A. LEROUX,
J.C.A. Grade Nom et prénoms

C.I.C., C.A., attaché à C.I.(B) T.C. No. 44, C.A.
Unité Détachement, le cas échéant

VERDICT: Le Cour déclare l'accusé, D-147042, Pte. Léon BOURQUE, Régiment de Maisonneuve, CA, attaché à C.I.(B) T.C. No. 44, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La Cour condamne l'accusé, D-147042, Pte. Léon BOURQUE, Régiment de Maisonneuve, CA, attaché à C.I.(B) T.C. No. 44, C.A., à la détention pendant quarante (40) jours.

Signé à St.Jérôme, Qué., ce 12e jour de septembre, 1945.

(J.A.G. DUBEAU) Major
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as Item 40295 in the Record of Courts Martial kept in the office of the Judge Advocate General this 13 day of Oct 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à comme interprète ?~~

Réponse:

Question à l'accusé. Vous opposez-vous à D-136118 CSM (WO II) DeKoninck, P., CMSC, CA. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur ~~chacun des~~ le chef mentionné dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ---------- chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. C. G. Chekan major
Pmdt 5 cm

NO. 44 C. I. (B). T. C.
St.Jerome, Que.

CHARGE SHEET

The accused, D-147042 Pte. BOURQUE L., R. de Mais. (C.A.), attached to No. 44 C.I.(B)T.C. (C.A.), St.Jerome, Que., a G.S. soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE:
SEC 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

In that he

At St.Jerome, Que., at 0200hrs 15th February 1945, absented himself without leave from No. 44 C.I.(B)T.C. (C.A.), St.Jerome, Que., until he was apprehended by Civil Authorities at Montreal, Que., at 0330hrs on the 13th day of May 1945, dressed in Civilian Clothes.

Signed on this 6th day
of September 1945,
at St.Jerome, Que.

(P. BROSSEAU)Lieut.-Colonel,
O.C. NO. 44 C.I.(B)T.C.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... gcs.v
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur; je désire soumettre une déclaration écrite.

La déclaration écrite de l'accusé, datée le 12 sep 45, est lue, marquée pièce "F", signée par le Président et versée au dossier.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

En plus de ma déclaration écrite, je désire faire une déclaration orale.

(Voir page CC-3)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION ORALE DE L'ACCUSE EN ATTENUATION DE PEINE

M. le Président,

J'ai 21 ans. Ma femme a 22 ans. Je suis marié depuis le 15 août, 1942. Je suis dans l'armée depuis le 12 septembre, 1944. Je suis passé par les camps de Sorel et ici, et au Dépôt à Longueuil. J'ai deux enfants vivants.

Durant mon absence sans permission j'ai demeuré chez-nous à 5103 Charlemagne. Je n'ai pas travaillé tout le temps durant mon absence sans permission. J'ai travaillé comme waiter dans une taverne. J'ai travaillé depuis le commencement du mois de mars jusqu'au temps où je me suis fait appréhender. Le reste de temps je suis resté à la maison. C'est pour subvenir aux besoins de ma famille que j'ai travaillé.

J.G.R.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR AU NOM DE L'ACCUSE

M. le Président,

Je n'ai pas grand chose à ajouter à ce qu'a dit l'accusé. Sa déclaration explique assez bien les circonstances qui ont motivé son absence et je demanderais à la cour de les prendre en considération et d'être clémente envers l'accusé.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

No. 44 C.I. (B) T.C.

F

St. Jerome, Que.
12 Sep 45.

J. C. E. Dubeau major
President SCM

Mr. Le President

La raison pour laquelle je me suis absente du camp de St. Jerome, est celle-ci.

Ma femme etait enceinte ét souffrant de faiblesse me requerait a ses cotes. Le 8 Avr 45 elle enfenta et resta faible. Elle ne pouvait s'occuper des besoins de ma famille. Le 8 Mai 45 j'ai perdu un enfant de 16 mois ce qui affecta ma femme qui etait deja malade.

Voila Mr. Le President la raison pour laquelle je suis parti et esperant que la cour usera de clemence envers moi.

Je suis.

D147042 Pte. Bourque, L.

Lion Bourque

"G" 15

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT NO. 44 C.I.(B)T.C.

PART II ORDERS

J. C. G. Kuhlen major
President SCM

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 37

STATION St.Jerome, Que.

DATE 16 Feb 45

"Last Order Issued No. 36 dated 15 Feb 45

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
4	ABSENCE WITHOUT LEAVE	D-147042	A/CPL. BOURQUE L.		AWL from 0200hrs 15 Feb 45	

CERTIFIED TRUE EXTRACT:-

(P.A.Y. Lupien)Lieut.-A/Adjt.,
No. 44 C.I.(B)T.C.

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

(SGD.) (P.A.Y. Lupien)Lieut.-A/Adjt.,
for(M.A. Desrochers)Capt.-Adjt.
No. 44 C.I.(B)T.C.

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-59-254

J.C.G. Hubeau major
President SCM

RECORD of the Declaration of a Court of Inquiry assembled at St.Jerome, Que.

on the 10th day of March 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-147042 Pte. BOURQUE L., R. de Mais. (C.A.), attached to No. 44 C.I.(B)T.C., St.Jerome, Que.

DECLARATION

The Court declare that No. D-147042 (Regt'l No.) Private (Rank) BOURQUE L. (Full Name) R. de Mais. (C.A.), att'd. to No. 44 C.I.(B)T.C. (Unit) St.Jerome, Que. illegally absented himself without leave from No. 44 C.I.(B)T.C. at St.Jerome, Que. (Place) at 0200 hours on the 15th day of February 1945, that he is still so absent, and that on the 10th day of March 1945 he was deficient, and that he is still deficient of the following articles:—

	ARTICLES	VALUE				ARTICLES	VALUE	
	"A"			1	C 650	Braces	0	28
1 A	13700 Greatcoat drab	15	54	1	C 1100	Combs	0	04
	75% of Vocab. Rate	11	66	1	C 1650	Neckties black	0	19
	"B"			1	C 1700	Pins collar safety	0	06
1 B	450 Blouses B.D. Serge	6	50				0	82
1 B	2900 Caps Tank Batallion	1	01			75% of Vocab. Rate	0	62
1 B	3550 Drawers woollen	1	40			"D"		
1 B	8600 Shirts woollen	1	20					
1 B	8750 Shoes leather black prs.	4	84	1		Badges Cap	0	09
1 B	10200 Trousers B.D. Serge	6	55				0	07
		21	50			"K"		
	75% of Vocab. Rate	16	13	1		Covers Mattresses Bedstead	1	28
	"C"					75% of Vocab. Rate	0	96
1 C	250 Belts waist web 1½"	0	25			GRAND TOTAL.....	$ 29	44

Lieut. D.M. Henington, CIC (Co President) (Name) (Rank) (Unit)
attached to No. 44 C.I.(B)T.C., St.Jerome, Que. Member (Name) (Rank) (Unit)

Signed at St.Jerome, Que.

this 10th day of March 19 45 Member (Name) (Rank) (Unit)

Signature of Commanding Officer (SGD.) (P. BROSSEAU) Lieut.-Col., O.C. (Name) (Rank) (Unit) No.44 CI(B)TC

Certified true copy (Name) (Rank) (Unit)
(Signature of Officer having custody of original record)
(P.A.Y. Lupien) Lieut.-A/Adjt.,
No. 44 C.I.(B)T.C.

M.F.B. 379
A.F.B. 115
200M—1-44 (3576)
H.Q. 1772-39-257

J. C. E. Vallieres major
Provost Corp

I 19

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. Pouliotte O.C. Composite Provost Companies M.D.4
(Number) (Rank) (Name) (Unit)

hereby certify that D-147042 Private Bourque, L.
(Number) (Rank) (Name in full)

of the R. De Mais. (C.A.) attached to No.44 C.I.(B)T.C., C.A.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~(surrendered to)~~ Const. L. Bougie of the
(Number) (Rank)

Quebec Liquor Police
(Name) (Unit or appointment)

at Montreal, Quebec, at 0330 hours
(Place) (Hour)

on the 13th day of May 19 45

Strike out words not applicable } as a deserter or absentee without leave), and that at the time of his arrest he was ~~wearing military clothing~~ (dressed in civilian clothes). and on the 27th August 1945 he was taken into the custody of Composite Provost Companies, M.D.4.

Dated at Montreal Que this 27th day of August 19 45

R. Pouliotte Major
(R.W. Pouliotte) Major
(Signature, Number, Rank, Unit or appointment)
O.C. Composite Provost Companies, M.D.4.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3750)
H.Q. 1772-39-1936

Soldier of the Active Army.

Y

M.F.R. 355
75M—5-43 (145)
H.Q. 1772-39-630
A.F.B. 294

J. C. G. Wilson, major
President SCM

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-147042	Private	BOURQUE L.,	R. de Mais. (C.A.), attached to No. 44 CI(R)

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	One (1) A.W.L. times	One (1) A.W.L. times
For	One (1) Conduct to prej. times	One (1) Conduct to prej. times
For	times	times
For	times	times

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for 106 days in civil custody, and 16 days in military custody, making a total of 122 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 years 11 months

6. The date of his attestation specified in his attestation paper is 13 September 1944

7. [illegible]

8. [illegible]

9. The accused is in possession of or entitled to no military decoration or military award.

10. [illegible] since he was made a warrant officer last night the regimental bank [illegible]

11. (In the case of an officer.)* The accused holds in the Royal Canadian Air Force Permanent Force the rank of ..... unit ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th September 1945 day of ..... A. Y. Lupien, Lieut. A/Adjt., No. 44 C.I.(B)T.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

J. C. F. Hudson, Major
President SCM

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	G.C. Badges	Tradesmen's Rates of Pay	M.F.M. 6 (A.F.B.122) 750M—12-43 (7537) H.Q. 1772-28-1652
D-147042	BOURQUE Leon		C.I.C. (R)	13 Sep 44			

No. and date of last drunk	Period not reckoning towards freedom from extra fine	Sheet No.	Signature O.C. Company, etc.	Character
		One	B. Gaudette Lieut.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
J.C.I. Bks.	29 Sep 44	Pte.		A.W.L. from 2145 hrs. 29 Sep 44 to 1900 hrs 2 Oct 44 Abs.: 2 days 21 hrs. 15 mins.	Cpl.Albert	4 days C.B.	3 Oct 44	Capt. MacIntosh	Auto forf. 3 days' pay FR&I 149 (1)
St.Jerome, Que.	14 Dec 44	Pte.		AN ACT TO THE PREJUDICE OF..... (jump the fence)	Cpl.Desrochers L/C Langelier	ADMONISHED	14 Dec 44	Major C. McPherson	

CERTIFIED TRUE COPY:-

(M.A. Desrochers) Capt.-Adjt.,
No. 44 C.I.(B)T.C.

H.Q.C.55-B-2044 (JAG/D-4)
Your M. 1-B-18222 (J)

16 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D.147042 Pte. Leon Bourque,
Rgt de Maisonneuve, C.A.,att.
No. 44 C.I.(B) T.C.,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde) Brigadier
Judge Advocate-General.

JOGR/MM

8M-7-45(M-188)

THIS COPY FOR H.Q. C.55-B-4044
M.D. M.1-B-18222

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-147042 Name BOURQUE, L~~R~~x

Rank Pte Unit R de Mais CA, att No 44 CIBTC CA

Charge AA 15(1) AWL

Date of Crime 15-2-45

Date of Arrest 13-5-45 Charge Signed 6-9-45

Orders for D.C.M.

Place and Date of Trial No 44 CIBTC CA; 12-9-45.

Sentence Det 40 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40225

Date 13-10-45

MEMO

MD 4 - att No 44 CIBTC CA

Absent	Sentence
3 mos;	det 40 days

OM-B-45(M-1BS)

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. M. 1-B-18222 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, Que.,
8 Oct 45.

C.55-B-2044

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

STANDING COURT-MARTIAL
D-147042 Pte. Léon BOURQUE,
R. de Mais., C.A., attached
to No. 44 C.I.(B) T.C., C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report dated 12 Sep 45.

2. Submitted for your information, consideration and approval, please.

J.A.G. Dubeau

(J.A.G. DUBEAU) Major
Headquarters, Military District No. 4
President, Standing Court-Martial

Encl.

40295

NAT. DEF. B. 940
250094-4-44 4321
H.Q. 1772-39-787

COUNTER NUMBER 28124

HOUR 10:30

OPERATOR'S INITIALS JR

RELIEVING OPERATOR GRI

H.Q.C. 55-B-2045

CONFIDENTIAL

M.F.R. 2078
H.Q. 300-1-55

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOUTIN, GEORGES HENRI E.627827 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2045

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 16 1945		cancelled					
				JAG	NEW FILE	CR	11-10-45
OCT 21 1945	20 10 45	P.A.	ELM		With Papers C.R. OCT 19 1945		
OCT 29 1945	29-10-45	PA		JAG	With Papers C.R. OCT 30 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q.C. 55-B-2045 (JAG/D-6)

29 October, 1945.

District Officer Commanding,
Military District No. 5
Quebec, Quebec.

Standing
E-627827 Pte. Georges-Henri Boutin
GL CA Att No. 5 DD CA
.....Court-Martial

Q. 39-B-5584 (JA)

Receipt is acknowledged of your 24 October 5 dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E K M
for (R.J. Orde), Brigadier,

ELM:jb

Judge Advocate-General.

IN REPLY PLEASE QUOTE No.

Q. 39-B-5584 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 24 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

5297

DEPUTY ADJUTANT GENERAL
OCT 26 1945
File 55-B-2045
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL

E-627827 Pte Georges-Henri BOUTIN,
GL CA Att No.5 DD CA.

1. Ref HQC. 55-B-2045 (JAG/D-7) dated 15 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à u dépôt régional No.5,A.C.,/P.Q. Lauzon

le 25ème jour de septembre 1945 à 1115 heures,

pour le procès de E-627827, Soldat Georges-Henri BOUTIN, Liste Générale, A.C.,
Matricule Grade Nom et prénoms

att. dépôt régional No. 5, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Q.G., R.M. No. 5.

PROCUREUR: Capitaine TASCHEREAU, Pierre
Grade Nom et prénoms

Procureur Permanent, Q.G., R.M. No. 5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieut. J.Y. BERNIER
Grade Nom et prénoms

R.C.E., A.C., att. dépôt régional No. 5, A.C.
Unité Détachement, le cas échéant

VERDICT:

La Cour déclare le prévenu non coupable de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation.

SENTENCE:

LaCour condamne le prévenu à la détention pendant CENT SOIXANTE JOURS (160), et à une suppression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, savoir: $18.57.

Signé à LAUZON, P.Q. ce 25ème jour de septembre 1945.

Pierre Decary -Major
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 40298 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 12 day of Oct 1945

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non Monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question~~ ~~Vous opposez-vous à~~ ~~[illegible]~~ ?

~~Réponse:~~

Question à l'accusé. Vous opposez-vous à Mlle Thérèse Leclerc comme sténographe ?

Réponse: Non Monsieur.

La sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermentée. (Minute d'ajournement et de reprise d'audience, voir document "F" ci-joint.)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non Monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui Monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

~~*Question à l'accusé.* Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

(L'accusé s'étant avoué coupable sur le DEUXIEME chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

ACTE D'ACCUSATION

Le prevenu E-627827 Soldat Georges Henri BOUTIN. Liste Generale, A.C. attache au Depot Regional No 5 A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF.
Art 12 (1)(a)
Army Act.

D'AVOIR EN ACTIVITE DE SERVICE
DESERTE LE SERVICE DE SA MAJESTE.

en ce que

A Lauzon, P.Q. a 0800 heures le 12 mars, 1945, il s'est absente sans permission du Depot Regional No 5, jusqu'a ce qu'il se livre aux autorites militaires a Lauzon, P.Q. a 1100 heures, le 10 septembre, 1945 en tenue civile.

DEUXIEME CHEF.
Art 24 (2)
Army Act.

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES;
SES EFFETS D'EQUIPEMENT D'HABILLEMENT
ET AUTRES EFFETS REGIMENTAIRES.

en ce que

a Lauzon, P.Q. le 19 septembre, 1945 il etait deficient des articles suivants:

	C.A.R.O. 1862	Moins 25% C.A.R.O. 3464
HABILLEMENT DIVISION "B"		
1 Boot Ankle.	5.82	4.36
1 Cap Field Service	.70	.52
2 Drawers Cotton Short.	.84	.63
2 Drawers Woollen	2.80	2.10
1 Shirt Khaki Cotton	1.54	1.15
2 Shirts under cotton	.86	.64
2 Shirts Woollen	2.40	1.80
1 Shoes Canvas pr.	2.29	1.72
4 Socks Woollen pr.	1.84	1.38
HABILLEMENT DIVISON "C"		
1 Bag Kit.	1.27	.95
1 Blacking Tin.	.05	.04
1 Boot Dressing Tin.	.05	.04
1 Boot laces pr.	.03	.02
1 Braces pr.	.28	.21
1 Brass Button (Stick)	.04	.03
1 Brush Boot Polishing	.21	.16
1 Brush Button	.11	.08
1 Brush Cloth	.17	.13
1 Brush hair	.39	.29
1 Brush shaving	.42	.31
1 Brush Tooth	.09	.07
1 Cap Comforter	.41	.30
1 Comb hair	.04	.03
1 Holdall	.22	.16
1 Housewife	.35	.26
1 Razor Set	.42	.31
2 Socks Black prs.	.56	.42
2 Towels hand.	.62	.46
Tot:	24.82	18.57

Lauzon, P.Q.
20 sept, 1945.

Pierre Taschereau
(PIERRE TASCHEREAU.) Capitaine.
Procureur Permanent 5eme District Militaire.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non Monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

[redacted]

[redacted]

LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE.

- - - - - - - - - - - - - - - - - -

1° MFB 375 en date du 6 avril 1945 se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier."

2° MFM 216A en date du 10 septembre 1945 se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier."

Le procureur n'a pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment. voir page D-3 et suiv.

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non Monsieur.

~~Question à l'accusé.~~ ~~Avez-vous l'intention de citer des témoins à l'appui de votre réputation?~~

~~Réponse:~~

TEMOIN DE LA DEFENSE: L'accusé, mat. E-627827, Soldat Georges-Henri BOUTIN, Liste Générale, A.C., att. dépôt régional No. 5, A.C., étant dûment assermenté, est interrogé par l'Officier Défenseur:

Q. Quel âge avez-vous?

R. 23 ans.

Q. Est-ce que vos parents vivent encore?

R. Oui Monsieur.

Q. Quel âge a votre père?

R. 64 ans.

Q. Est-ce que vous êtes le seul enfant chez vous?

R. On est seulement 10.

Q. Lorsque vous vous êtes absenté sans permission étiez-vous en congé?

R. Oui.

Q. Quelle sorte de congé?

R. Congé d'agriculteur.

Q. Est-ce que votre congé finissait le 12 mars?

R. Il finissait le 11.

Q. Est-ce que vous avez demandé un autre congé?

R. Oui.

Q. Est-ce que vous l'avez eu?

R. Il a été refusé. J'en ai demandé un autre et j'ai pas eu de nouvelles.

Q. Qu'est-ce que vous avez fait pendant votre absence?

R. J'ai travaillé sur la ferme de mon frère, lorsque mon congé a été refusé le 12 mars, c'était le temps des sucres. C'était impossible de me rapporter.

Q. Une fois que le temps des sucres a été passé qu'est-ce que vous avez fait?

R. Il fallait s'organiser pour les semences.

Q. Ensuite?

R. Après les semences il fallait se réorganiser pour les foins, les récoltes et ça m'a conduit ici.

Q. Vous avez dit que vous avez travaillé pour votre frère. Y avait-il d'autres hommes pour lui qui travaillaient?

R. Non.

Q. Est-ce qu'il pouvait en trouver d'autres?

R. C'était bien difficile.

Q. Lorsque l'ouvrage sur la terre de votre frère a été fini qu' est-ce que vous avez fait?

R. Je suis venu me rapporter.

Q. Lorsque vous êtes parti sans permission quelles étaient vos intentions au sujet du service militaire?

R. Quand je suis parti j'ai eu des congés, après mon ouvrage fini c'était de venir me rapporter.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR
- - - - - - - - - - - - - - - -

Q. On dit que vous avez été absent du 12 mars cette année au 10 septembre cette année, est-ce exact?

R. Oui.

Q. Qu'est-ce que vous voulez dire qu'il vous était impossible de vous rapporter le 11 mars?

R. Parce que c'était le temps des sucres.

Q. Que voulez-vous dire par "impossible"?

R. Il y avait pas d'autres hommes pour travailler les érables. Ca attend pas, ça coule à temps.

Q. Votre frère est là sur la terre?

R. Oui.

Q. Est-ce qu'il y a quelqu'un à part de ça?

R. Non Monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

- - - - - - - - - - -

PAR LA COUR:

Q. Est-ce que vous avez fait du service dans l'Armée?

R. Oui.

Q. Combien de temps?

R. 9 mois.

Q. Vous êtes entré dans l'Armée quand?

R. 7 janvier 1943.

Q. Combien de congés avez-vous eus?

R. 3 congés de 6 mois.

Q. Vous deviez vous rapporter le 12 mars et vous êtes resté sur la terre chez vous?

R. Oui.

Q. Là vous êtes revenu, pourquoi?

R. C'est parce que l'ouvrage était fini, j'ai dit je vais aller régler avec l'Armée.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

L'ACCUSE REPREND SON SIEGE.

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE

- - - - - - - - -

L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE.

- - - - - - - - -

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au DEUXIEME - - - - - - - - - - chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

PAR LE PROCUREUR:

Si l'accusé avait plaidé non coupable, la Poursuite aurait établi à l'aide du témoignage du Quartier-Maître et de la formule 375 qu'à la date du 19 septembre 1945 il manquait à l'accusé des effets militaires au montant de $18.57.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non Monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Non Monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non Monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: L'accusé, par son Officier Défenseur, dit: "Je demanderais la clémence de la Cour pour l'accusé. L'accusé s'est absenté pour aider à son frère qui a une terre, une érablière, je suppose. Les aides sont difficiles à obtenir. Il a eu un congé et l'a prolongé. Il a démontré que durant son absence il a travaillé avec son frère sur la ferme. Je demande la clémence de la Cour."

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

"F"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - - - - - - -

A 1120 heures le 25 septembre 1945

la Cour s'est ajournée.

A 1605 heures le 25 septembre 1945

la Cour se rassemble.

LE PROCES SE POURSUIT

"O"

Pierre Decary

(PIERRE DECARY) MAJOR
PRESIDENT, LAUZON, P.Q.

RECORD OF the Declaration of a Court of Inquiry assembled at LAUZON, P.Q. on the 6th day of APRIL 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Regimental Necessaries, or Clothing of No. E-627827 Pte BOUTIN G.H. N.R.M.A. No.5 D.D.

DECLARATION

The Court declare that No. E-627827 Pte BOUTIN G.H. NRMA No.5 D.D. illegally absented himself without leavefrom No.5 District Depot Lauzon Camp at LAUZON, PQ at0800 hrs on the 12th day of MARCH 1945 that he is still so absent, and that on the 6th APRIL 1945 he was deficient, and that he is still deficient of the following articles:-

ARTICLES		VALUE		ARTICLES	VALUE	
CLO. DIV. "B" -						
Boots Ankle Pr	1	5	82			
Cap Field Service	1		70			
Drawers Cotton Short	2		84			
Drawers Woollen	2	2	80			
Shirt Khaki Cotton	1	1	54			
Shirts Under Cotton	2		86			
Shirts Woollen	2	2	40			
Shoes Canvas Pr	1	2	29			
Socks Woollen Prs	4	1	84			
CLO. DIV. "C"						
Bag Kit	1	1	27			
Blacking Tin	1		05			
Boot Dressing Tin	1		05			
Boot Laces Pr	1		03			
Braces Pr	1		28			
Brass Button (Stick)	1		04			
Brush Boot Polishing	1		21			
Brush Button	1		11			
Brush Cloth	1		17			
Brush Hair	1		39			
Brush Shaving	1		42			
Brush Tooth	1		09			
Cap Comforter	1		41			
Comb Hair	1		04			
Holdall	1		23			
Housewife	1		35			
Razor Set	1		42			
Socks Black Prs	2		56			
Towels Hand	2		62			
TOTAL:-	$	24	82			
75% VALUE:-	$	18	61			

(J.N. BOULANGER) Major 5 D.D. President
(F.J.A. BERARD) Capt 5 D.D. Member
(R. COTE) Lieut 5 D.D. Member

Signed at LAUZON, P.Q.
this 6th day of APRIL 19 45

Signature of Commanding Officer (Jean LA FONTAINE) Col. MC, OC No.5 D.D.

Certified true Copy
(Signature of Officer having custody of original Record)

Benoit Vachon

RECORDS OFFICER
No.5 District Depot
Lauzon, P.Q.

M.F.B. 375

W-101(560) 27-3-45

"H"

Pierre Decary

CERTIFICAT en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 1942, tel que publié dans l'O.S.C. 1877 et dans l'ordre général 127 de 1942.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné Colonel PAUL MATHIEU O.C. NO 5 D..D. C.A.
(Matricule) (grade) (nom) (unité)

certifie par les présentes que E-627827 PTE.
(Matricule) (Grade)

BOUTIN Georges-Henri
(Nom au complet)

de Attache au Depot Reg. No 5 A.C.
(Unité et détachement, s'il y a lieu)

Biffer les mots inutiles } XXXXXXXXXXXX s'est livré à) D-610313 L/CPL.
(Matricule) (Grade)

LABONTE L.P. Att au D.D. 5 C.A.
(Nom) (Unité ou emploi)

à LAUZON P.Q.
(Lieu)

à 1100
(Heure)

le 10ème jour de Sep 19 45

Biffer les mots inutiles } comme déserteur XXXXXXXXXXXX et qu'au moment XXXXXXXXXXX

"Y"

Pierre Decary

(PIERRE DECARY) M.F.B. 385
PRÉSIDENT, S. C. (25 K.C.-43 (145) H.Q. 1772-99-620 A.F.B. 256

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-627827	Private	BOUTIN Georges-Henri	N.P.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct or,~~

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispositions with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or,~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in ~~Air Force~~ civil custody, and 15 days in military custody, making a total of 15 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 23 years, 2 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service is~~ attestation paper 7-1-43

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the [redacted]nk of
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Army
Name.....of.....Unit
Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this.....day of SEPTEMBER 1945.

(B. TASCHEREAU) Lieut,
Ass, Records Officer,
No. 5 DD Lauzon, Que.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. E-627827 Name BOUTIN George Henri Sqn., Battery or Company

Corps N.R.M.A.

Date of enlistment 7-1-43 G.C. Badges

Tradesmen's Rates of Pay

(A.F.B. 122) 8000M—11-41 (D696) H.Q. 1772-39-1631

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				-- N I L --					

CERTIFIED TRUE COPY

(J.E. BASCONSEAU) Lieut,
Ass. Records Officer,
No.5 D.D. Lauzon, Que

PIERRE DECARY MAJOR
PRESIDENT S.C.M.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. E627827 Pte Boutin J.H.
of 2 D #5 is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer

Station Lauzon Guard Room

Date 25 Sept 45

Medical Inspection Room
D.D. M.D. No. 5
SEP 25 1945
LAUZON, P.Q.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

RESUME DE LA PREUVE

Proces de E-627827 Soldat. Georges Henri BOUTIN. Liste Generale, A.C. attache au Depot Regional No 5 A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1 Extrait certifie des O.P. 67 d/ 16 mars, 1945 a Laugon, P.Q.

2. M.F.B. 375

3 M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1 M.F.B. 375

ORALE: P-48788 CQMS. Leblanc. M. Liste Generale, A.C. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (9-6-45)

IN REPLY PLEASE QUOTE No. Q. 39-C-1820 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 24 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

STANDING COURT-MARTIAL

E-531949 Spr. Edgar CARIGNAN
RCE CA Att No.5 DD CA.

1. Ref HQC. 55-C-1527 (JAG/D-7) dated 15 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. B. 445
(5000M 4-44 (431)
H.Q. 1702-39-167

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au dépôt régional No.5,A.C., /LAUZON,P.Q.

le 25ème jour de septembre 1945 à 11:15 heures,

pour le procès de E-531949, Spr. Edgar CARIGNAN, R.C.E., A.C., att. dépot régional No. 5, A.C.
Matricule Grade Nom et prénoms Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY, Président Permanent, C.M.P., Q.G., R.M. No.5.

PROCUREUR: Capitaine TASCHEREAU, Pierre
Grade Nom et prénoms

Procureur Permanent, Q.G., R.M. No. 5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lt. DEMERLIS, Guy,
Grade Nom et prénoms

Rgt. de Maisonneuve, A.C., att. dépôt régional No.5,A.C.
Unité Détachement, le cas échéant

VERDICT: La Cour déclare le prévenu non coupable de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, sauf que l'absence a commencé le 25 septembre 1942 au lieu du 6 juillet 1942, et coupable sous le deuxième chef d'accusation.

SENTENCE: La Cour condamne le prévenu à la détention pendant VINGT ET UN (21) MOIS, et à une suppression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, savoir: $3.44.

Signé à LAUZON, P.Q. ce 25ème jour de septembre 1945.

Pierre Decary
Président de la cour martiale perm
Q.G., R.M. No. 5

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 40301 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 13 day of Oct 1945
L.J.R

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non Monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous à comme interprète~~

Question à l'accusé. Vous opposez-vous à Mlle Thérèse Leclerc comme sténographe ?

Réponse: Non Monsieur.

La sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermentée (Minute d'ajournement et de reprise d'audience, voir document "F" ci-joint.)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non Monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui Monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

~~*Question à l'accusé.* Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

(L'accusé s'étant avoué coupable sur le DEUXIEME chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

B-2

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

ACTE D'ACCUSATION

Le prevenu, E-531949 Sapper Edgar CARIGNAN. ~~List Quebec~~ R.C.E. A.C. attache au Depot Regional No 5 A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF.
Sec 12 (1)(a)
Army Act.

D'AVOIR EN ACTIVITE DE SERVICE
DESERTE LE SERVICE DE SA MAJESTE.

en ce que

a Valcartier, P.Q. a 0700 heures, le 6 juillet, 1942, il s'est absente sans permission du 15th Field Coy, R.C.E. jusqu'a ce qu'il se livre aux autorites militaires a Quartiers Generaux, Quebec. a 1400 heures le 28 aout, 1945 en uniforme militaire.

DEUXIEME CHEF.
Sec 24 (2)
Army Act.

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES,
SES EFFETS D'EQUIPEMENT, D'ABILLEMENT,
ET AUTRES EFFETS REGIMENTAIRES.

en ce que

a Lauzon, P.Q. le 18 septembre, 1945 il etait deficient des articles suivants:

	C.A.R.O. 1862	Moins 25% C.A.R.O. 3464
HABILLEMENT DIVISION "B"		
2 Drawers cotton short.	.66	.49
1 Pottee serge.	..89	.66
3 Socks woollen pr.	1.08	.81
HABILLEMENT DIVISION "C"		
1 Blacking Tin.	.05	.04
1 Boot dressing.	.05	.04
1 Boot laces.	.02	.01
1 Towel hand	.21	.15
SECTION A-1		
1 Badge Cap.	.09	.07
1 Bag Ration.	.03	.02
2 Carries Cartridge.	1.54	1.15
Tot:	$4.62	$3.44

Lauzon, P.Q.
21 sept, 1945.

(PIERRE TASCHEREAU.) Capitaine.
Procureur Permanent 5eme District Militaire.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non Monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE.

- - - - - - - - - - - - - -

1° MFB 375 en date du 29 juillet 1942, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier."

2° MFM 216, en date du 28 août 1945, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier."

Le procureur n'a ~~aux~~ pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, voir page D-3 et suiv.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non Monsieur.

~~Question à l'accusé.~~ ~~Avez-vous l'intention de citer des témoins à l'appui de votre réputation?~~

~~Réponse:~~

TEMOIN DE LA DEFENSE: L'accusé, mat. E-531949, Spr. Edgar CARIGNAN, R.C.E., A.C., att. dépôt régional No. 5, A.C., étant dûment assermenté, est interrogé par l'Officier Défenseur:

Q. Voulez-vous dire à la Cour depuis quand vous êtes dans l'Armée?

R. J'ai fait un mois d'entraînement en 1941 à Lauzon, ensuite j'ai été rappelé le 9 avril 1942.

Q. Est-ce que vos parents vivent encore?

R. Seulement mon père.

Q. Votre mère est morte?

R. Oui.

Q. Votre père est-il en bonne santé?

R. Pas trop bien.

Q. De quoi souffre-t-il?

R. Il s'est fait brûler une jambe, il a été à l'hôpital.

Q. Quand a eu lieu cet accident?

R. En 1942.

Q. Quel mois?

R. Juillet.

Q. Quelle date?

R. Vers le 5 ou le 6, début de juillet.

Q. Vous dites qu'il s'est fait brûler une jambe. Qu'est-ce qui a brûlé? Votre maison?

R. Oui.

Q. Où demeurez-vous?

R. Timwick.

Q. A la suite de cet accident a-t-il été capable de gagner sa vie?

R. Non.

Q. Est-ce qu'illtravaille maintenant?

R. Non.

Q. Avez-vous d'autres frères ou soeurs à la maison?

R. Non, je suis seul.

Q. Lorsque vous étiez dans l'Armée, est-ce que vous aviez assigné un montant à votre père?

R. Non Monsieur.

Q. Lorsque vous vous êtes absenté, quelles étaient vos intentions envers l'Armée?

R. De retourner.

Q. Quelle occasion attendiez-vous pour retourner à l'Armée?

R. J'attendais que mon père soit mieux .

Q. Est-ce qu'il est mieux maintenant ?

R. Pas encore assez pour être capable de travailler.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR.

-- - - - - - - -

Q. On vous reproche d'avoir été absent du 6 juillet 1942 au 28 aout 1945, est-ce exact?

R. Oui Monsieur.

Q. Qu'est-ce que vous avez fait?

R. J'ai travaillé sur la ferme et chez les cultivateurs.

Q. Sur la ferme de qui?

R. A mon père.

Q. Vous avez travaillé où à part ça?

R. Chez des cultivateurs.

Q. Avant d'entrer dans l'Armée qu'est-ce que vous faisiez?

R. A Asbestos dans les mines.

Q. Pourquoi n'êtes-vous pas retourné aux mines?

R. J'étais pas capable, fallait que j'aide à mon père.

Q. Vous avez travaillé chez les autres cultivateurs?

R. Oui.

Q. Est-ce qu'il y avait quelqu'un qui a travaillé pour votre père?

R. Non.

Q. Quand vous êtes parti de Valcartier, étiez-vous en passe?

R. Oui.

Q. Combien detemps?

R. 4 jours.

Q. Elle expirait à 7 heures le 7 juillet?
R. Oui.

Q. Pourquoi n'êtes-vous pas revenu à cette date-là?

R. Parce que la maison chez nous a brûlé, mon père a été obligé d'aller à l'hôpital.

Q. Il y a personne à part de ça chez vous?

R. Oui quelqu'un depuis que je suis parti, un beau-frère. Il reste proche.

Q. Combien de temps est-il resté à l'hôpital?

R. 2½ mois.

Q. Avez-vous communiqué avec votre unité pour un congé additionnel pour régler la situation chez vous?

R. Non.

Q. Pourquoi?

R. Je le sais pas.

Q. Quand est-ce que vous avez commencé à travailler pour les cultivateurs?

R. J'ai travaillé par secousses, 15 jours - 3 semaines.

Q. Avez-vous commencé cette année-là?

R. Non.

Q. Une autre année?

R. Oui, en 1943.

Q. Savez-vous ce qu'elle est devenue votre unité?

R. Non.

Q. Est-ce que vous vous rendiez compte que, ne revenant pas, vous étiez susceptible de ne pas la revoir votre unité?

R. Aucune réponse.

Q. Elle pouvait bien ne plus être là?

R. Oui.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

PAR LA COUR:

Q. Si votre père n'avait pas eu cet accident-là seriez-vous revenu?

R. Oui.

Q. Il a été malade 2½ mois?

R. Oui à l'hôpital.

Q. Est-ce qu'il a recommencé à travailler?

R. Pas encore, Monsieur.

Q. Vous êtes seul chez vous?

R. Oui.

Q. Votre mère est morte?

R. Oui, il y a 22 ans.

Q. Vous n'avez pas de soeurs?

R. Une reste à Asbestos, l'autre à St-Paul et une à Timwick.

Q. Est-ce qu'elles aident à votre père?

R. Quand elles sont capables de donner un coup de main.

Q. Est-ce qu'elles envoient de l'argent?

R. Non.

Q. Est-ce qu'il était question que votre unité s'en aille de Valcartier lorsque vous êtes parti?

R. J'en avais pas entendu parler.

DE L'AVIS DE LA COUR IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

L'ACCUSE REPREND SON SIEGE.

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE ET ATTIRE L'ATTENTION DE LA COUR SUR L'ARTICLE 161 DE L'ARMY ACT.

L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au DEUXIEME - - - - - - - - - - - - chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

PAR LE PROCUREUR:

Si l'accusé avait plaidé non coupable, la Poursuite aurait établi, à l'aide du témoignage du Quartier-Maître et de la MFB. 375, qu'à la date du 18 septembre 1945 il manquait à l'accusé des articles militaires pour un montant de $3.44.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non Monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Non Monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non Monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: L'accusé, par son Officier Défenseur, dit: "Je demanderais à la Cour de considérer que le soldat Carignan a été frappé de plusieurs épreuves successives. Il lui était nécessaire de subvenir aux besoins de son père invalide et c'est ce qui a causé son absence pendant si longtemps. Je demande à la Cour d'user de clémence envers Carignan."

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

"F"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - - -

A 1120 heures le 25 septembre 1945

la Cour s'est ajournée.

A 1545 heures le 25 septembre 1945

la Cour se rassemble.

LE PROCES SE POURSUIT

- - - - - - - -

"G"

(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at Valcartier Mil. Camp on the 29th - - day of July- - - - - - - 19 42, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. - E-531949, Spr. CARIGNAN, E.,

DECLARATION

The Court declare that No. E - 531949, Spr. CARIGNAN, E.,

illegally absented himself without leave or due cause

at ValcartierMilitary Camp,PQ on the- -6th - -day of July 1942 - - - -,

that he is still so absent, and that on the 28th day of July 42 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
Clo.Div."B"			Clo.Div."C"		
Battledress blouse serge	5	58	1 blacktin		05
" " trouser	5	60	Boot dressing		05
Cap, field service		78	Boot laces		02
Drawers cotton short 2 prs.		66	Braces		27
Puttees,serge		89	Brasses button		04
Shirts khaki cotton 2 "	1	98	Brushes polishing		15
Shirts undercotton 2"		80	" button		14
Socks. 4 "	1	44	" cloth		24
	17	73	" hair		24
			" Shaving		30
Clo.Div. "D"			" tooth		09
Badges cap		09	Comb hair		04
Clo.Div. "A-1"			Holdalls		17
Bags Ration		03	H ousewives		51
Carriers Cartridges 2	1	54	Razor Safety		39
	1	57	Towel Hand 2		42
				3	12

NET TOTAL . . . . . $ 22.51

NET TOTAL (75% of V.P.
in accordance with R.O.1877. . . . . $ 17 .66

E. Daoust,Lt. 21/C 15th Field Coy., R.C.E., A.F. — President

Stephen Franklin, Lieut., 15th Field Coy.R.C.E.,A.F. — Member

W.J. Beckwith, L/Sgt., 15th Field Coy.,R.C.E.,A.F. — Member

Signed at Valcartier,Mil.Camp,Que., this 29th - - day of July 19 42.

Signature of Commanding Officer J.C. Bynn, Major, 15th Field Coy.,R.C.E.,A.F.-

Certified true copy

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
11M-12-40 (8695-6)
H.Q. 1772-29-297

"H"

Pierre Decary
(PIERRE DECARY) MAJOR
PRESIDENT S.C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major J.B. Martineau, A/D.A.P.M., M.D. No. 5.
(Number) (Rank) (Name) (Unit)

hereby certify that E-531949 Pte. CARIGNAN, Edgar.
(Number) (Rank) (Name in full)

of the R.C.E., Valcartier,
(Unit and attachment, if any)

Strike out words not applicable } [redacted] (surrendered to) the Undersigned,
(Number) (Rank)

(Name) (Unit or appointment)

at Headquarters, M.D. No. 5, Quebec, at 1400
(Place) (Hour)

on the 28th day of August, 1945.

Strike out words not applicable } [redacted] (or absentee without leave), and that at the time of his surrender he was wearing military [redacted] uniform [redacted]

Dated at Quebec, this 28th day of August, 1945.

(J.B. Martineau)-Major,
A/D.A.P.M., M.D. No. 5.
(Signature, Number, Rank, Unit or appointment)

MM/bp

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

"Y"

Pierre Decary

M.F.B. 355
(PIERRE DECARY) MAJOR
H.Q. 1773-39-439
PRÉSIDENT, S. G. M. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-531949	Private	CARIGNAN Edgar	N.R.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act, ~~Air Force Act~~ and dispensations with trial under ~~A.A.~~ A.P.A. 73 are set ~~out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ~~ or ~~ beginning on the ~~ day of ~~~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 28 days in military custody, making a total of 28 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 29 years, 5 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 10-4-42

7. ~~The service which the accused is allowed to reckon towards discharge is~~ —

8. ~~The accused is entitled to reckon ~~ service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~ Air Force ~~ the regimental rank of ~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Air Force Rank..... Unit

Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of SEPTEMBER 1945.

(B. TASCHEREAU) Lieut.,
Ass. Records Officer,
No.5 D.D. Lauzon, Que.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

No. E-531949 Name CARIGNAN Edgar Sqn., Battery, or Company

Corps N.R.M.A.

Date of enlistment 10-4-42

G.C. Badges

Tradesmen's Rates of Pay

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Character

M.F.M. 6 (A.F.B. 122) 500M—11-41 (2498) H.Q. 1772-99-1639

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				-- N I L --					

CERTIFIED TRUE COPY
(B. TASCHEREAU) Lieut.,
Ass. Records Officer,
No.5 D.D. Lauzon, Que.

(PIERRE DECARY) MAJOR
PRESIDENT S.C.M.

"Z"

MEDICAL OFFICER'S REPORT

I certify that No. E531494 Rc Carrington E.

of DD#5 is in a good state of health,

and fit to undergo Trial by Court martial.

Gibbonet, capt.
Medical Officer

Station Lauzon Quad Com

Date 25 Sept 45

Medical Inspection Room
C.D. M.D. No. 6
SEP 25 1945
LAUZON, P.Q.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

RESUME DE LA PREUVE

Proces de E-531949 Sapper. Edgar CARIGNAN Liste Generale A.C. attache au Depot Regional No 5 A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1 Extrait certifie des O.P. XXX II

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE: E-30500 CQMS Annett G. Liste Generale, C.A.C. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (9-6-45)

IN REPLY PLEASE QUOTE No. Q. 39-B-5584 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 13 Oct 45.

3897

OCT 19 1945

C.55-B-2045

Referred to JAG

THE SECRETARY
Department of National Defence
OTTAWA ONT

REMISSION OF SENTENCE -SCM.

E-627827 Pte Georges-Henri BOUTIN
NRMA Att No 5. DD CA.

1. A remission of sentence in this case has been granted w.e.f. 6 Oct 45.

2. The form for Remission of Sentence, duly completed, is attached hereto.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
(3000M-4-44 (4321)
H.Q. 1772-39-267

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-B-
District File No. Q.39-P-5584 (JA)

PART I

No. E-627827 Rank Pte Name Georges-Henri BOUTIN
Unit NRMA, Att No.5 District Depot CA.

PART II

Date of trial 25 Sep 45.
Charges AA: Sec 12(1)(a)
Sentence 160 days detention & stopp: $18.57.
Date of Sentence 25 Sep 45.
Confirmation - (a) Authority Standing Court-Martial MP No.5.
(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E-627827, Pte. Georges-Henri BOUTIN, NRMA, Attached to No.5 District Depot CA, effective 6th October 1945.

Signed at QUEBEC, P.Q. this 4th day of October 1945

Edmond Blais
(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon P.Q.
this 9th day of October 1945

W.G. LAROCHE) Capt.
RCCS Att. No 5DD
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-627827 Rank Pte Name BOUTIN, G.H.
The sentence of 160 days Detention
awarded by Court-Martial on the 25 Sep 1945
has been remitted
on the 6th Oct. 1945 by Brig. EDMOND BLAIS CBE MC
D.O.C. MD 5

Unit No 5 District Depot

Certified true Extract of Daily Orders Part II of
No. 249 Place Lauzon Date 9 Oct 45

(M.R. LEDOUX) Capt.
Adjutant. No 5 D.D.

H.Q.C.55-B-2045 (JAG/D-7)
Your Q. 39-B-5584

15 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 627827 Pte. Georges Henri Boutin,
Gen.List., C.A., att.No. 5District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-2045
M.D. Q:39-B-5584

NRMA

MEMORANDUM - STAnding ~~DISTRICT~~ COURT-MARTIAL

No. B-627827 Name BOUTIN, Georges Henri

Rank Pte Unit Gen List CA, att No 5 DD CA

Charge (1) AA 12(1)(a) WOAS, Desertion

(2) AA 24(2) Losing byoneglect.....

Date of Crime (1) 12-3-45; (2) 19-9-45.

Date of Arrest (1) 10-9-45. Charge Signed 20-9-45.

Orders for D.C.M.

Place and Date of Trial No 5 DD CA; 25-9-45.

Sentence Det 180 days; stoppages $18.57

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40298

Date 13-10-45

MEMO Balance of sentence remitted by Conf. Auth. (1) Guilty AWL

MD 5 - att No 5 DD CA

Absent	Sentence
6 mos;	det 180 days.

R X Ryan Lt

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEA[redacted] No. Q:39-B-5584

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Oct. 9th. 1945.

C.55-B-2145

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

E/627827, Pte. Georges Henri BOUTIN.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

40298

NAT. DEF. B. 440
2500M 4-44 (4321)
H.Q. 1772-39-767

H.Q.C. 55-B-2046 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BARRETTE, JEAN MARIE D.649864 PTE.

CONFIDENTIAL H.Q.C. 55-B-2046

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 18 1945		cancelled		JAG	NEW FILE	CR	12-10-45
NOV 10 1945	10-11-45	PA		JAG	With Papers C.R. NOV 8 1945		
				BR			
DEC 7 - 1945	8/12/45	PA	GSB	Adm	To note pls	WBE	7 Dec 45
DEC 8 - 1945				JAG	With Papers C.R. DEC 17 1945		
DEC 18 1945				JEMBR	To note pls		12-3-45
DEC 19 1945	Ro 12/45	PA		Adm	To note pls.		19 Dec 45
DEC 20 1945							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2046
(JAG/D-6)

OTTAWA, 18 December, 5

District Officer Commanding
Military District No 4
MONTREAL, Que

D-649864 - Pte BARRETTE, JM

Receipt is acknowledged of your M.1-B-15852 A(DIS) dated 15th December, 1945, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

E.L.M.
for (R J Orde) Brigadier
Judge Advocate General

/jm

noted
[illegible]

FILE NO: M.1-B-15852 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
15th December, 1945.

CENTRAL REGISTRY Army
CONF SEC.
DEC 17 1945
File
Chgd. to
Referred to

The Secretary,
Department of National Defence,
Ottawa, Ontario.

D-649864 - Pte. BARRETTE, J.M.

Reference HQC 55-B-2046.

2. Attached hereto, form for remission in respect to the marginally named soldier.

3. Also attached is MFM 288.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURES.

noted
CMBR4
19Dec45

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-B-2016
District File No. M.1-B-15852 (A/DIS)

PART I

No. D.649864 Rank Pte. Name BARRETTE, J.M.
Unit 4 D.D.

PART II

Date of Trial 19th September, 1945.
Charge (s) ABSENTING HIMSELF WITHOUT LEAVE.
Sentence 140 Days Detention.
Date of sentence 19th September, 1945.
Confirmation -- (a) Authority: D.O.C.
(b) Date : 19 Sept 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention 9 Dec 45.

Signed at Montreal ~~this~~ 2 Dec. day of 1945
(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.
To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission ~~XXXXXXXXXXXXXXXXXXXXXX~~ promulgated and extracts taken at Montreal South, Que. this 11th day of December, 1945.. (1)

Ass-officer i/c Documents (L.R. HAVELIN) Lieut., C.I.C., C.A., att'd to No. 4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-649864 Rank Pte. Name BARRETTE, J.M.
The sentence of 140 Days Detention awarded by ~~District~~ STANDING Court Martial on the 19th September 1945 has been Remitted on the 8th December 1945 by D.O.C.
UNIT. Military District No. 4, Montreal, Quebec.
Certified true Extract of Daily Orders Part II of No. 4 District Depot, C.A.
No. 297 Place Jacques Cartier Barracks, Montreal South, Que. Date 11th December, 1945

Adjutant

(J.L.M. CARLOS) Capt-Adjt., General List, C.A., att'd to No. 4 District Depot, C.A.

~~Strike out and initial words not applicable.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-649864 (Number) Private (Rank) BARRETTE, Joan Marie (Name in full)

R.C.O.C., C.A., (Unit) attached to No.4 District Depot, C.A. (Attachment (if any))

Sentenced to 160 days detention

on 19th September, 1945 at Montreal South, Que.

being served at No.88 Military Detention Baks. St. Helen's Island, Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19years and 2 months - 5th Oct 1943.

Medical grade or category PULHEMS 1111121

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~xxx~~ committed to undergo his sentence, which I recommend should ~~xxx~~ be ~~xxxxxxx~~ (put into execution) (~~xxxxxxxxx~~ date) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 5 Nov 45

(Convening Authority)
(E.J. RENAUD) Major General,
D.O.C., M.D. No.4

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority

M.F.M. 288
(Army Form A-2104)
JAL—6-43 (10000)
H.Q. 1772-95-2015

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
24 Nov 45	No suspension No remission Rptd at 1st rev 9 Dec 45	Sd/ Belle Capt for DOC MD No 4	
5 Dec 45	Sentence remitted wef 9 Dec 45.	E.J. Renaud (E.J. Renaud), Maj Gen, DOC MD No. 4.	
10 Dec 45	RELEASED 672 MARKS.		E. Belle (E. Belle) Capt. O.C. NO.88 Mil. Det. Bks.

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15(1) Army Act.	ABSENTING HIMSELF WITHOUT LEAVE? in that he, at St.Polycarpe,Que.at 1700 hrs on the 5th December, 1944, absented himself without leave from his unit,No.3 Ord Amn Coy,RCOC,C.A., until he surrendered to the Military Authoriteis at Montreal South,Que. at 1455 hrs on the 27th August, 1945.	5thDec44	19Sep 45

Signature of Officer making entry

(E.I. AUERBACK) Capt.,
General List, C.A.,att'd to
No.4 District Depot,C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 Oct 45	I do not recommend any remission of sentence in this soldier's case.	(S. ECHENBERG) Colonel, Commanding No.4 District Depot, C

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Nov 45	Sentence is considered fair and reasonable 1st review on 3 Nov 45	(E.J. RENAUD) Major General, D.O.C., M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

IN REPLY PLEASE QUOTE No. M-1-B-15852 ADIS

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que. Dec. 5th, 1945.

Secretary,
Department of National Defence,
OTTAWA, Ontario.

1358
DEC 6 1945
File
Chgd. to CMBR
Referred to CMBR

CENTRAL REGISTRY Army
PERS. SEC.
DEC 6 1945
File 28-11-45
Chgd. to
Referred to

D-649864 Pte. BARRETTE, J.M.

Reference your letter HQC 55-B-2046 (CMBR-4) dated 29 Nov 45.

2. Please be advised that MFM 288 is being kept at this Headquarters as remission of sentence is being granted to the m/n wef 9 Dec 45.

(E.J. RENAUD), Major-General,
D.O.C. M.D. No. 4

NAT. DEF. B. 440
3000M—12-43 (5243)
H.Q. 1772-19-767

MFM 288 or AFA 3104 have been requested NOV 28 1945

PAGE 1 AHQ 51-B-2046 (CS No 47/ZL)
29 Nov 45

Case No

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: D-649864 Pte. BARRETTE, J.M.

2. Unit at date of offence: #3 Ordnance Amn.Coy.,RCOC, CA. St. Polycarpe, Que.

3. Charge: AA 15(1) AWL (Absent from 5 Dec 44 until he surrendered on 27 Aug 45, approx 8½ mos)

Plea: guilty

4. Place and Date of Trial: #4 D.D., CA, Montreal South, Que. ~~XXXX~~ ~~XXXX~~ (GCM) 19 Sep 45

5. Finding: guilty

6. (a) Sentence: 160 days detention

(b) Date of Sentence: 19 Sep 45

7. Date of Confirmation: N/A

8. Date of Promulgation: N/A

9. Being served at: 88 M.D.B. in MD 4

(N.B. - Discharged under RO 1079( ) for
ref)

Rec to Detail
9 Dec 45

19

CONDUCT

11. (a) Prior to conviction:	Offence	Date	Sentence
(i) Civil Convictions:	NIL	) in 14 mos service prior) to commission of present offence	
(ii) Courts-Martial:	NIL		
(iii) Summary Convictions:	1 AWL(21 days)	10 Jan 44	21 d/pay 14 d/CB

(b) After Conviction: Good (Expected d/ of release: 8 Dec 45)

(c) Date of enrolment/~~enlistment~~: 5 Oct 43 Present Age: 21

12. Remarks: (Here note any Petition or Representation other than in Item 10, but if Item 10 has been omitted so state, and show here any mitigating circumstances).

Statement by Accused in Mitigation:
Went home to help his father who is sick and unable to work. Accused is oldest in the family. He is 21; other children are 16,15,14,9, 8 and 5. While absent accused earned about $25 a week and contributed to the house.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.).

Rev.Offr: Considering there are no aggravating circumstances surrounding the commission of the offence, recommend remission at half sentence, approx 10 Dec 45.

Reviewed by [signature]
(A.B. Gold) Lt.

14. Recommendation of the Board:

Date

Secretary
Courts-Martial Board of Revi
Maj.

HQC 85-B-2048 (JAG/D-6)

10 Nov 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
D.649864 Pte. Jean Marie Barrette
R.C.O.C., C.A. att No. 4 D.D. C.A.
.....Court-Martial

7th November 5 M. 1-B-15852 (J)

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E. & M.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

RLM/fdr

16

IN REPLY PLEASE QUOTE No. M. 1-B-15852 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
November 7th, 1945.

REGISTERED

The Secretary
Department of National Defence
O T T A W A, Ontario.

CENTRAL REGISTRY Army
7715
NOV 8 1945
File 55-B-2046
Cmd. to
Referred to

STANDING COURT MARTIAL
D-649864, Pte. Jean Marie BARRETTE,
R.C.O.C., C.A., attached to
No. 4 District Depot, C.A.

Reference your H.Q.C. 55-B-2046 (JAG/D-4), dated 18 October, 1945, enclosing the proceedings of the marginally-noted Standing Court Martial.

2. Same are returned, herewith, for custody, as requested in paragraph 2 of your above-mentioned letter.

Capt.

(E.J. Renaud), Major-General,
for District Officer Commanding,
Military District No. 4.

enc.

15

NAT. DEF. B. 440
2500M 4-44 (4437)
H.Q. 1772-39-767

MEDICAL OFFICER'S REPORT

I certify that No. D-649864 Pte. BARRETTE. J. M.
3rd Ord. Amm., R.C.O.C., C.A.,
of att. No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

H.C. Hazell, Capt.
Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 19th September 45

J. C. G. Wilson major
President SCM

M. F. B. 246
50M—5-43 (254)
H.Q. 1772-30-490

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot, C.A., Montréal-Sud, P.Q.

le 19ième jour de septembre 1945 à 10.30 heures,

pour le procès de D-649864 (Matricule) Private (Grade) Jean Marie BARRETTE (Nom et prénoms)

R.C.O.C., C.A., attached to No.4 District Depot, C.A. (Unité) (Détachement, le cas échéant)

PRÉSIDENT: Major J.A.G. Dubeau, E.D., Quartiers Généraux, District Militaire No. 4

PROCUREUR: Capitaine (Grade) P.J.F. Bousquet (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité) (Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) L.R. Hamelin (Nom et prénoms)

J.C.A. Doucet Advocat

C.I.C., C.A., attached to No.4 District Depot, C.A. (Unité) (Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-649864 Private Jean Marie BARRETTE, R.C.O.C., C.A., attached to No.4 District Depot, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-649864 Private Jean Marie BARRETTE, R.C.O.C., C.A., attached to No.4 District Depot, C.A., à la détention pendant cent soixante jours.

13

Signé à Montréal-Sud, P.Q. ce 19ième jour de septembre 1945

J. G. G. Dubeau

(J.A.G. Dubeau) Major — Président de la cour martiale permanente

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 40328 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 15 day of Oct 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous à~~

D-625377 Cpl.H.Turcot,No.4District Depot,C.A. attached to Headquarters, M.D. No.4

Question à l'accusé. Vous opposez-vous à comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. C. G. Duhaime major "B2"
President - SCM

CHARGE SHEET

The Accused, D-649864, Private Jean Marie BARRETTE, R.C.O.C., C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1), Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at St. Polycarpe, Quebec, at 1700 hours on the 5th of December, 1944, absented himself without leave from his unit, No. 3 Ord. Amn. Company, R.C.O.C., C.A., until he surrendered to the Military Authorities at Montreal South, Quebec, at 1455 hours on the 27th of August, 1945.

Signed at
Montreal South, Quebec,
13th September, 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C.A.

N

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

J'ai parti pour aider mon père. On est cinq enfants chez nous, c'est moi qui suis le plus vieux, pour aider. J'ai déjà demandé une exemption, ils ont pas voulu m'en donner. Mon père aimerait bien me voir avec lui parce qu'il est invalide, il est pas capable de travailler. J'ai vingt-et-un ans et je ne suis pas marié. Avant d'entrer dans l'armée j'étais électricien avec mon père. Je suis dans l'armée depuis le 5 octobre 1943. J'ai été à Sherbrooke, à Farnham et à St-Polycarpe. A St-Polycarpe je travaillais comme garde. Chez nous, la plus jeune a cinq ans, l'autre après huit ans, neuf ans, quatorze ans et quinze ans. Il y en a un qui a eu seize ans, il a commencé à travailler. Mon père a cinquante-trois ans. Ma mère vit. Mon père a tombé en bas d'une échelle, il s'est fait quelque chose au coeur. Il est pas capable de travailler. Quand il a tombé il travaillait à la Montreal Cottons à Valleyfield. Il a pas fait une plainte tout de suite, il se trouve à rien retirer. J'ai apporté une lettre du docteur et une lettre du maire pour çà, ils ont rien fait. Durant mon absence, j'ai travaillé pour mon père, j'ai travaillé avec des électriciens pour aider à mon père. J'ai demeuré chez nous. Pas tout le temps, j'ai été travailler en dehors un peu, toujours comme électricien. Je gagnais environ $25.00 par semaine. Je me suis décidé à me livrer, ma petite soeur a commencé à travailler, çà aidé un peu, pour essayer à être démobilisé pour aller gagner plus cher. J'avais pas assigné d'argent, je leur apportais. J'ai toujours apporté ma paye. Je savais pas qu'on était capable de signer. Ils ont dit que c'est les hommes mariés qui pouvaient signer de l'argent, j'étais garçon. J'ai jamais signé, je donnais mon argent.

9

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Quand j'ai parti là, mon père était malade. J'ai reçu un télégramme; ça leur a pris à peu près cinq jours pour m'envoyer. Ils ont dit: "S'il est plus malade, reste ça sera correct". Quand j'ai revenu ils m'ont condamné. J'avais des papiers du docteur comme quoi il avait été malade tout le temps. Ils savaient pas s'il était pour mourir. J'ai demandé une exemption au colonel du camp de Farnham.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

Monsieur le président,

Je n'ai rien à ajouter à la déclaration de l'accusé. Toutefois je demanderais la clémence de la cour considérant la bonne conduite antérieurement à sa première offense et aussi le fait qu'il s'est rendu lui-même.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

J.C.G. Dulieu major "F" Printed 3cm

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT No.3 Ordnance Amm Coy:R.C.O.C.

PART II ORDERS

by

Lieut J.G.R.MORIN
Acting Officer Commanding.

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 103

STATION St.Polycarpe, Que.

DATE 8 Dec 44.

"Last Order Issued No. 102 dated 1 Dec 44.

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN. COY. ETC.	CASUALTY & REMARKS	DATE
		SECTION "B" OTHER RANKS				
1(b)	ABSENT WITHOUT LEAVE					
		D-649864	Pte BARRETTE, J.M.		AWL fr.1700 hrs.5 Dec 44. still absent 1700 hrs. 7 Dec 44(3rd day)	

Compiled by
Checked by
Verified by

Certified True Extract
Signed
District Records Officer having custody of Regimental PART II ORDERS kept by District Headquarters M.D. 4.
Date 7 Dec.

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

(J.G.R.MORIN) Lieut
Acting Officer Commanding
No.3.Ordnance Ammunition Coy.RCOC
ST.POLYCARPE,P.Q.
Officer Commanding or Adjutant

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-39-234

J. C. G. Nelson major "G"
President SCM

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel S. ECHENBERG, Commanding No. 4 District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-649864 Pte. BARRETTE. Jean
(Number) (Rank) (Name in full)

of the R.C.O.C., C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) D-126460 Sgt.
(Number) (Rank)

PATENAUDE. L. No. 4 District Depot, C.A.
(Name) (Unit or appointment)

at Montreal South, Que., at 1455
(Place) (Hour)

on the 27th day of August 1945

Strike out words not applicable } ~~AWOL~~ (or absentee without leave), and that at the time of his ~~arrest~~ SURRENDER he was wearing military ~~(air force)~~ uniform (~~[illegible]~~

Dated at Montreal South this 27th day of August 1945

(S. ECHENBERG, Colonel)
(Number, Rank, Name and Unit or appointment)
Commanding No. 4 District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

6

J. C. P. Dulcan major
President SCM

M.F.B. 355
25M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-649864,	Pte.	Jean Marie BARRETTE,	R.C.O.C., C.A., att'd to No. 4 D.D. C.A.

1. The following is a fair and true summary of the entries in the ~~Field Service and General Conduct sheets or Regimental and Squadron or Battery~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times A.W.D.	1 times
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 22 days in military ~~Air Force~~ custody, making a total of 22 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enrolment ~~attested paper~~ is 21 years. (31st Aug. 1924)

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ enrolment ~~attested paper~~ is 5th Oct., 1943.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to). State any air force decoration or reward military.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

-19-

Z

N.R.M.A. ~~Clearing Depot~~ (RCOC)

Coy- 3 OAC

Date of Birth

Reg. No D-649864 Name Jean Marie BARRETTE Corps ~~Inf-(R)~~

Date of enlistment or enrolment 3 Oct. 43

Sheet No. one of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Signature O.C. Company, etc. (Sgd) J.J.Cote Lt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Sherbrooke,	1943 20 Dec.	Pte		AWL from 0700 hrs. 20 Dec 43 till 0215 hrs. 10 Jan 44	Documentary	14 days' C.B. 21 days' pay	10 Jan. 1944	Lt.Col. E.J.Nantel (Sgd) G.A.Lalande, Capt.	Forfeits 21d. pay under FRAI 149
Sherbrooke	21Jan44	Pte.							

CERTIFIED TRUE COPY

L.R.Hamelin Lt

L.R.Hamelin, Lieutenant,
C.I.C., C.A., att'd to No. 4 District Depot, C.A.,
Ass't Officer i/c Records, No. 4 District Depot, C.A.

(P.T.O.)

M.F.M. 5—8031—2-44 (3386)

H.Q.C.55-B-2046 (JAG/D-4)
Your M. 1-B-15852

18 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 640864 Pte. Jean Marie Barrette,
RCOC.,CA.,att. No. 4 District Depot,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde) Brigadier
Judge Advocate-General.

JOGR/MM

3

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-2046
M.D. M. 1-B-15852

NRMA

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. D-649864 Name BARRETTE, Jean Marie

Rank Fte Unit RCOC, CA, att No 4 DD CA

Charge AA 15(1) AWL

Date of Crime 5-12-44

Date of Arrest 27-8-45. Charge Signed 13-9-45.

Orders for D.C.M.

Place and Date of Trial No 4 DD CA; 18-9-45.

Sentence Det 160 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40328

Date 15-10-45.

MEMO Balance of sentence remitted by Conf. Auth. 9/2-45

MD 4 - att No 4 DD CA

Absent	Sentence
8 2/3 mos;	det 160 days.

2

for Judge Advocate-General

10M-8-45(M-129)

IN REPLY PLEASE QUOTE No. M. 1-B-15852

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 1st October 1945.

CONFIDENTIAL.

C.55-B-2046

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL
D-649864 Private Jean Marie BARRETTE,
R.C.O.C., C.A., attached to
No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/19 Sept.45.

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. Dubeau) Major
Headquarters, Military District No.4
President of Standing Court-Martial.

40328

1

H.Q.C. 55-B-2047

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BELANGER, RENE D.652465 GNR.

CONFIDENTIAL
H.Q.C.55-B-2047

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 19 1945	18-45	cancelled cancelled			(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG	NEW FILE	CR	12-10-45
NOV 10 1945	12-45	PA		JAG	With Papers C.R. NOV 8 1945		
NOV 23 1945				Adm	To note pls		10-11-45
				CMBR	On requisition NOV 23 1945		
DEC 10 1945							
DEC 11 1945	11 Dec	PA		Adm	To note pls		16 Dec 45
				JAG	With Papers C.R. DEC 20 1945		
JAN 3 1946				CMBR	To note		
JAN 3 1946						EKM	2-1-46
JAN 11 1946	10-1-46	PA		Adm	To note pls		9-1-46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M.1-B-18281 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
28th December, 1945.

The Secretary,
Department of National Defence,
Ottawa, Ontario.

17699
DEC 29 1945

D-652465 - Pte. BELANGER, R.

Reference HQC 55-B-2047.

2. Attached hereto, form for remission in respect to the marginally named soldier.

(W.J. HENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURE

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5- B-2047
District File No. M.1- B-1821

PART I

No...D-652465.....Rank...Pte.....Name..BELANGER.....
Unit.....4 D.....

PART II

Date of Trial...19th.September.1945.....
Charge (s)...ABSENT.WITHOUT.LEAVE.....
Sentence..Two.hundred.and.ten.days.detention.(210).....
Date of sentence..19th.September.1945.....
Confirmation -- (a) Authority:.....D.R.C.....
(b) Date :.....19. Sept 45.....

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 19 Dec 1945

Signed at Montreal this 5 Dec. day of 1945.
.....
(Appointment)(E.A. RENAUD) MajorGeneral.
D.O.C. M.D. 4.
To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~xxxxxxxxxxxxxxxxxxxxxxxx~~)x promulgated and extracts taken at Montreal.South..ue.....this.20th....day of.December.....
1945...
(1)

.....
Ass- Officer i/c Documents.(L.R. HAMELIN) Lieut.
(1) Unit, attachment and appointment to be stated.C.I.C., C.A., att'd to
No. 4 District Depot C.A.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No.D-652465 Rank. Gunner .Name'...BELANGER.....Rene.....Standing.....
The sentence of Two hundred. and. ten. days. detention awarded by ~~xxxxxxx~~ Court.
Martial on the 19th. September.....1945..... has been.remitted.....
..... on the 19th December.....194.5...by..D.O.C.....
UNITMilitary.District.No.4.Montreal.Que.....
Certified true Extract of Daily Orders Part II of No. 4 District Depot C.A.
No...307.....Place Jacques. Cartier. Barracks.....Date. 20. December. 1945..
Montreal South.....
Adjutant

x Strike out and initial words not applicable. (J.Ion. CHAMBERS)Capt-Adj.
Gen. List. C.A. att'd to
No. 4 District Depot C.A.

IN REPLY PLEASE QUOTE No. M: 1-B-18281 (A/DIS)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL
C 14023
DEC 9 1945
File C 53-13-2047
Chas. C.M.H.R. 23.
Referred to CMHR

Montreal, Quebec.
7 Dec 45.

The Secretary,
Department of National Defence,
Ottawa, Ont.

D.652465, Gnr. BELANGER, R.

Ref your HQC 55-B-2047 (CMHR-4)EL dated 28 Nov 45.

2. Please be advised that MFM 288 is being kept at this HQ as remission of sentence is being granted to this soldier wef 17 Dec 45.

(E.J. Renaud), Major General,
District Officer Commanding,
Military District No. 4.

Noted
CMHR 4
10 DEC 45

Noted for bkgd
LCS

NAT. DEF. B. 443

MFM 288 or AFA 3104 have been requested..... NOV 28 1945

PAGE 1

HQC 55-B-2047 (CMBR-4 DEL
28 Nov 45
Case No.....

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: D-652465 Gnr. BELANGER, R.

2. Unit at date of offence: 15th Coast Battery, R.C.A., St. John, N.B.

3. Charge: AA 15(1) AWL (from 28 Dec 44 until he surrendered on 22 Aug 45 - approx 8 mos)

Plea: guilty

4. Place and Date of Trial: #4 D.D.(CA) Montreal, South, Que.
~~(GCCM)~~ ~~(DCCM)~~ (SCM) 19 Sep 45

5. Finding: guilty

6. (a) Sentence: 210 days detention

(B) Date of Sentence: 19 Sep 45

7. Date of Confirmation: N/A

8. Date of Promulgation: N/A

9. Being served at: #65 MDB in MD....4.....

(N.B.- Discharged under RO 1029( ) for
wef)

CONDUCT

11. (a) Prior to conviction:	Offence	Date	Sentence
(i) Civil convictions	NIL		
(ii) Courts-Martial	NIL		
(iii) Summary Convictions	2 minor AWL's		

(b) After conviction Good - Expected date of release: 3 Jan 46

(c) Date of enrolment/~~enlistment~~ 19 Apr 44 Present Age: 23

---

12. Remarks: (Here note any petition or representation other than in Item 10 but if item 10 has been omitted as at 9, and when there any mitigating circumstances.)

Statement of Accused in Mitigation:

He is the breadwinner in his family. His father is dead and he must support his mother and sister, both of whom are sick. His 2 brothers are married ~~to~~ and have their own families to look after. His request for exemption from military service was refused.

While absent he worked for a farmer and for his brother-in-law who ran a tourist house. He was unemployed the first 2 months of his absence as he could not find a job.

He decided to return and give himself up as he had a good job in sight but required his"discharge" in order to get it.

Accused produces medical certificate in regard to his mother and sister.

13. Recommendations: (State by whom made, e.g., CMHQ, DOJ, Reviewing Officer, etc.)

Rev.Offr. Considering there were no aggravating circumstances surrounding the offence recommend remission at approx half-sentence , viz--22 Dec 45.

Reviewed by A.B. Gold (A.B. Gold) Lt.

---

14. Recommendation of the Board:

Date_____ _____ Maj
Secretary
Courts-Martial Board of Review

HQC 55-B-2047 (JAG/D-6)

10 Nov 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
L.35[illegible]5 Gnr Rene Belanger
RCA CA, ~~Det Hqs 4 DD~~, CA.
Court-Martial

M.1-B-18281 (J)

Receipt is acknowledged of your 7th November 5 194 , undercover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

~~Your explanation of the delay in this case has been noted.~~

EXM

(R.J. Orde) Brigadier,

Judge Advocate-General.

EIM/fdf

Noted cl
Dale
OB

AR

18

IN REPLY PLEASE QUOTE No. M. 1-B-18281 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
November 7th, 1945.

REGISTERED

The Secretary
Department of National Defence
O T T A W A, Ontario.

CENTRAL REGISTRY (ARMY)
CONFIDENTIAL
77-13
NOV 8 1945
File 55-B-2047
Chgd. to
Referred to JAG

STANDING COURT MARTIAL
D-652465, Gunner René BELANGER,
R.C.A., C.A., attached to No. 4 D.D., C.A.

Reference your H.Q.C. 55-B-2047 (JAG/D-4), dated 18th October, 1945.

2. As regards paragraph 2 of your above quoted letter, the attention of the President has been called to your remarks as to the proper manner of expressing sentences of detention, in accordance with the provisions of K.R. (Can) paragraph 565.

3. Hereunder, for your information, an explanation as to why the accused spent 27 days in custody awaiting trial:

22-8-45	Surrendered. Wired for status and documents.
25-8-45	Status received.
30-8-45	Tracer for documents.
7-9-45	Documents received.
10-9-45	Kit inspection.
11-9-45	Remanded for Standing Court-Martial.
14-9-45	Proceedings completed and forwarded to this Headquarters.
17-9-45	Application for Standing Court Martial received at this Headquarters and trial of accused scheduled to take place on the 19th September, 1945.
19-9-45	Trial of accused.

4. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

(E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

17

MEDICAL OFFICER'S REPORT

15th Bty., R.C.A., C.M.,
Att'd. No. 4DD.

I certify that No. D-652465. Pte. BELANGER, R.
of
is in a good state of health,
and fit to undergo Trial by Court martial.

H.C.Hazell, Capt. H.C.Hazell Capt RCAMC.
Medical Officer
No. 4. Dist. Coy. RCAMC.
Att'd. No. 4. District Depot, CA.

Jacques Cartier Barracks,
MONTREAL SOUTH QUE.,
Station

Date 19 SEP 45.

J. C. G. Kulbin major
President SCM

16

M. F. B. 246
50M—5-43 (254)
H Q 1772-30-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4 District Depot, C.A., Montréal-Sud, P.Q.

le 19ième jour de septembre 1945 à 11.45 heures,

pour le procès de D-652465 (Matricule) Gunner (Grade) Rene BELANGER (Nom et prénoms)

R.C.A., C.A., attached to No.4 District Depot, C.A. (Unité / Détachement, le cas échéant)

PRÉSIDENT: Major J.A.G.Dubeau, E.D., Quartiers Généraux, District Militaire No.4

PROCUREUR: Capitaine (Grade) P.J.F. Bousquet (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité / Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) J.R. Panet-Raymond (Nom et prénoms)

C.I.C., C.A., attached to No.4 District Depot, C.A. (Unité / Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-652465 Gunner Rene BELANGER, R.C.A., C.A., attached to No.4 District Depot, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-652465 Gunner Rene BELANGER, R.C.A., C.A., attached to No.4 District Depot, C.A., à la détention pendant deux cent dix jours.

Signé à Montréal-Sud, P.Q. ce 19ième jour de septembre 1945

J. A. G. Dubeau
Président de la cour martiale permanente.
(J.A.G. Dubeau) Major

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-33-2296
K.P. 2619

Extracts entered as No. 40330 in the Record of Courts Martial kept in the office of the Judge Advocate General this 15 day of Oct 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé. Vous opposez-vous à comme interprète~~

~~Réponse:~~

Question à l'accusé. Vous opposez-vous à D-625377 Cpl.H.Turcot,No.4District Depot,C.A. attached to Headquarters,M.D. No.4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (~~premier~~) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.)

J. C. G. Lebeau, major
President SCM "B2"

CHARGE SHEET

The Accused, D-652465, Gunner Rene Belanger, R.C.A., C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15(1),
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at St. John, New Brunswick, at 0001 hours on 28th of December, 1944, absented himself without leave from his unit, 15th Coast Battery, R.C.A., C.A., until he surrendered himself to Military Authorities at Montreal South, Quebec, at 1500 hours on 22nd of August, 1945.

Signed at
Montreal South, Quebec,
17th of September 1945.

Jacques Bourquet Capt.
Permanent Prosecutor Court-Martials,
H.Q., M.D. No. 4.

13

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

J'étais soutien de famille. J'avais ma mère et ma soeur malades. J'ai demandé un ajournement et on m'a refusé. Dû à ça j'ai venu au secours de ma mère. Je désire soumettre un certificat de médecin signé par le docteur Emile Ménard, en date du 30 décembre 1944, et un autre certificat signé par le docteur Jean Grignon de l'hôpital Notre-Dame, en date du 4 juillet 1945.

"Les documents ci-dessus désignés sont lus, marqués CC-5 et CC-7 respectivement, signés par le président et versés au dossier".

J'ai vingt-quatre ans, je ne suis pas marié. Avant d'entrer dans l'armée j'étais distributeur de Pepsi Cola. Je suis entré dans l'armée le mois d'avril 1944. Je suis passé par Petawawa. En entrant dans l'armée j'avais assigné $20.00 et le Gouvernement envoyait $25.00 à ma mère. Ma soeur a vingt-sept ans. Elle ne travaille pas. Mon père est mort. Mes frères envoyent de l'argent ces jours-ci, le temps que je suis pas. Un de mes frères travaille sur le taxi, l'autre est constable à Westmount. Ils sont tous les deux mariés. C'est moi qui reste à la maison. Dû qu'ils ont des enfants ils sont pas obligés de subvenir aux besoins de ma mère.

Durant mon absence j'ai demeuré sur la ferme à Ste-Dorothée pour monsieur Bergeron. J'ai travaillé pour mon beau-frère à Dorval à faire de l'ouvrage général. Il a une maison de touristes lui là. J'ai été deux mois au repos au début, sans travailler, parce que je pouvais pas trouver d'ouvrage. Je me suis décidé à me rapporter parce que j'avais une bonne occupation en vue. Ils exigent une "discharge"de l'armée absolument

11

CC-5

DOCTEUR ÉMILE MÉNARD
ENDOCRINOLOGIE ET NUTRITION
MÉDECIN DE L'HÔPITAL NOTRE-DAME

CRESCENT 5970
5800, AVENUE DU PARC
MONTREAL

J.C.P. Lauzon sgn
Président SCA

Decembre 30 1944

A qui de droit:

Re:Soldat Belanger Rene.
P 652 465 St Jean N.B

Vs Sa Mere Dame Julien Belanger 66 ans (veuve)
5894 Iere Avenue Rosemont P.Q

Messieurs:

Madame Belanger est âgée de 66 ans.Elle souffre d'insuffisance cardio-renale.De plus elle a une pression artérielle de 220/120.

Son fils,le soldat plus haut cité,est pratiquement son seul soutien de famille puisqu'il est le seul célibataire.Elle désirerait fortement le retour de son fils auprès d'elle.

Votre tout devoue:

E. Ménard M.D.

10

J. C. G. Nadeau méd.
Président SCM

HOPITAL NOTRE-DAME
MONTREAL

Montréal 4/7/45

A qui de droit

Résumé du dossier de Mlle Gilberte Belanger 5894, 1ère Rosemont:

Depuis 1932 nous traitons à notre dispensaire cette patiente qui souffre d'insuffisance T hypo-hypophyseire qui a déjà présenté une absence complète des cheveux et des poils. Ses cheveux sont depuis lui poussés; mais elle présente encore une anomalie des ongles.

Elle continue encore ses traitements, et son état ne lui permet de faire qu'un ouvrage limité et à la maison.

Bien à vous

Jean Grignon md.
chef interne
Hôpital Notre Dame

9

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

Monsieur le Président,

Le soldat Bélanger était soutien de famille, de sa mère et sa soeur toutes les deux malades. Rendu à Petawawa, il a demandé une exemption de service pour pouvoir aller travailler dans le civil pour soutenir sa famille. Malheureusement la permission lui fut refusée. Alors quand il est allé en passe il resta chez lui. Pendant les deux premiers mois il resta sans travailler ayant de la difficulté à se trouver un emploi. Puis il s'est trouvé une position sur la ferme de monsieur Bergeron à Ste-Dorothée. Alors, il faisait $30.00 par semaine sur lesquelles $18.00 allaient pour sa mère et sa soeur. Alors je voudrais que la cour prenne en considération ces motifs et de prendre le fait que le soldat Bergeron s'est rapporté de lui-même aux autorités militaires. Je demanderais la clémence de la cour pour le soldat Bergeron.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

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Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

J. C. G. Wilson major "F" Printed 5 Can

DAILY ORDERS PART II

No. 59

BY

Major J.F. Shaw

Place St.John, N.B.

Commanding

Date 31 Dec 44

15th Coast Battery, RCA

(Last Order Issued No. 58 of 30 Dec 44

RECEIVED
AUG 27 1945
CENTRAL REGISTRY
NO. 4 DISTRICT DEPOT

"B" - OTHER RANKS

3. ABSENT WITHOUT LEAVE

(b) Absent without leave from 0001 hrs.....28 Dec 44

D-652465 Gnr. BELANGER, R.

(Signed) J. F. Shaw
(J. F. Shaw) Major,
Officer Commanding,
15th Coast Battery, RCA.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE AUG 24 1945

Prepared by: JCH
and
Checked by: M

J. C. E. Nelson, major "G" -19-
President SCM

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. S. ECHENBERG, Commanding No. 4. District Depot, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-652465. Gnr. BELANGER, Rene.
(Number) (Rank) (Name in full)

of the RCA. C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~xxxxxxxxxxxx~~ (surrendered to) D-126460. SGT.
(Number) (Rank)

PATENAUDE, L. No. 4. District Depot, C.A.
(Name) (Unit or appointment)

at MONTREAL SOUTH QUE., at 1500 hours,
(Place) (Hour)

on the 22 day of August, 19 45.

Strike out words not applicable } ~~xxxxxxxxxx~~ absentee without leave), and that at the time of his ~~arrest~~ SURRENDER he was wearing military (~~xxxxx~~ uniform (~~xxxxxxxxxxxxxx~~)xx

Dated at MONTREAL SOUTH QUE., this 22 day of August, 19 45.

(Signature, Number, Rank, Unit or appointment)
(S. ECHENBERG,) Colonel.
Commanding No. 4. District Depot, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must b signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provo Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of su detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

5

J. C. G. Dubeau major
President

M.F.S. 355
73M—5-43 (145)
H.Q. 1772-99-620
A.F.S. 196

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-652465	Gunner	Rene Belanger, R. C. A., C. A. attached to No. 4 District Depot, C. A.	

1. The following is a fair and true summary of the entries in the Field ~~Service in General Regimental and Squadron Battery Conduct sheets or Cavalry~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	1 times	AWL 2 times
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 27 days in military custody, making a total of 27 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is attested by paper~~ enrolment 23 years 9months (26th of December 1921)

6. The date of his ~~enlistment~~ ~~appointment~~ specified in his ~~record of service is attested by paper~~ enrolment 19th April 1944

7. ~~The service which the accused is entitled to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension~~

9. The accused is in possession of or entitled to no military decoration, or military reward ~~possession of or entitled to). State any military decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer held the regimental rank of .....~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th Sept/945 day of

L. R. Hamelin, Lieut.
C. I. C., C. A.,
Att'd to No. 4 District Depot, C. A.,
Asst. Officer i/c Records,
No. 4 District Depot, C. A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

J. C. E. Wheeler major
President

-23-

Reg. No. D-652465 Name Rene Belanger, Corps R. C. A. C. A., Date of enlistment or enrolment 26th April 1944 Date of Birth 26th of Dec

Signature O.C. Company, etc. Gaudette, Lieut. Sheet No. One of *1, 2, 3, 4.

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Petawawa	11th 1944	June Gnr		AWL from 0600 hours 11 June 1944 until 0545 hours 12 June 1944. (Absent 23 hours 45min.) A. A. Sec. 15 (1)	Documentary	4 days C. B.	12 June 44	Lieut H. E. Devitt, R. C.A.	1 day pay FR&I
Petawawa	16th 1944	Sept. Gnr		AWl from 0600 hoours 16 Sept. 1944 un til 0600 hours 21 Sept. 1944 (Absent 5 days)	Documentary	72 hours detention	21 Sept. 1944	WJ. Finney Lieut. Colonel	Forf. 5 days pay FR&I 14 (1) (a)
								Total Forf. 8 days pay (CC)	

G. C. Gibson Major

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY L. R. Hamelin Lt Lieut. L. R. Hamelin, C. I. C., C. A., Att'd to No. 4 District Depot, C. A., Ass't Officer i/c Records, No. 4 District Depot, C. A.					

H.Q.C.55-B-2047 (JAG/D-4)
Your M. 1-B-18281

18 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

Standing Court-Martial
D.652465 Gnr. Rene Belanger,
RCA.,CA.,att. No. 4 District Depot, C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. It is observed that the accused was sentenced to undergo detention for two hundred and ten days. As this time is over six months, it should have been expressed in months and, if necessary, in months and days. May the attention of the President be again directed to the provisions of K.R.(Can) 565 which set out the proper manner of expressing sentences of detention.

3. It is also noted that the accused was 27 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

4. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

JOGR/MM

(R.J.Orde) Brigadier,
Judge Advocate-General.

3

THIS COPY FOR: H.Q. 55-B-2047
M.D. M: 1-B-18281

NRMA

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. D-652465 Name BELANGER, Rene

Rank Gnr Unit RCA CA, att No 4 DD CA

Charge AA 15(1) AW L

Date of Crime 28-12-44

Date of Arrest 22-8-45. Charge Signed 17-9-45.

Orders for D.C.M.

Place and Date of Trial No 4 DD CA; 19-9-45.

Sentence Det 210 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40330

Date 15-~~X~~10-45.

MEMO Bal of sent remitted by Conf Auth 19-12-45

MD 4 - att No 4 DD CA

Absent	Sentence
7¾ mos;	det 210 days.

2

D L Power
for Judge Advocate-General

10M-8-45(M-129)

IN REPLY PLEASE QUOTE No. M. 1-B-18281

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 1st October 1945.

CONFIDENTIAL.

G. 55-B-2047

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL.
D-652465 Gunner Rene BELANGER,
R.C.A., C.A., attached to
No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/19 Sept. 45.

2. Submitted for your information, consideration and approval, please.

J. A. G. Dubeau

(J.A.G. Dubeau) Major
Headquarters, Military District No.4
President of Standing Court-Martial.

40330

NAT. DEF. B. 440
2500M-4-44 (4321)
H.Q. 1072-39-767

H.Q.C. 55-B-2048 CONFIDENTIAL

N.F.B. 2078
HM—2-45 (8000)
H.Q. 301-1-52

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT DISTRICT COURT-MARTIAL

BELLERIVE, R. D.654073 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2048

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes")	INITIALS	DATE
OCT 25 1945	cancelled	cancelled		JAG	NEW FILE	CR	12-10-45
					With Papers C.R. OCT 30 1945		
OCT 31 1945				Admin	To note file		31-10-45
NOV 2 1945	23/11/45	PA		Admin	For Requisition C.R. NOV 22 1945		
NOV 24 1945				CMBR	For Requisition C.R. NOV 26 1946		
DEC 1 8 1945	18/1/46	PA		Admin 3	Recommendation fol 187		DEC 1 2 1945
MAY 28 1946	MAY 28	PA		DRB	For Requisition C.R. APR 4 1946		
					For Requisition C.R. JUN 3 1946		
JUN 4 - 1946				TRANS	Memo re.		3/6/46
					with translation		JUN 5 1946
JUN 6 - 1946	7/6/46			Admin			6/6/46
JUN 7 - 1946							
JUN 19 1946	19/6/46	PA		Admin			
				Admin			
JUL 4 1946	1/7/46	PA		JAG	To note		18/7/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

A(DIS)

4/D 143301	M.1-D-3389	M.1-L-17174
M.1-B-17333	M.1-E-1144	M.1-P-9527
4/D 700171	M.1-F-3698	M.1-P-5786
4/D 638845	M.1-G-10482	M.1-P-6296
M.1-B-11486	M.1-G-3875	M.1-P-4499
M.1-B-10029	M.1-G-3148	M.1-P-9239
M.1-C-8275	M.1-H-2122	M.1-S-9392
M.1-C-13664	M.1-L-17588	M.1-S-1227
M.1-C-14941	M.1-L-13624	M.1-S-10733
M.1-D-12297	M.1-L-9522	M.1-T-5240

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
15 Jul 46

CENTRAL REGISTRY Army
CONF. SEC.
31170
JUL 17 1946
File 65-105-2048
Chgd. to
Referred to Advised

The Secretary,
Department of National Defence,
Ottawa, Ont.

COMPLETED "FORMS OF REMISSION".

Attached hereto are the m/n pertaining to the undermentioned:

D 143301	ARCHAMBAULT	R	D 620307	GUIMONET	G
D 654073	BELLERIVE	R	D 611121	HARVEY	L
D 700171	BERGERON	R	D 652515	LAFLECHE	R
D 638845	BLOUIN	J	D 648741	LAJOIE	HP
D 642074	BRAULT	P	D 640515	LAVOIE	R
D 638164	BUCHANAN	PH	D 651458	LEDUC	HP
D 138028	CHAMPAGNE	N	D 147020	PAGE	R
D 653726	CHOLETTE	JO	D 644262	PALOMBIERI	J
D 610930	CLOUATRE	G	D 645792	PAQUETTE	L
D 648607	DE PESA	A	D 606619	POIRIER	JPL
D 504824	DESCROSEILLIERS	G	D 160501	PRIMEAU	M
D 650739	ERMACORA	E	D 148034	SEERS	M
D 647230	FOUCAULT	J	D 632208	SICARD	A
D 652435	GAROFANO	A	C 124134	SMITH	JM
E 605300	GRAVEL	C	D 650042	TERRIEN	G

(W J HOME) Brig
DOC MD 4

ENCLS

FORM OF REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT - MARTIAL

RDW File No. NQC 55-
District File No. M.1-B-17333 ADIS

PART I

NO. D 654073 RANK Pte NAME BELLERIVE Roch

UNIT

PART II

Date of Trial 6th September 1945
Charge (s) WOAB DESERTING HIS WATERTIGHT SERVICE
Sentence Twenty three months detention
Confirmation -- (a) Authority:
(b) Date

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention as of 18 JUN 46.

Signed at Montreal 23 May 46.

(W J HOME) Brig
DOC MD NO 4

PART IV

PROMULGATION

Remission (~~commutation~~) (~~mitigation~~) promulgated and extracts taken at Montreal South, Que. this day 8th of July 1946.

(1)
Ass't Officer i/c Documents)

(1) Unit, attachment and appointment to be stated. (L.R. HAMELIN) Lieut., CIC, CA, att'd to No.4 DD, CA.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

NO. D-654073 RANK Pte NAME Roch BELLERIVE
The sentence of Twenty three months detention awarded by ~~District~~ Standing Court-Martial on the 8th September 1945 has been remitted on the 10th June 1946 by D.O.C.
UNIT Military District No.4, Montreal, Quebec
Certified true Extract of Daily Orders Part II of No.4 D.D., C.A. No. 160 Place Montreal South, Quebec Date 8th July 1946

Adjutant (P. RIVARD) Capt.,
Gen.List., C.A., att'd to
No.4 District Depot, C.A.

TRANSLATION
15/6/46
/CV

ADMIN.

Three Rivers, June 5th, 1946.

Dear Sir :

This is an application for the release of D-654073, Roch Bellerive.

The undersigned is a general contractor in Three Rivers and is quite handicapped by the lack of specialized labour. The said Roch Bellerive has acquired a lot of experience in the building trade since he was employed by me before enlisting. Therefore, I believe he would be more useful if released as the Dominion Government is constantly asking for the co-operation of the contractors in its housing scheme for the veterans and other people.

Trusting my request will be complied with, I remain

Yours very truly,

(SGD) Philias Bellerive,
591 St-Georges Street,
THREE RIVERS, P.Q.

Note:

No further action deemed necessary, in view of our letter of 4 June 46 in answer to similar request.
14/6/46.

AHC capt.
admin 3/6/3

TRANSLATION
15/6/46
/CV

ADMIN.

Three Rivers, June 5th, 1946.

Dear Sir :

This is an application for the release of D-654073, Roch Bellerive.

The undersigned is a general contractor in Three Rivers and is quite handicapped by the lack of specialized labour. The said Roch Bellerive has acquired a lot of experience in the building trade since he was employed by me before enlisting. Therefore, I believe he would be more useful if released as the Dominion Government is constantly asking for the co-operation of the contractors in its housing scheme for the veterans and other people.

Trusting my request will be complied with, I remain

Yours very truly,

(SGD) Philias Bellerive,
591 St-Georges Street,
THREE RIVERS, P.Q.

TRANSLATION
15/6/46
/CT

ADMIN.

Three Rivers, June 5th, 1946.

Dear Sir :

This is an application for the release of D-654073, Roch Bellerive.

The undersigned is a general contractor in Three Rivers and is quite handicapped by the lack of specialized labour. The said Roch Bellerive has acquired a lot of experience in the building trade since he was employed by me before enlisting. Therefore, I believe he would be more useful if released as the Dominion Government is constantly asking for the co-operation of the contractors in its housing scheme for the veterans and other people.

Trusting my request will be complied with, I remain

Yours very truly,

(SGD) Philias Bellerive,
591 St-Georges Street,
THREE RIVERS, P.Q.

(9)

Trois-Rivières, le 5 juin 194

BUREAU NATIONAL DRIL
JUN 14 1946
Rec'd
Rec'd JUN 17 1946
CENTRAL REGISTRY Army
PERS. SEC.
JUN 12 1946
ACTION REQUIRED

Monsieur,

La présente est pour vous demander la libération de Roch Belleriv, D 654073

Le soussigné est contracteur général aux Trois-Rivières et souffre grandement du manque de main d'oeuvre spécialisée. Or le dit Roch Belleriv a une très bonne expérience dans la construction, ayant été à mon emploi avant son entrée dans l'armée. Je crois donc qu'il serait plus utile si il obtenait sa libération, car le gouvernement fédéral demande chaque jour la collaboration des entrepreneurs dans son plan de logements pour les vétérans et autres personnes.

Espérant que vous donnerez suite à cette demande d'une manière favorable, je me dis, Monsieur,

Votre tout obligé,

Philias Belleriv
591 St Georges
Trois-Rivières
Que

Q.G.C. 53-B-2048 Adm 3b2

HDC/AD

le 4 juin 1946

Monsieur,

Je vous accuse réception de votre lettre du 19 mai 1946, adressée au ministre de la Justice et transmise à notre ministère, pour que nous y répondions.

Les autorités militaires ne tiennent pas à garder un soldat en détention plus longtemps que ne l'exige l'intérêt de la justice et de la discipline. En conséquence, on revise régulièrement les sentences en vue d'accorder une remise de peine lorsque les circonstances la motivent.

Lors de la dernière revision, on n'a pas jugé devoir accorder une remise. La prochaine revision aura lieu lorsque le soldat Bellerive aura purgé la moitié de sa peine de 23 mois. Soyez assuré qu'on étudiera alors son cas avec impartialité et bienveillance.

Votre bien dévoué,

pour le sous-ministre,

PAM

(PAUL MATHIEU)

M. Philias Bellerive,
591, rue Saint-Georges,
Trois-Rivières, P.Q.

QUOTE NO. HQC 55-B-2048 Adm 3b2

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

OTTAWA, CANADA,

3 June 1946

Dear Sir:

This will acknowledge your letter of 19 May 1946 addressed to the Minister of Justice and passed to this Department for reply.

It is not the intention of the military authorities to hold a man in custody any longer than is necessary in the interests of justice and military discipline. Accordingly sentences are reviewed periodically with a view to effecting remission where circumstances warrant.

On the most recent review remission was not considered justified. The next review takes place when half of his 23 months has been served. You may be sure he will receive just and sympathetic consideration on that review.

Yours truly,

BUREAU FOR TRANSLATIONS
Rec'd JUN 4 1946
Rec'd JUN 5 1946
NATIONAL DEFENCE

Deputy Minister
(Army)

Philias Bellerive,
591 St-Georges St,
Trois-Rivieres, P.Q.

TRANS For translation, pls.

D.M.R. Williams Dep'ty

(H.M. Cathcart)
Colonel
D Adm

Nat. Def. A-168-A
1,000M—3-43 (9025)
H.Q. 1772-39-376

HQC 55-B-2048 Adm 3b2

3 June 1946

Dear Sir:

This will acknowledge your letter of 19 May 1946 addressed to the Minister of Justice and passed to this Department for reply.

It is not the intention of the military authorities to hold a man in custody any longer than is necessary in the interests of justice and military discipline. Accordingly sentences are reviewed periodically with a view to effecting remission where circumstances warrant.

On the most recent review remission was not considered justified. The next review takes place when half of his 23 months has been served. You may be sure he will receive just and sympathetic consideration on that review.

Yours truly,

Deputy Minister
(Army)

Philias Bellerive,
591 St-Georges St,
Trois-Rivieres, P.Q.

TRANS For translation, pls.

(H.M. Cathcart)
Colonel
D Adm

EDM/HMR

REFER TO OUR No. R-106626

DEPARTMENT OF JUSTICE
REMISSION SERVICE
OTTAWA

(1)

ADDITION ENTERED

CENTRAL REGISTRY Army
PERS. SEC.
MAY 25 1946
869-B3-8969
DRB 30-4

May 23, 1946.

The Adjutant-General,
Department of National Defence,
O t t a w a.

Re:-Roch Bellerive
Montreal Gaol.
Reg. No. D-654073

Enclosed is a petition for clemency from the father of the above named, who, according to our information, was convicted by Court Martial.

Our correspondent has been advised that his letter was being referred to you for the necessary attention.

Translation please

M.F. Gallagher,
Director of Remission Service.

Encl. 1

ADM 3(b)2.

TRANSLATION
CV/ER
29-5-46

TROIS RIVIERES, May 19, 1946.

Honourable Louis St-Laurent,
Minister of Justice,
OTTAWA, Ont.

Dear Sir:

I wish to apply for a remission of sentence in favour of my son, Roch, who has been in the Bordeaux Jail since July 1945. He was an Army deserter and since he could not find employment he blew up a Provost truck. Fortunately no one was injured.

Being a contractor I need his help. His absence is quite a handicap for me and I wish to apply for his immediate release, please.

Yours truly,

(Sgd) Philias BELLERIVE,
591 St-Georges St.,
TROIS-RIVIERES,
P.Q.

TRANSLATION
CV/ER
22-5-46

ADM 3(b)2.

TROIS RIVIERES, May 19, 1946.

Honourable Louis St-Laurent,
Minister of Justice,
OTTAWA, Ont.

Dear Sir:

I wish to apply for a remission of sentence in favour of my son, Roch, who has been in the Bordeaux Jail since July 1945. He was an Army deserter and since he could not find employment he blew up a Provost truck. Fortunately no one was injured.

Being a contractor I need his help. His absence is quite a handicap for me and I wish to apply for his immediate release, please.

Yours truly,

(Sgd) Philias BELLERIVE,
591 St-Georges St.,
TROIS-RIVIERES,
P.Q.

ADM 3(b)2.

TRANSLATION
CV/ER
29-5-46

TROIS RIVIERES, May 19, 1946.

Honourable Louis St-Laurent,
Minister of Justice,
OTTAWA, Ont.

Dear Sir:

I wish to apply for a remission of sentence in favour of my son, Roch, who has been in the Bordeaux Jail since July 1945. He was an Army deserter and since he could not find employment he blew up a Provost truck. Fortunately no one was injured.

Being a contractor I need his help. His absence is quite a handicap for me and I wish to apply for his immediate release, please.

Yours truly,

(Sgd) Philias BELLERIVE,
591 St-Georges St.,
TROIS-RIVIERES,
P.Q.

TRANSLATION
CY/YR
29-5-46

ADM 3(b)2.

TROIS RIVIERES, May 19, 1946.

Honourable Louis St-Laurent,
Minister of Justice,
OTTAWA, Ont.

Dear Sir:

I wish to apply for a remission of sentence in favour of my son, Roch, who has been in the Bordeaux Jail since July 1945. He was an Army deserter and since he could not find employment he blew up a Provost truck. Fortunately no one was injured.

Being a contractor I need his help. His absence is quite a handicap for me and I wish to apply for his immediate release, please.

Yours truly,

(Sgd) Philias BELLERIVE,
591 St-Georges St.,
TROIS-RIVIERES,
P.Q.

1-106626

Trois-Rivières, 19 mai 1946

M. Louis St-Laurent
Ministre de la justice

MAY 28 1946
Department of Justice
MAY 28 1946
REMISSION BRANCH
BUREAU DES RECOMMANDATIONS
NATIONAL DEFENCE

Monsieur,

Je vous écris pour vous demander le pardon de mon fils Rock qui est incarcéré à Bordeaux depuis juillet 1945.

Etant déserteur de l'armée, et ne pouvant se trouver de l'ouvrage, il a fait suite un camion de la prévôté. Mais heureusement, personne ne fut blessé.

Comme je suis contracteur, et que j'avais beaucoup besoin de lui, cela me fait un gros tourage.

Donc, je vous demanderais sa

libération immédiatement.

Signé père.

Philias Bellerive,
591, rue St-Georges,
Trois-Rivières, P.Q.

Une réponse S.V.P.

In case with DRB

~~Confidential~~

DEPARTMENT OF JUSTICE
REMISSION SERVICE
OTTAWA

MAY 22 1946

3B2

REFER TO OUR No. R-106626

B-2048

CENTRAL REGISTRY Army
CONF. SEC.
22917
MAY 13 1946
File C-55-B-2048
Chgd. to
Referred to

The Adjutant General,
Department of National Defence,
O T T A W A.

Re:-Roch Bellerive - 5789
Montreal Gaol.

Enclosed, herewith, is an application for clemency from the above named, who appears to have been convicted by a Court Martial.

The Governor of the Gaol has been advised that this prisoner's letter was being referred to you for the necessary attention.

Encl. 1

M. F. Gallagher,
Director of Remission Service.

P.S. This prisoner's Regimental Number is D-654073.

M.F.G.

TRANSLATION
GV/ER
20-5-46

ADMIN.

APRIL 25, 1946.

Mr. M.F. GALLAGHER,
Director of Remission Service,
OTTAWA, Ont.

Honourable Sir:

I have been detained at the Bordeaux Jail since September 6, 1945. I was sentenced to 23 months in a civil prison for having damaged two Army trucks.

However, you may believe, Honourable Sir, that I had no criminal intention whatever. I was with a friend by the name of Romée Tessier, who is free at the present time after obtaining your remission on April 8, 1946.

I was never arrested before that date and you may believe, Honourable Sir, that if God grants me my remission through you, I shall benefit by this stern lesson in the future.

I beg of you, Honourable Sir, to grant me what one obtains once in a lifetime, your remission.

Trusting I shall receive a favourable reply, I remain

Yours truly,

(Sgd.) Roch BELLERIVE,
591 St-Georges St.,
TROIS-RIVIERES,
P. Q.

D 654073

TRANSLATION
CV/ER
20-5-46

ADMIN.

APRIL 25, 1946.

Mr. M.F. GALLAGHER,
Director of Remission Service,
OTTAWA, Ont.

Honourable Sir:

I have been detained at the Bordeaux Jail since September 6, 1945. I was sentenced to 23 months in a civil prison for having damaged two Army trucks.

However, you may believe, Honourable Sir, that I had no criminal intention whatever. I was with a friend by the name of Roméo Tessier, who is free at the present time after obtaining your remission on April 8, 1946.

I was never arrested before that date and you may believe, Honourable Sir, that if God grants me my remission through you, I shall benefit by this stern lesson in the future.

I beg of you, Honourable Sir, to grant me what one obtains once in a lifetime, your remission.

Trusting I shall receive a favourable reply, I remain

Yours truly,

(Sgd.) Roch BELLERIVE,
591 St-Georges St.,
TROIS-RIVIERES,
P. Q.

Department of Justice
APR 26 1946
Ottawa (Ont.)

25/4/46

Monsieur M. F. Gallagher Directeur du Service des Pardons

Honorable Monsieur

Je suis détenu à la Prison de Bordeaux depuis le 6 septembre 1945 j'ai été condamné à 23 mois de prison civil pour avoir endommagé deux camions de l'Armée.

Mais veuillez me croire Honorable Monsieur que je n'avais aucune intention criminelle.

J'étais accompagnai d'un ami du nom de Roméo Tessier en liberté en ce moment après avoir obtenu votre pardon le 2 avril 1946

Je n'ai jamais été arrêté avant cette date et veuillez me croire Honorable Monsieur que si Dieu me fait obtenir votre pardon que je saurai profiter de cette dure leçon à l'avenir.

Je vous supplie Honorable Monsieur de m'accorder ce que l'on obtient une fois dans la vie votre pardon

Espérant d'avoir une ~~favo~~ favorable réponse

Je demeure votre obligé

BUREAU DES TRANSCRIPTIONS
Rec'd 20 1946
Ref'd
NATIONAL DEFENCE

Roch Bellerive
591 St Georges
Trois Rivières

760 Blvd Gouin Nord

P.Q.

DEPARTMENT OF NATIONAL DEFENCE
ARMY

NDC 55-B-2048
Adm 3(a)3

CONFIDENTIAL

OTTAWA, Ontario, 18 Dec 45

District Officer Commanding
Military District No 4
MONTREAL P Q

D.654073 Pte BELLERIVE R
CM Board of Review

Ref our AG 0267 dated 18 Oct 45; M-1-B-17333 ADIS of 4-12-45.

2. The CM Board of Review has reviewed the case of the m/n soldier and has recommended that no remission be granted.

3. Returned herewith for your record purposes is XXXXXXXX MEM 288, XXXXXXXXXXXXXX.

4. You will appreciate of course that the recommendation of the Board does not in any way interfere with your discretion as a designated reviewing authority under CARO 5913. In fact it still remains your responsibility to review this case under the provisions of that CARO to decide whether remission or suspension may be granted at any time.

G.D.B.
p (A. E. Walford)
Major-General
Adjutant-General

GDB:hrr

AR

IN REPLY PLEASE QUOTE No. M-1-B-17333 ADIS

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que 4 Dec 45.

Army
13503
DEC 6 1945
CMBR 26-11-45
CMBR

Secretary,
Department of National Defence,
OTTAWA, Ontario.

D-654073 Pte BELLERIVE, R.

Reference your letter HQC 55-B-2048 (CMBR-4) dated 27 Nov 45.

2. Enclosed herewith MFM 288 pertaining to the above mentioned soldier.

3. For your information the m/n was transferred to the Common Jail (Bordeaux) on 23 Nov 45 and discharged from Canadian Army under the provisions of RO 1029 (9) wef 26 Nov 45.

4. No review of the sentence is contemplated prior to half of the sentence being completed.

(E.J. RENAUD), Major-General,
D.O.C. M.D. No. 4.

MFM 288 or AFA 3104 have been requested..... NOV 26 1945

encl.

NAT. DEF. B. 440
3000M—12-43 (5262)
H.Q. 1174-28-367

HQC.5508-2048 (CMBR-4) EMA

Case No. 1259

27 Nov 45

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No., Rank and Name: D.654073 Pte. BELLERIVE, R.

2. Unit at date of offence: 44 CI(B)TC CA St. Jerome, Que.

3. Charge: (1) AA 12(1)(a) DESERTION:

(Absent from 16 Aug 44 until he was apprehended in civilian clothes on 15 Jul 45 - absence of 11 mos.)

(2) AA 24(4) WILFULLY INJURING PUBLIC PROPERTY:

(At Three Rivers, Quebec, at approximately 2130 hrs on 18 May 45, wilfully injured DND Vehicles No. 54-636 and No. 54-385 Public Property, causing damages to same in the amount of $70.11 and $175.92 respectively.

PLEA: Not guilty on Both charges.

4. Place and date of trial: 45 CI(B)TC St. Jerome, Quebec. 24 Aug 1945 (DCM)

5. Finding: Guilty on Both charges

6. Sentence: 23 mos Imprisonment and to be discharged with Ignominy.

Date of Sentence: 6 Sep 45

7. Date of confirmation: 27 Sep 45

8. Date of Promulgation: 3 Oct 45

9. Being served at: Bordeaux Jail in MD 4

(N.B. +Discharged under RO 1029 (9) with Ignominy.
w.e.f. 26 Nov 45

-8-

CONDUCT

11. (a) PRIOR TO CONVICTION:

	OFFENCE	DATE	SENTENCE
(1) Civil Convictions: Nil		In approximately two months service prior to commission of present offence.	
(2) Courts-Martial: Nil			
(3) Summary Convictions: 1 Minor AWL			

(b) After Conviction:

(c) Date of enrolment/ 22 Jun 44 Age: 22

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show any mitigating circumstances)

(1) On the night in question, members of the Provost Corps had parked two station wagons, one on a vacant lot and one on the road near a hotel; suddenly there were two explosions and both vehicles were considerably damaged, the roofs being blown out, the windows shattered, etc. (see photographs.)

(2) From the evidence of the accused's accomplices, one Pte. R. Tessier and one Leading Aircraftsman M. Levasseur, as well as the oral admissions made by the accused to the R.C.M.P. (which latter admissions were declared admissable by the court) it appears that the accused and Tessier, both Army absentees were sitting in a restaurant in Three Rivers about noon on the day in question, talking about things in general and in particular about the members of the Provost Corps. In the course of this discussion, the remark was made that if they had any dynamite they would blow up the two station wagons which were parked nearby. L.A.C. Levasseur, overhearing this remark, obligingly offered to furnish them with some and in fact arranged a rendezvous with them several hours later. After lunch he met one of them in the restaurant (Tessier) and gave ~~them~~ him two sticks of dynamite, some fuse lengths and detonators. In the evening, Tessier met the accused at the Bluebird Cafe where they drank some beer. Then they went to another restaurant. Tessier gave the accused one stick of dynamite and he kept the other himself. They then made their way toward the station wagons, one to each, ignited the dynamite, placed it on the drivers seat and proceeded to beat a hasty retreat.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc,)

REVIEWING OFFICER:

Remission of sentence is not recommended.

Reviewed by _____

(A.B. Gold) Lieut.

1[redacted] Recommendation of the Board:

No Remission Recommened.

Date DEC 1 2 1945 19____

M. A. Stilwell - Maj
Secretary
Courts-Martial Board of Review.

187

HQC 55-B-2048 (JAG/D-6)

31 Oct 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

District
D.654073 Pte. R. BELLERIVE,
CIC, CA att No. 44 CI(B)TC CA
Court-Martial

M.1-B-17333(J)

29th October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned the proceedings of a Court-Martial.

Your explanation of the delay in this case has been noted.

of the matter fully noted

EXM

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdr

Notes for the Deputy
1 Nov 45

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IN REPLY PLEASE QUOTE
No. M.1-B-17333(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Montreal, P.Q., 29th October, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

OCT 30 1945
File C55-B-2048
Chgd. to
Referred to JAG

District Court-Martial
B-654073 Pte. R. BELLERIVE, CIC,
CA, attached to No.44 CI(B)TC,CA.

Reference your HQC.55-B-2048(JAG/D-7) dated 25 Oct 45.

2. Due notice has been taken of all remarks contained in your above quoted letter and the attention of all concerned in this office has been drawn to said remarks for their information.

3. As regards para.7, it will be noted that the marginally-named accused was apprehended by Civil Authorities at Three Rivers on 15th July 45 and was received at No.44 CI(B)TC,St.Jerome, Quebec, on 17th July 45.

4. On the 20th July 45, documents requested for the marginally-named accused were received at H.Q. M.D.4 and forwarded to his Unit at St.Jerome together with a certified true extract of Part II Order.

5. By the end of the month of July, 45, information was received from CI(B)TC No.44 St.Jerome, to the effect that the marginally-named had been apprehended and request was made to the effect of having Prosecutor from this office to take the Summary of Evidence in regard to the charges to be laid against the marginally-named.

6. A Permanent Prosecutor of this office was detailed to take Summary of Evidence in this case and due to the fact that there were many witnesses to be contacted in this case, this Summary of Evidence was taken partially on 7th, 10th and 14th August 45 and was completed and typed on said 14th August 45. The Charge Sheet was therefore drafted on the 15th August 45 but signed by the Officer Commanding, the marginally-named accused, on 21st August 45.

7. On the 22nd August 45, convening order was signed by the Convening Officer ordering the trial of the accused by District Court-Martial to take place on 24th August 45. On the 24th August 45, the trial of the accused began but was adjourned until the 30th August 45 at the request of the Prosecutor as shown per Minute of adjournment on page "C-67".

8. On 30th August 45, the Court re-assemble and the trial continues, but request made by the Prosecutor to adjourn until 6th September 45 for rebuttal purposes. On the 6th September 45, the Court re-assemble, trial is resumed and finished.

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P.T.O.

9. As regards para.9 of your above quoted letter, the Confirming Authority does not desire to follow the procedure outlined in your said paragraph in connection with the commutation of sentence of imprisonment to one of detention and the remission of discharge with ignominy. It is the opinion of the Confirming Authority that in the present case the sentence given the accused by the Court be dealt with in accordance with C.A.R.O. 5913.

10. In view of the above, the proceedings are returned herewith, for your custody.

Capt.

for (E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Enc.

MEDICAL OFFICER'S REPORT

I certify that No. D-654073 Pte BELLERIVE, R.

of St-Jerome, Que. is in a good state of health,

and fit to undergo Trial by Court martial.

Medical Officer
(J.HETU)CAPT RCAMC (AF)
M.O. i/c M.I.R. #44 C.I.(B)T.C.

Station #44 C.I.(B)T.C. St-Jerome, Que.

Date Aug. 30th 1945.

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M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. D-654073 Pte Roch, HELLERIVE.
of St-Jerome, Que. is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer
(J.HETU)CAPT RCAMC (AF)
M.O. i/c M.I.R. #44 C.I.(B)T.C.

Station #44 C.I.(B)T.C. St-Jerome, Que.

Date Aug. 24th 1945.

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

182

MEDICAL OFFICER'S REPORT

I certify that No. D-654073 Pte Bellerive, R.

of St-Jerome, Qué. is in a good state of health,

and fit to undergo Trial by Court martial.

J. Hetu Capt.

Medical Officer
(J. HETU) CAPT. RCAMC (AF)
M.O. i/c M.I.R. No 44 C.I. (B) T.C.

Station St-Jerome 44 CI(B)TC.

Date 6 Sept 45.

M. F. B. 246
59M—9-44 (5437)
H.Q. 1772-39-480

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SUMMARY OF EVIDENCE

SOMMAIRE D'EVIDENCE

dans le cas de

D-654073, Private R. Ballerive, C.I.C., CA, attached to No. 44 C.I. (B) T.C., CA, St.Jerome, P.Q., un soldat N.R.M.A. de l'armée canadienne placé en activité de service,

PREMIER CHEF D'ACCUSATION
Sec. 12(1) (a)
A.A.

Avoir en campagne déserté le service de Sa Majesté

DEUXIEME CHEF D'ACCUSATION
Sec. 24(2)
A.A.

Avoir volontairement endommagé des biens publics

Le Commandant requiert que la preuve soit prise sous serment.

Premier témoin

D-125704, L/Cpl. J. Woodburn, No. 34 Coy, Canadian Provost Corps, Westmount Barracks, being duly sworn states:

I was in Three Rivers from May 10th to the 19th, 1945. On May 18th, 1945, between 9: 20 and 9:30 p.m., I was sleeping in the Caumartin Hotel aand I was awakened by L/Cpl McGee. I went downstairs. I saw a Dodge Station Wagon which was on fire; it was all blown up. I saw a Plymouth Station wagon also on fire and blown up. The Plymouth was on the opposite side of the road at the corner. The Dodge was parked in front of the Caumartin Hotel. Those two cars belong to the Canadian Provost Corps.

The roof of the Dodge was "off"; the windows were broken, and the front seat was damaged.

The roof of the Plymouth was "off"; the front windshield, the flour board and the front seat were damaged.

When I went down I took the gas out of the Dodge. I took two cans out. Out of the Plymouth I took two cans of gas and some oil.

L'ACCUSE NE DESIRE PAS TRANSQUESTIONNER LE TEMOIN.

L/c Woodburn, J.
J. WOODBURN

Deuxième témoin

D.
D-77476, L/Cpl J.W. Magee, No. 34 Coy, Canadian Provost Corps, Westmount Barracks, being duly sworn, states:

At Three Rivers, Quebec, on the 18th May, 1945, I was in my room at the Caumartin Hotel when I heard a lot of noise, and approximately thirty seconds later another noise. I proceeded downstairs with other members of the Provost Corps and I discovered that the station wagon(D.N.D. vehicle Dodge) parked in front of the hotel was damaged. I did not see any fire in that truck. I then proceeded to the other truck (D.N.D. vehicle Plymouth) parked on a vacant lot at the corner of Niverville and St-Prosper Streets and I discovered that this other truck had also been damaged. That's all I know about the incident.

deuxième témoin (suite)

The roof of the Dodge was damaged and the windows were broken. The front seat was in a damaged condition. The glass was crack across ; it was shattered, not broken completely.

I didn't take very much notice of the Plymouth but I could see that the roof was blown up.

With me at the time were Corporal Lapointe and L/Cpl. Woodburn.

L'ACCUSE NE DESIRE PAS TRANSQUESTIONNER LE TEMOIN.

J W D Magee

Troisième témoin

D-125719, Caporal C.E. Lapointe, No. 34 Coy, Canadian Provost Corps, CA, Westmount Barracks, being duly sworn, states:

J'ai été aux Trois-Rivières dans le cours du mois de mai 1945. J'avais sous mes ordres deux escouades. Woodburn, Magee, Michaud, Mailhot étaient sous mes ordres.

Vers 9 h. 15 du soir, le 18 mais 1945, j'étais dans ma chambre à l'hôtel Cammartin lorsque j'ai entendu une détonation suivie d'une autre. Sur le coups j'ai pas porté attention à ce que c'était. La femme de chambre est montée en haut et elle m'a dit que mes deux chars étaient en feu dans la rue. Je suis descendu vitement et j'ai vu que les deux chars étaient endommagés par la dynamite. Ca sentait la poudre. Les "tops" étaient arrachés et les vitres étaient cassées.

Ces deux chars étaient un Dodge station wagon et un Plymouth station wagon, appartenant au Canadian Provost Corps.

J'ai remarqué que les coussins avaient été comme brulés sur le siège d'en avant.

QUESTIONNE PAR L'ACCUSE:

Q. Vous avez bien dit que c'était 9 h. 15 du soir?

R. Oui, vers 9 h. 15.

Lapointe C E
C.E. LAPOINTE

Quatrième témoin R-216876, L.A.C. Léo Levasseur, No. 4 Repair Depot, R.C.A.F., Scoudouc, N.B., ayant été dûment assermenté déclare:

Q. Connaissez-vous Bellerive?

R. Oui, monsieur.

Q. Depuis combien de temps?

R. Ca fait longtemps que je le connais. Pour lui parler, ça fait un an.

Q. Vous rappelez-vous d'un incident particulier survenu à Trois Rivières au mois de mai 1945?

R. Oui, monsieur.

Q. Quel incident?

R. Des trucks de l'Armée qui ont fait explosion.

Q. A quelle date?

R. Je ne sais pas la date.

Q. A peu près?

R. Le 17 ou le 18 mai, 1945.

Q. Voulez-vous nous raconter ce que vous savez au sujet de cette explosion?

R. Un avant midi j'ai rentré au restaurant chez M. Guillemette.

Q. Avant l'explosion?

R. Oui, monsieur.

Q. Après?

R. Bellerive et Tessier étaient après parler de trucks. Ils disaient s'ils avaient de la dynamite pour faire exploser les trucks. J'ai dit que j'en avais.

Les Parent. J.E.L.

Q. Qui a demandé de la dynamite?

R. Je ne me rappelle pas.

Q. Quand Tessier ou Bellerive vous ont demandé de la dynamite, est-ce qu'ils étaient tous les deux ensemble?

R. Ils étaient dans le restaurant Guillemette à Trois Rivières.

Q. Est-ce que vous avez parlé aux deux?

R. Je crois que oui.

Q. Les deux étaient-ils ensemble?

R. Un était assis sur un banc; l'autre était près de la machine à boules.

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Q. Quelle distance y avait-il entre les deux?

R. Six ou sept pieds.

Q. Quand vous les avez quittés, qu'avez vous fait?

R. J'ai été dinér chez moi.

Q. Puis?

R. Après diner, j'ai apporté deux bâtons de dynamite.

Q. A qui avez-vous apporté celâ?

R. Je ne sais pas si c'est à Bellerive ou à Tessier.

Q. A quel endroit avez-vous remis les bâtons de dynamite?

R. Dans le passage du restaurant Guillemette.

Q. Etaient-ils tous les deux ensemble alors?

R. Non, monsieur. Je les ai donnés à un; l'autre est venu après.

Q. Quand l'autre est venu après, a-t-il vu les bâtons de dynamite?

R. Oui, monsieur.

Q. Le savait-il que l'autre le savait?

R. Oui, monsieur.

Q. Y a-t-il eu une conversation entre vous trois?

R. Non, monsieur. J'ai seulement dit de ne pas percer les bâtons avec du fer, que c'était dangereux.

Q. Leur avez-vous remis les mèches et les caps?

R. Oui, monsieur et je les ai laissés.

Q. Plus tard, dans la même journée, avez-vous entendu parler de vos bâtons de dynamite?

R. Oui, monsieur.

Q. Dans quelles circonstances avez-vous entendu parler de vos bâtons de dynamite?

R. Le soir de l'explosion j'étais au restaurant Guillemette. Tessier est arrivé et m'a dit que ça avait marché.

Q. Avez-vous vu Bellerive?

R. Je n'ai pas revu Bellerive après ça.

Q. Quand vous avez remis des bâtons de dynamite à Tessier ou à Bellerive, était-ce la même journée que l'explosion?

R. C'est la même journée.

L'ACCUSE NE DESIRE PAS TRANSQUESTIONNER LE TEMOIN.

177 Lussier J.C.L.
(Les soussignés)

Cinquième témoin

M. Léon Paul Maurice MOREL, constable de la Gendarmerie royale, 131 rue St. Jacques ouest, Montréal, ayant été dûment assermenté, déclare:

Q. Connaissez-vous l'accusé?

R. Oui, monsieur.

Q. Vous rappelez-vous l'avoir rencontré récemment?

R. Oui, monsieur.

Q. A quelle date?

R. Le 16 juillet, 1945.

Q. Voulez-vous nous raconter ce qui s'est passé?

R. Le 16 juillet, 1945, vers 1.30 ou 2 heures de l'après midi, j'ai rencontré le Caporal Desmarais, en charge du détachement de Trois Rivières, dans le bureau à Montréal et il m'a dit que Rock Bellerive avait été appréhendé le dimanche soir par le constable Gervais, constable spécial du lieu. Je lui ai demandé s'il l'avait questionné. Il m'a répondu "oui". Je lui demandé s'il avait pris une déclaration. Il m'a dit "non". Alors Bellerive était dans une de nos cellules. Je l'ai fait sortir de la cellule et je l'ai escorté au bureau de l'inspecteur Poudrette. Je lui ai demandé son nom et puis après ça je lui ai fait lire la mise en garde que voici: "Vous n'êtes obligé de rien dire; vous n'avez rien à espérer d'aucune promesse ou faveur et rien à craindre d'aucune menace, que vous disiez quelquechose ou non; mais tout ce que vous direz peut servir de preuve lors de votre procès".

Après la mise en garde je lui ai demandé s'il la comprenait bien. Il a répondu que oui. Alors je lui ai demandé de me raconter ce qui s'était passé le soir de l'explosion lorsque deux camions ont explosé le 18 mai,1945.

Q. Qui était présent au cours de cet interrogatoire?

R. Le constable Gervais et le Caporal Desmarais. Puis je lui ai demandé s'il voulait signer une déclaration confirmant tout ce qu'il venait de dire. Il a répondu que non. Il a dit "Je ne signerai rien". Alors j'ai commencé à prendre des notes. Après ça il m'a demandé si Tessier avait signé une déclaration. Je lui ai répondu que oui. Je ne me souviens pas au juste, mais je crois que le Caporal Desmarais a montré à Bellerive la signature de Tessier. Alors il a dit "Si les autres ont signé une déclaration, c'est correct je vais en signer une". Le constable Gervais s'est assis et a commencé à écrire une déclaration sous ma dictée, mais avant de dicter je lui ai dit que j'étais pour dicter la déclaration qu'il venait de me faire mais que s'il avait quelquechose de pas correct de me corriger. Je lui ai fait signer la déclaration. Le constable Gervais, le Caporal Desmarais et

Cinquième témoin
(suite)

même avons signé comme témoins. La déclaration a été prise en français.

Je produis comme appendice une traduction exacte de la déclaration faite et signée par Bellerive le 16 juillet, 1945. L'original sera produit à la Cour en temps et lieu.

Q. Y a-t-il eu promesse ou menace quelconque de faites à Bellerive?

R. Absolument rien.

Q. Avez-vous cherché à l'intimider de quelque façon?

R. Aucunement.

L'ACCUSE NE DESIRE PAS TRANSQUESTIONNER LE TEMOIN.

L.P.M. Morel
(L.P.M. Morel)

Sixieme temoin: K-12351, soldat G. Desfosses, C.I.C., C.A., attache au No. 4 District Depot, C.A., ayant ete dument assermente, declare:

Q. Connaissez-vous L'accuse Bellerive?

R. Oui, monsieur, je le connais un peu.

Q. Vous rappelez-vous d'un evenement particulier qui s'est passe a Trois Rivieres au mois de mai 1945?

R. Oui, monsieur, pour une explosion des trucks de l'Armee.

Q. A quelle date cette explosion la a-t-elle eu lieu?

R. Vers le 20 mai, 1945; je ne me rappelle pas au juste de la date.

Q. Quelque temps avant l'explosion des trucks de l'armee dont vous parlez, avez-vous rencontre Bellerive?

R. J'ai eu l'occasion de le voir assez souvent au restaurant Guillemette.

Q. A-t-il ete question d'explosions de camions de l'Armee?

R. Non, monsieur.

Q. Lui-meme a-t-il mentionne quelquechose?

R. Non, monsieur.

Q. Tessier vous en a-t-il parle lui?

R. Oui, monsieur.

Q. Apres l'explosion avez-vous vu Bellerive?

R. Oui, monsieur, une ou deux fois apres,

Q. Longtemps apres?

R. Le lendemain?

Q. Vous a-t-il parle de cette affaire la?

R. Non, monsieur.

Q. Il ne vous en a jamais parle?

R. Non, monsieur.

Q. Vous personnellement, que savez-vous de cette explosion la?

R. /Que Tessier m'en avait dit.

Q. Vous meme personnellement qu'en saviez-vous?

R. Je n'en savais rien.

L'ACCUSE NE DESIRE PAS TRANSQUESTIONNER LE TEMOIN

175 G Desfosses

Septième troisième: A-109714, soldat Roméo TESSIER, C.I.C., C.A., attaché au No. 4 District Depot, C.A., ayant été dûment assermenté, déclare:

Q. Connaissez-vous l'accusé Bellerive?

R. Oui, monsieur.

Q. Vous rappelez-vous d'un évènement particulier survenu à Trois Rivières au cours du mois de mai 1945?

R. J'étais trop saoûl; je ne m'en rappelle pas.

Q. Vous rappelez-vous d'une explosion qui a fait sauter des véhicules militaires à Trois Rivières?

R. Le lendemain matin, les gas m'en ont fait rappeler.

Q. Vous rappelez-vous avant cette explosion là d'avoir rencontré Bellerive?

R. Oui, monsieur.

Q. Au restaurant Guillemette?

R. Oui, monsieur.

Q. De quoi avez-vous parlé au restaurant Guillemette avec Bellerive?

R. On a parlé de dynamite.

Q. Qu'avez vous dit?

R. On en a dit long.

Q. Faites-moi un résumé de ce que vous avez dit.

R. On a dit que si on avait du stock on ferait sauter les trucks des provosts.

Q. Comme question de fait, avez-vous eu de la dynamite?

R. Oui, monsieur.

Q. A quelle date avez-vous eu de la dynamite?

R. Le 18 mai, 1945.

Q. Qui vous a donné de la dynamite?

R. Personne ne me l'a donnée.

Q. A qui la dynamite a-t-elle été donnée?

R. A Bellerive.

Q. Comment savez-vous qu'elle a été donné à Bellerive?

R. Parce que deux minutes après je l'ai vue dans ses mains.

Septième témoin
(suite)

Q. Qu'a-t-il fait avec cette dynamite?

R. Il me l'a donnée.

Q. Qu'avez-vous fait avec?

R. Je l'ai apportée chez nous.

Q. Continuez.

R. Je l'ai apportée chez nous. Les détonateurs étaient après la mèche. Levasseur les avait installés après. Sur ses instructions j'ai installé les détonateurs dans les bâtons. Le soir, un coup installés, je les ai apportés chez Guillemette en arrière dans le back store. Là on a été prendre un coup, avec Bellerive.

Q. Bellerive savait-il que les détonateurs étaient chez Guillemette?

R. Oui, il le savait.

Q. Le lui aviez-vous dit?

R. Je lui avais dit.

Q. De quoi a-t-il été question alors?

R. Alors il a été question de faire sauter les trucks des provosts.

Q. Pourquoi aviez-vous pris un coup avant?

R. Je ne sais pas.

Q. A quel endroit avez-vous été prendre un coup?

R. Au Blue Bird.

Q. A quelle date était-ce?

R. Le 18 mai, 1945, au soir.

Q. A quelle heure êtes-vous allé au Blue Bird?

R. Vers 7 heures moins quart.

Q. Combien de temps avez-vous passé au Blue Bird?

R. Je ne peux pas le dire. Quelque temps après on a quitté le Blue Bird et on est allé chez Guillemette Bellerive et moi. Après ça je ne me rappelle pas, j'étais trop chaud.

Q. Vous rappelez-vous d'avoir fait une déclaration devant un constable de la Gendarmerie royale?

R. Oui, monsieur.

Q. Est-ce que c'était le 9 juin, 1945?

R. Oui, monsieur.

Q. Vous rappelez-vous d'avoir raconté à la Cour

Septième témoin
(suite)

tous les détails au sujet de l'explosion?

R. Oui, monsieur, mais j'ai oublié de dire à la Cour que je n'avais pas mangé pendant deux jours parce que j'avais mal à l'estomac et que j'étais trop nerveux.

Q. Comme question de fait, leur avez-vous raconté tous les détails à ce moment-là?

R. J'ai répondu sur les questions qu'ils m'ont posées.

Q. Vous rappelez-vous d'être sorti de l'hôtel Caumartin et d'avoir pris un taxi conduit par Larochelle?

R. Non, monsieur.

Q. Vous rappelez-vous de vous être rendu au coin des rues St. Prosper et Bonaventure en taxi?

R. Non, monsieur.

Q. Vous rappelez-vous vous être rendu près des camions des provosts?

R. Je me rappelle que Bellerive et moi étions là quand les camions ont sauté.

Q. Vous rappelez-vous avoir été voir si les portes et les fenêtres des camions des provosts étaient ouvertes.

R. Oui, je m'en rappelle.

Q. Pourquoi êtes-vous allé voir ça?

R. C'était pour mettre de la dynamite dedans.

Q. Où était Bellerive alors?

R. Bellerive était à un truck militaire et moi à l'autre.

Q. Où était alors la dynamite?

R. Nous avions chacun notre bâton dans nos poches.

Q. A quel endroit avez-vous pris chacun votre bâton?

R. Dans une petite rue près de l'hôtel Caumartin. J'avais les deux bâtons de dynamite. J'en ai donné un à Bellerive.

Q. Après avoir séparé les bâtons, vous vous êtes rendu au camion?

R. Oui, monsieur.

Q. Avez-vous sondé les portes pour voir si elles étaient ouvertes?

R. Oui, monsieur.

septième témoin
(suite)

Q. Puis vous avez allumé votre bâton et vous l'avez laissé là?

R. Oui, monsieur.

Q. Avez-vous vu Bellerive à ce moment-là?

R. Non, je ne pouvais pas le voir.

Q. Où l'avez-vous rencontré?

R. Au coin de la rue.

Q. Avez-vous vu sauter les camions?

R. Je les ai vus sauter. Nous étions tous les deux sur le coin de la rue Bellerive et moi.

Q. Que vous a dit Bellerive?

R. Rien, on a viré de bord et sommes partis au Blue Bird.

L'ACCUSE NE DESIRE PAS TRANSQUESTIONNER LE TEMOIN.

Le témoin refuse de signer sa déclaration H Pinneau Cash

(Roméo Tessier)

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Huitième témoin

D-145175, Lance Caporal Mailhot, J.R., C.P.C.,C.A., No. 35 Company, ayant été dûment assermenté, déclare:

Un vendredi vers la mi-mai 1945, vers 9.20 heures j'ai été réveillé par le Caporal Lapointe me disant que mon véhicule était en feu. J'étais couché à l'Hôtel Caumartin. Je me suis habillé; j'ai descendu vitement pour constater qu'il n'y avait pas de feu mais qu'il y avait une explosion. Quand j'ai arrivé sur les lieux, les polices de la ville et puis les pompiers étaient déjà rendus. Quand j'ai vu qu'il n'y avait pas de feu, j'ai ôté les canisses de gaz et d'huile qui étaient en arrière du char. La partie avant du véhicule était la plus endommagée. Dans la partie avant les sièges d'en avant et du milieu étaient bien endommagés, ainsi que le toit du véhicule et les vitres qui étaient toutes brisées. Le numéro du véhicule endommagé est 54-636.

Q. A quelle place était stationné le véhicule en question?

R. Sur la rue St. Prosper près de l'hôtel Caumartin.

Q. D'après vous, par quoi les dommages constatés ont-ils été causés?

R. Les dommages ont été causés par une explosion.

Q. Qu'est-ce que ça sentait lorsque vous vous êtes approché du camion?

R. Ca sentait la poudre.

L'ACCUSE NE DESIRE PAS TRANSQUESTIONNER LE TEMOIN.

(J. R. Mailhot)

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NEUVIEME TEMOIN

Lieutenant P.A.Y. Lupien, assistant-adjudant, attache au C.I. (B) T.C. 44, CA, St-Jerome, ayant ete dument assermente, declare:

Je connais l'accuse dans cette cause, le soldat Bellerive. Je produis les documents suivants; concernant l'accusé.

a) Un extrait des ordres partie II No. 189, de S-18 S.A.I., St-Jérome, en date du 31 août 1944,

b) M.F.B. 375

c) M.F.M. 215

d) M.F.B. 1481

L'ACCUSE NE DESIRE PAS TRANSQUESTIONNER LE TEMOIN.

P.A. Y. LUPIEN
Lieutenant

DIXIEME TEMOIN

D-166166 Sgt. Charest, R.C.E.M.E., attaché à la Compagnie numéro 4.
Ce témoin étant en furlough et sa présence devant nécessitér des difficultés à donner une déclaration devant l'officier délégué pour prendre le résumé de la preuve à Montréal, Québec, laquelle déclaration assermentée a été signée par lui, lue à l'accusé et attachée comme pièce B en vertu de la règle de procédure 4C.

QUESTION A L'ACCUSE: Désirez-vous faire une déclaration ou rendre témoignage sous serment? Vous n'êtes pas obligé de dire quoi que ce soit ou de rendre témoignage sous serment à moins que vous ne désiriez le faire. Mais tout ce que vous direz ou tout témoignage que vous rendriez sera pris par écrit et pourra servir de preuve.

REPONSE DE L'ACCUSE: Je n'ai rien à dire.

QUESTION A L'ACCUSE: Désirez-vous produire des témoins en votre faveur?

REPONSE DE L'ACCUSE: Non, monsieur.

L'accusé a été avisé de ses droits en ce qui concerne les services d'un avocat civil ou d'un officier défenseur.

Je certifie que les règles de procédure 4(C), (D), (E), (F) et (G) ont été suivies.

Pris par moi en présence de l'accusé, à Montréal, Québec, les 7, 10 et 14 août, 1945.

(H. Prineau) Capitaine,
Officier délégué pour prendre le résumé de la preuve

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(TRANSLATED) J.L.T.D. App "A"

Montreal, July 16th, 1945.

Statement of Roch Bellerive, 22 years of age and living at 591 St. Georges St., Three Rivers, Que., labourer, who, after having read the following warning:

"You need not say anything. You have nothing to hope from any promise of favour and nothing to fear from any threat whether or not you say anything. Anything you do say may be used as evidence at your trial."

states that he fully understands the wording of the said warning and of his own free will, makes the following statement.

Around June 21st, 1944, whilst I was working at the Cherrier plant in St. Paul l'Ermite, a civilian approached me and after identifying himself as a member of the Mounted Police, served me with a Mobilization Order, telling me to report to the Military District No.4 at Longueuil for my military training. The following day, June 22nd, I reported to Longueuil for my medical examination and I was informed that I was classed "A".

Six weeks later after my arrival at the St. Jerome training camp, we had a dance and after the dance the Captain gave us onehour to escort our ladyfriends home. I left the camp and did not return since and consequently I am a deserter from the Canadian Army since April 16th, 1944.

I returned to Three Rivers and rented a room situated at the corners of St. Antoine and Notre Dame Streets immediately above the Bea.Salon. I was working as a stevedore for J.C. Malone Company.

Friday morning, May 18th, 1945, I met Romeo Tessier and Leo Levasseur at the Guillemette Restaurant on Badeaux street, the topic of conversation between ourselves being idrected againsthe Provosts. Tessier and myself were saying that if we could manage to obtain dynamite, we would blow up the Provost trucks. Leo Levasseur who was with us understood what we were talking about and then told us: quote" If it is only that which you lack, I have some" unquote. This interview and conversation between us took place in the forenoon and we separated to go and have lunch.

During the afternoon, I returned to the Guillemette Restaurant and about 10 or 15 minutes after my arrival there, Leo Levasseur arrived also to the Restaurant and motioned to me to follow him outside and then the two of us went at the back of Guillemette Restaurant and there he, (leo Levasseur) gave me two sticks of dynamite and two pieces of wick about one foot long as well as two detonators which were already fastened to the wick. I took everything, dynamite, wick and caps and put same in my coat pocket.

Upon returning to the Guillemette Restaurant, we met Romeo Tessier who was just coming there to join us. The three of us namely, Levasseur, Tessier and myself returned at the Guillemette Restaurant for the balance of the afternoon and before going for supper, I gave the two dynamite sticks as well as the wick and detonators to Romeo Tessier and he left me to return to his home.

Around 7 to 7.30 p.m. of the same date, namely May 18th, 1945, I returned to the Guillemette Restaurant and there met Romeo Tessier again. We both stayed at this said restaurant for a length of time after which we went to the Blue Bird Restaurant to indluge in beer; we drank about three or four bottles of beer. Between 9.15 and 9.30 p.m., we left the Blue Bird Restaurant and returned to the Guillemette Restaurant and while I was buying cigarettes, Romeo (Tessier) went out the back of the Restaurant and when he returned, he told me "Come on, everything is alright".

We then left Guillemette's to go to the Caumartin Hotel and whilst walking infront of the Rapid Taxi stand, I noticed that there were no taxis there at the time. We continued on foot and on passing in front of the Lit D'or Tavern, I noticed that there was a taxi parked in front and that the said taxi was driven by Larochelle. Romeo and myself jumped into the said taxi and gave instruction to the said taxi driver to take us to the Caumartin Hotel. He, (Larochelle) dropped us off in front of the Caumartin Hotel on St. Prosper St.

I left Romeo and went to see if the doors of the Station Wagon per-

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on the vacant lot were locked or not. During that time Romeo was examining the Station Wagon parked on St. Prosper Street for the same purpose. I noticed that the door on the driver's side, namely, on the left side was locked and that the one on the opposite side was not. I left this truck and met Tessier on Niverville St. near St. Prosper and once there, Romeo took out a bundle from his pockets and gave me a stick of dynamite to which the wick and detonator had already been fastened. We then separated and returned each to out station wagon, that is Romeo returned to the truck which was parked on St. Prosper St. and myself to the truck parked on the vacant lot. Once I reached the truck, I opened the door on the right hand side and leaned somewhat inside and lit the wick with a match and placed the dynamite stick on the centre of the front seat. After this was done, I joined Romeo Tessier who was waiting for me on Niverville St.

We returned both of us on foot to the Blue Bird Restaurant and we had hardly left but that I heard one explosion and approximately 10 to 15 seconds later, I heard another explosion. I did not return to see what had happened because I was sure that the explosions referred to were the two Provost trucks which had just blown up. Romeo and I returned to the Bleu Bird and met some friends. We again indugled in beer and I would dare say that we had about three or four bottles.

Around 11.15 or 11.30 p.m. of the same date, we left the Blue Bird and went back to the Guillemette Restaurant, I ate a little and after having remained at the Restaurant for a good while, I left to go to bed. I do not remember definitely whether Romeo Tessier was gone or not when I left the Guillemette Restaurant.

Since the day of the explosion, i.e., May 18th, 1945, I came to Montreal a few times and went visiting my uncle Alcide Tramblay at Chambly Bassin. I remained there approximately three weeks and during that time, I worked as a painted for my uncle who in turn is employed as a carpenter by the "Soeurs de la Sagesse" at Chambly-Bassin. My uncle paid me $20. to $25. per week. During the time that I was staying at my uncle's, my lady-friend, Miss Monique St. Pierre who lives in Three Rivers came to visit in Chambly-Bassin and remained at my uncle's about three days. I wish to mention at this point that I do not know if my uncle Alcide Tremblay was aware or not that I was a deserter from the Canadian Army whilst I lived with him.

I wish to add nevertheless that one night, I went sleeping at Mr. Guillemette's in the Post Office building at Three Rivers but I dare say that I do not remember if this was before or after the explosion of May 18th, 1945. The invitation to sleep there was made to me by Raoul and Gaston Guillemette who were at the Restaurant on the night that I went to sleep there. I also remember that some time after the May 18th, explosion, I went to sleep at the sister's home of Raoul and Gaston Guillemette who lives on Laviolette St., I do not know whether it is Mrs. Guilbert or the other one of their sisters who is married but whose name I do not remember, but I do know she lives on Laviolette St.

Signed at Montreal, this 16th day of July 1945.

(Signed) Roch Bellerive.

Witnesses:
R.A. Gervais
L.P.M. Morel
J.L.T. Desmarais

CERTIFIED TRUE TRANSLATION

(L.P.M. Morel) Cst.,
R.C.M. Police

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Appendide B

D-166166 Sgt. R. Charest, R.C.E.M.E., attaché à la Compagnie numéro 4, Westmount, Québec, ayant été dûment assermenté, déclare:

Le 22 mai 1945, à Westmount, j'ai examiné les véhicules de l'armée nos. 54-636 et 54-385, deux stations wagons, propriété du Ministère de la Défense Nationale, émis au Corps de la Prévôté.

Le véhicule 54-636, de marque DODGE, demi-panel en acier, était endommagé. Les réparations à effectuer sur ce véhicule s'élevaient au coût de $70.11.

Le véhicule 54-385, de marque Plymouth 1941, stations wagons modèle P-12 était également endommagé. Les réparations à effectuer sur ce véhicule s'élevaient au coût de $175.92.

R Charest sgt

(R. Charest) Sgt. R.C.E.M.E.

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COUR MARTIALE DE DISTRICT

PROCES-VERBAL

D-654073, Private R. BELLERIVE, CIC,CA,
att'd to No. 44 C.I. (B) T.C., CA

St.Jérome, P.Q., 24 août 1945

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A

Le président doit rayer et initialer tout ce qui, sur la présente formule, est inutile ou étranger à ce procès.

Formule de Procès Verbal de Cour Martiale Générale ou de District

Procès verbal d'une Cour martiale de District tenue à No. 44 C. I. (B) T.C.,CA, St-Jérome, P.Q. le 24 août 1945 par ordre du Major-Général E. J. Renaud, C.B., C.B.E., Commandant du District Militaire No. 4

en date du 22e jour d'août 1945.

Président.

Major L.-J.-E. BELLEAU,
Quartiers Généraux, District Militaire No. 4

Membres.

Major I.-L. LAVALLEE,
attaché au C. I. (B) T.C. No. 43, CA

Capitaine J.-M.-G. BOUCHARD,
Le Régiment de Maisonneuve, CA

Procès de * D-654073, Private R. BELLERIVE, C.I.C., CA, attached to No. 44 C. I. (B) T.C., CA

L'ordre de convocation de la Cour, l'acte d'accusation et le sommaire de la preuve sont déposés devant la Cour.

La Cour s'assure que les prescriptions des Règles de Procédure 22 et 23 ont été observées.

L'accusé est amené devant la Cour.

Procureur,† Capitaine H. Primeau, Quartiers-Généraux, District Militaire No. 4

officier défenseur † Lieutenant R.O. Craig, Le Régiment de St-Hyacinthe, CA, attaché au C.I.(B)T.C. No. 44, CA

L'audience commence à 1000 heures.

L'ordre de convocation de la Cour est lu et est marqué "X" signé par le Président et versé au dossier.

Les noms du président et des membres de la Cour sont lus à portée d'oreille de l'accusé et chacun d'eux répond à l'appel de son nom.

Question du Président à l'accusé.

Q.1 Avez-vous objection à être jugé par moi comme Président, ou par un des officiers que vous venez d'entendre nommer?

Réponse de l'accusé.

R. Non, monsieur.

(N.B. — L'objection, le cas échéant, doit être consignée avec la décision de la Cour, sur une feuille séparée.)

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* Insérer le N°, le grade, les nom et prénoms, le Régiment et l'emploi (le cas échéant).
† Insérer le rang et le nom et, au besoin, le régiment.
‡ Insérer la qualité.

Je me suis assuré qu'aucun des officiers détachés pour siéger à la cour présentement fait partie d'un conseil d'enquête ayant examiné la cause soumise à la présente cour martiale.

L.J.E. Belleau
(L.-J.-E. BELLEAU) Major.

M.F.R. 271A
5M — 6-42 (4790)
H.Q. 17/2-39-224

B

Le Président, et les membres [redacted] sont dûment assermentés.

Les officiers suivants, présents aux fins d'instruction, sont dûment assermentés. (voir la liste ci-jointe marquée "G")

Q.2 Vous objectez-vous à D-126762, S/M (WOI) Joseph La Rivière, No. 4 Det., CMSC,CA, comme sténographe?

R. Non, monsieur.

D-126762, S/M (WOI) Joseph La Rivière, No. 4 Det., CMSC,CA, est dûment assermenté comme sténographe.

Q.3 Vous objectez-vous à D-126762, S/M (WOI) Joseph La Rivière, No. 4 Det., CMSC,CA, comme interprète?

R. Non, monsieur.

D-126762, S/M (WOI) Joseph La Rivière, No. 4 Det., CMSC,CA, est dûment assermenté comme interprète.

Acte d'Accusation

L'acte d'accusation est signé par le Président, marqué B-2 et versé au dossier.

Instruction. Si l'accusé a [illegible] jugé d'après l'art. 46 (8) de l'Army Act, cela doit être consigné ici.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation ci-dessus.

Q. 4 Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture? *Question à l'accusé.*

R. Non coupable, monsieur. *Réponse.*

Q. 5 Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture? *Question*

R. Non coupable, monsieur. *Réponse.*

~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture? *Question*

Réponse.

Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture? *Question*

Réponse.

L'accusé s'étant avoué coupable sur le chef d'accusation, les prescriptions de la Règle de Procédure 35 (B) sont observées.

S'il y a eu " dénégation de culpabilité " sur quelque chef d'accusation, la Cour en connaîtra en premier lieu et ne procédera à l'instruction d'un " aveu de culpabilité " que lorsqu'elle aura rendu sa décision dans le premier cas.

J.P. Bellerive, Major.
Pres. C.M.

"B2"

C_H_A_R_G_E S_H_E_E_T

The accused, D-654073 Pte. BELLERIVE, R., C.I.C. (C.A.), attached to No. 44 C.I.(B)T.C. (C.A.), St. Jerome, Que., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE
SEC. 12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

At St. Jerome, Que., at 0100 hours 16th August, 1944, absented himself without leave from S-18, St. Jerome School of Army Instruction (C.A.) (Now known as No. 44 C.I.(B)T.C. (C.A.)), until he was apprehended by Civilian Authorities at Three Rivers, Que., at 1930 hours on the 15th of July, 1945, dressed in civilian clothes. Cost of apprehension and return to his unit: $1.65.

SECOND CHARGE
SEC. 24(4)
Army Act.

WILFULLY INJURING PUBLIC PROPERTY

in that he

at Trois Rivières, P.Q., at approximately 2130 hours, on the 18th May, 1945, wilfully injured D.N.D. vehicles No. 54-636 and No. 54-385, public property, causing damages to same in the amount of $70.11 and $175.92 respectively.

Signed at St.Jerome,P.Q.
this ~~16th~~ 21st day of August,
1945.

(P. BROSSEAU) Lieut.-Colonel,
O.C. No. 44 C.I.(B)T.C.

TO BE TRIED BY DISTRICT COURT-MARTIAL

(E.J.Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

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PROCEDURE SUR UNE DENEGATION DE CULPABILITE

QUESTION A L'ACCUSE

Q. 6 Désirez-vous demander un ajournement, sou prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense?

Réponse

R. Non, monsieur.

Le procureur s'adresse à la cour:

En vertu de l'Ordre-en-conseil 8563, je produis les documents suivants, lesquels ont rapport à l'accusé en cette cause:

a) un extrait certifié conforme des Ordres partie II, du S-18 St. Jerome School of Army Instruction, Ordre 189, en date du 31 août 1944,

b) une formule M.F.M. 215, certificat d'arrestation par la Gendarmerie Royale à Cheval du Canada,

c) une formule M.F.B. 1481, au montant de $1.65.

Les documents précités sont lus, marqués pièces "H", "I" et "J" respectivement, signés par le président et versés au dossier.

LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS.

PREMIER TEMOIN A CHARGE

D-125719, Caporal C.-E. LAPOINTE, No. 34 Company, Canadian Provost Corps, CA, étant dûment assermenté, est interrogé par le procureur:

Q. 7 Voulez-vous donner à la cour votre numéro régimentaire, votre rang et votre unité?

R. D-125719, caporal C.-E. Lapointe, No. 34 Company, Canadian Provost Corps, CA.

Q. 8 Depuis quand êtes-vous dans le "Canadian Provost Corps"?

R. Ca fait à peu près quarante mois.

Q. 9 Au point de vue pratique, au mois de mai 1945, étiez-vous dans le "Provost Corps"?

R. Oui, monsieur.

Q. 10 Etes-vous allé à Trois-Rivières récemment?

R. Oui, monsieur, au cours du mois de mai 1945.

Q. 11 Voulez-vous nous raconter un évènement qui a dû vous frapper au cours de votre séjour à Trois-Rivières?

PREMIER TEMOIN
A CHARGE

(suite)

R. Oui, monsieur; le 18 mai 1945 au soir, j'étais dans ma chambre à l'Hôtel Caumartin à Trois-Rivières lorsqu'à 9 h. 15 ou entre 9 h. 15 et 9 h. 30, j'ai entendu une détonation suivie d'une autre. Sur le coup, j'ai pas pensé que c'était un de mes "chars" qui avait fait ça; quelques minutes après, la femme de chambre est montée en haut et elle est venue me dire que mes chars étaient en feu.

Q. 12 Qu'est-ce que vous voulez dire par "mes chars"?

R. Mes deux "chars" dont j'étais en charge; j'étais en charge de deux "squads".

Q. 13 A qui appartiennent-ils? A qui appartenaient les deux véhicules?

R. Au"Canadian Provost Corps".

Q. 14 Etes-vous allé voir quel dommage il y avait?

R. Oui, monsieur.

Q. 15 A quel endroit étaient stationnés les véhicules?

R. Le Dodge était sur la rue.

Q. 16 Sur quelle rue?

R. Sur la rue St-Prosper. L'autre "station", le Plymouth, était sur le coin de la rue St-Prosper et De Niverville, je crois, dans le lot vacant.

Q. 17 Est-ce que c'était loin de l'hôtel?

R. Le Dodge n'était pas bien loin.

Q. 18 Combien de pieds à peu près?

R. Peut-être cent pieds de l'hôtel.

Q. 19 Et le Plymouth, lui?

R. Oh! à peu près cent cinquante à cent soixante pieds.

Q. 20 Avez-vous dit que quand vous aviez entendu une détonation vous étiez descendu?

R. Oui, monsieur; je suis descendu voir les "chars".

Q. 21 A quel véhicule êtes-vous allé d'abord?

R. Je suis allé au Dodge pour commencer.

Q. 22 Qu'est-ce que vous avez constaté?

R. Le "top" était arraché, la porte d'en arrière était ouverte, le siège était comme brûlé par de la poudre, noirci et tout arraché.

PREMIER TEMOIN
A CHARGE

(suite)

Q. 23 Avez-vous remarqué une senteur particulière?

R. J'ai remarqué une odeur de poudre.

Q. 24 Ensuite, où êtes-vous allé?

R. J'ai traversé la rue et je suis allé voir le Plymouth.

Q. 25 Qu'est-ce que vous avez remarqué là?

R. La même chose à peu près. Le "top" était arraché; les vitres étaient toutes craquées; le "dash" était craqué aussi; il y avait un trou dans le plancher en avant.

Q. 26 Avez-vous remarqué une senteur particulière?

R. Ca sentait encore une odeur de poudre.

Q. 27 A quelle heure aviez-vous stationné votre véhicule à cet endroit-là?

R. Ils étaient stationnés là depuis cinq heures de l'après-midi.

Q. 28 Dans quel état était-il le Plymouth et dans quel état était le Dodge quand vous les avez stationnés?

R. Ils étaient en bon état.

Q. 29 Avec qui étiez-vous à Trois-Rivières?

R. Avec le lance-caporal Magee, le lance-caporal Woodburn, le lance-caporal Mailhot, et puis Michaud, Loiselle et Lefrançois.

L'OFFICIER DEFENSEUR NE DESIRE PAS CONTRE-INTERROGER LE TEMOIN.

INTERROGE PAR LA COUR:

Q. 30 Savez-vous les numéros des voitures de l'armée à votre disposition alors?

R. Le Dodge était 636 et le Plymouth était 235.

Q. 31 De l'endroit où vous étiez à l'hôtel, pouviez-vous voir les véhicules?

R. Non, pas directement, parce que les véhicules étaient dans la rue et notre chambre était dans l'hôtel en arrière au deuxième étage.

Q. 32 Quelle sorte de voiture était-ce?

R. Un Dodge et un Plymouth.

Q. 33 Oui, mais quant à la forme, le modèle?

PREMIER TEMOIN
A CHARGE

(suite)

R. C'étaient des "station wagons".

Q. 34 Qu'est-ce que vous voulez dire quand vous dites que les brûlures que vous avez constatées sur le siège semblaient avoir été faites par de la poudre?

R. C'est parce que la ouate dans le siège était noircie.

Q. 35 Avez-vous déjà été témoin d'un autre incident où de la poudre aurait causé des dommages?

R. Je ne le crois pas.

Q. 36 Est-ce que vous avez déjà constaté certains dégâts où il s'agissait bien de la poudre qui avait causé les dégâts?

R. Ca peut arriver mais là-dessus je pourrais pas me prononcer; j'ai jamais remarqué assez pour ça.

Q. 37 Est-ce que ça aurait pu être autre chose que de la poudre qui aurait causé des dégâts aux véhicules?

R. Je le crois pas.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

DEUXIEME TEMOIN
A CHARGE

D-125704, Lance-caporal J. WOODBURN, No. 34 Company, Canadian Provost Corps, CA, ayant été dûment assermenté, est interrogé par le procureur:

Q. 38 Will you give the Court your regimental number, name and unit, please?

R. D-125704, L/Cpl J. WOODBURN, No. 34 Company, Canadian Provost Corps, CA.

Q. 39 Have you been in Three Rivers recently?

R. I left on May 10th, 1945; I left Montreal on the tenth of May, 1945.

Q. 40 Where did you go?

R. Three Rivers.

Q. 41 Will you tell the Court what happened during your stay in Three Rivers on May 18, 1945, between 2115 and 2130 hours?

R. I was sleeping at the time at my hotel, at the time this accident happened.

DEUXIEME TEMOIN
A CHARGE

(suite)

Q. 42 What happened exactly?

R. Two cars were dynamited.

Q. 43 What have you seen yourself?

R. I was sleeping at the time, when L/Cpl Magee woke me up and talked to me; I went downstairs; when I went down, the fire reels were already there.

Q. 44 Was there a fire?

R. It was not exactly a fire; the front seat was smouldering on the Dodge.

Q. 45 What manner or kind of Dodge?

R. A station wagon.

Q. 46 What was the number of that station wagon?

R. 636.

Q. 47 Will you tell the Court what damage you have seen?

R. The front seat of the Dodge was all broken up; the windshield and the windows and the doors.

Q. 48 To whom belonged that station wagon?

R. It belonged to the Canadian Provost Corps.

Q. 49 Was there any vehicle on the street there?

R. There was a Plymouth in a vacant lot.

Q. 50 Where?

R. On the other side.

Q. 51 Did you see that vehicle?

R. I was there at the time.

Q. 52 What is the number of that vehicle?

R. I don't know.

Q. 53 What is the make of the vehicle?

R. Plymouth.

Q. 54 What kind of Plymouth?

R. A station wagon.

Q. 55 Was it damaged?

R. Yes, Sir.

DEUXIEME TEMOIN
A CHARGE

(suite)

Q. 56 What damage was there?

R. The front seat of that wagon was damaged, the windshield, and also the floor board.

CONTRE-INTERROGE PAR L'OFFICIER DEFENSEUR:

Q. 57 Did you say that this Dodge station wagon had been dynamited?

R. Yes, Sir.

Q. 58 What do you know about dynamite yourself?

R. I don't know very much but there was two gallons of "gas" in the back of the car; I happened to take them out.

Q. 59 What do you mean by "there were two gallons of 'gas' in the back"? What did that have to do with this dynamite business?

R. All the doors were locked and the windows were shut; it must have been something...

Q. 60 But you can't swear definitely that it was dynamite?

R. No, Sir.

Q. 61 Could it have been a shot from a gun or a mortar or something of that kind?

R. No, Sir.

Q. 62 Why?

R. Because that would have to leave holes in the car.

Q. 63 Was there no hole in the floor board of one of the cars?

R. Yes, it was ripped open.

Q. 64 Which one?

R. The Plymouth.

LE PROCUREUR NE DESIRE PAS EXAMINER CE TEMOIN DE NOUVEAU.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

TROISIEME TEMOIN
A CHARGE

D-77476, Lance-caporal J.W.D. MAGEE, No. 34 Coy, Canadian Provost Corps, CA, ayant été dûment assermenté, est interrogé par le procureur:

Q. 65 Will you give the Court your regimental number, name and unit?

R. D-77476, L/Cpl J.W.D. MAGEE, No. 34 Coy, Canadian Provost Corps, CA.

Q. 66 Have you been in Three Rivers recently?

R. Not since May 18, 1945.

Q. 67 Did anything special happen when you were in Three Rivers on May 18, 1945?

R. Yes, on the evening of May 18, 1945, two of the Provost Corps vehicles were damaged.

Q. 68 Have you seen the damages yourself?

R. Yes, Sir.

Q. 69 Will you describe them to the Court?

R. Both vehicles were damaged to the extent that the roofs were blown out, the seats were badly damaged and the windows were shattered.

Q. 70 Where were the vehicles at the time?

R. The vehicle was parked in front of the Caumartin Hotel; the other one was parked on a vacant lot at the corner of de Niverville and St.Prosper streets.

Q. 71 Do you know the numbers of the vehicles?

R. One was D.N.D. vehicle No. 636; the other one I can't recall.

Q. 72 How did you happen to see the damaged cars?

R. The chambermaid of the Hotel Caumartin came running into the hotel and stated something; I went down in the street and had a look at the damage.

L'OFFICIER DEFENSEUR NE DESIRE PAS CONTRE-INTERROGER CE TEMOIN.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

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QUATRIEME TEMOIN
A CHARGE

D-145175, Lance-caporal J.-R. MAILHOT, No. 35 Company, Canadian Provost Corps, CA, ayant été dûment assermenté, est interrogé par le procureur:

Q. 73 Voulez-vous donner à la cour votre numéro régimentaire, votre nom et votre unité?

R. D-145175, Lance-caporal J.-R. MAILHOT, No. 35 Coy, Canadian Provost Corps, CA.

Q. 74 Avez-vous été à Trois-Rivières au cours du mois de mai 1945?

R. Oui, monsieur.

Q. 75 Quelles étaient vos fonctions là?

R. J'étais chauffeur.

Q. 76 Chauffeur de quoi?

R. Chauffeur du "station wagon" 54636.

Q. 77 Est-ce qu'il est arrivé quelque malheur à ce "station wagon"-là?

R. Oui, monsieur.

Q. 78 Voulez-vous raconter à la cour ce qui est arrivé?

R. Au temps de l'incident, j'étais couché à l'Hôtel Caumartin; j'ai été réveillé par le caporal Lapointe qui m'a averti de quelque chose. J'ai descendu tout de suite et j'ai remarqué qu'il y avait eu une explosion. Les pompiers et la police de la ville de Trois-Rivières étaient sur les lieux déjà.

Q. 79 Où étaient les véhicules? D'abord, où était stationné votre véhicule?

R. Sur la rue St-Prosper.

Q. 80 A quelle distance de l'hôtel?

R. A soixante-et-quinze ou cent pieds.

Q. 81 Voulez-vous décrire les dommages que vous avez vus?

R. Le toît du véhicule était bien endommagé; les vitres étaient toutes brisées ainsi que les sièges d'en avant, du milieu et d'en arrière étaient endommagés.

Q. 82 Avez-vous remarqué une senteur?

R. Oui, une senteur de poudre.

Q. 83 Comment dites-vous que c'était une senteur de poudre?

R. Ben...une senteur de poudre...

QUATRIEME TEMOIN
A CHARGE

(suite)

Q. 84 Est-ce qu'il y avait de la gazoline en dedans du véhicule?

R. Oui, monsieur.

Q. 85 A quelle place preniez-vous cette gazoline-là?

R. Au camp de la "Air Force" à Trois-Rivières.

Q. 86 A quel moment l'aviez-vous pris cette gazoline-là?

R. J'ai rempli ma "tank" vers quatre heures de l'après-midi.

Q. 87 En aviez-vous mis dans des canistres?

R. Oui, monsieur.

Q. 88 A quelle heure?

R. A la même heure.

Q. 89 Après l'explosion, où étaient les canistres?

R. Les canistres étaient encore dans le véhicule en arrière; je les ai prises et je les ai mises de côté.

Q. 90 Est-ce qu'il y avait une différence entre le nombre de canistres mises dans le véhicule l'après-midi et le nombre qui s'y trouvaient le soir?

R. Non, monsieur, elles étaient toutes là.

Q. 91 Quelle partie du véhicule était le plus endommagé?

R. Le siège.

Q. 92 Quel siège?

R. Celui d'en avant.

Q. 93 A quel endroit se trouvait votre gazoline?

R. En arrière.

Q. 94 En arrière de quoi?

R. Dans le "char" en arrière...le siège d'en arrière.

L'OFFICIER DEFENSEUR NE DESIRE PAS CONTRE-INTERROGER CE TEMOIN.

DE L'AVIS DE LA COUR, IL N'EST PAS N ECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

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CINQUIEME TEMOIN
A CHARGE

R.216876, L/A/C M. LEVASSEUR, attached to No. 4 Repair Depot, R.C.A.F., Scoudic, N.B., ayant été dûment assermenté, est interrogé par le procureur:

Q. 95 Voulez-vous donner à la cour votre matricule, votre nom et votre occupation?

R. R.216876, L/A/C LEVASSEUR, M., attached to No. 4 Repair Depot, R.C.A.F., Scoudic, Nouveau-Brunswick; je suis stationné là à Scoudic.

Q. 96 Connaissez-vous l'accusé dans cette cause?

R. Oui, monsieur.

Q. 97 L'avez-vous regardé?

R. Oui, monsieur.

Q. 98 Quel est son nom?

R. "Bellerive". (Le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte)

Q. 99 Depuis combien de temps connaissez-vous l'accusé?

R. A peu près un an que je le connais pour lui parler.

Q. 100 L'avez-vous rencontré à Trois-Rivières au cours du mois de mai 1945?

R. Oui, monsieur.

Q. 101 Voulez-vous raconter à la cour dans quelles circonstances vous l'avez rencontré?

R. Je l'ai rencontré au restaurant chez monsieur Guillemette à Trois-Rivières. Il était après parler que s'il pouvait avoir de la dynamite, il ferait sauter les "chars" des "provosts". Il disait: "Si on avait de la dynamite on ferait sauter les 'chars' des 'provosts'."

Q. 102 A qui parlait-il?

R. Il parlait avec Tessier.

Q. 103 A quelle distance étiez-vous du couple quand ils causaient ensemble comme ça?

R. J'étais à peu près à deux pieds.

Q. 104 Quand vous avez entendu "Si on avait de la dynamite on ferait sauter les 'chars' des 'provosts' ", qu'est-ce que vous avez fait?

R. Je leur ai dit que j'en avais de la dynamite.

Q. 105 Quelle a été la réponse?

R. Ils m'ont demandé si je voulais leur en donner.

CINQUIEME TEMOIN
A CHARGE

(suite)

Q. 106 Qui vous a demandé ça?

R. C'est un des deux; je ne sais pas lequel des deux.

Q. 107 Qu'est-ce que vous avez répondu?

R. J'ai dit que s'ils en voulaient, j'étais pour leur en donn er.

Q. 108 Voulez-vous continuer à raconter ça à la cour?

R. J'ai été dîner; après dîner, je leur ai donné deux bâtons de dynamite; je leur ai donné aussi deux mèches et deux 'caps'.

Q. 109 A quel endroit leur avez-vous remis ça?

R. Dans le passage du restaurant.

Q. 110 Quel restaurant?

R. Chez Guillemette.

Q. 111 A qui avez-vous remis les deux bâtons de dynamite?

R. Je ne sais pas lequel des deux.

Q. 112 Est-ce que les deux étaient présents quand vous avez remis à l'un desdeux les bâtons de dynamite?

R. Non, il y en avait seulement un.

Q. 113 Où était l'autre?

R. Dans le restaurant.

Q. 114 Combien de temps après est-il arrivé?

R. Pas longtemps.

Q. 115 A peu près?

R. Quatre ou cinq minutes.

Q. 116 Quand l'autre est arrivé, c'est-à-dire celui qui n'était pas là quand vous avez remis la dynamite à l'un des deux, où étaient les bâtons de dynamite?

R. Je crois qu'il les avait mis dans ses poches.

Q. 117 Est-ce que l'un des deux a montré à l'autre les bâtons de dynamite?

R. Je pense que oui.

Q. 118 En votre présence?

R. Oui, monsieur.

Q. 119 Qu'est-ce qui s'est passé après ça?

CINQUIEME TEMOIN
A CHARGE

(suite)

R. Je me suis en allé.

Q. 120 Est-ce qu'ils vous ont donné des explications?

R. Ils n'en ont pas demandé mais je leur ai dit de faire un trou dans ça avec du fer parce que c'était dangereux de faire ça avec du bois.

Q. 121 Pouvez-vous dire à la cour si celui qui est arrivé après que vous aviez remis les bâtons de dynamite à l'un des deux, s'il savait à ce moment-là que vous veniez de remettre des bâtons de dynamite à l'un des deux?

L'OFFICIER DEFENSEUR S'OBJECTE A LA QUESTION.

LA COUR MAINTIENT L'OBJECTION.

Q. 122 Quand l'autre est arrivé, a-t-il été question de dynamite?

R. Il en a été question puisqu'il l'avait vue.

Q. 123 Qui l'avait vue?

R. Je sais pas lequel les avait vus les bâtons d'abord mais l'autre est arrivé.

Q. 124 Avez-vous revu Bellerive après avoir remis les bâtons de dynamite?

R. Je ne crois pas; je crois que non.

Q. 125 Vous avez parlé tout à l'heure d'une conversation entre Tessier et Bellerive dans le restaurant Guillemette?

R. Oui, monsieur.

Q. 126 A quelle date est-ce ça?

R. Je ne peux pas spécifier.

Q. 127 A peu près quel mois?

R. Dans le mois de mai, vers le milieu de mai.

Q. 128 De quelle année?

R. 1945.

Q. 129 Le matin ou le soir?

R. C'était le matin.

Q. 130 A peu près quel jour de la semaine?

CINQUIEME TEMOIN
A CHARGE

(suite)

R. Dans le milieu de la semaine; je ne peux pas dire la journée au juste.

Q. 131 Comment se fait-il que vous avez rencontré Tessier et Bellerive dans l'après-midi après les avoir vus le matin? Comment se fait-il que vous vous êtes adonné à les rencontrer?

R. Je leur ai emporté la dynamite.

Q. 132 Aviez-vous fix é un rendez-vous?

R. Oui, monsieur.

Q. 133 Avec qui?

R. Avec eux autres.

CONTRE-INTERROGE PAR L'OFFICIER DEFENSEUR:

Q. 134 Quel âge avez-vous?

R. J'ai vingt-deux ans.

Q. 135 Quel est votre degré d'instruction? Etes-vous allé à l'école?

R. Oui, monsieur.

Q. 136 Combien de temps êtes-vous allé?

R. J'ai été jusqu'en septième année.

Q. 137 Est-ce que vous avez eu du trouble personnellement avec cette histoire de dynamite?

R. Non, monsieur.

Q. 138 Il n'y a pas eu de charge contre vous?

R. Non, monsieur.

Q. 139 Avez-vous été interrogé par la police?

R. Oui, monsieur.

Q. 140 Qui vous a interrogé?

R. La Police Montée.

Q. 141 Qui de la Police Montée vous a interrogé?

R. Monsieur Morel et un autre; l'autre nom, je m'en rappelle pas.

Q. 142 Est-ce que c'était un gradé l'autre?

R. Je pense que c'était un caporal.

CINQUIEME TEMOIN
A CHARGE

(suite)

Q. 143 Est-ce que les deux vous ont interrogé?

R. Oui, monsieur.

Q. 144 Où avez-vous été interrogé?

R. Au bureau de la Police Montée à Trois-Rivières, au bureau de poste.

Q. 145 Est-ce qu'ils vous ont mis en garde avant ça?

R. Non, monsieur.

Q. 146 Ils ne vous ont rien dit avant ça?

R. Non, monsieur.

Q. 147 Avez-vous donné à Morel et à cet autre dont vous ne vous rappelez pas le nom, le même témoignage que vous avez donné ce matin, ici?

R. Oui, monsieur.

Q. 148 Vous ne vous rappelez pas à lequel des deux vous avez donné la dynamite?

R. Non, monsieur.

Q. 149 Est-ce que l'un ou l'autre vous en a demandé de la dynamite textuellement ou si c'est vous qui en avez offert?

R. Il me l'a demandé.

Q. 150 Maintenant, voici ce que vous avez dit dans votre témoignage à la prise du résumé de la preuve, au capitaine Primeau; je lis à la page 3 du sommaire:

"Q. Voulez-vous nous raconter ce que vous savez au sujet de cette explosion?

R. Un avant-midi, j'ai rentré au restaurant chez monsieur Guillemette.

Q. Avant l'explosion?

R. Oui, monsieur.

Q. Après?

R. Bellerive et Tessier étaient après parler de "trucks". Ils disaient s'ils avaient de la dynamite pour faire exploser les "trucks"; j'ai dit que j'en avais."

Alors, c'est là-dessus que ma prochaine question va porter. Comment ça s'est-il produit exactement cette histoire de conversation au sujet de la dynamite? C'est ça que je voudrais que vous expliquiez clairement.

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CINQUIEME TEMOIN
A CHARGE

(suite)

R. 150 Ils étaient après parler dans le restaurant; moi, j'étais au restaurant, et je leur ai dit que j'en avais. Ils disaient que s'ils avaient de la dynamite, ils feraient sauter les "trucks" des "provost".

Q. 151 Voulez-vous rapporter les paroles qui ont été dites? Est-ce que vous vous en rappelez?

R. Je m'en rappelle pas; je sais qu'ils parlaient de ça mais je me rappelle pas des mots; ça fait trop longtemps.

Q. 152 De toute façon c'est pas vous qui avez offert la dynamite?

R. Non, monsieur.

Q. 153 Vous ne savez pas qui l'a demandée?

R. Non, monsieur.

Q. 154 Mais quelqu'un l'a demandée?

R. Un des deux l'a demandée; je me rappelle pas qui.

Q. 155 Vous ne vous rappelez pas à qui vous l'avez remise la dynamite?

R. Non, monsieur.

Q. 156 Où l'avez-vous remise?

R. Dans le passage du restaurant en dehors.

Q. 157 Combien de temps avez-vous été dans le passage du restaurant en dehors?

R. Quatre...cinq minutes.

Q. 158 En partant de là, qu'avez-vous fait...en partant du passage-là, qu'est-ce que vous avez fait?

R. J'ai entré dans le restaurant.

Q. 159 Avec qui?

R. Avec tous les deux, je pense.

Q. 160 Dehors, vous étiez seul avec un des deux?

R. Oui, monsieur.

Q. 161 Vous avez dit tout à l'heure à une question du procureur que vous ne vous rappeliez pas si celui qui avait reçu la dynamite de vous l'avait montrée à l'autre; est-ce exact?

R. Je crois qu'il l'a vue.

CINQUIEME TEMOIN
A CHARGE

(suite)

Q. 162 N'avez-vous pas dit tout à l'heure, avant de dire ça, que vous ne vous rappeliez pas?

R. J'ai dit que je me rappelais pas à qui je l'avais donnée; c'est ça que je me rappelais pas.

Q. 163 Vous rappelez-vous si celui qui l'a reçue dans le corridor en dehors du restaurant, si celui-là en entrant dans le restaurant, l'a montrée à l'autre?

R. Oui, en rentrant dans le restaurant.

Q. 164 Vous êtes allé avec l'un des deux, Tessier ou Bellerive, au dehors?

R. Oui, monsieur.

Q. 165 Vous lui avez présenté de la dynamite?

R. Oui, monsieur.

Q. 166 Vous êtes resté quatre, cinq minutes dehors?

R. Oui, monsieur.

Q. 167 Vous êtes entré dans le restaurant avec celui à qui vous avez remis la dynamite?

R. Oui, monsieur.

Q. 168 Vous lui avez remis la dynamite et vous êtes entrés ensemble dans le restaurant?

R. Non, monsieur; quand j'ai entré dans le restaurant, ils étaient tous les deux.

Q. 169 Vous, vous êtes entré après?

R. J'ai donné la dynamite à l'un; l'autre est arrivé après; après ça, on est entré dans le restaurant.

Q. 170 Vous n'êtes pas sûr si celui qui a reçu la dynamite de vous l'a montrée à l'autre?

R. Je ne suis pas sûr sûr mais je crois qu'il l'a vue.

Q. 171 Etes-vous entré dans le restaurant ou si vous êtes parti du restaurant pour aller ailleurs?

R. Après ça?

Q. 172 Oui?

R. Je suis entré dans le restaurant.

Q. 173 Avec qui?

R. Avec eux autres, tous les deux.

CINQUIEME TEMOIN
A CHARGE

(suite)

Q. 174 Une fois sorti, vous êtes parti du restaurant à un certain moment après cette histoire de dynamite, cette histoire de donner de la dynamite à l'un ou à l'autre?

R. Oui, monsieur.

Q. 175 Avez-vous ~~reçu~~ vu Bellerive après ça?

R. Non, monsieur, dans la même journée, je l'ai pas vu.

Q. 176 N'est-il pas possible que soit l'un ou l'autre des deux ait fixé un rendez-vous avec vous? Est-il possible que ce soit seulement un d'eux autres?

R. Oui, monsieur.

RE-EXAMINE PAR LE PROCUREUR:

Q. 177 Avez-vous eu connaissance d'une explosion à Trois-Rivières?

R. J'en ai eu connaissance mais j'étais pas là.

Q. 178 Vous en avez entendu parler?

R. Oui, monsieur.

Q. 179 Est-ce que l'explosion est arrivée la même journée que vous avez donné les bâtons de dynamite?

R. Oui, monsieur.

INTERROGE PAR LA COUR:

Q. 180 Pouvez-vous dire la longueur des bâtons de dynamite que vous avez remis aux deux personnes?

R. Environ un pied de long.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

LE PROCUREUR S'ADRESSE A LA COUR:

Je désirerais faire entendre un témoin qui n'est pas mentionné au sommaire; il n'a pas été entendu lors de la prise du résumé de la preuve parce qu'il était au Camp Borden. C'est le chauffeur de l'autre véhicule, et son témoignage est seulement pour établir qu'il en était le chauffeur et que son véhicule a été endommagé.

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L'officier défenseur informe la cour que la défense n'a pas d'objection à ce que le témoin soit entendu et qu'elle ne désire pas se prévaloir de ses droits en vertu de la règle de pratique 75.

SIXIEME TEMOIN
A CHARGE

D-12230, Private Paul MICHAUD, No. 34 Company, Canadian Provost Corps, CA, stationné au Camp Borden, Ontario, ayant été dûment assermenté, est interrogé par le procureur:

Q. 181 Voulez-vous donner à la cour votre numéro régimentaire, votre nom et votre unité?

R. D-12230, Private Paul MICHAUD, No. 34 Company, Canadian Provost Corps, CA; je suis stationné à Borden.

Q. 182 Au cours du mois de mai 1945, où étiez-vous stationné?

R. A Trois-Rivières.

Q. 183 Vous rappelez-vous d'un incident particulier qui est arrivé au cours du mois de mai 1945?

R. Oui, monsieur.

Q. 184 Voulez-vous raconter à la cour ce qui est arrivé?

R. Le véhicule dont j'étais le chauffeur particulièrement s'est fait sauter à Trois-Rivières, endommagé, c'est-à-dire.

Q. 185 Quel est le numéro de votre véhicule?

R. Je ne m'en rappelle plus du tout.

Q. 186 Qui était l'autre chauffeur à part de vous cette journée-là?

R. Je ne m'en rappelle pas.

Q. 187 A quel endroit était stationné votre véhicule?

R. En face de l'Hôtel Caumartin, à Trois-Rivières, sur la rue St-Prosper.

Q. 188 A quelle heure avez-vous constaté les dommages à votre véhic ule?

R. Environ entre 9 h. 30 et 10 heures.

Q. 189 Du soir ou du matin?

R. Le soir.

Q. 190 Voulez-vous dire à la cour quel dommage vous avez noté?

R. Le toit avait été enfoncé ou défoncé plutôt; les vitres en avant étaient brisées, et le "dash" était enfoncé; les portes étaient aussi défoncées.

SIXIEME TEMOIN
A CHARGE

(suite)

Q. 191 Avez-vous remarqué une senteur particulière à l'intérieur du véhicule?

R. Je me rappelle pas.

Q. 192 A qui appartenait ce véhicule-là?

R. Au Ministère de la Défense Nationale.

Q. 193 A quelle heure avez-vous laissé votre véhicule en repos cette journée-là?

R. Je crois que c'est vers 4 h. 30.

Q. 194 Dans quel état était-il alors?

R. Dans un très bon état.

Q. 195 Quelle était la marque du véhicule?

R. Plymouth.

Q. 196 Quel modèle?

R. C'était un "station wagon".

L'OFFICIER DEFENSEUR NE DESIRE PAS CONTRE-INTERROGER LE TEMOIN.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

A 1200 heures, le 24 août 1945, la cour s'est ajournée à 1330 heures, le 24 août 1945.

Le 24 août 1945, à 1330 heures, la cour se rassemble de nouveau conformément à la note d'ajournement; sont présents les mêmes membres que lors de l'ajournement.

Le capitaine Jacques Masson, C.P.C.,CA, attaché au C.I. (B) T.C. No. 44,CA, officier stagiaire présent aux fins d'instruction, demande à la cour la permission de se retirer pour cause d'autres devoirs.

La cour accorde la permission, et le capitaine Jacques Masson se retire.

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SEPTIEME TEMOIN
A CHARGE

A-109714, Private Roméo TESSIER, CIC,CA, attached to No. 4 District Depot, CA, ayant été dûment assermenté, est interrogé par le procureur:

Q. 197 Voulez-vous donner votre numéro et votre nom à la cour?

R. A-109714, Private Romeo Tessier.

Q. 198 Et votre unité?

R. C.I.C., CA, attaché au Dépot de District No. 4.

Q. 199 Connaissez-vous l'accusé dans cette cause?

R. Oui, monsieur.

Q. 200 Quel est son nom?

R. Ti-Roch Bellerive. (Le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte)

Q. 201 Où demeuriez-vous?

R. A Trois-Rivières.

Q. 202 Au cours du mois de mai 1945, à quelle place étiez-vous?

R. A Trois-Rivières.

Q. 203 Vous rappelez-vous un incident particulier survenu à Trois-Rivières?

R. Oui, monsieur.

Q. 204 Au cours du mois de mai 1945?

R. Oui, monsieur.

Q. 205 De quel incident s'agit-il?

R. Il s'agit des "trucks" des "provosts" qui ont sauté.

Q. 206 Voulez-vous raconter à la cour ce qui s'est passé, les circonstances avant, pendant et après?

R. Dans l'après-midi, on a parlé de dynamite, moi, Bellerive et Léo Levasseur; il s'agissait de faire sauter les "trucks" des "provosts". Le soir, le stock était prêt; on est allé prendre un coup et là je me rappelle plus de rien.

Q. 207 Quel jour c'était?

R. Le 18 mai 1945.

Q. 208 Le matin du 18 mai 1945, avez-vous rencontré Bellerive?

R. Non, monsieur.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 209 L'avez-vous rencontré dans le jour?

R. Dans l'avant-midi.

Q. 210 A quel endroit l'avez-vous rencontré?

R. Au restaurant chez Guillemette à Trois-Rivières.

Q. 211 De quoi a-t-il été question?

R. De dynamite.

Q. 212 Qu'est-ce que vous avez discuté entre vous autres?

R. On discutait que si on avait de la dynamite on ferait sauter les "chars" des "provosts".

Q. 213 Qu'est-ce qui est arrivé après?

R. Levasseur a amené de la dynamite et on s'est préparé.

Q. 214 A qui l'a-t-il donné?

R. A Bellerive.

Q. 215 En avez-vous eu vous-même?

R. Oui, certain!

Q. 216 Qui vous l'a donné?

R. Bellerive.

Q. 217 A quel endroit?

R. Au restaurant chez Guillemette.

Q. 218 A quelle heure?

R. Vers le midi.

Q. 219 Quel jour?

R. La même journée, le 18 mai.

Q. 220 La même journée que quoi?

R. La même journée que les "trucks" ont sauté.

Q. 221 Il était à peu près quelle heure, vous avez dit?

R. Midi.

Q. 222 Qu'avez-vous fait avec la dynamite?

R. Sur les instructions de Levasseur, j'ai placé la dynamite dans les bâtons chez nous; l'après-midi, j'ai descendu au restaurant chez Guillemette.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 223 Et puis?

R. Après ça, j'ai été souper et on est allé au restaurant prendre un verre de bière.

Q. 224 Chez qui êtes-vous allé prendre de la bière?

R. Au Bluebird.

Q. 225 A quelle heure êtes-vous entré au Bluebird?

R. A sept heures moins quart.

Q. 226 Où était Bellerive?

R. Il était avec moi au Bluebird.

Q. 227 Combien de temps êtes-vous resté au Bluebird?

R. Je ne peux pas dire; j'étais chaud.

Q. 228 Où êtes-vous allé après avoir été au Bluebird?

R. Je me rappelle d'avoir été chez Guillemette.

Q. 229 Quelle heure pouvait-il être à peu près?

R. Je ne peux pas dire quelle heure au juste.

Q. 230 Vous rappelez-vous d'avoir quitté Guillemette dans la même soirée?

R. Non, monsieur.

Q. 231 Qu'est-ce que vous avez fait?

R. Je me rappelle que quand j'ai parti de là, j'ai été chez nous; j'ai parti sur le bord de chez nous en tout cas.

Q. 232 Avez-vous déjà raconté quelque part ce qui s'était passé entre six heures et dix heures du soir cette journée-là?

R. Non, monsieur; j'ai jamais raconté rien.

LE PROCUREUR DEMANDE A LA COUR DE DECLARER LE TEMOIN HOSTILE.

PAR LA COUR:

La cour n'est pas satisfaite que le témoin peut être jugé hostile, et si plus tard le témoin se montre récalcitrant, le procureur pourra faire une nouvelle demande.

L'interrogatoire se poursuit:

Q. 233 Vous rappelez-vous d'avoir rendu témoignage dans le sommaire de la preuve dans la cause de Bellerive?

R. Oui, à la Police Montée.

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SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 234 Après ça, quand je suis allé à Longueuil prendre le sommaire de la preuve dans la cause de Bellerive, vous rappelez-vous avoir rendu témoignage devant moi?

R. Oui, monsieur.

Q. 235 Vous étiez sobre ce jour-là?

R. Oui, monsieur.

Q. 236 Je vous ai posé des questions dans ce sommaire-là. Vous rappelez-vous que je vous ai demandé si vous étiez allé voir si les portes et les fenêtres des camions des "provosts" étaient ouvertes, et vous avez répondu "Oui, je m'en rappelle" ? Vous rappelez-vous d'avoir répondu ça au sommaire de la preuve?

R. Vous avez posé assez de questions au sommaire de la preuve que je ne peux pas dire.

Q. 237 Vous rappelez-vous que je vous ai posé la question suivante aussi: "Puis vous avez allumé votre bâton et vous l'avez laissé là?" et vous avez répondu: "Oui, monsieur" -- vous en rappelez-vous?

R. (PAS DE REPONSE)

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

"Je m'objecte! Ce n'est pas la cause de Tessier mais celle de Bellerive. Je prétends qu'il ne peut être admis en preuve une telle question. Le procureur pose des questions formelles qui ont été posées à la prise du sommaire de la preuve dans la cause de Tessier. On ne juge pas Tessier ici; on juge Bellerive. Je soutiens que ceci n'est pas légal!

LE PROCUREUR S'ADRESSE A LA COUR:

"Je présente tout simplement au témoin son témoignage qu'il a rendu dans le sommaire de la preuve dans la cause de Bellerive et non pas dans le cas de Tessier.

"Je le mets en présence d'une de ses répon ses parce qu'il vient de me dire qu'il ne s'en rappelle plus. Je le mets en présence d'une de ses déclarations au sommaire de la preuve."

LA COUR RENVOIE L'OBJECTION DE LA DEFENSE.

Q. 238 Alors, vous rappelez-vous d'avoir dit ça? Vous rappelez-vous que je vous ai posé la question suivante: "Vous rappelez-vous vous être rendu près des camions des 'provosts' ?" et vous avez dit, "Je me rappelle que Bellerive et moi étions là quand les camions ont sauté." ?

R. Je peux vous avoir dit que j'avais approché près des "trucks" après; quand j'étais là, les "trucks" avaient sauté, mais pas avant que les "trucks" sautent; ça, j'ai pas dit ça.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 239 Après avoir été chez Guillemette, qu'est-ce que vous avez fait?

R. J'ai parti chez nous pour me coucher.

Q. 240 Et puis, êtes-vous sorti de nouveau?

R. Ben...quand un gars se couche, il se relève le lendemain d'habitude.

Q. 241 Dans le sommaire d'évidence, vous dites que vous êtes allé aux camions des "provosts"?

R. Oui, le lendemain, dans le garage.

Q. 242 Vous dites que c'est le soir même, dans le sommaire ici, que vous êtes allé voir les camions des "provosts". Je vous ai demandé: "Puis, avez-vous allumé votre bâton et l'avez laissé là?" et vous avez répondu: "oui". Alors, vous n'étiez pas couché?

R. J'ai rien à répondre là-dessus.

LE PROCUREUR S'ADRESSE A LA COUR:

Je fais une motion pour que le témoin soit déclaré hostile.

LA COUR DECLARE LE TEMOIN HOSTILE ET PERMET AU PROCUREUR DE LE QUESTIONNER COMME TEMOIN HOSTILE.

Q. 243 Quand vous avez reçu les bâtons de dynamite de Levasseur, quelle était votre intention à ce moment-là?

R. L'intention était de faire sauter les "trucks" des "provosts".

Q. 244 Avec qui?

R. Avec Bellerive.

Q. 245 Alors, vous êtes partis et vous vous êtes rencontrés le soir au Bluebird?

R. Le soir, on est allé chez Guillemette.

Q. 246 Et ensuite, vous êtes allés au Bluebird?

R. Oui, monsieur.

Q. 247 Et vous avez pris de la bière?

R. Oui, monsieur.

Q. 248 Après ça, n'est-il pas vrai que vous êtes sortis du Bluebird et que vous êtes allés avec un taxi d'un monsieur Larochelle? N'est-il pas vrai que vous êtes allé avec Bellerive prendre un taxi conduit par un monsieur Larochelle?

R. Non, monsieur.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 249 Est-ce que c'est vrai, oui ou non?

R. Oui, c'est vrai, mais par exemple, c'est pas arrivé de même. C'est vrai ce que vous venez de dire avec Bellerive.

Q. 250 Vous et Bellerive?

R. Il est sorti du Bluebird et j'ai sorti après. Bellerive, du Bluebird, est descendu chez Guillemette.

Q. 251 Vous rappelez-vous ce que vous avez fait? Vous rappelez-vous que vous vous êtes rendus ensemble vous et Bellerive près de l'Hôtel Caumartin?

R. Non, monsieur.

Q. 252 Vous ne vous rappelez pas de ça?

R. Non, monsieur.

Q. 253 Vous rappelez-vous avoir été voir si les portes et les fenêtres des camions des "provosts" stationnés en face de l'Hôtel Caumartin étaient fermées?

R. Non, monsieur.

Q. 254 Vous ne vous rappelez pas du tout?

R. Non, monsieur.

Q. 255 Comment se fait-il qu'il y a à peine une semaine ou deux vous m'avez dit: "Je m'en rappelle" ?

R. C'est un"mixage" ça.

Q. 256 N'est-il pas vrai qu'il y avait deux camions militaires stationnés en face de l'Hôtel Caumartin et que vous êtes allé voir un camion et que Bellerive est allé voir l'autre?

R. Je me rappelle de ces faits-là d'après la confession de Levasseur. Ce sont des faits qui m'ont été contés quand eux autres, la Police Montée, ont pris le témoignage de Levasseur. Mais de moi-même, je m'en rappelle pas; ce sont eux autres qui m'en ont fait rappeler.

Q. 257 Vous rappelez-vous d'avoir vu, d'avoir constaté avec Bellerive que les portes des camions étaient ouvertes et que les "chassis" étaient descendus?

R. Non, monsieur.

Q. 258 Vous rappelez-vous d'avoir allumé votre dynamite vous-même et l'avoir laissée dans le "char" des "provosts"?

R. Je me souviens pas de ça.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 259 Vous rappelez-vous d'avoir entendu le bruit de la détonation quand les "chars" des "provosts" ont explosé?

R. Ca...je peux l'avoir entendu mais je ne peux pas rien affirmer.

Q. 260 Comment pouviez-vous l'avoir entendu?

R. Ca, c'est d'après les confessions.

Q. 261 Etiez-vous là, oui ou non?

R. Je ne peux pas assermenter; j'étais chaud.

Q. 262 Les avez-vous vus sauter, les camions des provosts?

R. J'étais chaud; je m'en rappelle pas.

Q. 263 Comment se fait-il que dans votre déclaration, vous dites que vous vous en rappelez?

R. Je m'en rappelle pas de l'avoir dit.

Q. 264 Vous souffrez d'une perte de mémoire chronique?

R. C'est pas dû à tout le monde d'avoir une grande mémoire.

Q. 265 Le lendemain de l'explosion, étiez-vous encore chaud?

R. Non, j'étais pas chaud le lendemain.

Q. 266 Avez-vous rencontré Bellerive le lendemain?

R. Non, monsieur.

Q. 267 Combien de temps après l'avez-vous rencontré?

R. Seulement le soir d'après, le lendemain soir.

Q. 268 A quel endroit l'avez-vous rencontré?

R. Je l'ai rencontré chez Guillemette.

Q. 269 Qu'est-ce que vous avez fait là?

R. On a fait comme d'habitude; on se tient là; c'est la place qu'on va d'habitude.

Q. 270 Avez-vous parlé de l'explosion des "chars" des "provosts"?

R. Non, rien.

Q. 271 Pas un mot de ça?

R. Non, monsieur.

Q. 272 Ca ne vous intéressait pas d'en parler?

R. Non, monsieur.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 273 Pourquoi cela ne vous intéressait pas?

R. On avait aucun à propos d'en parler.

Q. 274 Vous n'étiez pas impliqué là-dedans?

R. Non, monsieur.

Q. 275 Quand on vous a rappelé aux faits et gestes dans la soirée du 18 mai, est-ce que vous avez admis que c'était ça?

R. J'ai rien admis.

Q. 276 Vous ne vous êtes pas aperçu de rien?

R. J'ai rien admis que j'avais fait le soir d'avant; j'ai dit que ça pouvait arriver.

Q. 277 Ca fait longtemps que vous prenez un coup?

R. Je prenais un coup comme d'habitude.

Q. 278 Vous vous souvenez d'avoir eu les bâtons de dynamite?

R. Je m'en rappelle.

Q. 279 Dans le but de faire sauter les "chars" des "provosts"?

R. Oui, monsieur.

Q. 280 Après ça, vous avez pris un coup?

R. Oui, monsieur.

Q. 281 Pour vous donner du "pep"?

R. C'est une question d'habitude.

Q. 282 Vous êtes allé chez Guillemette et à partir de ce moment-là, vous ne vous rappelez plus de rien?

R. Je me rappelle d'avoir pris de la dynamite dans l'avant-midi.

Q. 283 Mais le soir? Quand vous êtes retourné chez Guillemette, vous rappelez-vous d'avoir mis la dynamite dans une boîte de "coke" en arrière du magasin?

R. Non, monsieur.

Q. 284 Alors, quelle heure était-il quand vous avez laissé le Bluebird?

R. Je ne sais pas; j'étais chaud.

Q. 285 Vous ne vous en souvenez pas?

R. Non, monsieur.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 286 Comment se fait-il que vous vous rappelez d'avoir été chez vous?

R. J'ai mangé une "escousse"; quand un gars mange, ça dégrise un peu.

Q. 287 A quelle heure avez-vous mangé au restaurant?

R. L'heure que j'ai mangé...ça...l'heure du restaurant quand j'ai parti...j'ai parti du restaurant vers 11 h. 30; j'avais demandé l'heure au "waiter".

Q. 288 A quelle heure étiez-vous entré au restaurant?

R. Je ne peux pas affirmer.

Q. 289 A peu près?

R. Je ne peux pas dire à peu près.

Q. 290 Vous avez mangé là? Vous avez été là un bout de temps; combien de temps?

R. Une heure et demie, une heure peut-être, et peut-être une demi-heure; je le sais pas.

Q. 291 Etiez-vous avec Bellerive?

R. Non, monsieur.

Q. 292 Comment se fait-il que vous vous rappelez être seul?

R. Quand même un homme n'aurait pas "toute sa carte" à lui, quand on se rappelle qu'on était tout seul à un endroit...d'abord, je suis parti de chez nous tout seul.

Q. 293 Avant d'aller chez vous, où êtes-vous allé?

R. J'ai été au Bluebird et je suis descendu chez Guillemette.

Q. 294 Vous êtes catholique, vous?

R. Oui, monsieur.

Q. 295 Vous avez juré?

R. Oui, monsieur.

Q. 296 Vous savez ce que c'est un parjure?

R. Oui, monsieur.

Q. 297 Etes-vous en état de jurer que vous ne vous rappelez pas d'être allé sur la rue St-Prosper au cours de la soirée du 18 mai 1945?

R. Non, monsieur, je m'en rappelle pas.

Q. 298 Vous jurez ça positivement?

R. Oui, monsieur; de moi-même, je m'en rappelle pas.

135

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 299 Qu'est-ce que vous voulez dire par "de moi-même" ?

R. Pour dire que moi j'ai été là, je ne peux pas jurer.

Q. 300 Quand je vous dis que vous y êtes allé, est-ce que ça vous le rappelle?

R. Oui, ça peut me faire rappeler.

Q. 301 Vous êtes un homme honnête, vous?

R. Oui, mais dans la boisson, je peux avoir été là, mais dans ma propre connaissance, je peux pas y avoir été que je me rappelle.

Q. 302 Vous savez ce que c'est un serment?

R. Oui, monsieur.

Q. 303 Vous savez aussi ce que c'est qu'un faux serment?

R. Oui, monsieur.

Q. 304 Vous savez quelle est la peine pour un faux serment?

R. Oui, monsieur.

Q. 305 Etes-vous en mesure de jurer...?

R. Je vous jure pas ni que j'y ai été ou que j'y ai pas été; je vous dis que je m'en rappelle pas...je vous le jure pas. Vous me demandez des questions ...si j'ai été là...je le sais pas; je m'en rappelle pas.

Q. 306 Quand je vous dis, moi, que vous êtes allé sur la rue St-Prosper, est-ce que ça vous fait rappeler quelque chose?

R. Oui, par rapport aux autres confessions qui me l'ont fait rappeler par avant.

Q. 307 Qu'est-ce que ça vous fait rappeler?

R. Le coup qui a été fait ce soir-là.

Q. 308 Quand je vous rappelle que vous êtes allé à l'un des véhicules avec Bellerive sonder les portes pour voir si les portes et les fenêtres étaient ouvertes, est-ce que ça vous rappelle quelque chose

R. Oui, mais je peux pas jurer que j'ai ouvert les portes.

Q. 309 Etes-vous capable de jurer que vous n'êtes pas allé près des camions?

R. Je ne suis pas capable de jurer parce quand on est saoul, on ne peut pas jurer.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 310 Etes-vous prêt à jurer que vous n'êtes pas allé près des camions des "provosts"? Ca ne vous rappelle rien, ça?

R. Je ne peux pas jurer. Si j'avais été à jeun, je pourrais vous le jurer, mais j'étais chaud.

Q. 311 Pouvez-vous jurer sur votre conscience pas vous rappeler d'être sorti de chez Guillemette et d'être allé ailleurs avant d'aller chez vous?

R. A ce temps-là, j'étais dégrisé.

Q. 312 A quelle heure ça?

R. Vers 11 h. 30.

Q. 313 Avant 11 h. et demie, vous êtes capable de jurer que vous ne vous rappelez pas être sorti de chez Guillemette?

R. Oui, monsieur.

Q. 314 Vous êtes capable de jurer ça?

R. Pas pour le jurer; j'étais chaud.

Q. 315 Vous jurez que vous étiez assez chaud pour ne pas vous en rappeler?

R. Oui, monsieur.

Q. 316 A quelle heure vous rappelez-vous? Sur la fin de cette journée-là, la dernière chose que vous vous rappelez, quelle heure était-il alors? Vous vous souvenez de la veillée?

R. Oui, monsieur.

Q. 317 Quelle heure était-il quand vous avez repris votre connaissance?

R. J'étais après manger de la soupe chez Guillemette; il était vers 11 heures ou 11 h. 30; j'ai parti après ça.

Q. 318 Vous rappelez-vous du témoignage de monsieur Guillemette à votre procès?

R. Je m'en rappelle comme ça un peu.

Q. 319 Il est venu témoigner à votre procès à Longueuil?

R. Oui, monsieur.

Q. 320 Alors que vous étiez accusé d'avoir endommagé un véhicule militaire?

R. Oui, monsieur.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 321 Vous rappelez-vous l'avoir fait venir comme témoin pour témoigner simplement sur le fait qu'à neuf heures, entre neuf heures et dix heures, vous étiez au restaurant chez Guillemette, et comme question de fait, Guillemette a juré ça devant la cour?

PAR L'OFFICIER DEFENSEUR:

C'est du "hearsay"; l'accusé n'était pas là.

LA COUR RENVOIE L'OBJECTION DE LA DEFENSE.

R. Oui, monsieur.

Q. 322 Vous rappelez-vous que Guillemette est venu à votre procès?

R. Oui, monsieur.

Q. 323 Vous rappelez-vous que vous l'avez fait venir?

R. Non, monsieur.

Q. 324 C'est votre avocat qui l'a fait venir?

R. Oui, monsieur.

Q. 325 Pour dire que vous étiez au restaurant entre neuf heures et dix heures et demie?

R. Oui, monsieur.

Q. 326 C'était le but de son témoignage, ça?

R. Oui, monsieur.

Q. 327 Là, vous venez nous dire que vous mangiez de la soupe?

R. Oui, monsieur; mais il a dit aussi que j'aurais pu m'absenter et revenir plus tard et qu'il l'aurait pas remarqué. Il a dit ça aussi.

Q. 328 A 11 h. et demie, vous étiez encore là, ou si vous êtes revenu à 11 h. et demie?

R. A 11 h. et demie, je vous dis que je m'en rappelle que j'étais là.

Q. 329 Est-ce à ce moment-là que vous avez mangé votre soupe?

R. Oui, monsieur.

Q. 330 Pas à neuf heures?

SEPTIEME TEMOIN
A CHARGE

(suite)

R. Non, monsieur; si j'étais là à neuf heures, je m'en rappelle pas.

Q. 331 Vous ne vous rappelez pas d'avoir mangé de la soupe à neuf heures?

R. Non, monsieur.

Q. 332 Vous rappelez-vous, Tessier, d'avoir été devant la police montée le 9 juin 1945?

R. Je m'en rappelle pas au juste de la date, mais je me rappelle d'avoir été là.

Q. 333 Qui vous a interrogé? Vous en rappelez-vous?

R. Pour dire leurs noms...il y avait le caporal Desmarais et un autre; je ne sais pas son nom à lui.

Q. 334 Vous rappelez-vous des circon stances de votre procès, le mois dernier?

R. Oui, monsieur.

Q. 335 Vous rappelez-vous d'avoir dit au cours de votre procès que la police avait été polie à votre égard?

R. Oui, assez polie.

Q. 336 Alors que vous vous sentiez à l'aise, pas trop malheureux, vous rappelez-vous avoir dit ça?

R. Si je me rappelle d'avoir dit ça, c'est parce que je leur avais dit bien avant; ça faisait deux jours que j'avais pas mangé.

Q. 337 Est-ce qu'ils vous ont maltraité?

R. Non, monsieur.

Q. 338 De quelle façon ont-ils procédé pour prendre votre déclaration?

R. Premièrement, quand j'ai rentré là, ils m'ont demandé mon nom et ils m'ont demandé si je connaissais Levasseur. J'ai dit "Oui". Je leur ai dit: "J'ai déjà été à l'école avec lui". Monsieur Desfosses je le connaissais; je connaissais Vermette, pas par son nom, mais son premier nom - on l'appelait Maurice. Ils m'ont demandé: "Qu'est-ce que tu sais à propos des "trucks" des "provosts"? J'ai dit: "Absolument rien". La Police Montée m'a dit: "CA sert à rien de conter des menteries; Levasseur m'a tout conté les faits à moi-même."

Q. 339 Qu'est-ce qu'il avait conté, Levasseur?

R. Tout ce qu'il y a sur la confession de Levasseur.

Q. 340 Mais qu'est-ce qu'il avait dit, Levasseur?

SEPTIEME TEMOIN
A CHARGE

(suite)

R. Il avait dit qu'il nous avait donné de la dynamite qu'on avait fait sauter les "trucks"; ces affaires-là.

Q. 341 Levasseur n'était pas avec vous autres?

R. Non, monsieur.

Q. 342 Il y avait seulement Bellerive et vous?

R. Oui, monsieur.

Q. 343 Alors, Levasseur ne pouvait pas savoir les détails de la façon dont vous vous êtes pris pour faire sauter les "trucks"?

R. C'est pas moi certain qui les a racontés.

Q. 344 Alors, Levasseur n'a pas pu raconter à la police comment ça c'était passé?

R. La police m'a questionné exactement; il m'a tout raconté ça; c'est là-dessus qu'il a fait sa confession.

Q. 345 Oui, mais Levasseur pouvait pas savoir quelque temps avant que les "trucks" sautant que vous aviez dit: "Keep away from that truck", par exemple?

R. Si j'ai dit ça par après, je m'en rappelle pas.

Q. 346 Comment voulez-vous que Levasseur sache ça? Comment expliquez-vous que Levasseur savait ça s'il n'y était pas là?

R. Si j'ai dit ça à Levasseur, j'étais chaud; je me rappelle pas d'avoir dit ça à lui.

Q. 347 Mais à la Police Montée vous leur avez dit ça?

R. Pas moi! C'est pas moi qui ai dit ça.

Q. 348 C'est votre confession à vous?

R. C'est une confession de même...et d'une autre manière, c'est pas une confession.

Q. 349 Qui l'a faite cette confession-là?

R. C'est pas moi. Ce sont des questions. J'ai dit que je devais être là parce qu'il était question de dynamite; la confession a été formée là-dessus.

Q. 350 Vous nous avez dit que quand les camions ont sauté, il y avait juste Bellerive et vous, et que Levasseur n'était pas là?

R. J'ai pas dit que Bellerive et moi étaient là.

SEPTIEME TEMOIN
A CHARGE

(suite)

Q. 351 Vous avez pas dit ça?

R. Non, monsieur.

Sur la direction de la cour, le sténographe relit les questions et réponses suivantes au témoin:

Q. 341 Levasseur n'était pas avec vous autres?

R. Non, monsieur.

Q. 342 Il y avait seulement Ballarive et vous?

R. Oui, monsieur.

LE PROCUREUR S'ADRESSE A LA COUR:

"Je voudrais avoir l'original de la déclaration du témoin à la Police Montée, et je demanderais à la cour un ajournement de l'examen-en-chef de ce témoin pour quelques jours afin de me le procurer. Il s'agit d'une déclaration faite par le témoin Tessier à la Police Montée et signée par Tessier lui-même, le 9 juin 1945. Nous pouvons procéder avec les autres témoins en attendant."

L'OFFICIER DEFENSEUR INFORME LA COUR QUE LA DEFENSE N'A PAS D'OBJECTION A LA DEMANDE D'AJOURNEMENT DE LA POURSUITE.

LA COUR ACCUEILLE LA DEMANDE DU PROCUREUR ET L'EXAMEN-EN-CHEF DU SEPTIEME TEMOIN A CHARGE, LE SOLDAT ROMEO TESSIER, EST REMIS A DIX HEURES ET TRENTE DE L'AVANT-MIDI, LE JEUDI TRENTE AOUT 1945.

HUITIEME TEMOIN
A CHARGE

D-166166, Sergent Roland CHAREST, No. 4 Company, R.C.E.M.E., CA, ayant été dûment assermenté , est interrogé par le procureur:

Q. 352 Voulez-vous donner à la cour votre numéro régimentaire, votre nom et votre unité?

R. D-166166, sergent Roland CHAREST, No. 4 Company, R.C.E.M.E., CA.

Q. 353 Quelles sont vos fonctions au R.C.E.M.E.?

R. Je suis débosseur; en anglais "panel beater".

Q. 354 Combien d'expérience avez-vous dans votre métier?

R. Neuf ans dans la vie civile et trois ans dans l'armée.

Q. 355 Vous rappelez-vous avoir examiné des "chars" du "Provost Corps" au cours du mois de mai 1945?

R. Oui, monsieur.

HUITIEME TEMOIN
A CHARGE

(suite)

Q. 356 A quelle date?

R. Le vingt-deux du cinquième mois de 1945.

Q. 357 Voulez-vous dire à la cour quel dommage vous avez constaté sur ces véhicules? Donnez les numéros des véhicules et le prix des dommages, voulez-vous?

R. Véhicule appartenant aux "Composite Provost Companies", DODGE, D.N.D. 54636, licence 13-027:-

Réparations:		
Trois sièges réparés	11	heures
le plancher d'en arrière	10	-
installer le "top"	4	-
installer et ajuster le parebrise	5	-
ajuster la porte d'en avant à droite	2	-
ajuster la porte d'en avant à gauche	1	-
réparer le tapis d'en arrière	2	-
installer les parties en général	7	-

Pour les parties, voici le détail:-

vitre du parebrise - droite	$ 6.40
vitre du parebrise - gauche	6.40
vitre du "speedometer"	1.60
"headlining"	5.75
"right front door carboard"	1.20
deux verges et demie de cuirette	6.88
2 livres de ouate	.40
1 "panel board"	2.25
deux verges et demie de "top material"	4.23
bois pour le plancher d'en arrière	5.76
"floor mat"	5.70
TOTAL LIST PRICE	$47.57

Parties sujettes à l'escompte	$27.05	
Moins 40%	10.80	$16.25
Parties sans escompte		20.52
COUT NET DU MATERIEL		36.77
Plus taxe de 5% sur le matériel		1.84
Main d'oeuvre, 42 h. à 75 cents		31.50
COUT TOTAL DES REPARATIONS		$70.11

Q. 358 Et pour l'autre voiture?

R. Véhicule appartenant aux "Composite Provost Companies", PLYMOUTH, D.N.D. 54-385, licence 13-030:-

Réparations:		
le siège d'en avant	8	heures
le toit et les portes (la partie en bois)	48	-
"install top texture"	14	-
"dash backboard"	6	-
"Metal around top"	2	-
Ajuster quatre portes	5	-
"Right front door panelinside"	6	-
"Left front door panel inside"	4	-
"Heater"	4	-
"Install side glass"	2	-
"Install dash"	11	-
"Install parts"	17	-

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HUITIEME TEMOIN
A CHARGE

(suite)

R. (suite)

Pour les parties, voici le détail:

2 "windshield glasses"	$16.50	
2 "windshield wiper blades"	.90	
speedometer assembly	6.75	
oil gauge assembly	1.48	
ampere assembly	1.48	
temperature gauge	4.14	
fuel gauge assembly	2.80	
install panel lens	1.50	
front floor mat	6.60	
5 pieds de "defroster tube"	1.00	
floor board	5.00	
dash assembly	9.30	
2 kick pads, right and left	2.00	
left side rear glass	4.60	
right side center glass	3.65	
pour le bois	16.50	
3½ yds top texture	5.92	
4½ yds seat leatherette	12.38	
5 livres de ouate	1.00	
COUT DES PARTIES	$76.82	
Parties sujette à l'escompte	66.70	
Moins 40%	26.68	$40.02
Parties sans escompte		36.80
COUT NET DU MATERIEL		76.82
Plus 5% de taxe sur le matériel		3 .85
Main d'oeuvre, 127 h. à 75 cents		95.25
COUT TOTAL DES REPARATIONS		$175.92

Q. 359 Selon votre expérience, sergent Charest, quelle est, dans votre opinion, la cause des dommages fait à ces deux véhicules?

R. Par ce que j'ai constaté, ça a dû être causé par une explosion quelconque.

CONTRE-INTERROGE PAR L'OFFICIER DEFENSEUR:

Q. 360 Vous dites "une explosion quelconque"; est-ce que ça implique que ça peut être une arme quelconque?

R. Non, monsieur; une explosion serait causée, disons, par un bâton de dynamite, une "fuse" ou quelque chose comme ça; par les dommages, on peut pas dire que c'est une grenade mais quelque chose de mou qui aurait fait explosion pour pas laisser de trace et pour "maganer" le matériel.

Q. 361 Savez-vous ce que c'est qu'un "bazooka"?

R. Oui, monsieur.

Q. 362 Serait-il possible qu'un "bazooka" aurait causé ces dommages?

R. De ce que j'en sais, non.

HUITIEME TEMOIN
A CHARGE

(suite)

Q. 363 Est-ce que c'est possible?

R. Non, monsieur; pas pour moi.

Q. 364 Pourquoi?

R. Parce que ça aurait fait un trou de bord en bord.

Q. 365 Avez-vous déjà vu tirer du "bazooka"?

R. J'en ai entendu seulement.

Q. 366 Vous ne savez pas par vous-même quel dommage ça aurait causé? Un "bazooka" aurait frappé assez fort pour passer au travers du toît. Est-ce que d'après vous, il ne serait pas possible qu'une arme quelconque placée sous le camion aurait causé ces dommages-là?

R. Ca peut dépendre quelle sorte d'arme; pour commencer, on peut voir que l'explosion a été causée par en-dedans.

Q. 367 Mais ça peut être possible?

R. Une explosion est partie d'en-dedans du véhicule; il n'y a aucun doute là-dessus. Si un explosif quelconque avait été tiré par le chassis, là c'est différent, mais on voit que l'explosion s'est produite en-dedans du "char".

LE PROCUREUR NE DESIRE PAS RE-EXAMINER LE TEMOIN.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

LE PROCUREUR S'ADRESSE A LA COUR:

J'ai deux témoins qui n'apparaissent pas au sommaire de la preuve; l'un est le caporal Desmarais et l'autre le constable Gervais, de la Royale Gendarmerie à Cheval du Canada. Les deux témoins vont venir devant la cour pour tenter d'établir que, premièrement, Bellerive a été appréhendé par la Gendarmerie Royale à Cheval le 15 juillet 1945, qu'on l'a amené au bureau de la Gendarmerie Royale à Trois-Rivières, qu'on l'a mis sous ses gardes, et qu'il a fait une déclaration verbale qui n'a pas été prise par écrit.

L'OFFICIER DEFENSEUR INFORME LA COUR QU'IL NE DESIRE PAS SE PREVALOIR DE SES DROITS EN VERTU DE LA REGLE DE PRATIQUE 76.

NEUVIEME TEMOIN
A CHARGE

Constable André GERVAIS, Royale Gendarmerie à Cheval du Canada, Trois-Rivières, P.Q., étant dûment assermenté, est interrogé par le procureur:

Q. 368 Voulez-vous donner votre rang, votre nom et votre occupation?

R. Constable André GERVAIS, Royale Gendarmerie à Cheval du Canada, Trois-Rivières.

Q. 369 Quelle est l'adresse de votre bureau à Trois-Rivières?

R. Edifice du Bureau de Poste, Trois-Rivières.

Q. 370 Connaissez-vous l'accusé dans cette cause?

R. Oui, monsieur.

Q. 371 Quel est son nom?

R. Roch Bellerive. (le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte)

Q. 372 A quelle date avez-vous vu Bellerive?

R. Le 15 juillet 1945.

Q. 373 Voulez-vous raconter à la cour à quelle occasion vous l'avez rencontré?

R. On m'avait détaillé pour arrêter Bellerive; je l'ai rencontré sur la rue Des Forges, le soir, entre sept heures et sept heures et demie, le 15 juillet 1945.

Q. 374 Avec qui étiez-vous?

R. J'étais avec le constable Dulieu.

Q. 375 Quelles étaient ses fonctions à lui?

R. Il était conducteur de l'automobile.

Q. 376 Après avoir appréhendé Bellerive, qu'est-ce que vous avez fait?

R. Je l'ai amené au bureau de la Gendarmerie Royale.

Q. 377 Dans quel bureau? Qui était là dans ce bureau-là?

R. J'ai communiqué avec le caporal Desmarais et il est venu immédiatement. Il a pris la chose en main.

Q. 378 Et là vous vous êtes en allé?

R. Oui, monsieur.

NEUVIEME TEMOIN
A CHARGE

(suite)

Le procureur informe la cour qu'il désire interroger ce témoin sur voir-dire.

Le neuvième témoin à charge devient le premier témoin sur voir-dire pour la poursuite.

(PREMIER TEMOIN
SUR LE VOIR-DIRE)

Q. 379 Quand vous avez arrêté Bellerive, à partir du moment où vous avez arrêté Bellerive, jusqu'à ce que vous l'ameniez au bureau du caporal Desmarais, lui avez-vous parlé?

R. Pas en rapport avec...

Q. 380 Qu'est-ce que vous lui avez dit?

R. Simplement comme ça allait; pas de choses en rapport avec la cause.

Q. 381 Est-ce que le constable Dulieu lui a parlé?

R. Non, monsieur.

Q. 382 Est-ce qu'il est resté quelque temps seul avec Dulieu?

R. Je le crois pas parce que sur la garde, on est toujours deux hommes.

Q. 383 Quand vous avez arrêté Roch Bellerive, l'avez-vous amené à Desmarais?

R. Oui, monsieur.

Q. 384 Qu'est-ce qui s'est passé en votre présence?

R. Après l'arrivée du caporal Desmarais?

Q.385 Oui?

R. Il lui a donné la mise en garde.

Q. 386 Etes-vous capable de nous dire quelle sorte de mise en garde il lui a donnée?

R. Je ne pourrais pas dire par coeur mais je l'ai ici.

Q. 387 Voulez-vous la lire?

R. Je l'ai laissée au constable Morel; je pensais de l'avoir mais je l'ai pas.

Q. 388 Avez-vous été témoin de la mise en garde?

R. Oui, monsieur.

Q. 389 Après ça, qu'est-ce qui s'est passé?

R. Il a questionné Bellerive dans cette affaire-là.

Q. 390 Qui a questionné Bellerive?

R. Desmarais.

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Q. 391 Desmarais?

R. Oui, monsieur, le caporal Desmarais.

Q. 392 Quel genre de questions lui a-t-il posées?

R. Je ne peux pas me rappeler au juste.

Q. 393 Lui a-t-il fait des menaces?

R. Aucune.

Q. 394 Quelle atmosphère régnait entre vous, Bellerive et le caporal Desmarais?

R. Ni plus ni moins que s'il voulait dire quelque chose, c'était correct; mais que s'il voulait pas, de laisser faire.

Q.395 Est-ce que à part de vous-même et Desmarais, il y avait quelqu'un d'autre?

R. Je ne suis pas certain; je le crois pas parce que Dulieu était sorti.

Q. 396 Est-ce vous-même qui avez pris Bellerive et l'avez amené à Desmarais?

R. Oui, monsieur.

Q. 397 Si je comprends bien, Bellerive aurait fait une déclaration?

R. Oui, monsieur.

Q. 398 Est-ce que cette déclaration a été faite par écrit?

R. Non, monsieur.

Q. 399 Est-ce qu'il a parlé librement? Comment a-t-il parlé? Est-ce qu'il a raconté son histoire d'un coup sec ou si vous lui avez posé des questions?

R. C'est venu plutôt de lui-même.

Q. 400 Y a-t-il eu des questions de posées?

R. Oui, monsieur; quelques questions ont été posées.

Q. 401 Quel genre de questions?

R. Je ne me souviens pas.

Q. 402 Vous rappelez-vous si vous avez essayé de prendre Bellerive dans le coin, pour le tasser, comme on dit?

R. Non, monsieur.

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CONTRE-INTERROGE PAR L'OFFICIER DEFENSEUR:

Q. 403 Qui était présent à ce moment-là?

R. Le caporal Desmarais et moi-même. Ou, voulez-vous dire au moment de l'arrestation?

Q. 404 Au moment où vous étiez avec Bellerive, au moment où Bellerive a parlé?

R. Le caporal Desmarais et moi-même.

Q. 405 Où était le constable Dulieu?

R. Je crois qu'il était sorti.

Q. 406 Est-ce que l'accusé était sobre?

R. Oui, monsieur, à mon idée.

Q. 407 Depuis combien de temps était-il détenu à ce moment-là?

R. Depuis quelques minutes.

Q. 408 Lui avez-vous posé des questions?

R. Quelques questions, oui.

Q. 409 Qui lui a posé ces questions?

R. Le caporal Desmarais.

Q. 410 Lui en avez-vous posé vous-même?

R. Je m'en souviens pas...peut-être.

Q. 411 L'avez-vous questionné? Pouvez-vous dire si vous l'avez questionné avant sa confession?

R. Je vais vous dire, ni plus ni moins, c'est en parlant; on discutait différentes choses, et c'est là qu'il a raconté un peu l'histoire, mais pas le questionner au point de dire prendre un questionnaire et suivre le questionnaire.

Q. 412 Alors, vous pourriez dire, n'est-ce-pas, que vous l'avez questionné un peu avant, un peu pendant et un peu après?

R. On lui a posé des questions comme ça.

Q. 413 Quand l'avez-vous mis en garde?

R. En arrivant; c'est la première chose que le caporal Desmarais a fait en arrivant.

Q. 414 En arrivant où?

R. Au bureau, après son arrestation.

Q. 415 Vous rappelez-vous des questions que vous lui avez posées ou que le caporal Desmarais lui aurait posées?

R. Non, monsieur, pas du tout.

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LE PROCUREUR NE DESIRE PAS RE-EXAMINER LE TEMOIN.

INTERROGE PAR LA COUR:

Q. 416 Quand on vous a demandé tout à l'heure "quel genre de mise en garde", vous avez fait un geste de sortir quelque chose de votre poche et vous avez dit que vous ne l'aviez pas; est-ce que le Caporal Desmarais, qui a fait la mise en garde, ou la présumée mise en garde, a récité une formule par coeur, ou s'il l'a lue à l'accusé?

R. Il lui a donnée à Bellerive et il lui a fait lire; il l'a fait lire par Bellerive.

Q. 417 Est-ce qu'il l'a lue à haute voix?

R. Il l'a simplement lue.

Q. 418 A part de la lecture de ce document-là par l'accusé, est-ce que le caporal Desmarais a donné quelque explication? Est-ce qu'il a posé des questions à l'accusé avant qu'il commence à parler?

R. Il lui a demandé s'il comprenait l'anglais et le français et il lui a donné un morceau de papier, la carte, et il lui a demandé s'il comprenait ce que ça voulait dire; l'accusé a dit "oui".

Q. 419 Après que l'accusé a eu terminé sa lecture, est-ce que le caporal Desmarais lui a dit autre chose?

R. Il a parlé de choses et d'autres, pas nécessairement de la cause.

PAR LA COUR POUR L'OFFICIER DEFENSEUR:

Q. 420 Est-ce qu'il a été question, avant que Bellerive parle comme ça, est-ce qu'il a été question de l'offense en question?

R. Non, du tout.

Q. 421 Vous jurez ça? Avant que Bellerive parle, vous ne lui avez rien dit au sujet de la chose dont il pouvait être accusé?

R. Non, monsieur.

Q. 422 Vous jurez ça?

R. Oui, monsieur.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

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Caporal Lionel DESMARAIS, Royale Gendarmerie à Cheval du Canada, sous-officier en charge de la permanence à Trois-Rivières, ayant été dûment assermenté, est interrogé par le procureur:

Q. 423 Voulez-vous donner votre nom, votre rang et votre occupation?

R. Caporal Lionel DESMARAIS, de la Royale Gendarmerie à Cheval du Canada, en charge de la permanence à Trois-Rivières; nos bureaux sont au Bureau de Poste à Trois-Rivières.

Q. 424 Connaissez-vous l'accusé dans cette cause?

R. Oui, monsieur.

Q. 425 Quel est son nom?

R. Roch Bellerive. (le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte)

Q. 426 A quelle date l'avez-vous rencontré?

R. Le 15 juillet 1945.

Q. 427 A quel endroit?

R. Je suis allé à mon bureau pour constater l'arrestation de l'accusé, à l'édifice du Bureau de Poste.

Q. 428 Qui l'a amené à votre bureau?

R. Le constable Gervais.

Q. 429 Voulez-vous raconter à la cour ce qui s'est passé à votre bureau?

R. A mon arrivée à mon bureau, à Trois-Rivières, le 15 juillet 1945, j'ai vu l'accusé qui avait été amené par le constable Gervais, agissant sous mes ordres. Dès mon arrivée, j'ai montré à l'accusé une petite carte qui consiste la mise en garde.

Q. 430 Voulez-vous produire cette carte-là à la cour?

R. Oui, monsieur; je produis une carte sur laquelle est écrite la mise en garde, en français d'un bord et en anglais de l'autre.

Carte sur laquelle se trouve écrite la mise en garde, en français d'un bord et en anglais de l'autre, est lue, marquée pièce "K", signée par le président et versée au dossier.

Q. 431 Je remarque qu'il y a des initiales sur la carte que vous venez de produire à la cour; voulez-vous dire à qui appartiennent ces initiales?

R. Je vais en venir à ce point-là, si vous voulez bien. J'ai demandé à l'accusé s'il comprenait le français et s'il pouvait le lire. Il m'a répondu "oui". Alors, je lui ai fait lire la carte lui-même la carte que j'ai produite ici. Après qu'il en

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R. 431 (suite)

eut pris connaissance, je lui ai demandé s'il comprenait bien le contenu de la carte et il m'a répondu "oui". Je lui ai alors demandé d'apposer ses initiales sur la carte comme quoi il en avait pris connaissance, et j'ai initialé la carte moi-même.

LA COUR CONSTATE QUE LA CARTE PRODUITE COMME PIECE "K" PORTE LES INITIALES "R.B."

Q. 432 Ce sont les initiales de l'accusé?

R. Oui, monsieur. Je désire ajouter que la mise au point par rapport à la mise en garde a été faite en présence du constable Gervais. Par la suite, j'ai laissé l'accusé sous la garde du constable Gervais et un autre de mes hommes, le constable Dulieu. Alors, je me suis absenté vers 7 h. 45 du soir de l'endroit où était l'accusé, jusqu'à vers 10 h. 30 de la même journée, alors que je suis allé à mon bureau pour questionner un autre témoin. En revenant dans le bureau où était l'accusé, vers 10 h. 30, du soir bien entendu, en conversation générale avec l'accusé, parlant de choses et d'autres, il a été question de l'explosion qui s'était produite à bord de deux camions de la prévôté. J'ai aussi montré à l'accusé des photographies desdits camions.

Q. 433 Les avez-vous ici ces photographies?

R. Oui, monsieur.

Q. 434 Voulez-vous les produire à la cour?

R. Oui, monsieur; celle-ci, en la montrant à l'accusé, je lui ai demandé s'il reconnaissait le siège sur lequel il avait dé posé le bâton de dynamite.

Une photographie est examinée par la cour, marquée pièce "L", signée par le président au verso, et versée au dossier.

Q. 435 En avez-vous d'autres?

R. Je produis également quatre autres photographies comme étant d'autres "coupes" ou "vues" du même camion.

Quatre photographies sont examinées par la cour, marquées pièces "M", "N", "O" et "P", respectivement, signées au verso par le président et versées au dossier.

Je désire ajouter que ces photographies ont été prises par notre photographe officiel le lendemain de l'explosion.

J'ai ensuite laissé l'accusé pour la nuit, au bureau de la compagnie, sous l'escorte desdeux membres de la police montée, jusqu'au lendemain.

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Q. 436 A quel moment a-t-il fait sa déclaration?

R. Référez-vous à sa déclaration verbale?

Q. 437 Oui?

R. Environ vers 11 h. et demie ou minuit moins quart.

Q. 438 Avant que vous l'envoyiez pour la nuit?

R. Vers 10 h. et demie, je suis revenu. J'ai été ailleurs et je suis revenu et je suis demeuré jusqu'à ce temps-là; les deux gardes étaient présents.

Q. 439 Pendant ce temps-là, il a fait sa déclaration?

R. Oui, monsieur.

Q. 440 Avant qu'il parte pour la nuit alors, sa déclaration a été faite?

R. Oui, monsieur. L'accusé a couché sur un des lits régimentaires de la barraque.

Q. 441 Qui était présent au cours de l'entrevue?

R. Le con stable Gervais.

Q. 442 Le constable Dulieu était-il là?

R. Pas tout le temps.

Q. 443 Est-ce que Dulieu a posé des questions?

R. Non, monsieur.

Q. 444 Aucune question?

R. Non, monsieur.

Q. 445 Qu'est-ce qu'il faisait là?

R. Il était simplement comme escorte.

Q. 446 Est-ce que vous lui avez posé plusieurs questions à l'accusé?

R. Je lui ai demandé s'il voulait faire une déclaration en rapport avec l'explosion des deux camions.

Q. 447 Ensuite, a-t-il récité toute l'affaire ou si vous avez été obligé de poser des questions?

R. Il a répondu: "J'ai aucune déclaration à faire. Si j'en ai une à faire, je la ferai en temps et lieu."

Q. 448 Ensuite, qu'est-ce qui est arrivé après ça?

R. C'est de là que vient mon point que j'ai mentionné qu'on a causé de généralités.

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Q. 449 Sur quel ton avez-vous causé de généralités?

R. On a causé d'un ton habituel.

Q. 450 Combien de temps a duré cette conversation?

R. Environ trois-quarts d'heure, une heure.

Q. 451 Vous avez parlé de choses et d'autres?

R. Oui, monsieur.

Q. 452 Sans mentionner l'affaire de l'explosion?

R. Il y a eu des références de faites à l'affaire de l'explosion.

Q. 453 Quel genre de références, par exemple?

R. Comme quand j'ai mentionné ici tantôt, s'il reconnaissait le siège où il avait déposé le bâton de dynamite dans les camions.

Q. 454 Après la conversation finie, de quelle façon avez-vous amené sa déclaration?

R. Sa déclaration verbale?

Q. 455 Il vous a déclaré quelque chose verbalement; de quelle façon avez-vous amené cette déclaration?

R. En réponse à des questions directes.

Q. 456 Quel genre de questions lui avez-vous posées?

R. Comme je viens de mentionner.

Q. 457 Est-ce que c'était un genre de contre-interrogatoire?

R. Mettez-vous à notre place et voyez notre travail; il faut savoir ce qui se passe. On a instruction de poser des questions pour connaître la vérité, les faits, mais sans aucune menace.

Q. 458 Dans ce cas-là, avez-vous fait des menaces?

R. Aucune.

Q. 459 Des promesses?

R. Aucune.

Q. 460 Eleviez-vous la voix de temps à autres pour lui faire peur?

R. Non, monsieur .

Q. 461 Avez-vous pris un ton de conversation habituelle?

R. Oui, monsieur.

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Q. 462 Même quand il s'agissait de l'explosion?

R. Oui, monsieur.

CONTRE-INTERROGE PAR L'OFFICIER DEFENSEUR:

Q. 463 Voulez-vous, s'il vous plait, répéter vos allées et venues et celles del'accusé, à partir du moment où vous avez eu affaire à lui, brièvement?

R. Je suis allé au bureau vers sept heures et demie du soir, le 15 juillet 1945. L'accusé était dans le bureau 213, édifice des Postes. Il était assis le long d'une table, d'un air indifférent...

Q. 464 Ce à quoi je veux en venir...je ne vous demande pas de répéter tout le témoignage, simplement c'est pour pouvoir éclaircir quels sont les personnages qui m'intéressent. Alors, vers 7 h. 30, dans le bureau 213, qui était là?

R. L'accusé avec un de mes hommes.

Q. 465 Quel est son nom à cet homme-là?

R. Le constable Gervais.

Q. 466 Vous êtes entré dans le bureau et vous avez conversé?

R. J'ai constaté l'arrestation de l'accusé qui était présent.

Q. 467 Est-ce à ce moment-là que vous avez fait la mise en garde?

R. Tout juste.

Q. 468 Le constable Gervais était là?

R. Oui, monsieur.

Q. 469 Seul avec vous et l'accusé?

R. Dulieu était là aussi; il y a eu des moments où il a été présent.

Q. 470 D'abord, pour marcher chronologiquement, auriez-vous dit officiellement à Bellerive de quoi il s'agissait?

R. J'ai pu lui demander pourquoi il avait été amené au bureau, pourquoi il avait été arrêté.

Q. 471 Mais vous ne lui avez pas dit vous-même qu'il s'agissait d'une certaine offense, d'une explosion? De vous-même, lui avez-vous dit?

R. Si je lui ai parlé de l'explosion en premier lieu?

Q. 472 Oui?

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R. J'ai pas parlé pour la raison de l'attitude de l'accusé qui se sentait arrêté comme déserteur; je voulais le laisser croire ça.

Q. 473 Il n'a pas été question d'explosion?

R. Pas à ce moment-là.

Q. 474 Vous ne l'avez pas accusé de l'offense d'av oir fait sauter des autos de l'armée?

R. Nécessairement que non.

Q. 475 Combien de temps êtes-vous resté dans ce bureau avec Dulieu, Gervais, Bellerive et vous-même?

R. Je suis resté avec Dulieu et Gervais environ dix à quinze minutes; après quoi, Gervais et Dulieu se sont absentés quérir une demoiselle Marguerite St-Pierre, je crois, l'amie de l'accusé, et l'amener à mon bureau en haut.

Q. 476 Vous étiez avec Bellerive pendant une vingtaine de minutes?

R. J'ai dit "avec les trois", environ dix à quinze minutes, après quoi Dulieu et Gervais se sont absentés. Je suis resté seul avec Bellerive alors.

Q. 477 Pendant combien de temps?

R. Pendant quinze à vingt minutes.

Q. 478 De là, qu'est-ce qui est arrivé?

R. Un de mes hommes m'a averti que mademoiselle St-Pierre était dans mon bureau; j'ai laissé l'accusé et j'ai été questionner mademoiselle St-Pierre.

Q. 479 Pendant le laps de temps où vous avez lu la mise en garde à Bellerive, plutôt, pendant qu'il l'a lue lui-même, jusqu'au moment où vous vous êtes absenté pour monter à votre autre bureau, a-t-il été question de l'incident?

R. Non, monsieur.

Q. 480 Du tout?

R. Pas directement; pas catégorique.

Q. 481 Quand vous êtes monté dans votre bureau, Bellerive est-il resté seul dans le premier bureau?

R. On ne laisse jamais les prisonniers seuls.

Q. 482 Qui était avec lui?

R. Le constable Gervais.

Q. 483 Vous êtes resté en haut avec mademoiselle St-Pierre combien de temps?

R. Jusqu'à vers dix heures et demie.

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(suite)

Q. 484 Environ deux heures?

R. Entre deux heures et deux heures et demie.

Q. 485 Qu'avez-vous fait en laissant mademoiselle St-Pierre, en laissant le bureau en haut?

R. Je suis redescendu à 213, où était l'accusé.

Q. 486 Avec qui était-il?

R. Avec le constable Gervais.

Q. 487 Qu'est-ce qui s'est passé là à votre seconde visite au bureau 213 où était Bellerive?

R. Rien d'anormal.

Q. 488 Non? Pouvez-vous donner plus de détails? Quel a été le sujet de la conversation?

R. Au sujet de la confession, vous voulez dire?

Q. 489 Est-ce que ça a été l'incident dont vous avez parlé tout de suite?

R. Pas une mise au point directe.

Q. 490 Comment expliquez-vous l'affaire alors?

R. La mise au point n'a pas été directe en rapport avec l'incident.

Q. 491 Vous avez parlé de choses et d'autres d'abord?

R. Oui, monsieur.

Q. 492 Comme vous avez dit tout à l'heure?

R. Oui, monsieur.

Q. 493 Avez-vous mis de nouveau l'accusé en garde?

R. Pas nécessaire.

Q. 494 L'avez-vous mis en garde de nouveau, je vous le demande?

R. Non.

Q. 495 Vous avez dit dans votre témoignage à la poursuite que les deux gardes étaient présents à la déclaration; de qui voulez-vous parler?

R. Le constable Dulieu et le constable Gervais, mais je pense que Dulieu s'est absenté; je ne me rappelle pas au juste à quel temps, mais Gervais lui était présent.

Q. 496 Est-ce que Dulieu s'est absenté au cours de la conversation?

R. C'est possible.

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(suite)

Q. 497 Est-ce que pendant cette conversation-là il a été question de l'incident?

R. Je ne pourrais préciser.

Q. 498 Aurait-il pu en être question?

R. J'ai dit que c'était possible.

Q. 499 Vous affirmez de nouveau que l'accusé aurait dit qu'il ne voulait pas faire de déclaration?

R. Si je me rappelle bien, c'est ce que j'ai dit.

Q. 500 A quelle heure a-t-il dit ça?

R. Peut-être vers 11 h. moins quart, 11 heures.

Q. 501 A quelle heure a-t-il été mis en garde?

R. Vers 7 h. 30.

Q. 502 L'accusé a-t-il fait une déclaration formelle? J'entends par là, a-t-il récité tout d'un trait ce qu'il avait à dire?

R. Non, monsieur; ce qu'il a admis était spontané.

Q. 503 Spontané ou tout d'un trait, c'est deux choses différentes. Est-ce qu'il a dit, est-ce qu'il a donné sa déclaration tout d'une haleine, tout d'un trait?

R. Non, monsieur.

Q. 504 Est-ce que vous lui avez posé des questions, vous-même?

R. J'ai pu lui en poser quelques-unes...je dirais même sur différents points.

Q. 505 Est-ce que d'autres lui ont posé des questions?

R. Non, monsieur, pour la raison que j'ai donné instruction à mes hommes de ne pas poser de questions à l'accusé.

Q. 506 Vous êtes le seul qui en avez posé?

R. Oui, monsieur, à ma connaissance.

Q. 507 Quelle était votre idée en le faisant parler?

R. Pour connaître les faits de la cause et faire enquête.

Q. 508 Quelle a été votre réaction quand Belleriive vous a dit qu'il voulait pas faire de déclaration, à votre demande?

R. C'est une chose tellement générale que ça a été simplement une constatation. Les accusés admettent rarement en première instance.

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(suite)

Q. 509 Alors, pour vous faire répéter encore une fois, à la déclaration verbale, à la con versation en question, il y avait vous-même?

R. Et devant le constable Gervais.

Q. 510 Dulieu est parti?

R. Oui, c'est possible qu'il se soit absenté une partie du temps.

Q. 511 Est-ce que ça a été pris par écrit la conversation?

R. Non, monsieur; verbale seulement.

Q. 512 Est-ce que vous avez montré certains documents à Bellerive?

R. J'ai fait voir des photographies.

Q. 513 Avez-vous montré d'autres documents?

R. Non, monsieur.

Q. 514 Est-ce qu'il a été question d'autre chose que de l'explosion en rapport avec Bellerive personnellement? Un sujet qui se rapportait à Bellerive personnellement, autre que l'explosion des camions, est-ce qu'il a été question de ça?

R. Je regrette mais la question n'est pas claire; si vous voulez me le demander, je vais vous le dire.

Q. 51 5 Est-ce qu'il a été question de l'armée?

R. Toutes les questions qui ont été posées avaient trait à l'armée.

Q. 516 Oui, mais de Bellerive personnellement, c omme d'absence sans permission, par exemple? Est-ce qu'il a été question d'absence sans permission ou de désertion dans la conversation?

R. Il est fort possible.

Q. 517 A vos questions ça, ou à des déclarations?

R. En réponse à de mes questions; il n'y a pas eu de déclaration là-dessus.

Q. 518 Des questions posées par vous-même?

R. Oui, monsieur.

Q. 519 Est-ce qu'il ne serait pas arrivé par exemple qu'il aurait été suggéré à Bellerive...Voici, vous avez dit tout à l'heure que Bellerive vous avait affirmé qu'il ne voulait pas faire de déclaration?

R. Oui, monsieur.

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(suite)

Q. 520 Ne voulant pas faire de déclaration, est-ce que vous n'étiez pas un peu porté et n'auriez-vous pas suggéré des références que Bellerive aurait pu vous faire à vos questions?

R. Je regrette ne pas être capable de préciser là-dessus. Les questions étaient verbales; je n'ai aucune note pour Bellerive.

Q. 521 Admettez-vous qu'il soit possible que vous auriez suggéré des références à Bellerive?

R. C'est relatif. Si c'est possible, c'est aussi impossible, mais je ne peux pas préciser; je ne peux pas dire ni d'un côté ni de l'autre; si c'était possible, c'était aussi impossible; je ne peux pas préciser.

Q. 522 Admettez-vous que certaines questions qui auraient pu être posées étaient de nature suggestive?

R. Si vous voulez les appeler suggestives...après tout, ma tâche était de savoir quels étaient les faits. Il est possible que des questions que je lui ai posées nécessairement étaient pour la cause; je n'ai pas posé de questions directes.

Q. 523 Est-ce que par exemple, Bellerive vous disant qu'il ne voulait pas faire de confession, vous n'auriez pas essayé de raconter la soirée en question, au mois de mai 1945, et vous n'auriez pas dit à Bellerive: "N'est-ce pas que c'est arrivé comme ça?" ou quelque chose de ce genre-là? C'est ça qu'on appelle la suggestion. Est-ce qu'il est possible donc que vous ayiez tenté de reconstituer les scènes de ce soir-là et puis d'avoir demandé à Bellerive: "Est-ce que c'est arrivé comme ça?" ?

R. C'est possible.

Q. 524 Vous n'est pas sûr?

R. C'est possible.

Q. 525 L'autre constable n'aurait pas agi de cette façon-là?

R. Il avait instruction de ne pas poser de questions d'abord et en prévoyance de la difficulté de faire admettre la confession.

Q. 526 C'était à quelle date ça?

R. Le 15 juillet 1945.

LE PROCUREUR NE DESIRE PAS RE-EXAMINER LE TEMOIN SUR VOIR-DIRE.

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DIXIEME TEMOIN
À CHARGE
(DEUXIEME TEMOIN
SUR LE VOIR-DIRE)

(suite)

INTERROGE PAR LA COUR SUR LE VOIR-DIRE:

Q. 527 Caporal Desmarais, pourriez-vous nous dire, si vous vous en rappelez, de quelle façon le fait de présenter cette carte-là pour lui faire lire est arrivé sur le tapis?

R. En vertu de la loi d'évidence du Canada, il faut donner une mise en garde à l'accusé à l'effet que tout ce qu'il peut dire, s'il désire parler, pourra servir de preuve lors de son procès...

Q. 528 Mais ce que nous voulons savoir est ceci: dès que vous avez constaté la présence de l'accusé dans votre bureau, sans aucun préliminaire, vous avez présenté la carte, avec vos compliments?

R. Avec l'idée que l'homme soit bien mis en garde des faits qu'il peut relater par la suite.

Q. 529 Sans qu'il soit question de quoi il s'agissait ni rien?

R. Oui, monsieur, pour éliminer tout doute sur la mise en garde de l'accusé.

Q. 530 Vous ne lui avez pas lu la carte vous-même en plus de la lui faire lire?

R. Non, monsieur.

Q. 531 Vous ne faites jamais ça?

R. Pas nécessairement; si le prisonier dit qu'il ne peut pas lire, ou qu'on n'est pas certain qu'il le lit, par exemple, si on voit qu'il fait simplement jeter un coup d'oeil sur la carte, on la lit; mais s'il dit qu'il peut lire le français, on le la lui passe et laisse lire pour éliminer toute possibilité qu'il dise plus tard qu'il n'a pas compris ce qui lui a été lu.

PAR LA COUR POUR L'OFFICIER DEFENSEUR:

Q. 532 Après cette mise en garde, vous n'avez pas expliqué ni dit que ça pourrait servir de preuve contre lui, vous-même, verbalement?

R. Non, monsieur; la mise en garde a été amendée. Autrefois, on disait "servir de preuve contre vous" mais ça a été amendé il y a six mois et on a rayé les mots "contre vous".

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

NEUVIEME TEMOIN
A CHARGE
(PREMIER TEMOIN
SUR LE VOIR-DIRE)

rappelé

Constable André Gervais, Royale Gendarmerie à Cheval du Canada, ayant précédemment prêté serment, est interrogé par le procureur:

Q. 533 Constable Gervais, nous sommes au soir du 15 juillet 1945; vous avez déjà arrêté l'accusé et l'avez amené au caporal Desmarais...

R. Oui, monsieur.

Q. 534 Le constable Dulieu est avec vous à ce moment-là?

R. Oui, monsieur.

Q. 535 Est-ce que au cours de la soirée Dulieu est resté avec l'accusé?

R. Non, monsieur.

Q. 536 Avez-vous toujours été là?

R. Si j'étais parti, le caporal Desmarais y était.

Q. 537 Est-ce que Dulieu a posé des questions à l'accusé?

R. Pas à ma connaissance.

Q. 538 Vous n'avez pas toujours été là?

R. Oui, monsieur.

Q. 539 Il n'a pas posé de questions pendant que vous étiez là?

R. Non, monsieur.

Q. 540 Quand vous l'avez arrêté, vous étiez avec Dulieu?

R. Oui, monsieur.

Q. 541 A compter du moment de l'arrestation à aller jusqu'à 11 h. et demie, avez-vous questionné l'accusé?

R. Oui, monsieur.

Q. 542 Qui était avec vous quand vous avez questionné l'accusé?

R. Le caporal Desmarais.

Q. 543 Dulieu est parti avec vous?

R. Oui, monsieur.

Q. 544 Alors, qui est resté avec l'accusé?

R. Le caporal Desmarais.

Q. 545 C'est la seule occasion où vous avez questionné l'accusé?

R. Oui, monsieur.

NEUVIEME TEMOIN
A CHARGE
(PREMIER TEMOIN
SUR LE V OIR-DIRE)

rappelé

Q. 546 Et vous étiez avec Dulieu quand vous êtes parti?

R. Oui, monsieur.

CONTRE-INTERROGE PAR L'OFFICIER DEFENSEUR:

Q. 547 Vous êtes arrivé à 7 h. 30 du soir?

R. Oui, à peu près.

Q. 548 Dans le bureau, la chambre 213?

R. Oui, monsieur.

Q. 549 Vous avez appelé le caporal Desmarais?

R. Oui, monsieur.

Q. 550 Et il est arrivé?

R. Oui, monsieur.

Q. 551 Dulieu était là?

R. Oui, monsieur.

Q. 552 A quel moment a-t-il lu la mise en garde?

R. Aussitôt qu'il est entré, Desmarais.

Q. 553 Qui l'a lue?

R. Le caporal Desmarais l'a fait lire à l'accusé.

Q. 554 Là, vous avez été tous les quatre ensemble, Dulieu, Desmarais, vous et Bellerive, combien de temps?

R. Je ne pourrais pas dire.

Q. 555 Au delà d'une heure?

R. Oui, peut-être.

Q. 556 Une demi-heure?

R. A peu près ça.

Q. 557 Et après?

R. Dulieu et moi sommes sortis pour aller chercher une amie de Bellerive.

Q. 558 Vous êtes revenus combien de temps après?

R. Peut-être une demi-heure.

Q. 559 Qu'est-ce qui s'est passé à ce moment-là en rapport avec Bellerive? Etes-vous retourné avec Bellerive?

R. Oui, monsieur, je suis retourné avec le caporal Desmarais et Dulieu.

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NEUVIEME TEMOIN
A CHARGE
(PREMIER TEMOIN
SUR LE VOIR-DIRE)

rappelé

Q. 560 Est-ce que Desmarais est resté avec vous autres pendant longtemps à ce moment-là?

R. Je crois qu'il a parlé avec mademoiselle St-Pierre.

Q. 561 Pendant que vous étiez là?

R. Non, monsieur; j'étais dans l'autre bureau avec Bellerive.

Q. 562 Il était tout seul avec vous?

R. Oui, et le constable Dulieu.

Q. 563 Où était allé le caporal Desmarais?

R. Il est sorti, je crois, dans le passage.

Q. 564 Combien de temps a-t-il été absent du bureau 213?

R. Peut-être une heure au plus.

Q. 565 Quand il est revenu, qu'est-ce qui est arrivé? Etes-vous resté là vous-même?

R. Oui, monsieur.

Q. 566 Avec Dulieu?

R. Je crois que Dulieu est sorti après.

Q. 567 Avez-vous été longtemps là? J'entends Desmarais, vous-même et Bellerive? Vous deux et l'accusé, avez-vous été longtemps dans le bureau 213?

R. Personnellement, je suis resté jusqu'à une heure et demie du matin; j'ai passé la nuit là.

Q. 568 A quelle heure Desmarais est-il parti?

R. Peut-être vers minuit ou minuit et demi.

Q. 569 De quoi a-t-il été question pendant ce temps-là?

R. On a parlé de choses et d'autres; on a parlé de l'explosion.

Q. 570 Est-ce qu'il a été question du fait qu'il était un déserteur ou un absent sans permission?

R. Je crois que lui-même l'a mentionné.

Q. 571 Quand Desmarais est parti, qu'est-ce qu'il est arrivé?

R. Je l'ai gardé jusqu'à une heure et demie.

Q. 572 Avez-vous parlé entre vous deux?

R. Non; moi, j'ai écrit; lui, il était assis plus loin.

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NEUVIEME TEMOIN
A CHARGE
PREMIER TEMOIN
SUR LE VOIR-DIRE)

rappelé

Q. 573 A combien de pieds de vous?

R. Comme d'ici à la porte...environ 15 pieds.

Q. 574 Il n'y a pas eu de conversation entre vous deux?

R. Pas au point de la cause.

LE PROCUREUR NE DESIRE PAS RE-EXAMINER LE TEMOIN SUR VOIR-DIRE.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

LE PROCUREUR DECLARE SA PREUVE CLOSE SUR LE VOIR-DIRE.

L'OFFICIER DEFENSEUR INFORME LA COUR QU'IL N'A PAS DE PREUVE A SOUMETTRE SUR LE VOIR-DIRE.

LE PROCUREUR S'ADRESSE A LA COUR:

Monsieur le président,
messieurs les membres de la cour,

Les faits qui ont été apportés devant la cour sur voir-dire sont très simples. Le 15 juillet 1945, l'accusé a été appréhendé par la Gendarmerie Royale à Cheval vers sept heures et demie du soir; c'est le constable Gervais qui l'a arrêté, et le constable Dulieu agissait comme chauffeur. On a amené l'accusé Bellerive au bureau de la Gendarmerie Royale à Trois-Rivières et on l'a remis entre les mains du caporal Desmarais. Desmarais le met immédiatement en garde (vous avez là une mise en garde parfaitement légale), demeure avec l'accusé un certain temps; Gervais et Dulieu s'absentent; Gervais et Dulieu reviennent; Desmarais est encore avec l'accusé; et ce sont Dulieu et Gervais qui demeurent avec l'accusé pendant que le caporal Desmarais interroge quelqu'un d'autre. Desmarais revient et interroge l'accusé.

Le premier fait qu'on tire de la preuve est que Dulieu et Gervais n'ont pas posé aucune question à l'accusé. Gervais a toujours été avec Dulieu durant tous les faits qu'on vient de relater. Seul Desmarais l'interroge après une mise en garde légale.

En deuxième lieu, aucune menace n'a été faite à l'accusé ni aucune promesse. Une mise en garde légale lui a été faite. Le ton avec lequel on lui a parlé est le ton de la conversation, le ton normal. On n'a pas essayé de l'effrayer en élevant la voix comme pour le contre-interroger ou pour lui tendre un piège; on lui a posé des questions sur le ton de la conversation.

Troisièmement, il était soupçonné à ce moment-là et il avait affaire à des personnes en autorité. Je prétends que cette déclaration devrait être admise par la cour parce que libre et volontaire.

Le grand principe de l'admissibilité des confessions selon Phipson, est que lorsqu'un accusé parle volontairement devant des personnes en autorité, et qu'en parlant il s'incrimine, il est plus que probable que ce qu'il dit est vrai, et le motif pour rejeter la confession est qu'il pourrait y avoir une possibilité que l'accusé, influencé par la crainte ou par des promesses, s'incrimine faussement. C'est le grand principe général de l'admissibilité ou du rejet des confessions, et c'est la raison pour laquelle la confession doit être libre et volontaire, c'est-à-dire qu'elle n'ait pas été extorquée par des menaces ou des promesses.

De ce même principe découle un autre principe: que le seul fait de poser des questions à un accusé n'enlève pas le fait que cette confession est volontaire. Et pour dire ceci, je m'appuie sur un jugement rendu en 1918, qui énonce la théorie acceptée au Canada comme en Angleterre depuis multes années. Je veux parler de la cause Rex vs Cook (1918 T.L.R. 515):-

> "It would be a lamentable thing if the police were not allowed to make inquiries and if statements made by prisoners were excluded because of a shadowy notion that if the prisoners were left to themselves, they would not have made them".

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Il est bien entendu que sur cent accusés soupçonnés et arrêtés, que si on les met dans une cellule et qu'on attend leur bon plaisir, c'est entendu qu'on n'obtiendra jamais une confes sion, et les fins de la justice en souffriraient.

Pour conclure, car je veux être bref, je vous cite une cause de la cour d'appel de Saskatchewan, jugement rendu en 1939, rapporté dans "Canada Criminal Cases", vol. 72, page 128, Rex vs Gutschmidt, dans lequel la cour d'appel de Saskatchewan a déclaré légalement admissible une confession faite aux policiers de la Royale Gendarmerie à Cheval du Canada sur interrogatoire de ces derniers, après avoir nié deux fois son crime.

Le 3 janvier 1939, un nommé Smart se fait attaquer et blesser. La police soupçonne un nommé Gutschmidt; elle se rend chez Gutschmidt et commence à l'interroger. Gutschmidt leur a dit: "Je n'ai absolument rien à voir avec ça". La police a pensé qu'il pouvait être gêné par la présence des parents qui étaient là, et l'a amené aux quartiers-généraux, où d'abord il a c ontinué à nier. Aucune promesse ni aucune menace ne lui est faite. Mais à la fin de l'interrogatoire, après avoir été mis au courant de certaines informations détenues sur son compte, "He broke down and started crying in the presence of the officers saying - I did it, I needed money."

Cette confession a été admise. Pourquoi? Parce qu'elle était volontaire. Le fait de poser des questions n'enlève pas la validité de la confession parce que c'est toujours le même grand principe qui entre en jeu. On admet une confession parce que l'accusé n'a aucun intérêt à dire des choses fausses sur son compte quand il n'est pas l'objet de menace ou de promesse. Dans ce cas-ci, Bellerive n'a pas nié son crime; il a simplement dit: "Je ne veux pas faire de confession tout de suite". Plus tard, l'accusé a changé d'idée.

En appréciant ces faits-là, il faut considérer le fait que l'accusé, que la cour a eu l'occasion d'observer depuis le début du procès, n'est pas nerveux. Ce n'est pas simplement en lui posant quelques questions qu'on a pu l'impressionner au point qu'il vienne dire: "C'est correct; pour vous faire plaisir, je vais m'incriminer faussement".

Cette confession est volontaire; elle est libre; elle n'a pas été le résultat d'aucune menace ni d'aucune promesse. Ce que l'accusé a pu dire à la police, c'est la vérité. Je soumets à la cour que cette confession devrait être admise.

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L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

Monsieur le président,
messieurs les membres de la cour,

Le savant procureur fait des compliments à l'accusé; je ne sais pas s'il aimerait à plaider en sa faveur comme témoin de caractère, mais de mon côté, je soumets respectueusement que la confession doit être rejetée hors de tout doute parce qu'elle n'est pas libre ni volontaire.

Maintenant, j'appuie mon affirmation sur les raisons suivantes. En tout premier lieu, la caution est lue par l'accusé et voici la formule de la caution:

> "Vous n'êtes pas obligé de rien dire. Vous n'avez rien à espérer d'aucune promesse ou faveur et rien à craindre d'aucune menace, que vous disiez quelque chose ou non; mais tout ce que vous direz peut servir de preuve lors de votre procès."

C'est une traduction textuelle de l'anglais dont le texte est l'autre côté de la carte. La version anglaise se lit comme suit:

> "You need not say anything. You have nothing to hope from any promise or favour and nothing to fear from any threat whether or not you say anything. Anything you do say may be used as evidence at your trial."

C'est la traduction de l'anglais textuellement et ce n'est même pas du français. J'appuie aussi sur le fait que le caporal Desmarais a fait initialer cette caution par l'accusé. Je n'y vois pas une menace mais simplement ce qu'on appelle en anglais un "inducement". Il y avait certainement une impression qui restait dans l'esprit de l'accusé -- ce n'est peut-être pas grand' chose mais c'est un petit fait.

Maintenant, il n'y a eu aucun préliminaire. L'accusé est arrivé au bureau de la Royale Gendarmerie, au Bureau de Poste, et la première chose qu'on a fait, on lui présente une carte à lire: "Voici la caution; comprends-tu bien ça?" Ca a été le premier acte qu'on a posé. Je soutiens que l'accusé aurait du être mis au courant de quoi il s'agissait. L'accusé était absent sans permission. Rien ne nous dit qu'il ne pouvait pas être sous l'impression qu'il était là parce qu'il était absent sans permission. Il est d'usage courant pour la Police Montée d'arrêter des déserteurs ou des gens absents sans permission; ça se fait tous les jours. Ca se faisait davantage dans la région des Trois-Rivières pendant un certain temps. Ca s'est fait énormément et la police a eu du trouble à propos de ça.

Un autre point. Tous les témoins de la c onfession n'ont pas été entendus. Le constable Dulieu n'est pas venu. Il y a Gervais, Desmarais et Morel. Dulieu était présent; il a été présent pendant une partie de la conversation, mais il n'est pas ici maintenant pour rendre témoignage. Je lirai mes autorités tout à l'heure là-dessus.

Un autre point, c'est qu'il y a eu des questions posées à l'accusé. Je comprends que l'accusé ne pouvait pas faire sa déclaration de lui-même à propos de rien, mais il y a eu des questions de posées à l'accusé, et le caporal Desmarais a dit en réponse à l'une de mes questions qu'il aurait pu suggérer des choses que l'accusé aurait dites. Je lui ai demandé s'il serait possible qu'il ait raconté une chose à l'accusé pour lui poser ensuite la question: "Est-ce que c'est arrivé comme ça?" Il m'a dit que c'est possible. Ce n'est pas une confession libre et volontaire ça. L'accusé a dit qu'il ne voulait pas en faire de déclaration. Il était bien convaincu d'abord. Il était là, il ne savait pas pourquoi; ça pouvait être parce qu'il était absent sans permission. Il a dit qu'il ne voulait pas faire de déclaration. Ensuite, on le cautionne en arrivant, vers huit heures, et les questions commencent à 10 h. 30; c'est tout de même une couple d'heures, un intervalle de deux heures et demie.

Maintenant, je ne v ois pas comment la différence peut se poser entre les questions --et il y en a eu des questions-- ça a été sur le ton de la conversation, dit-on, mais il y a eu des questions suggestives et il n'y a rien qui a été pris par écrit. Il y a certainement un doute favorable à l'accusé là-dedans. La confession n'a pas été libre et volontaire.

Maintenant, au sujet du fait que l'un des témoins n'a pas été entendu, je réfère la cour à Canada Law Reports, 1933, page 509, dans la cause de Thiffault vs The King. Voici:

> "Determination of any question raised as to the voluntary character of a statement by the accused elicited by interrogatories administered by Police Officers is not a mere matter of discretion for the trial Judge. Where such a statement is elicited in the presence of several officers, the statement ought, as a rule, not to be admitted unless (in the absence of some adequate explanation of their absence) those who were present are produced by the Crown as witnesses, at least for cross-examination on behalf of the accused. "

C'est le même point de vue, la même histoire. Dulieu n'est pas venu ici.

Maintenant, je réfère la cour également à Crankshaw, page 765:

> "The evidence upon the material question as to whether the confession has been obtained by the influence of hope or fear, being in its nature preliminary, is addressed to the judge who will require the prosecutor to show affirmatively, to his satisfaction, that the statement was not made under the influence of an improper inducement, and who, in the event of any doubt subsisting on this head, will reject the c onfession."

> "Is it proven affirmatively that the confession was free and voluntary, that is, was it preceded by an inducement held out by a person in authority to make a statement?"

Et un peu plus bas:

> "The trial judge should take in consideration the age, experience, intelligence and character of the prison er; his susceptibility to influence of hope or fear; his understanding of the language used and of the language that is directed to him, and his appreciation of the circumstances in which he is placed."

Voici mon point de vue. J'ai prétendu tout à l'heure que la caution était en mauvais français; il n'y a pas de doute là-dessus. L'accusé a fait quelques années d'école, certainement, mais il n'a pas fait plus que ça. Il lit la caution, c'est tout. L'autre lui dit: "As-tu bien compris?" alors que ce n'est même pas en bon français. Comment voulez-vous qu'il la comprenne parfaitement? Et plus loin, il y a ceci:

> "The confession which may have been and which the Crown cannot show was not induced by mental suggestion exercised on the accused is not admissible."

> "A police officer has no right to try to elicit admission from a person whom he suspects."

> "If a police officer has determined to arrest a person who is in fact in custody, the police officer should ask no question which will in any way tend to prove the guilt of the person in custody from his own mouth. No police officer has a right to put any question to the accused person when he is once in custody. To say to him: "It is alleged so and so" is only a subtle form of cross-examination. "

> "The police officer has no right to suggest by questions to a person detained in custody that they have evidence of his guilt; answers to such suggestion are not admissible in evidence."

> "The onus is on the Crown to prove the voluntariness of a confession; this can rarely if ever be established by the evidence of the police officer who took the statement, that it was voluntary and freely given".

Alors, je me borne là. Je pourrais citer "Treemear's" et continuer, mais je crois que c'est suffisant. La couronne n'a certainement pas fait la preuve que la confession est libre et volontaire, que la caution est légale. Il y a tellement de points sur lesquels on peut insister; il n'y a pas eu de préliminaires; la caution a été lue par l'accusé au lieu de lui être donnée; aucune explication lui a été donnée; des questions ont été posées à l'accusé —des questions suggestives d'un bout à l'autre— et l'accusé a dit qu'il ne voulait pas faire de déclaration. On lui a suggéré des coincidences pour lui demander ensuite: "Est-ce que c'est ceci? Est-ce que c'est cela?" Il y a certainement un grand doute; il y a plus qu'un doute pour faire rejeter cette confession prima facie; alors, je demande son rejet.

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LA COUR LEVE L'AUDIENCE POUR DELIBERER SUR SA DECISION.

LA COUR DECIDE QUE LA CONFESSION ORALE DE L'ACCUSE EST ADMISSIBLE EN PREUVE.

LA COUR REPREND L'AUDIENCE ET ANNONCE SA DECISION.

LE PROCUREUR S'ADRESSE A LA COUR:

Les membres de la Gendarmerie Royale à Cheval du Canada, témoins à charge dans cette cause, doivent s'absenter pour cause d'autres devoirs, et je suis forcé de demander un ajournement de la présente cause jusqu'au 30 août 1945, à dix heures et demie.

L'OFFICIER DEFENSEUR INFORME LA COUR QUE LA DEFENSE N'A PAS D'OBJECTION A LA DEMANDE D'AJOURNEMENT DU PROCUREUR.

A 1710 heures, le 24 août 1945, la cour s'est ajournée jusqu'à 1030 heures, le 30 août 1945.

Le 30 août 1945, à 1030 heures, la cour se rassemble de nouveau conformément à la note d'ajournement; sont présents les mêmes membres que lors de l'ajournement.

La cour excuse les membres stagiaires suivants qui sont requis ailleurs pour cause d'autres devoirs:

Lieutenant G. A. Leroux
2/Lieutenant Jean Caron
2/Lieutenant Jean-Jacques Bédard

LE PROCUREUR S'ADRESSE A LA COUR:

Je désire rappeler le premier témoin à charge, le caporal Lapointe, parce que dans son témoignage, il a commis une erreur; il s'en est aperçu lui-même et voudrait rectifier son témoignage.

PREMIER TEMOIN A CHARGE

(rappelé)

D-125719, Caporal C.-E. LAPOINTE, No. 34 Company, Canadian Provost Corps, CA, ayant précédemment prêté serment, est interrogé par le procureur:

Q. 575 Voulez-vous dire à la cour quelle erreur vous avez commise, et quelle est la rectification que vous voulez apporter?

R. Je veux corriger mon témoignage sur le numéro du "char" Plymouth que j'avais à Trois-Rivières. Je crois avoir donné le numéro comme étant 285, alors que c'est 385, soit 54-385.

L'OFFICIER DEFENSEUR NE DESIRE PAS CONTRE-INTERROGER LE TEMOIN.

DE AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

DIXIEME TEMOIN
A CHARGE

rappelé

Caporal Lionel DESMARAIS, Royale Gendarmerie à Cheval du Canada, sous-officier en charge de la permanence à Trois-Rivières, ayant précédemment prêté serment, est interrogé par le procureur:

Q. 576 A quelle date avez-vous rencontré l'accusé?

R. Le 15 juillet 1945.

Q. 577 A quel endroit?

R. A Trois-Rivières.

Q. 578 Dans quel bureau?

R. Dans le bureau de la R.C.M.P.

Q. 579 Est-ce que l'accusé vous a fait une déclaration?

R. Oui, monsieur.

Q. 580 Voulez-vous donner à la cour toute la déclaration que vous a faite l'accusé?

R. L'accusé a admis avoir été avec le soldat Roméo Tessier le soir de l'explosion...

PAR LA COUR:

Caporal Desmarais, voulez-vous plutôt donner les paroles exactes de l'accusé, en autant que vous vous en souvenez.

Le témoin continue sa réponse:

R. Alors, en réponse aux questions que je lui ai posées, l'accusé m'a répondu: "Oui, j'étais avec lui (en parlant de Tessier évidemment) le soir de l'explosion". "Oui, nous avons pris un taxi devant la taverne du Lion d'Or, qui nous a conduits à l'Hôtel Caumartin". Toujours d'après les paroles de l'accusé en réponse à mes questions, il a dit: "De là, nous sommes partis, Roméo et moi, et on est allés chac un à notre 'truck'. J'ai choisi le mien, celui qui était dans le lot vacant. J'ai vu que la porte du côté de la rue De Niverville était barrée; alors, je suis allé de l'autre côté du camion. Roméo est venu me retrouver; il m'a remis le bâton de dynamite; je l'ai allumé et je l'ai déposé sur le siège d'en avant, à côté de la place

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rappelé

R. 580 (suite)

du chauffeur." Encore en réponse à des questions il a répondu: "La mèche mesurait à peu près six pouces mais j'avais pas peur quand même que la mèche était courte". Il a encore admis: "Après avoir déposé le bâton de dynamite sur le siège du chauffeur, je me suis rendu de suite de l'autre côté de la rue sur le coin des rues de Niverville et St-Prosper." Là, il se souvenait d'avoir sauté pardessus une clôture. Ces faits avaient trait à l'explosion qui s'est produite dans les camions de la prévôté, le 18 mai 1945.

Q. 581 Est-ce tout ce qu'il vous a dit?

R. Oui, monsieur.

Q. 582 Qui était présent alors?

R. Le constable Gervais.

Q. 583 Seul?

R. Oui, monsieur.

Q. 584 Vous m'avez dit tout à l'heure que vous désiriez corriger un fait, une déclaration que vous avez faite la semaine dernière lors de votre témoignage

R. Oui, monsieur.

Q. 585 Alors, voulez-vous faire la correction?

R. Oui, monsieur. Ici, dans cette cour, la semaine dernière, j'ai té moigné à l'effet que le constable spécial, monsieur Dulieu, au meilleur de ma connaissance, n'était pas resté seul avec l'accusé, mais en repassant mes notes, je me suis aperçu que monsieur Dulieu était resté avec l'accusé durant la période de temps que j'ai questionné mademoiselle St-Pierre dans mon bureau.

Q. 586 Où était le constable Gervais à ce moment-là?

R. Il était avec moi.

Q. 587 Je vous exhibe les photographies produites comme pièces "L" "M" "N" "O" et "P", que vous avez déjà produites à la cour; voulez-vous nous dire si vous avez montré ces photographies à l'accusé?

R. Oui, monsieur.

Q. 588 Quand lui avez-vous montré ces photos?

R. Le 15 juillet 1945.

Q. 589 A quelle heure?

R. Entre 11 h. et demie et minuit, environ.

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Q. 590 Quelles réflexions a faites l'accusé quand vous lui avez montré ces photographies-là?

R. "J'ai pas vu les dommages mais c'est bien ça", en parlant du "char".

CONTRE-INTERROGE PAR L'OFFICIER DEFENSEUR:

Q. 591 A quelle heure a eu lieu la déclaration de l'accusé que vous avez répétée au début de l'examen-en-chef?

R. Je dirais vers onze heures moins quart, onze heures du soir; entre onze heures moins quart, onze heures et minuit; toujours le soir du 15 juillet 1945.

Q. 592 A quelle heure l'accusé a-t-il été cautionné?

R. Il a été cautionné à 7 h. 30 environ ou huit heures moins quart.

Q. 593 La confession ou la déclaration de l'accusé a commencé à quelle heure?

R. Entre onze heures et minuit.

Q. 594 Qui était présent?

R. Le constable Gerwais.

Q. 595 Et vous-même?

R. Oui, monsieur.

Q. 596 Et l'accusé?

R. Oui.

Q. 597 Où étiez-vous à ce moment-là?

R. Dans la chambre 213, où l'accusé était.

Q. 598 Quelle sorte de chambre est-ce ça?

R. C'est un bureau.

Q. 599 Comment est-il disposé? Comment les meubles sont-ils disposés dans ce bureau-là?

R. Immédiatement en entrant, à votre droite, vous avez un bureau de dactylographe adapté pour faire disparaître le 'typewriter'. A gauche, vous avez un cabinet, un 'filing cabinet'. A côté du cabinet, il y a une table. A gauche, plus loin que la table, il y a une autre table. Toutes ces tables servent à des 'typewriters'. Il y a aussi un autre cabinet, qui appartient à l'armée, à la prévôté. A côté du cabinet, il y avait l'accusé et une autre table encore à gauche. L'accusé se trouvait assis entre le 'filing cabinet' de l'armée et la table qui se trouve à l'extrémité gauche.

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Q. 600 Quelle est la superficie de cette salle-là?

R. Elle est à peu près aussi grande que la salle ici.

PAR LA COUR:

Q. 601 Environ trente pieds par trente pieds?

R. Oui, excepté qu'une partie a été adaptée pour faire une chambre de bain; je dirais peut-être 25 par 25.

PAR L'OFFICIER DEFENSEUR:

Q. 602 Où étiez-vous vous-même?

R. J'étais assis tantôt de l'autre côté, à l'extrémité gauche, faisant face à l'accusé, et tantôt j'étais debout.

Q. 603 Vous marchiez?

R. Oui, je me suis levé parce qu'il m'a fallu aller chercher des photographies pour les montrer à l'accusé, qui les a reconnues.

Q. 604 Est-ce que l'accusé lui-même se trouvait assis à cette table?

R. Il était assis lui-même sur une chaise, comme si on mettait une table à côté de lui ici. (le témoin indique l'accusé dans la cour)

Q. 605 Où était le constable Gervais?

R. Il marchait; il n'était pas obligé de rester à aucun endroit en particulier.

Q. 606 Gervais a-t-il été avec vous et l'accusé continuellement pendant la conversation?

R. Tout juste.

Q. 607 Est-ce que l'accusé savait pourquoi il était là?

R. Il le savait quand il a admis.

Q. 608 L'avez-vous mis au courant, vous?

R. Comme j'ai dit dans mon témoignage précédent, je lui ai demandé pourquoi il avait été amené, en revenant à mon bureau ça, ce à quoi l'accusé aurait fait allusion dans ses réponses; ça avait plutôt trait au fait qu'il était déserteur, chose qu'il a admise dans la même conversation, qu'il était déserteur.

Q. 609 Est-ce que l'accusé était arrêté à ce moment-là?

R. Il n'était pas arrêté; il était détenu comme déserteur et il était soupçonné d'avoir fait partir l'explosion.

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A CHARGE

rappelé

Q. 610 Lui avez-vous dit qu'il était arrêté parce qu'il était accusé de dé sertion?

LE PROCUREUR S'OBJECTE A LA QUESTION ET S'ADRESSE A LA COUR:

Je me demande si c'est bien l'endroit à ce stage de poser toutes ces questions. Il ne s'agit pas de recommencer l'examen sur voir-dire. Je crois que tout ceci a été discuté déjà quand on a fait le voir-dire, et la confession a été admise; alors, je ne vois pas pourquoi la défense recommence tout ce témoignage-là.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

Je veux savoir de quoi on a parlé ce soir-là et j'ai parfaitement le droit de savoir ce qui a été dit, ce que le témoin a dit à l'accusé, et je vais le savoir.

PAR LA COUR:

Le défenseur est en train d'établir l'atmosphère dans lequel s'est déroulée la conversation qui a donné lieu à la confession qui fait partie de la déclaration elle-même. Alors, c'est parfaitement légitime en tant que ce sont des questions qui entrent dans ce domaine-là.

LA COUR RENVOIE L'OBJECTION DE LA POURSUITE.

R. 610 Non, monsieur.

Q. 611 Vous avez dit tout à l'heure que vous avez été avec l'accusé et le constable Gervais dans la chambre 213 environ de onze heures moins quart à minuit?

R. A peu près, oui.

Q. 612 Est-ce que Gervais a parlé pendant ce temps-là?

R. Non, monsieur.

Q. 613 Il n'a pas dit un mot?

R. Le peu de paroles qu'il aurait pu prononcer, je ne pourrais pas dire qu'elles étaient relatives aux réponses de l'accusé.

Q. 614 Est-ce qu'il a été question d'autre chose que cet incident, ou si vous avez parlé pendant cette heure-là seulement de l'incident?

R. Comme j'ai déjà dit, on a parlé de généralités et de l'incident.

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A CHARGE

rappelé

Q. 615 Quelle était l'attitude de l'accusé?

R. Très coopérative.

Q. 616 Est-ce qu'il était mécréant, mécontent de sa situation, d'après vous? Je vous demande votre opinion, naturellement.

R. Il était plutôt narquois, mais il avait une bonne disposition.

Q. 617 Pourriez-vous taxer votre entrevue avec l'accusé de conversation générale? Pouvez-vous dire que c'est une conversation générale que v ous avez eue avec lui?

R. C'est une conversation générale quand on parle d'autres choses qui n'avaient pas trait à la chose sur laquelle on voulait faire enquête. Dans la conversation générale, j'ai posé des questions pour essayer de trouver les faits sur lesquels il était soupçonné dans le temps, et pour lesquels il a été arrêté plus tard, par après. J'essayais de trouver les faits au meilleur de ma connaissance.

Q. 618 Qu'est-ce qui a amené l'accusé à parler?

R. De l'explosion, vous voulez dire?

Q. 619 Oui?

R. Sans doute une question posée par moi-même.

Q. 620 Une question dans quel sens?

R. J'aurais pu lui dire: "Etais-tu avec Roméo Tessier le soir de l'explosion?" Il aurait sans doute donner sa réponse comme ayant été avec Tessier.

Q. 621 Toutes des questions qui auraient pu amener des admissions! De votre part ou de la part de Gervais, est-ce qu'il ne serait pas possible que vous auriez fait certaines représentations à l'accusé à l'effet que vous en connaissiez un peu de cette affaire-là, que vous étiez sur la piste, sans vouloir dire sur sa piste à lui, que vous en aviez entendu parler, ou que vous aviez entendu raconter certaines choses?

R. Ca se peut fort bien que je lui aie dit que j'étais au courant de certaines choses, au courant de ce dont il était soupçonné.

Q. 622 Dans quels termes lui auriez-vous dit ça? Donnez à la cour exactement la conversation ou ces bouts de conversations que vous avez eues avec lui?

R. Je m'en rappelle vaguement pour pouvoir préciser; je voudrais bien vous donner mot à mot si je le pouvais...

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rappelé

Q. 623 A peu près? Simplement pour avoir une idée?

R. Je pourrais lui avoir dit, sans que ce soit les paroles exactes: "Voici, ici on a des faits qui dénotent que tu as eu affaire avec l'explosion; maintenant, qu'est-ce que tu en sais?"

Q. 624 Comment se fait-il que vous vous rappelez tellement bien des réponses de l'accusé, et vous ne vous rappelez pas des questions que vous lui auriez posées?

R. Les faits saillants dans une confession sont les réponses de l'accusé, dans un cas d'admission, et non pas les questions. Quand on questionne quelqu'un après l'avoir mis en garde, et sans lui faire de menaces ou de promesses, on a le droit de lui poser des questions suggestives.

Q. 625 Quelle expérience avez-vous dans la police?

R. Dix ans.

Q. 626 Est-ce que dans vos dix ans d'expérience, est-ce que vous ne savez pas que dans le cas d'une admission verbale, les questions sont aussi importantes que les réponses?

R. C'est la première fois qu'on y attache une importance aussi capitale.

Q. 627 Combien de fois avez-vous témoigné en cour sur des admissions comme ça?

R. C'est la première fois.

Q. 628 Est-ce que l'accusé était au courant que vous aviez questionné son amie, mademoiselle Monique St-Pierre?

R. Oui, monsieur.

Q. 629 Est-ce qu'il a été question de l'entrevue que vous aviez eue avec mademoiselle Monique St-Pierre, avec l'accusé?

R. Oui, monsieur.

Q. 630 Dans quels termes?

R. Dans les termes que l'accusé nous a exprimé le désir que si c'était possible de simplement dire à mademoiselle St-Pierre qu'il avait été détenu simplement comme déserteur et non pas en rapport avec l'explosion.

Q. 631 A quelle heure avez-vous laissé mademoiselle St-Pierre?

R. Environ vers dix heures et demie; je l'ai envoyé reconduire par le constable Dulieu, je crois.

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Q. 632 Avez-vous parlé à l'accusé au sujet de son amie?

R. Pas nécessairement; elle est descendue elle-même lui dire quelque chose personnellement avant de partir.

Q. 633 Etiez-vous présent?

R. Oui, monsieur.

Q. 634 Avez-vous assisté à la conversation?

R. Oui, monsieur.

Q. 635 C'étaient des choses banales?

R. Tout juste.

Q. 636 Une fois qu'elle a été partie, a-t-il été question d'elle et de la conversation que vous aviez eue?

R. Ca se peut que j'aie dit à l'accusé que j'avais une déclaration de mademoiselle St-Pierre.

Q. 637 Est-ce que vous auriez amplifié cette déclaration au sujet de mademoiselle St-Pierre et sa déclaration à elle? Auriez-vous amplifié sur ce sujet-là?

R. Pas nécessairement.

Q. 638 Alors, est-ce qu'il est possible que vous auriez continué de parler sur le sujet de la déclaration de mademoiselle St-Pierre à l'accusé? Auriez-vous continué d'en parler à l'accusé?

R. Ca se peut que j'aie peut-être parlé au sujet du fait que l'accusé aurait couché dans le Bureau de Poste un soir, et que mademoiselle St-Pierre était au courant que l'accusé avait admis avoir couché dans les quartiers du concierge.

Q. 639 Avez-vous parlé de Tessier ce soir-là du 15 juillet?

R. On en a parlé en ce sens que l'accusé avait à dire ce qu'il pouvait nous dire en rapport avec ses activités ce soir-là.

Q. 640 Est-ce que Tessier avait été arrêté à ce moment-là?

R. Oui, monsieur.

Q. 641 Avait-il fait une confession lui-même?

R. Oui, monsieur.

Q. 642 L'avez-vous mentionné ce fait à l'accusé?

R. C'est possible; je ne m'en souviens pas définitivement.

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rappelé

Q. 643 A qui a-t-il fait sa déclaration, Tessier, ou sa confession?

R. Au constable Morel et à moi-même, à Montréal.

Q. 644 Vous étiez présent lors de la confession?

R. Oui, monsieur.

Q. 645 Et présent à toute la conversation avec Tessier au sujet de sa confession?

R. Oui, monsieur.

Q. 646 Est-ce que vous avez rapporté à Bellerive la confession de Tessier?

R. Non, pas nécessairement; j'ai pas rapporté toute la confession; il se peut que j'aie fait des allusions à la confession en autant qu'il y avait des faits qui le concernaient.

Q. 647 Dans quels termes avez-vous répété ou rapporté ces bribes de conversation ou ces bribes de confession? Est-ce que ça serait comme ça: "Tessier m'a dit ceci; Tessier m'a dit cela".

R. Oui, monsieur, j'ai peut-être posé la question: "N'étais-tu pas avec Tessier?" ou "Est-ce que tu n'étais pas avec Tessier puisque Tessier dit que tu étais avec lui?"

Q. 648 Quelle a été la réaction de Bellerive à ce sujet, en sachant que Tessier avait fait une déclaration?

R. Il n'a pas eu de réaction; j'oserais dire et j'ajouterais que du temps de son arrivée ce soir-là, à 7 h. 30 à aller jusqu'à minuit, l'attitude de l'accusé n'a pas changé; il n'a à aucun moment exprimé de la surprise.

Q. 649 Vous avez dit n'est-ce-pas que l'accusé s'était rendu lui-même à une des voitures?

R. Oui, monsieur.

Q. 650 A laquelle? Voulez-vous répéter?

R. La voiture qui était stationnée dans le lot vacant. C'était sur la rue qui fait le coin des rues De Niverville et St-Prospèr.

Q. 651 Vous avez dit aussi, je crois, qu'il avait prétendu avoir été d'un côté de la voiture; de quel côté?

R. Du côté de la rue De Niverville en premier lieu.

Q. 652 Est-ce qu'au cours de cette séance avec Bellerive, il a parlé tout d'un trait de choses se rapportant à l'explosion, ou bien si ça a été une conversation à bâtons rompus?

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R. Plutôt une conversation à bâtons rompus, oui, monsieur; tantôt on parlait de l'explosion et tantôt d'autre chose; la conversation n'était pas nécessairement sur le sujet.

Q. 653 Où avait-il soupé, Bellerive?

R. Je ne le sais pas.

Q. 654 A quelle heure l'avez-vous arrêté?

R. Vers 7 h. 15; entre 7 h. 15 et 7 h. 30.

Q. 655 La confession de Tessier était-elle une confession écrite?

R. Oui, monsieur.

Q. 656 Est-ce que vous n'avez pas montré à Bellerive une signature au bas d'un document ce soir-là, vous-même?

R. Ce soir-là, non, monsieur.

Q. 657 Pas ce soir-là?

R. Non, monsieur.

Q. 658 Vous avez simplement mentionné que Tessier avait fait une confession?

R. J'ai dit qu'il se peut que j'aie fait allusion à ça.

Q. 659 Avez-vous pris des notes?

R. Aucune.

Q. 660 Le constable Gervais en a-t-il pris?

R. Non, monsieur, aucune.

Q. 661 Voudriez-vous, dans mon intérêt personnel, parce que je m'en rappelle pas exactement ce que vous avez rapporté de ce que Bellerive avait dit --ce n'est pas pour vous embêter--ça m'éclairerait pour le moment--, voudriez-vous répéter ce que Bellerive vous a dit devant le constable Gervais ce soir-là?

R. "J'étais avec Tessier le soir de l'explosion; je me rappelle qu'on a pris un taxi devant la taverne du Lion d'Or; on a débarqué au coin de l'Hôtel Caumartin et là on s'est rendu à pied vers les camions; moi, je suis allé au camion qui était stationné dans le lot vacant; c'était au coin de la rue; j'ai vu que la porte du côté de la rue De Niverville était barrée; j'ai passé de l'autre

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R. côté; j'ai vu que celle-là était débarrée. Roméo est venu me retrouver et il m'a donné le bâton de dynamite. J'ai allumé le bâton de dynamite et je l'ai déposé sur le siège à côté du chauffeur, à côté de la place du chauffeur. J'avais pas peur; la mèche avait seulement six pouces. J'ai été retrouver Roméo au coin de la rue de Niverville; là, on est parti; j'ai sauté (ou, "on a sauté") pardessus une clôture.

Q. 662 Jurez-vous que Bellerive a dit ça d'une manière parfaitement libre et volontaire, de lui-même, sans que vous le poussiez de quelque manière que ce soit à dire ça?

R. Oui, monsieur.

Q. 663 Vous jurez ça?

R. Oui, monsieur, sans aucune menace ou promesse. C'était en réponse à des questions, si je peux préciser.

Q. 664 Quand vous avez montré les photographies à Bellerive et qu'il vous aurait dit: "J'ai pas vu les dommages mais c'est bien ça", vous n'avez pas poussé l'interrogatoire là-dessus?

R. C'était suffisant.

Q. 665 Mais avez-vous poussé l'interrogatoire plus loin?

R. Non, monsieur.

Q. 666 Mettez-vous dans le cas v ous-même où vous auriez perpétré un tel forfait; est-ce que vous pourriez sensément dire: "J'ai pas v u les dommages mais c'est bien ça." ?

Le procureur s'objecte à la question sur le motif que ce sont des hypothèses que l'officier défenseur soulève.

Par l'OFFICIER DEFENSEUR:

C'est une opinion que je demande au témoin; c'est tout.

PAR LE PROCUREUR:

C'est une hypothèse trop exagérée, il me semble.

LA COUR RENVOIE L'OBJECTION DU PROCUREUR.

Q. 667 Alors, je vous pose la question de nouveau. Si je vous montre cette photographie-ci, pièce "P", est-ce que raisonnablement, d'après vous --vous voyez une voiture à la brunante, je dirais même dans l'obscurité puisqu'il était assez tard-- est-ce que vous pourriez dire: "C'est la même voiture" hors de tout doute?

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R. Les photographies ont été produites dans leur ensemble; elles n'ont pas été produites individuellement.

Q. 668 Je prends celle-ci; je prendrai l'autre après. Je vous montre la pièce "P"; vous la voyez ici?

R. Oui, monsieur.

Q. 669 Alors?

R. A mon propre point de vue, à titre de policier, je dirais "oui, monsieur".

Q. 670 Sur quoi vous basez-vous?

R. Sur l'observation .

Q. 671 Qu'est-ce que vous auriez observé sur cette photographie, pièce "P" ? Qu'est-ce qui vous frappe?

R. Vous voyez la carrosserie...le genre de carrosserie

Q. 672 Là-dessus?

R. Oui, monsieur.

Q. 673 Même dans l'obscurité?

R. Il était seulement 9 h. 25; il y a une grosse lumière au coin de la rue, et on était à cinquante pieds de la lumière; il n'y avait aucune obstruction entre la lumière et les camions mêmes.

Q. 674 Voulez-vous approcher, s'il vous plaît? (L'officier défenseur étale les photographies sur la table; le témoin s'approche de la table) Qu'est-ce que vous voyez? Quelles sont les marques distinctives et à l'intérieur et à l'extérieur?

R. Les marques distinctes...bien, la marque du camion, le genre de camion.

Q. 675 Continuez...

R. L'ensemble des dommages qui se relient l'un à l'autre. Prenez celle-ci; voyez-vous celle-là entre les trois? Il y a un numéro 5 là-dessus; c'est une marque distincte. Ici, le numéro 4, c'est une marque distincte. J'ai passé ça à l'accusé et j'ai peut-être dit: "Voici cinq photographies qui ont été prises du camion qui était stationné dans le lot vacant; reconnais-tu là-dedans le camion dans lequel tu as déposé le bâton de dyhamite?" De là, sa réponse: "C'est ça."

Q. 676 Est-ce que vous lui avez dit que les photographies en question étaient du camion qui était dans le lot vacant?

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R. J'ai dit: "Voici des photos du camion qui était dans le lot vacant." Ces photographies ont été prises ici le lendemain au garage.

Q. 677 Qu'est-ce qui vous dit que c'est le même camion?

R. Je peux vous le dire, moi.

Q. 678 Alors, qu'est-ce qui vous dit que c'est le même camion?

R. Sur la chaine d'évidence; maintenant, si vous voulez contester, je peux faire venir le photographe. J'ai déjà dit que c'étaient des photographies officielles.

Q. 679 Vous dites que ce sont des photographies officielles?

R. Nécessairement.

Q. 680 Est-ce que Bellerive a vu le camion lui-même, le "station wagon" ?

R. Quand?

Q. 681 A cette date, laquelle je ne connais pas, est-ce qu'il ne l'a jamais vu?

R. Quel "station wagon"?

Q. 682 Celui des photographies?

R. Il a admis l'avoir vu.

Q. 683 L'a-t-il vu après les dommages?

R. Il ne peut pas l'avoir vu; je ne crois pas.

Q. 685 Qui lui a montré ces photos-là?

R. C'est moi-même.

Q. 686 Lui avez-vous dit lequel des deux c'était, laquelle des deux voitures c'était?

R. J'ai dit que je lui avais montré des photographies de la "machine", le "station wagon" dans le lot vacant. J'ai aussi des photographies de l'autre voiture.

Q. 687 Lui avez-vous montré ça?

R. Peut-être que je les lui ai montrées, mais je ne m'en rappelle pas définitivement; c'étaient deux groupes séparés, deux parties séparées; je me rappelle d'avoir séparé une photo qui était mêlée avec l'autre partie.

Q. 688 Quand vous dites que c'était une photographie qui se rapporte à l'une des deux voitures plutôt qu'à l'autre, qu'est-ce que vous voulez dire?

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rappelé

R. C'est parce que cette voiture avait trait à l'enquête que je faisais à ce moment-là.

Q. 689 Qu'est-ce qui vous faisait dire que ces photos-là étaient les photographies d'une voiture en particulier?

R. Parce que la même voiture, je l'ai vue moi-même après l'accident; j'étais là quand les photographies ont été prises et je les ai reconnues comme étant les photographies de la même voiture qui avait été endommagée par l'explosion et dans laquelle l'accusé a admis avoir déposé un bâton de dynamite, dans le lot vacant.

Q. 690 C'est à votre suggestion qu'il a admis ça?

R. C'est à ma question.

Q. 691 Quand lui avez-vous montré les autres photographies, les photographies de l'autre voiture?

R. A peu près au même moment; j'ai peut-être montré celles-ci les premières, auxquelles j'ai eu une réponse que c'était bien celle-là.

Q. 692 Si à vous on vous avait montré ces photographies-là de deux voitures, cinq ou six photographies de chacune des voitures, est-ce que raisonnablement vous auriez pu dire: "C'est ça; c'est telle voiture; j'ai fait telle chose à telle voiture et je n'ai pas fait telle chose à telle autre voiture" ? Raisonnablement?

R. Dans les circonstances, oui, monsieur.

Q. 693 Sur quoi vous basez-vous? Sur quoi basez-vous votre affirmation?

R. Parce que j'ai expliqué que l'autre photographie représentait le DODGE "station wagon", sur la rue St-Prosper et que celle-ci représentait l'autre "station wagon" qui était stationné dans le lot vacant, alors qu'il venait d'admettre qu'il avait déposé de la dynamite dans la machine qui était dans le lot vacant. Alors, en se basant sur ces questions, il a accepté comme un fait accompli que "c'était bien ça."

Q. 695 Au sujet de Tessier, est-ce que le 15 juillet, Tessier était jugé en cour martiale? Avait-il été jugé?

R. Je ne me souviens pas au juste.

Q. 696 Est-ce qu'il avait fait une confession à ce moment-là, Tessier?

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DIXIEME TEMOIN
A CHARGE

rappelé

R. A cette question-là, je demanderais à la cour la permission de référer à mes notes.

PAR LA COUR:

Q. 697 Est-ce que ce sont des notes que vous avez prises sur les faits, sur le champ même?

R. C'est un résumé que j'ai rédigé au bureau.

Q. 698 Immédiatement après?

R. Oui, monsieur.

LA COUR PERMET AU TEMOIN DE REFERER A SES NOTES.

Le sténographe relit les questions 696 et 697, lesquelles deviennent 699 et 700:

Q. 699 Au sujet de Tessier, est-ce que le 15 juillet, Tessier était jugé en cour martiale? Avait-il été jugé?

R. L'accusé Tessier n'avait pas été jugé.

Q. 700 Est-ce qu'il avait fait une confession à ce moment-là, Tessier?

R. Le 15 juillet, oui, il avait fait une confession.

PAR L'OFFICIER DEFENSEUR:

Q. 701 Qui avait pris cette confession?

R. Le constable Morel et moi-même.

Q. 702 Pouvez-vous vous rappeler de la date de la confession?

R. Oui, monsieur; le 9 juin 1945.

Q. 703 Est-ce que à ce moment-là, le 9 juin, Tessier savait de quoi il s'agissait?

R. Oui, monsieur.

Q. 704 Etait-il arrêté à ce moment-là?

R. Il avait été questionné; il avait fait une déclaration couvrant les faits ayant trait à l'explosion; évidemment, il savait de quoi il s'agissait.

Q. 705 Etait-il arrêté? C'est ça que je vous demande.

R. A ce moment-là, il était arrêté à titre de déserteur; aucune accusion pesait contre lui.

Q. 706 Tessier, ça?

R. Oui, monsieur.

84

DIXIEME TEMOIN
A CHARGE

rappelé

Q. 707 Avez-vous en votre possession les photographies de l'autre voiture?

R. Oui, monsieur.

Q. 708 J'aimerais, si c'est possible, que ces photographies soient versées au dossier; avez-vous objection à les produire?

R. Elles sont à la disposition de la cour. (Le témoin remet trois photographies à la cour.) Je produis trois photographies en série.

Trois photographies en série sont examinées par la cour, marquées pièces "Q", "R" et "S", signées au verso par le président et versées au dossier.

RE-EXAMINE PAR LE PROCUREUR:

Q. 709 Avez-vous lu à Bellerive la confession faite par Tessier le 9 juin 1945?

R. Non, monsieur.

A 1200 heures, le 30 août 1945, la cour s'est ajournée jusqu'à 1330 heures, le 30 août 1945.

Le 30 août 1945, à 1330 heures, la cour se rassemble de nouveau; sont présents les mêmes membres que lors de l'ajournement.

NEUVIEME TEMOIN
A CHARGE

rappelé

Constable André GERVAIS, Royale Gendarmerie à Cheval du Canada, Trois-Rivières, ayant précédemment prêté serment, est interrogé par le procureur:

Q. 710 A quelle date avez-vous rencontré l'accusé?

R. Le 15 juillet 1945.

Q. 711 A quel endroit?

R. A Trois-Rivières.

Q. 712 Où?

R. Au coin de la rue Des Forges, et on l'a amené au Bureau de Poste.

Q. 713 Dans quel bureau?

R. Chambre 213.

Q. 714 C'est le bureau de qui, ça?

R. Le bureau de la R.C.M.P.

NEUVIEME TEMOIN
A CHARGE

rappelé

Q. 715 Qui était présent?

R. Le caporal Desmarais. Au commencement, je suis arrivé avec le constable Dulieu; j'ai téléphoné immédiatement au caporal Desmarais, qui est venu.

Q. 716 Est-ce que l'accusé a fait une déclaration ce soir-là?

R. Oui, monsieur.

Q. 717 Qui était présent quand il a fait une déclaration?

R. Desmarais et moi-même.

Q. 718 A quelle heure a-t-il fait sa déclaration?

R. A 10 h. et demie ou 11 h. moins quart.

Q. 719 Pouvez-vous raconter à la cour ce que l'accusé a dit, en vous servant des mots qu'il a dits autant que possible?

R. Il nous a dit qu'il était avec Roméo Tessier au Bluebird, au restaurant sur la rue Des Forges. "Là, on est parti; on est allé chercher la dynamite; puis, de là on a pris un taxi en face du Lion d'Or et on est allé à côté de l'Hôtel Caumartin." De là, ils sont allés sonder les portes des "trucks", des camions; puis, je crois que Bellerive a été sur la camionnette qui était stationnée sur le lot vacant; après avoir sondé la porte du côté du chauffeur, qui était barrée, il nous a dit que Roméo Tessier avait été lui porter un bâton de dynamite, qu'il avait placé sur le siège.

Q. 720 Est-ce qu'il vous a dit autre chose?

R. Oui, monsieur; je crois, je sais qu'ils ont sauté une clôture.

Q. 721 Vous a-t-il dit ça qu'il avait sauté une clôture après?

R. Oui, après ça.

Q. 722 A-t-il dit autre chose?

R. Pas à ma connaissance.

Q. 723 Vous rappelez-vous si le caporal Desmarais lui a montré des photographies?

R. Oui, monsieur.

Q. 724 Pouvez-vous nous dire si ce sont ces photographies, pièces "L" "M" "N" "O" et "P", qui ont été montrées à l'accusé?

R. C'est bien ça.

82

NEUVIEME TEMOIN
A CHARGE

rappelé

Q. 725 Est-ce que l'accusé a fait une réflexion?

R. Oui, monsieur; il a dit: "C'est bien ça."

CONTRE-INTERROGE PAR L'OFFICIER DEFENSEUR:

Q. 726 Voulez-vous nous décrire la chambre ou a eu lieu l'entretien avec Bellerive?

R. Vous voulez dire notre bureau?

Q. 727 Oui?

R. En entrant, à droite, il y a un bureau à dactylographe; à gauche, une filière; il y en a deux filières; une ici et l'autre de ce côté-là; à gauche en entrant, il y a deux filières; il y a une filière placée sur le même côté de la porte ou du mur et il y en a une autre de l'autre côté, à trois pieds de la porte à peu près, et l'autre est à peu près à cinq pieds. Suivant cette filière-là, il y a une table avec deux dactylographes de placés dessus.

Q. 728 Connaissez-vous mademoiselle Monique St-Pierre?

R. Oui, monsieur.

Q. 729 Est-ce que Tessier a été le sujet de la conversation ce soir-là?

R. Je ne me souviens pas.

Q. 730 Il n'a pas été question de Tessier du tout?

R. Je ne crois pas.

Q. 731 Quelle était l'attitude de l'accusé?

R. Il était narquois, on pourrait dire; il souriait un peu.

Q. 732 Où était le constable Dulieu pendant ce temps-là?

R. Il était absent.

Q. 733 Il n'a pas été là de la veillée?

R. Non.

Q. 734 A quelle heure Bellerive a-t-il été cautionné?

R. Vers dix h. et demie, onze h. moins vin gt.

Q. 735 Pas "questionné" mais "cautionné", mis en garde autrement dit?

R. En entrant, immédiatement après l'arrivée du caporal Desmarais.

NEUVIEME TEMOIN
A CHARGE

rappelé

Q. 736 A quelle heure alors?

R. Vers 7 h. 30 ou 7 h. 45.

Q. 737 Etait-ce au deuxième ou troisième la chambre 213?

R. Au deuxième.

Q. 738 Mon tez-vous par l'escalier ou l'élévateur?

R. Par l'escalier.

Q. 739 Où était l'accusé pendant la conversation?

R. Il était assis près de la filière, la deuxième filière, à côté de la table où sont situés les deux dactylographes.

Q. 740 Et vous, où étiez-vous?

R. Je me promenais.

Q. 741 Où était le caporal Desmarais?

R. Un bout de temps il était debout à côté et au bout de la table; il s'est promené à part de ça dans l'appartement.

Q. 742 A quelle heure a eu lieu la conversation?

R. Voulez-vous dire entre le caporal Desmarais, Bellerive et moi-même?

Q. 743 Oui?

R. De dix heures et demie à minuit environ.

Q. 744 Maintenant, est-ce que c'est une déclaration que vous a faite l'accusé d'un trait, ou si c'est simplement dans le cours de la conversation qu'il vous a rapporté ça?

R. C'était dans le cours de la conversation.

Q. 745 Est-ce qu'il y a eu des questions de posées?

R. Oui, certaines questions.

Q. 746 Qu'est-ce que vous lui avez demandé?

R. Moi? Aucune question!

Q. 747 Avez-vous vu les automobiles endommagés?

R. Oui, monsieur.

Q. 748 Vous avez dit tout à l'heure que l'accusé avait dit qu'il était allé voir à la porte du bord du chauffeur, d'abord?

R. Oui, monsieur.

80

NEUVIEME TEMOIN
A CHARGE

rappelé

Q. 749 Si je comprends bien, il a dit aussi que la porte était barrée?

R. Oui, monsieur.

Q. 750 Par rapport à la rue, ça se trouvait de quel côté ça?

R. J'ai pas vu les camions sur la rue, seulement au garage; c'est seulement de la manière qu'il m'a dit qu'il était situé, lui.

Q. 751 Vous rappelez-vous que le caporal Desmarais aurait dit que Tessier avait fait une confession?

R. Je me souviens pas de ça.

Q. 752 Vous rappelez-vous avoir vu mademoiselle Monique St-Pierre.

R. Oui, monsieur.

Q. 753 Où l'avez-vous vue ce soir-là?

R. Au bureau.

Q. 754 Combien de temps a-t-elle été dans le bureau?

R. Une heure et demie, deux heures.

Q. 755 Dans quel bureau était-elle?

R. Au troisième étage.

Q. 756 Est-ce vous qui l'avez reçue?

R. Je suis allé la chercher avec le constable Dulieu.

Q. 757 A quelle heure?

R. A huit heures moins quart.

Q. 758 Où était l'accusé alors?

R. Avec le caporal Desmarais.

Q. 759 Quand l'entretien entre Desmarais et mademoiselle St-Pierre s'est terminé, avez-vous vu mademoiselle St-Pierre?

R. Oui, monsieur; elle est descendue en bas.

Q. 760 A quel endroit, en bas?

R. Au bureau 213.

Q. 761 Combien de temps a-t-elle été là?

R. Un quart d'heure, peut-être.

NEUVIEME TEMOIN
A CHARGE

rappelé

Q. 762 Qu'est-ce qu'elle a fait?

R. Ils ont parlé en conversation.

Q. 763 En tête-à-tête?

R. Oui, monsieur.

Q. 764 Vous savez ce qu'ils ont dit?

R. Oui, monsieur.

Q. 765 Alors, voulez-vous raconter à la cour?

R. Il disait qu'il était déserteur et que c'était pour ça qu'il avait été arrêté.

Q. 766 C'est tout ce qu'ils ont dit pen dant un quart d'heure?

R. Il a parlé d'une plume-fontaine, de l'apporter à la maison, de son portefeuille et de sa montre.

Q. 767 Il n'a pas été question de l'affaire de l'explosion?

R. Non, du tout.

Q. 768 N'est-il pas vrai que l'accusé a parlé un peu parce que on lui a suggéré quoi dire? Par exemple, le caporal Desmarais lui aurait dit: "On en sait un peu; on en sait même pas mal; alors, il est arrivé ceci et il est arrivé cela; alors, veux-tu confirmer et dire si c'est bien ça qui est arrivé?" ?

R. Pour demander de confirmer, ça... Je sais qu'il a été dit qu'il en savait pas mal de l'histoire.

Q. 769 N'est-il pas vrai qu'il lui aurait dit aussi: "Tu es aussi bien de parler; on est sur la bonne piste"?

R. Non, monsieur.

Q. 770 Pas dans ces termes-là?

R. Ce que l'accusé a dit, c'est parce qu'il avait la volonté de le dire.

Q. 771 Vous admettez qu'il a dit à Bellerive qu'il était sur la bonne piste?

R. Une piste...bien, c'est toujours ça; je ne peux pas dire s'il a dit ça ou non.

Q. 772 Il peut l'avoir dit?

R. Ca se peut fort bien.

Q. 773 De la manière dont les choses marchaient, le caporal Desmarais aurait pu passer cette remarque-là à un moment donné?

NEUVIEME TEMOIN
A CHARGE

rappelé

R. Il aurait pu, seulement j'en ai pas eu co nnaissance.

Q. 774 Je veux dire, d'après la manière que la conversation était engagée, ça aurait pu se faire? C'était possible?

R. C'était possible.

Q. 775 Parce que, n'oubliez pas une chose; c'est que, d'abord, vous êtes sous serment; vous êtes membre de la Gendarmerie Royale depuis assez longtemps, je m'imagine; la cour est parfaitement intéressée et moi aussi au nom de l'accusé à savoir comment les choses se sont passées; alors que le moindre indice, la chose qui peut vous sembler le moins important à vous peut être à moi très importante.

R. Je comprends ça.

Q. 776 Ma question était simple; je la répète encore.

R. Je ne peux pas vous répondre là-dessus; je me souviens pas de ça.

Q. 777 Vous étiez là?

R. Oui, monsieur.

Q. 778 Vous étiez à portée de voix et de Desmarais et de Bellerive?

R. Oui, monsieur.

Q. 779 Est-ce qu'il aurait pu arriver que vous vous seriez absenté pendant cinq minutes?

R. J'ai pu avoir échappé quelques paroles.

Q. 780 Combien de temps auriez-vous pu vous absenter?

R. Une ou deux minutes peut-être.

Q. 781 Bellerive aurait rien dit en votre présence ce soir-là au sujet de Tessier?

R. Il a parlé qu'il était avec lui alors que ça s'est produit.

Q. 782 Le caporal Desmarais n'aurait rien dit à l'effet que Tessier avait confessé déjà et que ça ne lui servirait à rien à lui, Bellerive, de rester en arrière? Il n'aurait pas dit ça?

R. Non, monsieur.

NEUVIEME TEMOIN
A CHARGE

rappelé

Q. 783 Vous dites qu'il a parlé un peu de toutes sortes de choses; voulez-vous dire les choses qu'il a dites à part de ce qui se rapporte à l'accident lui-même, en dehors de l'accident?

R. Je ne me souviens pas du tout. C'est peut-être qu'il était déserteur de l'armée, depuis combien de temps il était déserteur.

Q. 784 Est-ce que l'accusé vous a simplement dit qu'il était allé du côté de la porte du chauffeur?

R. Oui, il est allé pour la sonder; quand il a vu qu'elle était barrée, il a passé de l'autre côté.

Q. 785 Avez-vous vu les photographies une fois l'explosion survenue?

R. Je les ai vues.

Q. 786 Est-ce que vous pouvez les identifier?

R. Je peux identifier celle-ci. (le témoin indique la pièce "N"). Les deux camions à l'intérieur se ressemblent assez. Celle-ci, je peux l'identifier. (Le témoin indique la pièce "O").

Q. 787 Qu'est-ce que vous dites de cette photographie-là? (pièce "O")

R. C'est la photographie du camion Plymouth. Ca, c'est le Plymouth aussi. (le témoin indique la pièce "P") C'est une wagonnette. Regardez le "dash" comment c'est fait; la poignée est différente aussi; il y a la roue aussi qui n'est pas pareille.

Q. 788 Pouvez-vous identifier cette photographie comme étant celle de la wagonnette Plymouth à cause de différences techniques qui existent entre une voiture de marque Plymouth et une autre voiture?

R. C'est tout juste.

Q. 789 Vous dites par exemple que la poignée ici est caractéristique à la marque Plymouth, que la roue de direction est également caractéristique de la marque Plymouth?

R. C'est tout juste. Les autres sont des photographies des deux "trucks"; je ne peux pas les identifier particulièrement. Je sais que ça vient des deux camions en question, mais par l'intérieur je ne peux pas identifier si c'est le Dodge ou le Plymouth.

Q. 790 A quelle heure avez-vous arrêté Bellerive?

R. Vers 7 h. 15; entre 7 h. 15 et 7 h. 30.

Q. 791 Qui l'a arrêté?

R. C'est moi-même.

NEUVIEME TEMOIN
A CHARGE

rappelé

Q. 792 Où l'avez-vous arrêté?

R. Au coin de la rue Des Forges, près du théâtre Capitol; je ne peux pas dire le nom de la rue exactement.

RE-EXAMINE PAR LE PROCUREUR:

Q. 793 Les photographies qu'on vient de vous montrer, quand les avez-vous vues pour la première fois?

R. Un peu avant l'arrestation de Bellerive.

Q. 794 Les véhicules, les avez-vous vus sur le terrain?

R. Non, monsieur.

Q. 795 Quand vous dites que vous identifiez ces photographies-là, voulez-vous dire comme étant celles qui vous ont été montrées le ou vers le 15 juillet 1945?

R. Oui, monsieur.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

LE PROCUREUR S'ADRESSE A LA COUR:

Je crois que j'ai avisé l'officier défenseur la semaine dernière qu'un témoin qui n'apparait pas au sommaire de la preuve, mais dont le nom a été mentionné à plusieurs reprises au cours du procès, serait appelé à comparaître. Il s'agit du constable spécial Dulieu de la Gendarmerie Royale. Nous avons voulu éclairer la cour au sujet des circonstances dans lesquelles il a été mentionné. Il va venir dire qu'il a conduit le véhicule quand Bellerive a été arrêté, qu'il s'est rendu avec le constable Gervais au Bureau de Poste, qu'il a conduit Gervais et Bellerive au Bureau de Poste, et qu'il n'a posé aucune question à l'accusé concernant l'offense dont il était soupçonné.

L'OFFICIER DEFENSEUR INFORME LA COUR QUE LA DEFENSE NE DESIRE PAS SE PREVALOIR DE SES DROITS EN VERTU DE LA REGLE DE PRATIQUE 76.

ONZIEME TEMOIN
A CHARGE

Constable spécial J. DULIEU, Gendarmerie Royale à Cheval du Canada, 48 ans, Drummondville, P.Q., ayant été dûment assermenté, est interrogé par le procureur:

Q. 796 Voulez-vous donner à la cour votre nom, votre votre adresse et votre occupation?

75

ONZIEME TEMOIN
A CHARGE

(suite)

R. Constable spécial Dulieu, Gendarmerie Royale à Cheval du Canada, agé de 48 ans, domicilié à Drummondville, P.Q.

Q. 797 Connaissez-vous l'accusé dans cette cause?

R. Roch Bellerive. (le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte)

Q. 798 A quelle date l'avez-vous vu pour la première fois?

R. Le soir de son arrestation, avec le constable Gervais.

Q. 799 A quelle date?

R. Le 15 juillet 1945.

Q. 800 A quelle heure à peu près?

R. Un peu...aux environs de 7 h. 30 du soir.

Q. 801 Voulez-vous raconter à la cour ce qui s'est passé exactement à compter du moment où vous avez vu l'accusé pour la première fois?

R. Nous étions dans un "station wagon " à parcourir les rues et surveiller pour découvrir l'accusé que l'on savait être à Trois-Rivières. Vers 7 h. 15 ou 7 h. 30, ou environ vers cette heure-là, un in dividu est passé avec une demoiselle. J'étais avec l'autre constable, monsieur Gervais; on s'est consulté; on s'est dit: "Ca lui ressemble". Je l'ai vu de profil; alors, on avance un peu plus loin et on le regarde en face; j'ai dit: "Je pense que c'est lui". Alors, j'avance la machine plus vite pour arrêter et lui couper le chemin à Bellerive. Pendant ce temps-là, le constable Gervais était descendu et a amené Bellerive vis-à-vis de la machine qui se trouvait à environ cent ou cent cinquante pieds du coin. J'ai vu que beaucoup de gens suivaient Gervais et Bellerive, alors, j'ai passé entre Gervais et Bellerive et ces gens-là et je leur ai demandé ce qu'ils voulaient. Pendant ce temps-là, Bellerive était monté dans la machine avec Gervais. Quand j'ai v u que tout était en ordre, j'ai sauté dans la machine et j'ai amené Bellerive au poste avec Gervais. Après ça on a fait rapport au caporal Desmarais que nous avions Bellerive; il est descendu immédiatement. Après avoir consulté Gervais seul, le caporal Desmarais m'a appelé au bureau, laissant Gervais et Bellerive ensemble seuls, pour me demander pourquoi nous n'avions pas arrêté la demoiselle, mademoiselle St-Pierre, qui était avec lui, parce que soi-disant que mademoiselle St-Pierre avait pris le portefeuille de Bellerive; alors, évidemment, c'était un manque de notre part. Là, le caporal Desmarais nous a dit d'aller chercher Monique St-Pierre. Gervais et moi-même sommes partis et nous l'avons amenée au bureau. Là, le caporal Desmarais et le constable Gervais sont montés au bureau du 3e étage et ils ont questionné mademoiselle St-Pierre, me laissant seul avec Roch Bellerive.

74

ONZIEME TEMOIN
A CHARGE

(suite)

Q. 802 Combien de temps êtes-vous resté seul avec Bellerive?

R. Environ deux heures.

Q. 803 A quelle heure avez-vous cessé d'être seul?

R. Un peu après dix heures.

Q. 804 Qu'est-ce qui est arrivé?

R. Le caporal Desmarais et le constable Gervais et mademoiselle St-Pierre sont descendus.

Q. 805 Durant le temps que vous étiez seul avec Bellerive, quel genre de conversation avez-vous tenue avec lui?

R. Sur toutes sortes de choses sauf la cause de son arrestation.

Q. 806 Quand le caporal Desmarais et le constable Gervais sont venus, êtes-vous resté avec eux?

R. Non, monsieur; j'ai demandé au caporal Desmarais la permission de me retirer parce qu'il fallait que je me lève à cinq heures le lendemain matin.

Q. 807 Vous n'êtes pas revenu après?

R. Non, j'ai quitté le bureau.

Q. 808 Est-ce que, devant vous, à compter du moment où vous avez fait l'arrestation, à aller au moment où vous avez quitté le bureau de la Police Montée, est-ce que durant cette période de temps Bellerive a fait une déclaration quelconque?

R. Pas à moi, parce que le temps a été très court.

Q. 809 Quand vous avez amené Bellerive au caporal Desmarais, est-ce que Desmarais lui a posé des questions?

R. Pas à ma connaissance.

L'OFFICIER DEFENSEUR NE DESIRE PAS CONTRE-INTERROGER LE TEMOIN.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

Le procureur rappelle le septième témoin à charge, dont l'examen-en-chef avait été suspendu le 24 août 1945.

SEPTIEME TEMOIN
A CHARGE

rappelé

A-109714, Private Roméo TESSIER, CIC,CA, attached to No. 4 District Depot,CA, ayant précédemment prêté serment, et ayant précédemment été déclaré hostile par la cour, est interrogé par le procureur:

Q. 810 Vous avez déjà subi un procès pour avoir endommagé des véhicules étant de la propriété publique?

R. Oui, monsieur.

Q. 811 Le procès est terminé?

R. Oui, monsieur.

Q. 812 On va revenir au 18 mai 1945; vous rappelez-vous de ce jour-là, jour de malheur s'il en fut un?

R. Oui, monsieur.

Q. 813 Alors, vous vous rappelez de votre témoignage la dernière fois que vous êtes venu ici en cour, que le matin vous avez obtenu de la dynamite?

R. Oui, monsieur.

Q. 814 Et que le matin vous avez discuté au sujet des "chars" des "provosts"?

R. Oui, monsieur.

Q. 815 Vous vouliez faire sauter les "chars" des "provosts"?

R. Oui, monsieur.

Q. 816 Au cours de l'avant-midi, avez-vous rencontré Levasseur?

R. Oui, monsieur.

Q. 817 De quoi a-t-il été question?

R. Il a été question de la dynamite.

Q. 818 Pourquoi?

R. Pour les "trucks" des "provosts".

Q. 819 Avec qui étiez-vous?

R. Avec Bellerive et Levasseur.

Q. 820 Est-ce que Bellerive était au courant du projet de faire sauter les "trucks" des "provosts"?

R. On a discuté ça ensemble tous les trois.

Q. 821 Levasseur vous a-t-il quitté dans l'avant-midi?

R. Oui, monsieur.

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SEPTIEME TEMOIN
A CHARGE

rappelé

Q. 822 Quand est-il revenu?

R. Oh, une demi-heure après.

Q. 823 Qu'est-ce qu'il a rapporté avec lui?

R. De la dynamite.

Q. 824 A qui l'a-t-il remise?

R. A Bellerive.

Q. 825 Est-ce que vous l'avez vue?

R. Je l'ai pas vu lui donner mais il l'avait dans ses mains.

Q. 826 Combien de temps après que Levasseur a quitté Bellerive quand vous l'avez vue la dynamite comme ça?

R. Une...deux minutes.

Q. 827 Qu'est-ce que Bellerive a fait de la dynamite?

R. Il me l'a donnée.

Q. 828 Vous, qu'est-ce que vous avez fait avec ça?

R. J'ai posé le détonateur dedans.

Q. 829 Après?

R. Je l'ai amené chez nous pour poser ça dedans; je l'ai gardée chez nous ensuite.

Q. 830 Jusqu'à quelle heure l'avez-vous gardée chez vous?

R. Je ne peux pas dire; jusque avant souper.

Q. 831 Qu'avez-vous fait avec la dynamite après ça?

R. Je suis descendu chez Guillemette.

Q. 832 A Trois-Rivières toujours?

R. Oui, monsieur.

Q. 833 Et puis?

R. Je l'ai laissée chez Guillemette.

Q. 834 A quel endroit l'avez-vous laissée?

R. En arrière du "back store".

Q. 835 Vous l'avez cachée là?

R. Oui, monsieur.

SEPTIEME TEMOIN
A CHARGE

rappelé

Q. 836 A quelle heure êtes-vous revenu la chercher cette dynamite-là?

R. Ca, je m'en rappelle plus.

Q. 837 Avez-vous une idée de l'heure où vous avez été chercher la dynamite?

R. Je m'en souviens pas.

Q. 838 Vous n'avez aucune idée.

R. Non, monsieur.

Q. 839 Est-ce qu'il a été question après ça dans votre vie de cette dynamite?

R. Non, parce qu'on a été prendre de la bière après.

Q. 840 Combien avez-vous pris de bière?

R. Je peux pas dire; je me rappelle pas; j'étais chaud.

Q. 841 A quelle heure vous êtes-vous reconnu ce soir-là? Quand avez-vous repris vos sens?

R. Vers 11 h. 30.

Q. 842 N'est-il pas vrai que vers cette heure-là, entre onze heures et onze heures et demie, vous avez rencontré Levasseur chez Guillemette?

R. Je m'en souviens pas.

Q. 843 Vous dites que vous avez repris vos sens à cette heure-là?

R. Si je l'ai rencontré, c'est avant ça. Je l'ai pas rencontré à cette heure-là; si je l'ai rencontré à cette heure-là, je m'en souviens pas. Quand j'ai repris mes sens, je me suis en allé chez nous.

Q. 844 Vous avez dit au cours de votre témoignage la dernière fois que vous aviez pris de la soupe vers cette heure-là?

R. Oui, monsieur.

Q. 845 Ca vous a dégrisé ça?

R. Oui, monsieur, quand j'ai repris mes sens d'avoir pris ma soupe, il y avait pas de Levasseur dans le restaurant.

Q. 846 N'est-il pas vrai que vous avez rencontré Levasseur à ce restaurant et que vous lui avez dit que "ça avait marché, que les 'trucks' avaient sauté" ? Vous en rappelez-vous de ça?

R. Je m'en rappelle pas.

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SEPTIEME TEMOIN
A CHARGE

rappelé

Q. 847 Vous ne vous en rappelez pas du tout là?

R. Non, monsieur.

Q. 848 J'ai ici une déclaration signée par Roméo Tessier. Reconnaissez-vous cette signature-là dessus?

R. Oui, c'est ma signature.

Q. 849 Alors, je vous exhibe une déclaration qui a été signée par vous le 9 juin 1945; à quel endroit l'avez-vous signée?

R. A la Police Montée.

Q. 850 A quelle place?

R. Je sais pas où.

Q. 851 Est-ce à Mon tréal, à Québec ou à Trois-Rivières?

R. Je sais que c'est à Montréal.

Q. 852 Tous les détails qui sont mentionnés dans cette déclaration signée par vous, sont-ils vrais ou faux?

R. Ils sont faux.

Q. 853 Pourquoi dites-vous qu'ils sont faux?

R. Parce que c'est leurs questions à eux autres qu'ils m'ont posées ni plus ni moins, les questions de la confession à Levasseur.

Q. 854 Levasseur était-il avec vous autres quand les camions ont sauté?

R. Ce sont eux qui m'ont mentionné ça; ils m'ont questionné et conté les faits.

Q. 855 Si Levasseur n'était pas là, comment a-t-il pu témoigner à l'effet que vous êtes resté d'un côté du "char" et Bellerive de l'autre côté et que vous aviez sondé les portes, par exemple?

R. J'ai pas de réponse à ça.

Q. 856 Pourquoi avez-vous signé ce papier-là?

R. Premièrement, c'est tout suivant les records de Levasseur.

Q. 857 Oui, mais pourquoi avez-vous signé? Est-ce que votre signature ne vaut rien?

R. Elle vaut quelque chose.

SEPTIEME TEMOIN
A CHARGE

rappelé

Q. 858 Qu'est-ce qu'elle vaut votre signature? Quand vous signez un papier, pourquoi signez-vous?

R. C'est un papier qu'il fallait que je signe.

Q. 859 Qu'est-ce que ça veut dire quand vous signez comme ça? Vous mettez votre signature sur n'importe quel papier, vrai ou faux, même des choses qui vous incriminent?

R. J'étais en boisson; je pouvais l'avoir fait et je pouvais pas l'avoir fait.

Q. 860 Vous pouviez en avoir été?

R. C'est lui qui m'a rappelé la chose.

Q. 861 Quand on vous a rapporté ça, ça vous a rappelé?

R. Ca pourrait arriver vu qu'on avait déjà parlé de la dynamite; ça aurait pu arriver.

Q. 862 Les bâtons de dynamite, vous les avez placés en arrière du magasin chez Guillemette?

R. Oui, monsieur.

Q. 863 Sont-ils encore là ces bâtons-là?

R. Je sais pas.

Q. 864 Vous en êtes-vous déjà préoccupé d'aller voir s'ils étaient encore là?

R. Non, monsieur.

Q. 865 Vous n'avez jamais pensé d'aller voir ça?

R. Non, monsieur.

Q. 866 Avez-vous pris un coup quand vous êtes allé les mettre là?

R. Oui, monsieur.

Q. 867 Et vous avez jamais pensé d'y retourner?

R. Non, monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS CONTRE-INTERROGER LE TEMOIN.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

LE PROCUREUR S'ADRESSE A LA COUR:

Je désire aviser la Défense que je ne ferai pas comparaître les témoins suivants, dont les noms apparaissent au Résumé de la Preuve, et je les mets à la disposition de la Défense:

i) Constable Léon Paul MOREL, constable de la Royale Gendarmerie à Cheval du Canada, Montréal,

ii) K-13351, soldat G. DESFOSSES, CIC,CA, attaché au No. 4 District Depot,CA,

iii) Lieutenant P.-A.-Y. LUPIEN, assistant-adjudant du C.I. (B) T.C. No. 44,CA.

L'OFFICIER DEFENSEUR INFORME LA COUR QU'IL NE DESIRE PAS CONTRE-INTERROGER LES TEMOINS PRECITES.

LE PROCUREUR N'A PLUS DE TEMOINS A APPELER

LA POURSUITE EST CLOSE

D

D E F E N S E

QUESTIONS
A L'ACCUSE

Q. 868 Désirez-vous rendre témoignage?

R. Non, monsieur.

Q. 869 Avez-vous l'intention de citer d'autres témoins pour votre défense?

R. Oui, monsieur.

Q. 870 Sont-ce uniquement des témoins à l'appui de votre réputation?

R. Non, monsieur.

PREMIER TEMOIN
A DECHARGE

Mademoiselle Laure LEFEBVRE, 1011, rue Ste-Ursule, Trois-Rivières, P.Q., étant dûment assermentée, est interrogée par l'officier défenseur:

Q. 871 Voulez-vous donner à la cour votre nom et votre adresse, s'il vous plait?

R. Laure Lefebvre, 1011, rue Ste-Ursule, Trois-Rivières.

Q. 872 Connaissez-vous l'accusé?

R. Oui, monsieur.

Q. 873 Voulez-vous dire à la cour où est l'accusé actuellement?

R. Ici. (Le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte)

Q. 874 Comment s'appelle-t-il?

R. Roch Bellerive.

Q. 875 Vous rappelez-vous d'un incident qui se serait passé à Trois-Rivières au sujet de voitures de l'armée il y a quelques mois?

R. Oui, monsieur.

Q. 876 Dans quel mois était-ce?

R. Dans le mois de mai.

Q. 877 Vous rappelez-vous de la date?

R. Le 18 mai 1945.

Q. 878 Qu'est-ce que vous avez fait ce soir-là?

R. On est allé au Bluebird.

Q. 879 Qu'est-ce que c'est le Bluebird?

R. C'est un restaurant.

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PREMIER TEMOIN
A DECHARGE

(suite)

Q. 880 A Trois-Rivières?

R. Oui, monsieur.

Q. 881 A quelle heure êtes-vous allée là?

R. Vers 8 h. 30, neuf heures moins quart.

Q. 882 Qui était avec vous? Avec qui étiez-vous allée là?

R. J'étais avec mademoiselle Thellend et mademoiselle Salois.

Q. 883 Avez-vous rencontré des gens que vous connaissiez au Bluebird?

R. On a rencontré Roch Bellerive.

Q. 884 A quelle heure?

R. A neuf heures moins quart; c'est un p'tit peu après qu'on est rentrées et puis on est entrées nous autres à 8 h. et demie; j'ai arrivé là, il était 8 h. et demie.

Q. 885 A quelle heure êtes-vous partie de là?

R. Environ, vers dix heures.

Q. 886 Avez-vous parlé à quelqu'un pendant que vous avez été au Bluebird?

R. Oui, à Bellerive.

Q. 887 Où lui avez-vous parlé?

R. Au Bluebird.

Q. 888 Oui, mais où au Bluebird? Est-ce qu'il est allé vous voir?

R. Il est venu nous trouver.

Q. 889 A votre table?

R. Oui, monsieur.

Q. 890 Est-il resté avec vous autres?

R. Oui, monsieur.

Q. 891 Est-ce que vous avez pris une consommation?

R. On a pris notre consommation; c'était chacune un "coke".

Q. 892 A quelle heure avez-vous laissé?

R. A dix heures.

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PREMIER TEMOIN
A DECHARGE

(suite)

Q. 893 Pourquoi vous rappelez-vous de cette date-là particulièrement?

R. Parce que en partant du restaurant pour aller à la maison, on a entendu dire qu'il y avait des "truck" de sautés et on a été les voir.

Q. 894 Etes-vous partie seule du Bluebird?

R. Je suis partie avec mon amie, mademoiselle Thellen

CONTRE-INTERROGEE PAR LE PROCUREUR:

Q. 895 Depuis combien de temps connaissez-vous monsieur Bellerive?

R. Ca fait longtemps.

Q. 896 Un an, deux ans, trois ans?

R. Trois ans.

Q. 897 Est-ce qu'il a été votre ami d'une façon particulière?

R. Non.

Q. 898 Connaissez-vous mademoiselle Muriel Tessier?

R. Non.

Q. 899 Le 18 mai 1945, vous êtes allée au Bluebird?

R. Oui, monsieur.

Q. 900 Est-ce grand le Bluebird?

R. Assez grand.

Q. 901 Pas mal grand? Comment c'est fait en-dedans? Est-ce qu'il y a des séparations qui montent jusqu'au plafond, des tables, des chaises?

R. Il y a des tables; c'est séparé par la moitié.

Q. 902 Est-ce que ce sont des tables de restaurant ordinaires qui sont là-dedans?

R. A peu près comme la chaise ici.

Q. 903 Comment est disposé le restaurant? Comment les tables sont-elles disposées?

R. Comme ça, sur la longueur.

Q. 904 En rangées?

R. Oui, monsieur.

PREMIER TEMOIN
A DECHARGE

(suite)

Q. 905 Est-ce qu'il y a plusieurs rangées?

R. Deux; une à gauche et une à droite.

Q. 906 Est-ce que le restaurant a une forme carrée comme ici?

R. Plutôt longue.

Q. 907 Dans la partie du restaurant où vous étiez, pouviez-vous voir partout dans le restaurant ou s'il y avait quelque chose qui vous empêchait de voir?

R. On peut voir partout.

Q. 908 Le 18 mai 1945, vous êtes allée au Bluebird; vous étiez à une table là?

R. Oui, monsieur.

Q. 909 Vous avez pris un coke?

R. Oui, monsieur.

Q. 910 A quelle heure êtes-vous arrivée là?

R. Entre 8 h. demie et neuf heures moins quart.

Q. 911 Quand vous êtes arrivée là, est-ce que Bellerive était arrivé?

R. Oui, monsieur.

Q. 912 Qu'est-ce qu'il faisait là?

R. Il est venu à notre table; je ne sais pas ce qu'il faisait avant.

Q. 913 Vous l'avez pas vu assis à sa table?

R. Non, monsieur.

Q. 914 Il est venu s'asseoir avec vous autres, mesdemoiselles Salois et Thellend et vous-même?

R. Oui, monsieur.

Q. 915 Qu'est-ce qu'il a pris, lui?

R. Il avait de la bière.

Q. 916 Il avait de la bière qu'il avait sur l'autre table?

R. Oui, je pense.

Q. 917 Il l'a emportée là?

R. Oui, monsieur.

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PREMIER TEMOIN
A DECHARGE

(suite)

Q. 918 Qui était avec Bellerive?

R. Je l'ai vu, il était tout seul.

Q. 919 Connaissez-vous Tessier?

R. Non, monsieur.

Q. 920 Vous n'avez jamais vu Tessier?

R. Non, monsieur.

Q. 921 Vous ne le connaissez pas?

R. Je sais que Bellerive était tout seul au Bluebird ce soir-là quand il est venu nous parler; je sais pas s'il y en avait d'autres avec lui avant qu'il vienne s'asseoir. Avec nous autres en tout cas, il était tout seul.

Q. 922 Savez-vous s'il était avec quelqu'un d'autre dans le restaurant?

R. Non, monsieur.

Q. 923 De quoi avez-vous parlé là?

R. On a parlé de toutes sortes de choses.

Q. 924 Est-ce qu'il est resté continuellement assis avec vous autres?

R. Oui, monsieur.

Q. 925 Il ne s'est pas absenté une seconde de 8 h. 30 à 10 heures?

R. Oui, on est parti à dix heures, nous autres.

Q. 926 A quelle date ça?

R. Le 18 mai.

Q. 927 Vous jurez ça?

R. Oui.

Q. 928 Vous savez ce que c'est qu'un parjure?

R. Oui.

Q. 929 Vous n'en faites pas un?

R. Non, monsieur.

Q. 930 Il a toujours été là?

R. Oui, monsieur.

PREMIER TEMOIN
A DECHARGE

(suite)

Q. 931 Il n'a pas été chez Guillemette vers 9 h. 15?

R. Non, monsieur.

Q. 932 Il n'est pas parti une seconde?

R. Non, monsieur.

Q. 933 Il est toujours resté avec vous de 8 h. 30 à 10 heures?

R. Oui.

Q. 934 Et c'était le 18 mai?

R. Oui.

Q. 935 Comment vous rappelez-vous que c'était le 18 mai?

R. Parce que le soir en partant du Bluebird, on est allé voir les "trucks" qui s'étaient fait sauter.

Q. 936 Sauter...à quelle place?

R. Au coin de la rue St-Prosper.

Q. 937 A quelle distance du Bluebird, ça?

R. Ca prend à peu près cinq minutes.

Q. 938 A pied?

R. Oui, monsieur.

Q. 939 Il n'y a pas une autre jeune fille qui est venue vous parler au Bluebird ce soir-là?

R. Non, monsieur.

Q. 940 Vous jurez ça?

R. Oui, monsieur.

Q. 941 Il n'y a pas un homme qui est allé lui parler pendant ce temps-là?

R. Je pense qu'un garçon est venu lui parler.

Q. 942 L'avez-vous vu ici tout à l'heure ce garçon-là?

R. Non, je le connais pas.

Q. 943 Qu'est-ce qu'ils se sont dit?

R. Je le sais pas.

Q. 944 Vous étiez tous assis à la même table?

R. Oui.

PREMIER TEMOIN
A DECHARGE

(suite)

Q. 945 Et vous avez pas compris ce qu'ils ont dit?

R. Non, monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS RE-EXAMINER LE TEMOIN.

INTERROGEE PAR LA COUR:

Q. 946 Vous avez dit tout à l'heure que vous étiez parties pour aller voir des "trucks" qui avaient sauté; comment saviez-vous ça?

R. On le savait pas qu'ils avaient sauté; c'est en allant qu'on l'a su.

Q. 947 Qui vous a appris ça?

R. Mademoiselle Salois.

Q. 948 Comment est-ce qu'elle le savait, elle?

R. Elle attendait l'autobus au coin des rues Des Forges et Royale; c'est un jeune homme qui lui a dit ça.

PAR LA COUR POUR LE PROCUREUR:

Q. 949 Quand vous êtes allée au restaurant, mademoiselle Salois n'était pas avec vous?

R. Oui, on était toutes les trois ensemble. Quand on est parties, c'est parce qu'elle attendait l'autobus au coin de la rue Des Forges et de la rue Royale; on l'a laissée au coin parce qu'elle attendait son autobus.

Q. 950 A quel moment vous a-t-elle appris que les "trucks" avaient sauté?

R. Elle était dans une "machine"; elle est venue nous dire ça.

Q. 951 Elle est courue après vous autres pour vous dire ça?

R. Oui.

Q. 952 Vous êtes parties, mademoiselle Thellend, mademoiselle Salois et vous-même, du restaurant, vers dix heures?

R. Oui, monsieur.

Q. 953 Bellerive était encore là?

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PREMIER TEMOIN
A DECHARGE

(suite)

R. Oui, monsieur.

Q. 954 Il est resté là?

R. Oui, monsieur.

Q. 955 Vous vous êtes dirigées vers quelle place?

R. On a pris la rue Des Forges, Royale, Bonaventure, St-Prosper et Champflour; c'est là qu'on a su qu'il y avait des "trucks" de sautés.

Q.956 A quelle rue avez-vous laissé mademoiselle Salois?

R. Sur la rue Des Forges.

Q. 957 Vous l'avez laissée pour attendre son autobus? Vous avez dit tout à l'heure qu'elle était en autobus?

R. Non, elle attendait son autobus; elle reste au Cap, elle; c'est en attendant comme ça qu'un type qui la connaissait a passé en "machine" et l'a embarquée.

Q. 958 Et rendue sur la rue St-Prosper, vous avez appris de mademoiselle Salois que les "trucks" avaient sauté?

R. Oui, monsieur.

Q. 959 De qui avait-elle appris ça?

R. De monsieur Désilets.

Q. 960 Avez-vous rencontré Bellerive après ça?

R. Non, monsieur.

Q. 961 Vous ne l'avez jamais revu après ça?

R. Non, monsieur.

Q. 962 Avant le 18 mai, l'aviez-vous vu quelque part, Bellerive?

R. Pas pour dire que je le connaissais; je le rencontrais sur la rue comme ça.

Q. 963 Juste en passant?

R. Oui, monsieur.

Q. 964 Le connaissiez-vous?

R. Non, monsieur.

Q. 965 En somme, ce soir-là, c'était un p'tit flirt?

R. Oui, monsieur.

Q. 966 Plus ou moins ça?

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PREMIER TEMOIN
A DECHARGE

(suite)

R. Oui.

Q. 967 Qu'est-ce qu'il fait Désilets?

R. Il "chauffe" un taxi à Trois-Rivières.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

DEUXIEME TEMOIN
A DECHARGE

Mademoiselle Claire THELLEND, 1634, rue Ste-Julie, Trois-Rivières, 19 ans, étant dûment assermentée, est interrogée par l'officier défenseur:

Q. 968 Voulez-vous donner à la cour votre nom, votre adresse et votre âge?

R. Claire THELLEND, 1634, rue Ste-Julie, Trois-Rivières; j'ai 19 ans.

Q. 969 Mademoiselle THELLEND, connaissez-vous l'accusé?

R. Oui, monsieur.

Q. 970 Qui est-il?

R. Roch Bellerive.

Q. 971 Voulez-vous l'indiquer à la cour?

R. Il est dans le milieu là. (le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte)

Q. 972 Vous rappelez-vous d'un incident qui s'est produit à Trois-Rivières il y a quelques mois?

R. Oui, monsieur.

Q. 973 Vous souvenez-vous quand?

R. C'était au mois de mai 1945.

Q. 974 Vous rappelez-vous la date?

R. Le 18 mai 1945. Je suis pas certaine au juste mais je pense que c'est le 18 mai 1945. Vous voulez dire l'explosion?

Q. 975 Oui?

R. C'est le 18, je pense bien.

Q. 976 Avez-vous vu l'accusé ce soir-là?

R. Oui, monsieur.

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DEUXIEME TEMOIN
A DECHARGE

(suite)

Q. 977 A quelle heure l'avez-vous vu?

R. Vers 8 h. et demie.

Q. 978 Où l'avez-vous vu?

R. Au Bluebird, sur la rue Des Forges.

Q. 979 Qu'est-ce que c'est le Bluebird?

R. C'est un restaurant, un "grill".

Q. 980 Avec qui êtes-vous allée là?

R. Avec Mademoiselle Lefebvre et mademoiselle Salois.

Q. 981 Vous êtes allées là toutes les trois?

R. Oui, monsieur.

Q. 982 Qu'est-ce que vous avez fait là?

R. On a pris un "coke".

Q. 983 Où vous êtes-vous assise?

R. Sur ce côté-là en entrant, dans une loge.

Q. 984 A quel moment avez-vous vu l'accusé?

R. On était là nous autres; on était servies quand il est venu nous parler.

Q. 985 Etait-il seul?

R. Oui, monsieur, il est arrivé seul.

Q. 986 Est-il resté avec vous autres?

R. Il est resté une bonne secousse, jusqu'à temps qu'on parte.

Q. 987 Vous êtes parties à quelle heure?

R. Alentour de dix heures.

Q. 988 Pourquoi vous rappelez-vous si facilement de la date?

R. Parce que nous autres, une semaine on travaille le soir et l'autre semaine on travaille de jour. Ça fait que quand on change on travaille pas le vendredi soir et on a toujours l'habitude de trouver le restaurant bondé de monde; et puis on est allée là et puis il y avait pas de monde; on est allées faire un tour en ville quand il y en a une de nous autres qui a dit: "C'est ben platte pour un vendredi". C'est ça qui nous rappelle que c'était un vendredi.

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DEUXIEME TEMOIN
A DECHARGE

(suite)

Q. 989 Alors, qu'est-ce que vous avez fait après?

R. On est parties du Bluebird; mademoiselle Salois, elle, elle reste au Cap; ça fait qu'elle a attendu son autobus sur la rue Des Forges; il y a un chauffeur de taxi qui est passé; il lui a dit: "Embarque, je vais aller te reconduire". Il lui a dit ça; ça fait qu'elle a embarqué dans la "mac hine"; il était pour aller la reconduire parce qu'elle attendait son autobus. C'est là qu'il lui a dit ça: "Des 'trucks' des M.Ps se sont fait exploser; je vais aller te les montrer". Après ça, elle, elle a dit: "C'est correct". Ca fait qu'elle est partie avec lui et elle nous a rencontrées; c'est là qu'on a embarqué quand elle nous a dit ça. On a embarqué pour aller voir ça au garage Chevrolet-Moteur; c'est là qu'on a su que c'était la même journée.

CONTRE-INTERROGEE PAR LE PROCUREUR:

Q. 990 Depuis combien de temps connaissez-vous Bellerive?

R. Je l'ai connu cet été, ce printemps; je peux pas dire au juste. Je pourrais pas dire au juste quel temps.

Q. 991 La première fois que vous l'avez rencontré, c'est dans un club?

R. La première fois que je l'ai vu, c'est là au Bluebird.

Q. 992 Combien de temps avant l'évènement?

R. Ca fait deux, trois mois avant le mois de mai. Je l'ai vu...je le connaissais depuis ce printemps; ça faisait plusieurs fois que je le voyais.

Q. 993 Mademoiselle Lefebvre le connaissait aussi depuis longtemps?

R. De vue, mais elle ne lui parlait pas; elle faisait seulement le saluer comme ça.

Q. 994 Avec qui étiez-vous quand vous l'avez vu là?

R. J'étais avec mamz'elle Lefebvre et mamz'elle Salois.

Q. 995 Toutes les trois toutes seules?

R. Oui, monsieur.

Q. 996 Qu'est-ce que vous avez pris, vous?

R. On a pris chacune un coke.

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DEUXIEME TEMOIN
A DECHARGE

(suite)

Q. 997 Combien ça faisait de temps que vous étiez là quand Bellerive est venu devant vous?

R. On venait d'être servies.

Q. 998 A quelle heure à peu près?

R. On est arrivées à 8 h. 30 et ils nous ont servies tout de suite; il est arrivé vers 9 heures.

Q. 999 Combien de temps vous a-t-il parlé?

R. Il nous a parlé jusqu'à ce qu'on parte; on est parties à 10 heures; lui, il est resté là.

Q. 1000 Pourrait-il avoir été plus tard?

R. Ca pourrait pas être plus tard.

Q. 1001 Est-ce que ça pourrait être plus de bonne heure?

R. Oui, monsieur, parce qu'à dix heures et demie, j'étais chez nous et ça a pris vingt minutes pour aller chez nous.

Q. 1002 A quel endroit êtes-vous allée chez vous?

R. Chez Réal Bellavance; c'est là que le garçon nous a parlé.

Q. 1003 Alors, où êtes-vous allée exactement?

R. Chez Bellavance pour un instant et ensuite chez nous.

Q. 1004 Vous n'avez pas été voir les "trucks" des "provosts"?

R. C'est avant ça; on venait de les voir. En partant du Bluebird, on a rencontré un chauffeur de taxi qui nous a amenées voir ça; on est allées voir les "trucks" qui avaient sauté et il nous a débarquées chez nous ensuite.

Q. 1005 Qui vous a dit que les "trucks" avaient sauté?

R. Le chauffeur. Il était avec mamz'elle Salois.

Q. 1006 Comment se fait-il que v ous l'avez rencontré?

R. Il a rencon tré mamz'elle Salois qui attendait l'autobus sur la rue Des Forges pour aller au Cap et il a embarqué mamz'elle Salois.

Q. 1007 Combien de temps après avoir quitté mamz'elle Salois l'avez-vous revue avec le chauffeur?

R. Quand on a embarqué nous autres? A peu près dix minutes.

Q. 1008 Elle est allée à votre rencontre?

R. Oui, monsieur.

55

DEUXIEME TEMOIN
A DECHARGE

(suite)

Q. 1009 Comment le savait-elle, mademoiselle Salois, où aller pour vous rencontrer comme ça?

R. C'est parce qu'on prend toujours le même chemin.

Q. 1010 Vous vous en alliez directement chez vous?

R. Oui.

Q. 1011 Qu'est-ce que Bellerive a bu ce soir-là?

R. De la bière.

Q. 1012 Combien de bouteilles?

R. Il en a bu du temps qu'il était avec nous autres, une bouteille.

Q. 1012 Il a bu seulement une bouteille de bière pendant une heure et demie de temps?

R. Oui, monsieur.

Q. 1013 Alors, de 8 h. 30 à 10 heures, il ne s'est pas absenté cinq minutes?

R. Il est descendu en bas à la chambre de bain et il est remonté.

Q. 1014 Combien de fois est-il descendu comme ça?

R. Je ne sais pas.

Q. 1015 A peu près?

R. Deux fois à peu près.

Q. 1016 N'est-il pas vrai qu'une fois il est resté dix minutes en bas, à peu près?

R. Je peux pas dire combien de temps il est resté mais je sais qu'il est resté une bonne "secousse".

Q. 1017 Quand il est revenu, qu'est-ce qu'il a dit?

R. Il n'a pas parlé.

Q. 1018 Il n'a rien dit?

R. Non, monsieur.

Q. 1019 Avez-vous rencontré Fessier là?

R. Non, monsieur; je le connaissais pas; c'est la première fois que je l'ai vu, aujourd'hui.

Q. 1020 Bellerive était-il tout seul au restaurant?

R. Ca a l'air qu'il était tout seul; il est resté seul quand nous sommes parties.

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DEUXIEME TEMOIN
A DECHARGE

(suite)

Q. 1021 A quelle distance du Bluebird est l'Hôtel Caumartin?

R. C'est difficile à dire comme ça...

Q. 1022 Combien de temps que ça prend à pied pour y aller?

R. Cinq minutes.

L'OFFICIER DEFENSEUR NE DESIRE PAS RE-EXAMINER LE TEMOIN.

INTERROGEE PAR LA COUR:

Q. 1023 Vous avez dit que vous étiez allée voir les camions; à quel endroit est-ce?

R. Au garage Chevrolet, sur la rue Champflour.

Q. 1024 Combien de camions endommagés y avait-il là?

R. Deux.

Q. 1025 Avez-vous vu les camions à l'intérieur ou par le dehors?

R. On les a regardés par un p'tit carreau.

Q. 1026 Quelle heure était-il à ce temps-là, à peu près?

R. Environ dix heures et quart, dix heures et vingt.

PAR LA COUR POUR L'OFFICIER DEFENSEUR:

Q. 1027 Est-ce que Bellerive est sorti du Bluebird?

R. Pas le temps qu'on a été là.

Q. 1028 S'il était sorti, l'auriez-vous vu sortir?

R. Oui, parce qu'on était assises près de la porte.

PAR LA COUR POUR LE PROCUREUR:

Q. 1029 Combien de portes de sortie y a-t-il au Bluebird?

R. Seulement une.

Q. 1030 Est-ce qu'il y a une porte en arrière dans la cuisine?

R. Peut-être qu'il y en a une...ça doit, mais je sais que les clients ne peuvent pas sortir par là.

Q. 1031 Mais est-ce qu'il y en a une?

R. Je le sais pas; je suis pas certaine.

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DE L'AVIS DE LA COUR , IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

TROISIEME TEMOIN A DECHARGE

Mademoiselle Céline SALOIS, 30, rue St-Pierre, Cap-de-la-Madeleine, P.Q., étant dûment assermentée, est interrogée par l'officier défenseur:

Q. 1032 Voulez-vous donner à la cour votre nom et votre adresse?

R. Céline SALOIS, 30, rue St-Pierre, Cap-de-la-Madeleine.

Q. 1033 Est-ce que vous connaissez l'accusé dans cette cause?

R. Oui, monsieur.

Q. 1034 Comment l'appelez-vous?

R. Roch Ballerive.

Q. 1035 Où est-il dans la salle?

R. Là. (Le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte)

Q. 1036 Vous rappelez-vous de l'avoir vu dans le mois de mai 1945?

R. Oui, monsieur, je m'en rappelle.

Q. 1037 Est-ce que c'est le même soir de l'explosion que vous l'avez vu?

R. Oui, monsieur.

Q. 1038 Où l'avez-vous vu?

R. Au Bluebird, sur la rue Des Forges.

Q. 1039 A quelle heure êtes-vous allée au Bluebird?

R. On est entrées là à huit heures et demie, neuf heures moins quart.

Q. 1040 Qui ça "on"?

R. Claire Thelland et Laure Lefebvre et puis moi.

Q. 1041 Est-ce que l'accusé était là à ce moment-là?

R. Oui, il était là.

Q. 1042 Est-ce qu'il est allé à votre table?

R. Il est venu nous trouver à notre table; il est venu là où on était assises.

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TROISIEME TEMOIN
A DECHARGE

(suite)

Q. 1043 Qui était avec lui?

R. Je peux pas dire; il était seul quand il est venu nous trouver.

Q. 1044 Combien de temps est-il resté avec vous autres?

R. Il est resté jusqu'à dix heures, dix heures moins quart.

Q. 1045 Qu'est-ce que vous avez bu là?

R. On a pris un "coke", nous autres.

Q. 1046 Et lui?

R. Il a rien pris; il était à l'autre table et il est venu s'asseoir avec nous autres.

Q. 1047 A quelle heure êtes-vous parties du Bluebird?

R. Il était alentour de dix heures, ou dix heures moins quart.

Q. 1048 C'est plutôt dix heures que dix heures moins quart?

LE PROCUREUR S'OBJECTE A LA QUESTION SUR LE MOTIF QU'ELLE EST SUGGESTIVE.

LA COUR MAINTIENT L'OBJECTION DU PROCUREUR.

Q. 1049 Où êtes-vous allée en partant de là?

R. Je me suis en allée chez nous; les filles se sont en allées chez elles aussi; j'ai rencontré un type qui m'a demandé d'aller voir ces "trucks"-là.

Q. 1050 Comment s'appelle-t-il ce type-là?

R. Monsieur Désilets, de Trois-Rivières.

Q. 1051 Où l'avez-vous rencontré?

R. Sur la rue Des Forges, en face du théâtre Impérial; j'attendais l'autobus pour m'en aller au Cap.

Q. 1052 Qui avez-vous revu par la suite?

R. J'ai rencontré mes deux p'tites amies; on leur a dit de venir avec nous autres voir les "trucks".

Q. 1053 Comment s'appellent-elles?

R. Claire Thellend et Laure Lefebvre.

Q. 1054 A quelle date c'est ça?

R. Je sais que c'est un vendredi soir; je crois que c'est le 18.

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TROISIEME TEMOIN
A DECHARGE

(suite)

Q. 1055 Où êtes-vous allées alors?

R. On est allées voir les "trucks" au garage Chevrolet Moteur, sur la rue Champflour.

CONTRE-INTERROGEE PAR LE PROCUREUR:

Q. 1056 Qui vous a demandé de venir témoigner ici?

R. Monsieur Bellerive.

Q. 1057 Lequel?

R. Roch.

Q. 1058 Quand vous a-t-il demandé ça?

R. Ah ben là... Je pense que c'est la semaine dernière.

Q. 1059 Comment vous a-t-il demandé ça?

R. Il nous a dit qu'il passait en cour martiale.

Q. 1060 Vous a-t-il demandé ça par lettre ou par téléphone?

R. Par téléphone.

Q. 1061 Où était-il quand il vous a téléphoné?

R. Je sais pas.

Q. 1062 Qu'est-ce qu'il vous a dit?

R. Il n'a pas téléphoné chez nous.

Q. 1063 A qui a-t-il téléphoné?

R. Je sais pas.

Q. 1064 Qui vous l'a demandé alors si c'est pas lui?

R. Madame Bellerive; c'est elle qui m'a demandé ça par le téléphone chez nous. Elle m'a dit que Roch passait en cour et que si je voulais aller témoigner pour lui...

Q. 1065 Qu'est-ce qu'elle vous a dit de dire en cour martiale?

R. Elle m'a dit...elle m'a dit de dire ce que j'avais vu.

Q. 1066 Qu'est-ce que vous avez vu vous-même?

R. Qu'il était avec moi ce soir-là; j'ai rien vu à part de ça.

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TROISIEME TEMOIN
A DECHARGE

(suite)

Q. 1067 Qu'est-ce qu'il a bu Bellerive ce soir-là?

R. Je le sais pas "pantoute"; il a rien pris pendant qu'il était avec nous autres.

Q. 1068 Vous autres, vous avez pris des "cokes"?

R. Oui, on a pris des "cokes" ensemble.

Q. 1069 Avec qui était-il avant d'aller vous retrouver?

R. Je le sais pas; lui, il était assis en arrière et nous autres, on était en avant.

Q. 1070 D'en avant, on ne voit pas l'arrière?

R. Non; il aurait fallu se lever pour regarder.

Q. 1071 Pourquoi?

R. Pour voir ce qui se passait en arrière.

Q. 1072 Qu'est-ce qui vous empêchait de voir?

R. On pouvait pas voir; les loges sont trop hautes.

Q. 1073 A quelle hauteur les loges vous venaient-elles dans le dos?

R. A la hauteur de ma tête.

Q. 1074 Alors, vous êtes arrivées là à quelle heure?

R. A 8 h. et demie, neuf heures moins quart.

Q. 1075 Qu'est-ce qui vous fait rappeler l'heure?

R. On est parties de la rue St-Maurice et on a regardé l'heure en rentrant. D'habitude on va pas là à ce restaurant-là.

Q. 1076 Avec qui étiez-vous?

R. Avec Claire Thellend et Laure Lefebvre.

Q. 1077 Qui a proposé d'aller là ce soir-là?

R. Nous autres toutes ensemble.

Q. 1078 Où êtes-vous allées toutes ensemble?

R. On a été chez Childs et au Cordon Bleu.

Q. 1079 Vous avez rien pris ce soir-là?

R. Non, monsieur.

Q. 1080 Vous êtes arrivées au Bluebird à huit heures et demie, neuf heures moins quart?

R. Oui.

JD.

TROISIEME TEMOIN
A DECHARGE

(suite)

Q. 1081 Bellerive est arrivé immédiatement à votre table?

R. Il est venu s'asseoir à notre table on venait juste d'arriver presque.

Q. 1082 Combien de temps est-il resté avec vous autres?

R. Jusqu'à dix heures.

Q. 1083 S'est-il absenté de votre table quelques instants?

R. Il est allé en bas et il est revenu tout de suite.

Q. 1085 Combien de temps a-t-il été absent?

R. Peux pas dire...là...je pourrais pas vous dire ça.

Q. 1086 Dix minutes?

R. J'ai pas compté les minutes.

Q. 1087 Ca vous paraissait pas longtemps?

R. Non, monsieur.

Q. 1088 Combien de temps est-il resté absent à peu près?

R. A peu près...on n'a pas regardé l'heure, dix minutes à peu près.

Q. 1089 Combien est-il parti de fois?

R. Seulement une fois à ma connaissance.

Q. 1090 Vous étiez là?

R. Oui, monsieur.

Q. 1091 Tout ce qui s'est passé alentour de vous, vous le savez?

R. Oui, monsieur.

Q. 1092 Vous aviez pris seulement un "coke"?

R. Oui, monsieur.

Q. 1093 Vous vous rappelez parfaitement bien tout ce qui s'est passé là?

R. Oui, monsieur.

Q. 1094 Vous m'avez dit ce que Bellerive avait bu ce soir-là?

R. Je le sais pas. Il a rien pris pendant qu'il était avec nous autres.

TROISIEME TEMOIN
A DECHARGE

(suite)

Q. 1095 Il est resté de 8 h. 30 à 10 heures sans rien prendre?

R. Sans rien prendre.

Q. 1096 Ca ne pourrait pas être jusqu'à neuf heures et demie?

R. Peut-être dix heures moins quart.

Q. 1097 Pas neuf heures et demie?

R. A 9 h. 25 il était encore avec nous autres parce quand on est parties à dix heures ou dix heures moins quart, il était encore avec nous autres quand on s'est en allées.

Q. 1098 Comment se fait-il que vous vous rappelez de l'heure?

R. On a regardé l'heure parce que d'habitude on va faire des commissions et puis on s'en va, mais ce soir-là, on s'est en allées se coucher à dix heures.

Q. 1099 Vous vous couchez de bonne heure?

R. On commençait à travailler à sept heures le lendemain matin.

Q. 1100 Et vous alliez vous coucher à dix heures?

R. Vers dix heures on allait se coucher; je prenais l'autobus pour le Cap.

Q. 1101 Qui est parti avec vous du restaurant?

R. Claire Thelland et Laure Lefebvre. On a marché sur la rue Des Forges; j'ai laissé mes amies sur la rue Des Forges et eux autres elles sont parties par la rue St-Maurice.

Q. 1102 Quelle rue ont-elles prise eux autres en vous laissant?

R. Quand je les ai rencontrées ensuite, elles étaient sur la rue Champflour.

Q. 1103 Là, vous vous êtes arrêtée en face du théâtre Impérial?

R. Oui, monsieur.

Q. 1104 Vous attendiez votre autobus?

R. Oui, monsieur.

Q. 1105 Alors, qu'est-ce qui est arrivé là?

R. L'autobus s'en venait pas. Monsieur Désilets a passé en taxi et il m'a demandé d'aller voir ça.

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TROISIEME TEMOIN
A DECHARGE

(suite)

Q. 1106 Pourquoi dites-vous "ça" ? Le saviez-vous à ce moment-là?

R. Non, monsieur.

Q. 1107 Qui vous l'a appris?

R. Monsieur Désilets.

Q. 1108 Quand vous avez rencontré monsieur Désilets, quelle heure pouvait-il être?

R. C'est tout de suite après avoir laissé Roch; il devait être dix heures.

Q. 1109 Quelle distance y a-t-il entre le théâtre Impérial et le Bluebird?

R. A peu près d'ici à aller jusqu'à la dernière hutte.

Q. 1110 Combien de temps ça vous prend à pied pour aller là ?

R. Trois, quatre minutes.

Q. 1111 Quelle distance y a-t-il entre le théâtre Impérial et la rue St-Prosper et l'Hôtel Caumartin?

R. Je le sais pas.

Q. 1112 Combien de temps ça vous prend à pied pour couvrir cette distance-là?

R. Ca nous prend dix minutes.

Q. 1113 Du Bluebird à l'Hôtel Caumartin, quelle distance y a-t-il à pied?

R. A peu près dix minutes.

Q. 1114 Ce n'est pas loin?

R. Non, c'est pas loin.

Q. 1115 Avez-vous rencontré Bellerive après ça?

R. Non, monsieur.

Q. 1116 Vous l'avez jamais revu?

R. Non, monsieur.

Q. 1117 Avant ça, vous ne l'aviez pas vu non plus?

R. On l'a vu quelques fois avant ça.

Q. 1118 A quel endroit?

R. Au Bluebird.

Q. 1119 Toujours au Bluebird?

R. Oui, monsieur.

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TROISIEME TEMOIN
A DECHARGE

(suite)

Q. 1120 Est-ce qu'il y a un homme qui est allé lui parler ce soir-là pendant qu'il était avec vous?

R. Un type a passé qui lui a parlé mais j'ai pas compris.

Q. 1121 Immédiatement après, est-ce que Bellerive est descendu en bas?

R. Je me rappelle pas si c'est après ou avant.

Q. 1122 Avec qui avez-vous parlé de la cause avant de venir ici?

R. Avec mes p'tites amies.

Q. 1123 Sur quoi avez-vous parlé?

R. On a parlé de ça, qu'on était supposées passer en cour.

Q. 1124 Quand au témoignage que vous étiez pour rendre, votre témoignage, vous en avez pas parlé?

R. Non, "pantoute".

Q. 1125 Comment vous rappelez-vous de la date?

R. J'ai bien remarqué que c'était un vendredi soir.

Q. 1126 Il y a cinquante-deux vendredis...cinquante-deux semaines dans l'année et vous vous rappelez de ça aussi clairement que ça?

R. Ca fait pas bien longtemps que c'est arrivé.

Q. 1127 Ca fait quatre mois?

R. C'est parce qu'on a remarqué ça.

Q. 1128 Ca vous a frappée?

R. Oui, monsieur.

Q. 1129 A quelle place était placée votre table dans le restaurant?

R. Je crois que c'était la troisième table en entrant, ou la quatrième table à droite en entrant.

L'OFFICIER DEFENSEUR NE DESIRE PAS RE-EXAMINER LE TEMOIN.

INTERROGEE PAR LA COUR:

Q. 1130 Est-ce que le système d'autobus entre Trois-Rivières et le Cap-de-la-Madeleine est un système à heures régulières?

R. Oui, monsieur.

46

TROISIEME TEMOIN
A DECHARGE

(suite)

Q. 1131 Les autobus passent à certaines heures?

R. Quand il y a des "extras", il n'y a pas d'heures pour ça.

Q. 1132 A part des "extras"?

R. Il y a des autobus à tous les dix minutes, les réguliers.

Q. 1133 Des autobus qui vont au Cap?

R. Oui, monsieur.

Q. 1134 L'autobus passait au coin?

R. Il venait juste de passer comme je sortais du restaurant.

Q. 1135 C'était l'autobus de quelle heure, ça?

R. L'autobus de dix heures.

Q. 1136 Vous avez dit tout à l'heure qu'un jeune homme était venu parler à Bellerive dans le restaurant; est-ce que c'était au début de la soirée, au milieu ou vers la fin de la soirée?

R. Il est venu nous trouver et ce type-là lui a parlé en passant.

Q. 1137 Vers quel temps?

R. Au milieu de la veillée; c'était le milieu de la veillée quand il est venu nous trouver.

Q. 1138 Comment le chauffeur de taxi vous a-t-il annoncé qu'il y avait des camions qui étaient sautés?

R. Il "chauffe" un taxi et il s'est adonné à passer à l'Hôtel Caumartin et il a vu ça; il m'a demandé d'aller voir ça.

Q. 1139 A quel endroit êtes-vous allée voir ça?

R. Au garage Chevrolet-Moteur.

Q. 1140 A quelle distance ça? Combien de temps est-ce que ça prend du garage Chevrolet-Motor à l'Hôtel Caumartin?

R. A peu près cinq minutes.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

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LE PROCUREUR S'ADRESSE A LA COUR:

Je demanderais à la cour un ajournement afin de me permettre de présenter une contrepreuve.

L'OFFICIER DEFENSEUR INFORME LA COUR QUE LA DEFENSE N'A PAS D'OBJECTION A LA DEMANDE D'AJOURNEMENT DU PROCUREUR.

LA COUR ACCORDE L'AJOURNEMENT DEMANDE PAR LE PROCUREUR.

A 1710 heures, le 30 août 1945, la cour s'est ajournée jusqu'à 1030 heures, le 6 septembre 1945.

CONTREPREUVE

Le 6 septembre 1945, à 1030 heures, la cour se rassemble de nouveau; sont présents les mêmes membres que lors de l'ajournement.

PREMIER TEMOIN
EN CONTREPREUVE

D-625377, Caporal Henri TURCOT, CIC,CA, attached to No. 4 District Depot,CA, ayant été dûment assermenté, est interrogé par le procureur:

Q. 1141 Voulez-vous donner à la cour votre matricule, votre rang, votre nom et votre unité?

R. D-625377, caporal Henri TURCOT, CIC, CA, attached to No. 4 District Depot, CA, employé aux quartiers-généraux du District Militaire No. 4.

Q. 1142 Quelles fonctions remplissez-vous aux quartiers-généraux du District Militaire No. 4?

R. Je suis actuellement employé comme sténographe de la cour martiale.

Q. 1143 Depuis combien de temps remplissez-vous ces fonctions?

R. Pour mon présent appointement, depuis le mois de mai 1945.

Q. 1144 Et avant?

R. J'ai rempli les mêmes fonctions temporairement de décembre 1942 à décembre 1943, et en permanence de mars le 29, 1944, à aller au mois d'avril 1945.

Q. 1145 Toujours comme sténographe?

R. Oui, monsieur.

Q. 1146 Vous rappelez-vous du procès du"private" Roméo Tessier?

R. Oui, monsieur; le procès en question a commencé le 16 juillet 1945 pour être ajourné au 20 juillet 1945, et il s'est terminé, après un nouvel ajournement, le 27 juillet 1945.

Q. 1147 Quel genre de cour était-ce?

R. C'était une cour martiale de district.

Q. 1148 Qui étaient membres de la cour?

R. Le président de la cour martiale était le Major P. Gelly, du District Militaire No. 4, le membre senior était le capitaine M.-A. Valin, et le membre junior était le capitaine J.-M.-G.Bouchard en remplacement du major P.Joly qui était absent pour cause de devoirs ailleurs.

PREMIER TEMOIN
EN CONTREPREUVE

(suite)

Q. 1149 Qui remplissait les fonctions de sténographe?

R. C'est moi, monsieur.

Q. 1150 Avez-vous été assermenté?

R. Oui, monsieur.

Q. 1151 Par qui?

R. Par le président de la cour, le major Gelly.

Q. 1152 Avez-vous rempli les fonctions de sténographe continuellement sur cette cour martiale?

R. Oui, monsieur.

Q. 1153 De quelle façon avez-vous pris les témoignages?

R. Je les ai pris par notes sténographiques.

Q. 1154 Est-ce que vous avez dans vos notes le témoignage d'un soldat D-654073, private Roch Bellerive?

R. Oui, monsieur, le private Roch Bellerive était témoin en contrepreuve.

Q. 1155 Est-ce que vous le voyez ce soldat-là ici?

R. Oui, monsieur, c'est l'accusé. (le témoin indique le soldat décoiffé assis entre les deux membres de l'escorte)

Q. 1156 Voulez-vous lire devant la cour, selon vos notes sténographiques, le témoignage rendu par Roch Bellerive dans la cause du soldat Tessier?

R. Oui, monsieur.

Q. 1157 D'abord, est-ce que Bellerive s'est objecté à quelqu'une des questions qui lui ont été posées soit en examen-en-chef ou en contre-interrogatoire?

R. Non, monsieur.

Q. 1158 Est-ce qu'il a invoqué le privilège du silence?

R. Non, monsieur.

Q. 1159 Alors, voulez-vous lire ce témoignage?

R. Oui, monsieur

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

Je m'objecte à ce qu'on produise devant la cour, dans le procès de Bellerive, le témoignage que celui-ci aurait rendu dans la cause d'un autre accusé. Bellerive ne parle pas dans sa cause; il n'est pas obligé de parler et il ne parle pas; et je ne vois pas comment on peut produire contre lui son témoignage rendu dans une autre cause.

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LE TEMOIN SE RETIRE.

LE PROCUREUR S'ADRESSE A LA COUR:

Je tente de faire admettre en preuve le témoignage rendu par Bellerive dans la cause de Tessier. Bellerive a été appelé comme témoin dans la cause de Tessier et il a répondu aux questions qui lui ont été posées sans faire aucune objection ni invoquer le privilège du silence. En somme, voici la question qui se pose: EST-CE QUE LE TEMOIGNAGE RENDU PAR UN ACCUSE COMME TEMOIN DANS UNE CAUSE ANTERIEURE PEUT LUI ETRE OPPOSE DANS SA PROPRE CAUSE?

Je soumets que toute déclaration ou confession, ou tout aveu fait par un accusé en quelque temps que ce soit, et qui d'après la loi serait admissible, peut être apporté en preuve contre lui. C'est ma proposition majeure.

"Qui d'après la loi serait admissible": qu'est-ce que ça veut dire? Pour qu'une déclaration, un aveu ou une confession soit admise contre un accusé, il faut qu'elle soit libre ou volontaire. C'est le grand principe; la cour le connait parfaitement bien et l'admet. Maintenant, quel est le sens de "libre et volontaire"? Je cite POPPLE dans "Canadian Criminal Procedure" 1944, à la page 222, paragraphe 6:

> "It has long been established as a positive rule of English criminal law that no statement by an accused is admissible in evidence against him unless it is shown by the prosecution to have been voluntary in the sense that it has not been obtained from him either by fear of prejudice or hope of advantage, exercised or held out by a person in authority."

Le sens de "libre et volontaire" est simplement ceci: une confession est présumée libre et volon taire quand elle n'a pas été extorquée par des menaces ou des promesses. Dans ce cas-ci, quand Bellerive s'est présenté devant la cour, c'était un témoin qui allait rendre témoignage légalement devant une cour légalement constitutée. Le fait qu'il a été appelé comme témoin ne détruit pas le "volontariat" de sa déclaration, et je vous cite là-dessus une cause, celle de REX vs WALTER, dont le jugement a été rendu par la Cour Suprême du Canada, et qui est rapporté dans "Supreme Court Reports", page 214, volume de l'année 1934:

> "Btatements made under compulsion of statute are not classified like statements obtained by inducement or threat".
>
> "But there is no rule of law that statements made by an accused under compulsion of statute are because of such compulsion alone inadmissible against him in criminal proceedings. Generally speaking, such statements are admissible unless they fall within the scope of some specific enactment or rule excluding them".

"Some specific enactment or rule excluding them": par exemple, vous avez la règle de procédure 4(e), page 517 M.M.L., qui exige que l'accusé soit mis sous ses gardes au sommaire de preuve; sinon sa confession ou déclaration ne sera pas admissible contre lui. Autre exemple:

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Admettons que Bellerive dans la cause de Tessier se soit objecté à une question dont la réponse était incriminante et que la cour aurait jugé illégalement que le témoin devait répondre à cette question-là, cette réponse n'aurait pas été admissible contre lui dans une autre cause parce qu'il aurait été forcé de parler illégalement. Donc, la déclaration faite par l'accusé au cours de son témoignage dans une cause antérieure, soit celle de Tessier, est parfaitement admissible contre lui parce que c'est une déclaration libre et volontaire, obtenue légalement.

Deuxième argument. La cour sait parfaitement bien qu'il existe une institution juridique qui s'appelle "le privilège du silence". Phipson la commente de la page 193 à la page 199 dans sa quatrième édition. Cette institution existe à n'en pas douter; or, que veut dire le privilège du silence? Si un témoin en témoignant dans une cause quelconque comme témoin peut s'incriminer en répondant à des questions, il a le droit d'invoquer le privilège du silence, et la cour, après avoir étudié les circonstances, peut décider que l'accusé répondra ou ne répondra pas aux questions, en autant que la question est incriminante ou non. Quelle serait l'utilité du privilège du silence si le témoignage d'un accusé, d'un témoin dis-je, devant une cour ne pourrait pas être admissible contre lui dans une autre cour? A quoi servirait le privilège du silence? Il serait parfaitement inutile! Je prétends que le privilège du silence prouve absolument clairement que un témoignage rendu par un témoin devant une cour peut être admissible contre lui dans une autre cour s'il n'a pas été protégé par le privilège du silence.

Troisièmement, je vais vous citer des autorités. Je vais commencer par vous citer la cause de REX vs COOTE, dont le jugement final a été rendu par le Conseil Privé à Londres. Cette cause est originée à Québec, et d'appel en appel, s'est rendue au Conseil Privé. (Law Reports, vol. 4, p. 599, 1873) Cette cause-là est citée sous le même sujet dans RUSSELL'S LAW OF CRIME et dans ROSCOE'S DIGEST OF THE LAW OF EVIDENCE, lesquels sont cités comme autorités à la page 71 du M.M.L. Dans cette cause-ci, il s'agit d'un procès pour un crime d'incendie. Le "Fire Marshall" de Québec, d'après la loi était constitué en cour et avait droit d'appeler et assermenter des témoins. Au cours d'une enquête sur les circonstances d'un incendie, un des témoins en rendant témoignage s'incrimine dans son témoignage. Son témoignage rendu devant le "Fire Marshall" a été admis contre lui à son procès:

> "On a trial for arson where there had been a previous enquiry by a Fire Marshall at Quebec, legally held on the origin of the fire at which the defendant had been a witness on oath, and had not been improperly compelled to answer questions tending to incriminate him -- but had not been cautioned that his evidence might be used against him -- his depositions thus taken were admitted against him by the judicial committee."

Pour vous bien montrer que dans cette cause-là, on a appliqué le droit anglais qui s'applique devant la cour martiale, on mentionne au début du jugement:

"This case is governed by English Law"

Ensuite, on explique la loi anglaise introduite au Canada en 1763, et qui continue de s'appliquer en autant qu'elle n'a pas été révoquée par des articles du code criminel. Après avoir cité plusieurs jugements, les lords résument leurs opinions en disant:

> "From these cases, to which others might be added, it results, in their lordship's opinion, that the depositions on oath of a witness legally taken are evidence against him should he be subsequently tried on a criminal charge, except so much of them as consists of answers to questions he has been improperly compelled to answer"

Je vous cite maintenant une autre cause, la cause de REX vs CHIDLEY AND CUMMINGS. Cette cause est rapportée dans 8 COX CRIMINAL CASES, 365, dans ROSCOE, RUSSELL et à la page 93 du M.M.L., paragraphe 82. C'est là qu'on résume toute la théorie de l'admissibilité du témoignage d'un témoin dans sa propre cause contre lui. Cette cause de REX vs CHIDLEY AND CUMMINS a eu lieu en Angleterre. Il s'agit d'une accusation d'avoir blessé illégalement le procureur dans une cause criminelle. A l'enquête, Chidley seul est accusé. Cummins est appelé comme témoin et s'incrimine au point qu'on l'accuse subséquemment en se servant dans sa cause du témoignage qu'il a rendu dans la cause de Chidley. Je cite:

> "Deposition of witness taken before Magistrate allowed to be read at trial as evidence against him although after this evidence was taken, the Magistrate committed him for trial, his evidence incriminating himself."

Là, je vous ai cité des anciens jugements, jugements qui constituent en somme le "common law" anglais sur ce point. Pour se rapprocher de notre période, je vais vous citer des jugements rendus au Canada. Ces jugements s'appliquent aussi à la cour martiale parce qu'ils sont basés sur le droit anglais. En effet, notre code criminel canadien est silencieux sur la question des aveux, confessions ou déclarations d'un accusé, sauf l'article 685; donc, le droit anglais continue de s'appliquer à cette question au Canada. Je vous cite TREMEARS, édition 1934:

> "Evidence given by accused in former proceedings may be proved again st him on his trial unless it is protected by some such provisions as Section 5 of the Canada Evidence Act".

La section 5, c'est seulement la protection de la cour, ou en loi anglaise "le privilège du silence".

Maintenant, POPPLE, à la page 244, paragraph 10, C.C.P. 1944 (Annotations):

"The rule as to statements made in prior judicial proceedings seems to indicate they are usually admissible in evidence in a criminal court against the person making them unless there is some rule or statutory provision which renders them inadmissible".

Je vous ai déjà donné des exemples d'un "rule or statutory provision" qui rendrait le témoignage inadmissible dans la propre cause du témoin. Dans la cause qui nous intéresse, l'accusé Bellerive en rendant témoignage contre Tessier n'a pas invoqué le privilège du silence, et même s'il l'avait invoqué, il n'aurait pas pu réussir parce que son témoignage porte sur des faits absolument étrangers au litige, des faits qui ne sont pas incriminants.

Pour terminer, je vais vous citer DIGEST OF THE LAW OF EVIDENCE de ROSCOE, à la page 51:

"The rule is that what a person states in a judicial proceedings may be used in evidence against him in other legal proceedings".

Dans SNOW, 5e édition, page 496, on lit la même opinion.

Je soumets à la cour que le témoignage rendu par Bellerive dans la cause de Tessier devrait être admis parce qu'au sens de la loi, c'est une déclaration libre et volontaire, et deuxièmement, parce que le privilège du silence n'aurait aucun sens si les déclarations des témoins ne pouvaient être admises contre eux dans leur propre cause, et troisièmement, parce que depuis 1850, le témoignage d'un témoin dans d'autres causes a toujours été admis contre lui dans sa propre cause, tant en Angleterre qu'au Canada.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR:

Il s'agirait tout de même de savoir si l'accusé a été mis en garde, si l'accusé dans la cause actuelle, qui était témoin dans la cause de Tessier, a été mis en garde par la cour. Un témoin impliqué dans la commission d'une offense peut arriver en cour et ne pas être mis en garde. Il peut très bien être sous l'impression qu'il doit rendre témoignage, surtout dans un cas comme celui-ci où l'accusé est jeune et n'a aucune expérience de la loi. Il se peut très bien qu'il se soit cru obligé de rendre témoignage et je ne vois pas comment on pourrait aujourd'hui admettre son témoignage en preuve contre lui.

LA COUR LEVE LA SEANCE POUR DELIBERER SUR SA DECISION.

LA COUR DECIDE D'ADMETTRE EN PREUVE LE TEMOIGNAGE RENDU PAR LE TEMOIN BELLERIVE DANS LA CAUSE DU SOLDAT ROMEO TESSIER.

LA COUR REPREND L'AUDIENCE ET ANNONCE SA DECISION.

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LA COUR REPREND L'AUDIENCE ET ANNONCE SA DECISION.

PREMIER TEMOIN
EN CONTREPREUVE

(suite)

D-625377, caporal Henri TURCOT, CIC,CA, attached to No. 4 District Depot, CA, rappelé devant la cour, est interrogé par le procureur:

Q. 1160 Caporal, voulez-vous lire à la cour le témoignage de Bellerive dans le procès du soldat Tessier?

R. Le soldat Bellerive, après avoir été dûment assermenté par le président, a été interrogé par le procureur. Les questions et les réponses se lisent comme suit:

Q. Votre numéro, rang et nom?

R. Private Bellerive, Roch, D-654073.

Q. Votre unité?

R. C.I. (B) T.C. 44, St-Jérome.

Q. Connaissez-vous l'accusé dans cette cause?

R. Oui.

Q. Quel est son nom?

R. Roméo Tessier.

Q. Vous vous rappelez à Trois-Rivières qu'il y a eu une explosion au mois de mai 1945?

R. Oui.

Q. Avez-vous rencontré l'accusé cette journée-là?

R. Je l'ai vu toute la journée.

Q. Vous avez été ensemble de quelle heure à quelle heure? Le soir après six heures avez-vous été avec lui?

R. Oui.

Q. Voulez-vous raconter exactement où vous êtes allé avec l'accusé ce soir-là sans mentionner l'explosion?

R. Nous avons été vers sept heures et quart, sept heures et demie, au restaurant Guillemette; après ça, on est monté au Bluebird.

Q. Quelle heure était-il quand vous êtes allés au Bluebird à peu près?

R. Huit heures moins quart, huit heures.

Q. Du Bluebird, où êtes-vous allés?

R. On est redescendus au restaurant Guillemette.

Q. Combien de temps après ça?

R. A peu près neuf heures, neuf heures et quart.

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PREMIER TEMOIN
EN CONTREPREUVE

(suite)

R. 1160 (suite)

Q. Combien êtes-vous restés de temps au restaurant Guillemette?

R. On n'a pas été longtemps, cinq ou dix minutes.

Q. Là, vous êtes sortis du restaurant Guillemette?

R. Oui.

Q. A quelle heure êtes-vous allés au restaurant Guillemette après ça?

R. Il passait onze heures et quart.

CONTRE-INTERROGE PAR L'OFFICIER DEFENSEUR:

Q. Quelle date était-ce?

R. La date, je sais pas - j'ai pas remarqué la date.

RE-EXAMINE PAR LE PROCUREUR:

Q. Quel évènement particulier est arrivé cette journée-là?

R. Cette affaire-là, le soir de l'explosion.

Q. Quel jour de la semaine était-ce ça?

R. C'était un vendredi, je crois bien.

Q. Quel mois?

R. Mois de mai.

INTERROGE PAR LA COUR:

Q. Si je comprends bien votre témoignage, Bellerive vous avez rencontré Tessier vers six heures et demie?

R. Pas six heures et demie, sept heures et demie.

Q. Vers sept heures et demie, l'accusé était au restaurant Guillemette; vous êtes resté là combien de temps?

R. On est partis de là à peu près à huit heures.

Q. Vous êtes restés au Bluebird jusqu'à quelle heure?

R. Neuf heures et quart, neuf heures et demie.

Q. Vous êtes allés au restaurant Guillemette?

R. Oui, monsieur.

Q. Vous êtes restés combien de temps?

R. Cinq ou dix minutes.

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PREMIER TEMOIN
EN CONTREPREUVE

(suite)

R. 1160 (suite)

Q. Vous êtes redescendus au restaurant Guillemette combien de temps après?

R. Vers onze heures et quart, onze heures et demie.

Q. De neuf heures et demie à dix heures, où étiez-vous?

R. On était au Bluebird; on était pas mal chauds; on se rappelle pas toutes les places.

De l'avis de la cour, il n'est pas nécessaire de se conformer à la R. de P. 83(B).

Le témoin se retire.

L'OFFICIER DEFENSEUR NE DESIRE PAS CONTRE-INTERROGER LE TEMOIN.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R. de P. 83(B).

LE TEMOIN SE RETIRE.

LE PROCUREUR DECLARE SA CONTREPREUVE CLOSE.

A 1200 heures, le 6 septembre 1945, la cour s'est ajournée à 1330 heures, le 6 septembre 1945.

Le 6 septembre 1945, à 1330 heures, la cour se rassemble de nouveau, conformément à la note d'ajournement; sont présents les mêmes membres que lors de l'ajournement.

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PLAIDOIRIE DE CLOTURE DE L'OFFICIER DEFENSEUR

Monsieur le président,
messieurs les membres de la cour,

Mon argument va d'abord porter sur la première charge, celle de désertion.

Je soumets respectueusement que la charge telle que rédigée doit être renvoyée, car il me fait aucun doute que la Poursuite n'a pas établi hors de tout doute la désertion chez l'accusé. A ce sujet, je voudrais référer la cour au Manuel de Loi Militaire, à la page 19. D'abord, nous prenons pour acquit que la désertion n'est pas prouvée au sens de l'article 12(1) (a) par la Poursuite. L'article 17, à la page 19 du M.M.L. dit ceci:

> "The criterion between desertion and absence without leave is INTENTION. The offence of desertion or attempting to desert His Majesty's service implies an intention on the part of the offender either not to return to His Majesty's service at all, or to escape some particular important service as mentioned in paragraph 20; and a soldier must not be charged with desertion or attempted desertion unless it appears that some such intention existed. Further, even assuming that he is charged with desertion, the Court that tries him should not find him guilty of desertion unless fully satisfied on the evidence that he has been guilty of desertion as above defined."

Je passe quelques lignes qui suivent et qui se rapportent au déguisement. Evidemment que le fait pour l'accusé d'être en civil n'est pas un déguisement. Le paragraphe 18 dit ceci:

> "It is obvious that the evidence of intention to quit the service altogether may be so strong as to be irresistible, as for instance, if a soldier is found in plain clothes on board a steamer starting for A merica, or is found crossing a river to the enemy; while on the other hand, the evidence is frequently such as to leave it extremely doubtful what the real intention of the man was. Mere length of absence is, by itself, inconclusive as a test, for a soldier who has been entrapped into bad company through drink or other causes may be absent some time without any thought of becoming a deserter; but in the example above given of a soldier found on board a steamer starting for America, there could be no doubt of the intention, though he might only have been absent a few hours".

PLAIDOIRIE DE CLOTURE DE L'OFFICIER DEFENSEUR (suite)

Et au paragraphe 19, on lit:

> "Nor can desertion invariably be judged by distance, for a soldier may absent himself without leave and depart to a very considerable distance, and yet the evidenc e of an intention to return may be clear; whereas he may scarcely quit the camp or barrack yard, and the evidence of intention not to return (by the assumption of a disguise, for example, and other circumstances) may be complete".

Et enfin, le paragraphe 24:

> "A soldier charged with desertion may be found guilty of attempting to desert or of being absent without leave; and, a soldier charged with an attempt to desert may be found guilty of being absent without leave. In any case of doubt as to whether one or the other offence has been committed, the court should find the accused guilty of the less offence."

Alors, je crois qu'il n'est pas nécessaire de prolonger l'argumentation plus longtemps sur la première charge, partant du fait que la couronne n'a pas établi, et n'a pas fait sa preuve de désertion, et partant du fait que s'il y a un doute, comme le dit le dernier paragraphe que je viens de lire, s'il y a le moindre doute dans l'esprit des membres de la cour au sujet de la désertion ou de l'absence sans permission, la cour doit nécessairement en venir à la conclusion que l'accusé s'est absenté sans permission plutôt qu'il a déserté.

On voit également par les exemples donnés au sujet de la désertion le cas d'un soldat qui serait sur un bateau en partance pour l'Amérique (et dans notre cas, il faudrait peut-être dire "pour l'Europe"), ceci serait considéré comme un cas de désertion, de même que celui d'un soldat qui serait surpris en train de traverser une rivière pour se rendre à l'ennemi. Je crois que ce n'est pas le cas qui nous occupe et l'offense qui est devant la cour n'a rien de commun avec ces éléments. Je demande donc le renvoi de l'accusation telle que portée sur le premier chef d'accusation, soit, d'avoir déserté.

J'en viens maintenant à la deuxième charge, celle sous l'article 24(4) - willfully injuring public property -. La cause a été assez compliquée pour différentes raisons. J'argumenterai d'abord sur le témoignage de ceux que j'appelle des complices.

D'abord, si nous prenons le témoignage de Levasseur, il ne fait aucun doute, il ne devrait faire aucun doute dans l'esprit des membres de la cour, qu'il devrait être considéré comme un complice. Il a certainement aussi

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PLAIDOIRIE DE CLOTURE DE L'OFFICIER DEFENSEUR (suite)

Tessier sinon l'autre à commettre l'offense en ce qu'il a fourni les matériaux pour la commettre. Il y a le témoignage de Tessier qui ne vaut pas cher mais qui tout de même au point de vue de preuve de circonstances pourrait incriminer l'accusé jusqu'à un certain point. C'est encore un complice. Et si on les prend tous les trois comme ayant participé au même acte, les deux autres sont complices aussi : en somme, trois complices. Or, le témoignage d'un complice doit être corroboré. Dans cette cause-ci, le témoignage de Tessier et de Levasseur se corroborent l'un l'autre jusqu'à un certain point, mais par contre, le témoignage d'un complice ne peut pas être corroboré par celui d'un autre complice.

Au sujet de témoignages de complices, je prends mes références dans CRANKSHAW'S CRIMINAL CODE, et j'aimerais à attirer l'attention de la cour sur les causes suivantes, dans la 6e édition, 1935: REX vs SHEMIT (44 C.C.C. 10,1925), REX vs BASKERVILLE (12 Crim.App.Reports. p.81), REX vs STUBBS (25 L.J.M.C.) et REX vs TATE (Crim.App.Reports.p.39). Enfin, il y a une dizaine de causes énumérées ici. Je voudrais qu'onles prenne toutes en note. Encore une fois, il y a toute la théorie...j'ai justement ici la charge du juge sur le témoignage d'un complice. Je ne voudrais pas dicter à monsieur le président les directives qu'il aurait à donner aux autres membres de la cour. La première remarque dit:

> "The rule as to the necessity for corroboration of the evidence of an accomplice which has become virtually equivalent to a rule of law, is that the judge must warn the jury of the danger of convicting on uncorroborated evidence, but should point out that it is within their legal province to do so."
>
> "The foregoing law should be strictly followed by trial judges".
>
> "The judge should be careful not to exaggerate the volume and the weight of the corroboration."
>
> "Where the evidence against a prisoner is the uncorroborated evidence of the accomplice, the judge must warn the jury that while they may convict on such evidence, it is always, not generally, dangerous to do so. It is wrong for the judge to tell a jury that if they are quite certain in such a case that the accomplice is telling the truth they OUGHT to act on it."

Et à la page 785, nous trouvons:

> "In order to constitute one person an accomplice of another in the commission of a crime, it must be shown that the former's participation in the crime was criminally corrupt."

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PLAIDOIRIE DE CLOTURE DE L'OFFICIER DEFENSEUR (suite)

"It is not a rule of law that the evidence of the accomplice must be corroborated to render a conviction valid; but it is usual in practice for the trial judge, and it is held to be his duty, to advise the jury not to convict on such testimony alone, and juries should attend to the judge's direction and require corroboration."

"The corroboration should be not only as to the circumstances of the crime itself but also as to the person having taken part in it."

"The evidence of other accomplices is not corroboration of the evidence of one of the accomplices."

J'attire l'attention de la cour sur cette remarque et je la relis encore une fois:

"The evidence of other accomplices is not corroboration of the evidence of one of the accomplices."

J'en reste là au sujet de témoignages de complices.

Levasseur dans son témoignage dit qu'il a procuré de la dynamite et enfin les accessoires qui s'y rattachent, aux deux bons hommes. Il est en preuve par contre que Bellerive lui-même l'a remis à Tessier. J'attire l'attention de la cour sur cette partie des témoignages également.

Maintenant, que penser du témoignage de Levasseur lui-même? Je le prends, je le considère moi-même comme complice, et je voudrais que la cour en arrive à la même conclusion au sujet de son témoignage. Ensuite, je ne vois pas jusqu'à quel point il a pu incriminer Bellerive au sujet du deuxième chef d'accusation. Quant au témoignage de Tessier, il ne vaut rien contre Bellerive. Tessier n'a rien dit.

Maintenant, je voudrais dire un mot avec tout le respect que j'ai à l'endroit de la cour, au sujet de l'admissibilité de la confession orale. J'ai beaucoup de respect pour la cour, mais je soutiens encore une fois que cette admission n'aurait pas dû être permise en cour. Je m'appuie pour répéter cette affirmation sur le fait d'abord que Bellerive a été cautionné par le caporal Desmarais et en présence d'un autre membre de la Royale Gendarmerie à Cheval, à 7 heures ou 7 heures et demie, et si je me rappelle bien les témoignages, il est en preuve qu'à ce moment-là, il n'a voulu rien dire; ensuite, le caporal Desmarais a re[illegible] dans son bureau, dans un autre bureau que la chambre 213 e[illegible] se trouvait l'accusé, l'amis de Bellerive, Monique St-Pier[illegible]

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PLAIDOIRIE DE CLOTURE DE L'OFFICIER DEFENSEUR (suite)

et il a passé près de deux heures avec elle. Il est également en preuve que Bellerive n'a admis ou n'a parlé qu'à Desmarais quand Desmarais est revenu vers dix heures et demie. Desmarais est venu témoigner devant la cour que Bellerive n'avait parlé qu'entre environ dix heures et quarante-cinq et minuit. Alors, j'attire l'attention de la cour sur le fait que la caution a été donnée à Bellerive à sept heures ou sept heures et demie et que Bellerive a dit qu'il ne voulait pas parler et qu'il aurait ensuite parlé qu'entre onze heures moins quart et minuit.

Mon deuxième point, c'est le fait que le caporal Desmarais, qui était en charge du détachement à cet endroit-là, n'a pas fourni à Bellerive une copie de la déclaration de Tessier, la déclaration signée par Tessier, ceci contrairement à la règle des Juges de la Cour du Banc du Roi, citée à la page 92 du M.M.L.:

> "When two or more persons are charged with the same offence and statements are taken separately from the persons charged, the police should not read these statements to the other persons charged, but each of such persons should be furnished by the police with a copy of such statements and nothing should be said or done by the police to invite a reply. If the person charged desires to make a statement in reply, the usual caution should be administered."

Or, ceci n'a pas été fait.

Au sujet de la manière dont la confession a été prise, maintenant! D'abord, c'est une confession verbale. Bellerive a bien dit en toutes lettres une chose, c'est qu'il ne voulait pas parler. Alors, on a attendu quelque temps; Desmarais a reçu l'amie de Bellerive, mademoiselle St-Pierre. C'est ma déduction personnelle mais enfin...il a probablement questionné la jeune fille et il a su par elle des choses qui se rapportaient à la cause, et sachant ces choses, il est revenu en bas dans la chambre 213, et il s'est mis à questionner Bellerive. Maintenant, il y a un point aussi, c'est que Desmarais a admis en réponse à mes questions, qu'il avait suggéré ses réponses à Bellerive. J'ai fait admettre à Desmarais qu'il aurait pu au cours de la conversation avec Bellerive dit par exemple: "T'es parti de tel endroit; tu t'es rendu à tel autre endroit, et t'as fait telle chose et telle chose; n'est-ce-pas comme ça que ça se serait produit?" Desmarais a dit qu'il aurait pu questionner ainsi; il a dit que c'était possible que les choses se seraient passées comme ça. Alors, on doit inférer de la nécessairement que la confession ou les admissions faites par Bellerive ne sont pas libres et volontaires. Tout ce que Desmarais et Gervais sont venus dire en cour, c'est que Bellerive avait dit avoir sondé une porte du "station wagon" --celui dans le lot vacant, je crois-- et que la porte était barrée, qu'il s'était ensuite rendu de l'autre côté, qu'il avait déposé le bâton de dynamite et qu'il aurait mis le feu en continuant son chemin. Je ne

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vois pas forcément comment il aurait pu prendre une heure ou une heure et quart au moins à trois hommes...je ne peux pas m'imaginer comment, pendant une heure et quart, une heure et demie, trois hommes n'auraient pu dire simplement que ces choses-là. Ca représente à peu près trois lignes dans la bouche de Bellerive, à peu près quinze ou vingt ou peut-être trente mots au plus. Ce qui est arrivé seulement, hors de tout doute, c'est qu'il y a eu une pression, une forte pression exercée par le caporal Desmarais sur Bellerive. Il avait préparé son affaire; il a complété la préparation de son affaire en faisant venir la petite St-Pierre à son bureau où il l'a questionnée à fond. Une fois qu'il eut connu toute l'histoire, il a fait parler Bellerive. Dans ses propres termes, il lui a dit: "Tu as fait ceci, tu as fait cela; tes allées et venues ce soir-là, c'étaient ci et ca, n'est-ce-pas?" et Bellerive disait "oui". Pardessus le marché, avec toute son expérience comme policier --je crois qu'il a dit que ça faisait dix ans qu'il était dans la Gendarmerie Royale--, comment se fait-il qu'il n'a pas pris sa confession par écrit? C'était si facile! C'était tellement facile à ce moment-là! Pourquoi cela n'a-t-il pas été fait? Il y avait des tables là et des machines à écrire; rien n'aurait été plus facile que de taper ça tout de suite, et pourtant cela n'a pas été fait! Et avec toute son expérience comme policier...!

Il y a à considérer aussi au sujet de cette confession verbale que l'accusé était convaincu qu'on l'appréhendait pour désertion. C'était son grand problème. Alors, si c'était le cas, eh bien, si la police n'a rien fait pour le mettre en garde contre cette idée-là, il me semble que c'était le devoir de Desmarais en tant que chef de ce détachement de la Royale Gendarmerie d'avertir Bellerive pourquoi on l'appréhendait ce jour-là.

Au sujet de la prise de la confession par écrit, je pourrais référer la cour à la règle 9 des Juges de la Cour du Banc du Roi, citée à la page 92 du Manuel de Loi Militaire, qui dit:

> "Any statement made in accordance with the above rules should, whenever possible, be taken down in writing and signed by the person making it after it has been read to him and he has been invited to make any corrections he may wish."

Alors, je crois qu'on entre bien dans la lettre de l'article en disant que le "whenever possible" s'appliquait certainement là sans l'ombre d'aucun doute. Il était très facile et tout-à-fait naturel pour la police, surtout pour un policier de l'expérience de Desmarais, de faire prendre ou prendre lui-même les déclarations de l'accusé par écrit et lui faire signer ses déclarations. C'est tellement vrai que c'est Morel qui a trouvé le chat tel qu'il le dit dans sa déposition au sommaire d'évidence.

PLAIDOIRIE DE CLOTURE DE L'OFFICIER DEFENSEUR (suite)

J'irais même plus loin à ce sujet-là et je dirais que la confession écrite, même si elle n'est pas en preuve, n'était que la simple continuation de la confession verbale, et que les deux confessions, écrite et verbale, ne forment qu'un tout.

(La cour informe l'officier défenseur qu'il ne doit pas mentionner d'autres faits que ceux qui sont en preuve devant la cour)

Au sujet de la confession verbale elle-même, j'ai prétendu tout à l'heure qu'elle n'était pas libre et volontaire, et au soutien de cette affirmation-là, les choses dites par Desmarais n'ont pas été rapportées en cour. On n'a jamais su ce que Desmarais a dit, de quelle manière il a conversé avec l'accusé. Il nous a dit qu'il n'avait pas fait de menaces à l'accusé, mais à une de mes questions, il a admis qu'il avait parlé à l'accusé et qu'il lui avait posé des questions; il a admis, comme je disais tout à l'heure, qu'il avait initié des choses lui-même et qu'il aurait demandé à l'accusé ensuite de corroborer si oui ou non c'était arrivé comme ça. Ce n'est pas ce que j'appellerais une confession libre et volontaire.

Maintenant, la défense a amené comme témoin trois jeunes filles qui sont venues jurer que l'accusé, un peu avant et un peu après l'explosion, nommément entre 8 h. 30 et environ 9 h. 45 et 10 h., le soir du crime, avait été au Bluebird, et qu'elles l'ont rencontré à cet endroit-là. Je soutiens que le témoignage donné par ces jeunes filles n'a aucunement été contredit par la poursuite, même en 'rebuttal', en faisant venir le caporal Turcot, se servant de ces notes prises au procès de Tessier; je soutiens que la poursuite n'a pas détruit l'alibi de l'accusé. Et je ne fais que référer la cour à la dernière réponse de l'accusé lors de ce témoignage lu par le sténographe, quand on lui a demandé: "De neuf heures et demie à dix heures, où étiez-vous?" et qu'il a répondu: "On était au Bluebird; on était pas mal chauds; on se rappelle pas toutes les places." Si on se rappelle pas toutes les places, on se rappelle encore moins d'une seule. Exactement! Parce que les trois jeunes filles doivent être crues par la cour, et il n'y a aucune raison pour que la cour ne prenne pas leur témoignage au sérieux. Elles se sont trompées, il est vrai, mais elles se sont trompées sur des questions de détail. Au point de vue d'ordre matériel, elles ont prouvé que l'accusé, le soldat Bellerive, était au Bluebird, et qu'elles l'ont rencontré là le soir de l'explosion, qu'il a pris un peu de bière, même si un des témoins a dit qu'il n'en avait pas pris. Il est en preuve évidemment que l'explosion elle-même s'est produite entre 9 h. 20 et 9 h. 30. L'accusé, ce soir-là (il l'avoue lui-même dans son témoignage)(dans la cause de Tessier) était pas mal chaud. Seulement, étant pas mal chaud, comment se fait-il qu'il puisse se rappeler si bien tout ce qui s'est passé? En passant, on peut dire que l'avocat de la poursuite a été d'une habileté consommée; il a fait dire au témoin tout ce qu'il a voulu lui faire dire. Les jeunes filles qui sont venues témoigner en

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faveur de l'accusé ont établi sa présence définitivement au Bluebird le soir de l'explosion. Si elles ont dit qu'il était sorti de la salle pour aller probablement à la chambre de toilette, elles ont dit aussi que leur table était placée si près de la porte même qu'il leur était possible de voir les personnes qui sortaient. Il en ressort donc de ça que si l'accusé était parti et avait laissé le restaurant, il serait passé à côté d'elles et au moins une des jeunes filles l'aurait vu sortir. Et la cour doit certainement admettre que l'accusé était au Bluebird et qu'il a été au Bluebird jusqu'à 9 h. 45, dix heures, le soir de l'explosion. La poursuite n'a pas établi, loin de là, hors de tout doute, que l'accusé est bien celui qui a fait exploser un des "station wagons" le 18 mai 1945.

Le fardeau de la preuve repose nécessairement sur la poursuite, et la preuve de circonstances est certainement pas assez forte pour amener la cour à un verdict de culpabilité. Maintenant, il y a toujours la théorie du doute en faveur de l'accusé; le doute existe dans le premier chef également, mais surtout dans la deuxième cause. Il y a certainement un doute très fort qui doit exister dans l'esprit des membres de la cour, à savoir, si l'accusé a oui ou non commis l'offense dont on l'accuse. Ce doute, même le plus petit soit-il, on doit en faire bénéficier l'accusé.

Pour ces considérations, la défense demande à la cour le renvoi du premier chef d'accusation ainsi que du deuxième chef d'accusation.

REQUISITOIRE DU PROCUREUR

Monsieur le président,
messieurs les membres de la cour,

L'accusé Bellerive avait à faire face à deux chefs d'accusation, l'un de désertion et l'autre d'avoir endommagé malicieusement le bien public.

Quant à la première offense, la désertion, le début, la continuité et la fin de l'absence ont été bien établies. Il s'agit de savoir si des faits prouvés, la cour peut en désuire qu'il y a eu désertion. Vous avez la longueur de l'absence, une absence de 333 jours, le fait de l'arrestation en habit civil, et vous avez le droit de prendre en preuve sur cette offense, la preuve offerte pour établir le deuxième chef d'accusation. Détruire des véhicules militaires n'est pas une manifestation de l'amitiée de l'accusé envers l'armée. L'intention ne peut pas se prouver directement, mais de tous ces faits établis vous pouvez déduire l'intention de l'accusé de ne pas revenir. Mais si la cour en vient à la conclusion qu'elle n'est pas satisfaite que l'intention est apparente, elle peut encore rendre un verdict spécial d'absense sans permission.

Quant à la deuxième offense, qui est l'offense principale, la poursuite a établi par plusieurs témoins qu'entre neuf heures et quart et neuf heures et demie du soir, le 18 mai 1945, deux véhicules militaires, "station wagons" 54-636 et 54-385, ont été endommagés par une explosion. Ces véhicules-là ont été laissés en parfait état vers la fin de l'après-midi à l'endroit mentionné, soit en face de l'Hôtel Caumartin à Trois-Rivières. A 9 h. 15 ou 9 h. 30, ils sont endommagés. Le caporal Lapointe entend deux détonations; il descend et visite les deux "chars" et il remarque certains dommages et une senteur de poudre. Charest, l'expert, a donné l'énumération et l'évaluation des dommages aux véhicules, et il est d'opinion lui aussi que c'est une explosion qui a causé les dommages aux véhicules.

Coincidence étrange, la même journée, vers la fin de l'avant-midi, l'accusé est dans le restaurant Guillemette avec Tessier, et là ils se disent: "Si on avait de la dynamite, on ferait sauter les 'chars' des'provosts'." Levasseur leur apporte de la dynamite. Ces faits-là sont absolument établis. Levasseur a entendu la conversation et lui-même a remis la dynamite la même journée de l'explosion, le 18 mai 1945. Levasseur ne sait pas exactement à quel des deux il a remis la dynamite. Tessier vient jurer qu'il l'a remise à Bellerive et il dit "Bellerive me l'a remise ensuite". Mon confrère a donné une savante théorie sur la complicité. Le seul défaut de sa théorie est qu'elle n'est pas tout-à-fait complète. Qu'est-ce qu'un complice? POPPLE dit:

> "An accomplice is one who could be convicted if indicted as a principal for the offence".

REQUISITOIRE DU PROCUREUR (suite)

Tessier pourrait-il être condamné pour cette offense-là, le 15 août 1945? Il a déjà été condamné. Levasseur est-il un complice? Je prétends que non parce que vous ne pouvez pas l'accuser de cette offense-là exactement comme elle est là. Admettons pour un moment que Levasseur soit un complice. Il y a une chose telle en droit que le complice avant le fait et le complice après le fait. Et le complice avant le fait est un témoin compétent. Je cite encore POPPLE, dans "Canadian Criminal Procedure " (Annotations) 1944, page 68:

> "It should be pointed out, however, that the Privy Council ruled in the Nat Bell case that an accessory before the fact is a competent witness and no error in law is committed in accepting his testimony without corroboration"

Mais dans cette cause, Levasseur est corroboré; même s'il était un complice, il est corroboré par Tessier. Je vais citer la cause de REX vs BASKERVILLE à mon tour, cause que le savant procureur de la défense a citée tantôt. Les juges ont décidé dans cette cause:

> "The validity of a conviction based on the uncorroborated evidence of an accomplice -- there is no doubt that the uncorroborated evidence of an accomplice is admissible in law".

C'est bien clair. La seule chose, la seule affaire que le juge est obligé de faire est d'aviser les membres du jury et leur dire: "Faites attention! le témoignage d'un complice est admissible, mais voyez-y avant de condamner. Vous pouvez condamner quand même; c'est parfaitement légal, mais faites-y attention!" Dans ce cas-ci, Tessier confirme Levasseur qui est un complice avant le fait. De plus, le fait de l'explosion et l'aveu de Bellerive corroborent complètement Levasseur.

Donc, nous avons deux faits parfaitement établis. Les véhicules de l'armée, dont les numéros sont mentionnés dans l'acte d'accusation, ont été dynamités. Deuxièmement, ils ont été endommagés pour des dommages qui s'élèvent à $70.11 et à $175.92 respectivement; c'est parfaitement bien établi et il n'y a aucun doute là-dessus. La date? C'est le 18 mai 1945 entre 9 h. 15 et 9 h. 30.

Le deuxième fait bien établi, c'est que le matin de la même journée, Bellerive avait l'intention de les faire sauter. Ceci est bien établi aussi par deux témoins. Il reçoit de la dynamite; c'est encore bien établi par deux témoins.

Maintenant, l'accusé a voulu nous enlever tout doute qu'il pourrait y avoir quant à sa culpabilité; il a raconté son histoire à la police. Mon savant confrère, en dépit du jugement rendu avec sagesse par la cour, a discuté ledit jugement, et l'a discuté d'une façon étrange parce que toute sa discussion repose en partie sur des faits qui

REQUISITOIRE DU PROCUREUR (suite)

ne relèvent pas de la preuve. Il vous a parlé qu'une déclaration de l'accusé doit être prise par écrit. Je me demande où on peut trouver ça dans la loi. Il n'y a aucune spécification, aucune règle du "common law" qui exige qu'une confession doit être écrite. C'est seulement la cour d'appel d'Angleterre qui a dit à la police: "Si vous ne voulez pas avoir de difficulté, votre confession, prenez-la par écrit". C'est un conseil et non pas une règle. D'ailleurs le jugement a été rendu et la confession admise, et je me borne aux arguments que j'ai présentés devant cette cour à la conclusion de la preuve sur voir-dire, et je réfère la cour à sa propre décision.

La caporal Desmarais, corroboré par Gervais, deux membres de la Royale Gendarmerie à Cheval, vous ont raconté ce que Bellerive leur a dit: "Un taxi nous a conduits à l'Hôtel Caumartin. De là, Roméo et moi, on est allé chac un à notre 'truck'. J'ai choisi celui qui était dans le lot vacant. J'ai vu que la porte du côté de la rue de Niverville était barrée; alors, je suis allé de l'autre côté du camion. Roméo est venu me retrouver; il m'a remis le bâton de dynamite; je l'ai allumé et je l'ai déposé sur le siège d'en avant à côté de la place du chauffeur.

Cette déclaration, qui est admise, est la meilleure preuve possible que l'on puisse avoir dans cette cause pour établir la culpabilité de l'accusé. Même des détails de cette déclaration sont déjà corroborés par l'examen du véhicule; quelle partie est le plus endommagée? l'avant! La partie d'en arrière, où étaient les bidons de gazoline; - pas du tout! L'accusé a justement dit: "J'ai mis le bâton de dynamite sur le siège d'en avant". Confession admise par la cour et corroborée par une preuve circonstancielle effroyable. Il n'y a aucun doute que l'accusé est coupable de l'offense telle que mentionnée.

Mais en défense, c'est là que l'accusé nous a fait une peur. En défense, il nous arrive trois "teen-age" girls". Les trois jeunes filles sont venues jurer qu'entre 8 h. 45 et 9 h. jusqu'à 10 heures, l'accusé est resté rivé à une table à prendre de la bière. Elles sont certaines de cette affaire-là; il n'y a aucun doute; pas moyen de les faire casser. Il y a des petits détails qui sont tout de même embarrassants. L'une d'elles, mademoiselle Lefebvre, dit que Bellerive n'a pas quitté la table une seconde; les deux autres disent qu'il est allé à la chambre de bain, une dit "deux fois" et l'autre dit qu'il est resté parti une "bonne escousse". Et il y a cinq minutes à pied pour se rendre du Bluebird au lieu du crime. Autre fait: une a dit: "Il a rien pris, Bellerive, absolument rien". Les deux autres ont qu'il a pris de la bière. Deux des trois ont dit qu'à la table où elles étaient, de la manière qu'elles étaient placées, elles pouvaient tout voir ce qui se passait dans le restaurant; l'autre dit: "Le dossier de notre table me dépassait la tête un peu". Des petites contradictions importantes

REQUISITOIRE DU PROCUREUR (suite)

Maintenant, la cour peut tout de même se demander comment il se fait que ces trois jeunes filles se rappellent d'une façon aussi précise des faits dans lesquels elles n'étaient pas intéressées et qui datent d'à peu près trois mois et demi. Même si on n'avait pas de témoins pour réfuter leur témoignage, je soumets que la preuve soumise serait bien suffisante, mais pour ne laisser planer aucun doute, j'ai fait produire le témoignage de Bellerive dans la cause de Tessier, et je vous cite:

Q. Quelle heure était-il quand vous êtes allés au Bluebird à peu près?

R. Huit heures moins quart, huit heures.

Q. Du Bluebird, où êtes-vous allés?

R. On est redescendu au restaurant Guillemette.

Q. Combien de temps après ça?

R. A peu près neuf heures, neuf heures et quart.

Et plus tard, le juge lui a demandé:

Q. Jusqu'à quelle heure vous êtes resté au Bluebird?

R. Neuf heures et quart, neuf heures et demie.

Le fait essentiel de ce témoignage est que Bellerive est sorti du Bluebird vers 9 h. 15 alors que ses trois témoins ont juré le contraire. Vous avez donc une preuve presque irréfragable en poursuite, et quand la défense arrive avec un alibi aussi boîteux, vous ne pouvez pas l'accepter parce que toutes les possibilités sont là que l'accusé a été à l'endroit du crime à la date et à l'heure en question. La preuve d'alibi ne tient donc pas debout.

Il a été prouvé par la poursuite que l'accusé a fait sauter seulement un véhicule. Je soumets à la cour qu'il devrait être trouvé coupable de l'accusation telle que rédigée, c'est-à-dire d'avoir fait sauter les deux véhicules parce qu'à la page 107 du M.M.L., l'article 17 dit:

> "If several persons combine together for an unlawful purpose or for a lawful purpose to be effected by unlawful means, each is responsible for every offence committed by any one of them in furtherance of that purpose, but not for any offence committed by another member of the party which is unconnected with the common purpose, unless he personally instigates or assists in its commission"

Alors, le matin, Tessier et Bellerive se sont rencontrés et ensemble se sont dit: "On va faire sauter les 'chars' des 'provosts'.": Acte illégal. Comment les faire sauter? Avec de la dynamite: moyen illégal, et deuxième acte illégal. Ils se concertent donc ensemble pour commettre

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REQUISITOIRE DU PROCUREUR (fin)

un acte illégal par des moyens illégaux. Ce que Tessier a pu faire, Bellerive en est responsable, comme Tessier est responsable de ce que Bellerive aurait pu faire.

Pour terminer, je voudrais ajouter que l'aveu a toujours été la meilleure preuve possible en droit. PHIPSON, 4e édition, page 242, nous le dit:

> "A confession duly made and satisfactorily proved is generally sufficient to warrant a conviction without corroboration except in certain cases"... comme le meurtre, la bigamie, la félonie etc.

Dans cette cause-ci, vous avez une confession parfaitement bien corrotorée, et je soumets que l'accusé devrait être trouvé coupable des deux chefs d'accusation tels que rédigés.

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Verdict*

*A biffer, sauf dans les cas de "dénégation de culpabilité".

L'audience est levée pour délibérer sur le verdict.

La Cour déclare l'accusé , D-654073, Private R. BELLERIVE, C.I.C., C.A., attached to No. 44 C. I. (B) T.C., C.A., St.Jerome, P.Q., coupable à l'égard des deux chefs d'accusation.

Procédure sur déclaration de culpabilité *précédant la Sentence*

* Lorsque l'audience est déjà ouverte, cette phrase doit être rayée.

* L'audience est ouverte et l'accusé est ramené devant la Cour.

Preuve de réputation.

Lieutenant P.-A.-Y. LUPIEN, Assistant-adjudant et officier en charge des records, CI(B)TC 44,CA est dûment assermenté.

Question par le Président. 1161 Avez-vous quelque preuve à produire quant à la réputation et les états des services de l'accusé. *Réponse du témoin.* Je produis le MFB 355 et le MFM 6 du soldat D-654073 R. Bellerive, l'accusé.

La déclaration précitée [avec la liste des condamnations et des cas où il y a eu dispense de procès] est lue, marquée Y & Z , signée par le Président et versée au dossier.

Question par le Président. 1162 L'accusé est-il la personne nommée dans la déclaration dont vous venez d'entendre lecture? *Réponse du témoin.* Oui, monsieur.

Question. 1163 Avez-vous comparé le contenu de la déclaration précitée avec les livres régimentaires? *Réponse.* Oui, monsieur.

Question. 1164 Sont-ce des copies conformes des livres régimentaires et l'exposé des inscriptions figurant aux feuillets de punition est-il un résumé juste et fidèle de ces inscriptions? *Réponse.* Oui, monsieur.

(Instruction. — Si par suite de la nature du service de l'accusé dans un corps départemental, ou autrement, le verdict de la Cour le rend passible de peine d'exception-nelle, en sus de celle qui lui est infligée par la Cour, le procureur doit le signaler à la Cour, et celle-ci doit s'enquérir de la nature et de l'importance de cette peine addi-tionnelle.)

~~Transquestionnaqueldiquesx~~

L'officier défenseur ne désire pas contre-interroger le témoin.

De l'avis de la cour, il n'est pas nécessaire de se conformer à la R. de P. 83(B).

Le témoin se retire.

Question à l'accusé. 1165 Avez-vous quelque chose à dire à la Cour? *Réponse.* Non, monsieur.

L'audience est levée pour délibérer sur la sentence.

La cour informe l'accusé que le verdict et la sentence de la cour étant sujets à confirmation ne seront pas annoncéen cour ouverte mais seront promulgués plus tard dans les ordres et que les procédures en cour ouverte sont maintenant terminées.

Extracts entered as No. 4033 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 15 day of Oct 1945

F

Sentence

La Cour condamne l'accusé, D-654073, private Roch BELLERIVE, C.I.C., CA, attached to No. 44 C. I. (B) T.C., CA, St-Jérome, P.Q., à la prison pendant vingt-trois mois et à être renvoyé ignominieusement du service de Sa Majesté.

Sentence.

EMPRISONNEMENT

23 mois

RENVOI IGNOMINIEUX DU SERVICE DE SA MAJESTE

Signé à St-Jérome, P.Q., ce sixième jour de septembre 1945.

(L.-J.-E. BELLEAU) Major,
Quartiers-Généraux, District Militaire No. 4
Président, D.C.M.

Montreal, P.Q.,
September 27th, 1945.

CONFIRMED.

(E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

Promulgated and extracts taken
at St.Jerome, Quebec, this
day of 3rd OCT 1945.
(Part II No. 216)

(P.A.Y. LUPIEN) Lieut.-Adjt., Gen List CA.,
attached to No. 44, C. I. (B) T. C.,
St. Jerome, Que.

L.J.E. Belleau Major, Pres. D.C.M.

"X"

Orders by Major-General E.J.Renaud, C.B.,CBE Commanding

xxx Military District No. 4.

District Court-Martial

D-654073 Pte. BELLERIVE, R.
CIC,CA, attached to No. 44
CI(B)TC,CA.

Montreal, P.Q.,
22nd August, 1945.

The detail of Officers as mentioned below will assemble

No. 44 CI(B)TC, CA,
at St. Jerome, Quebec, on Friday

the 24th day of August 1945 at 1000 hours

for the purpose of trying by a District Court-Martial the accused person ~~xxxxx~~ named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

Major L.J.E. Belleau,
Headquarters, M.D.No.4. is appointed President.

MEMBERS

Major I.L. Lavallee,
attached to CI(B)TC No.43 CA, Sherbrooke, P.Q.
Captain J.M.G. Bouchard,
Regiment de Maisonneuve, C.A.

WAITING MEMBERS

Captain A. Valin,
Regiment de Maisonneuve, C.A.

~~XXXXXXXXXXXX~~

~~xhxxx

Lt Bellerau Instr.
Pres. DCM.

C

OFFICIERS PRESENTS QUANT AUX FINS D'INSTRUCTION

Capitaine	L.-T.	CHARTRAND, CIC,CA
Capitaine	Jacques	MASSON, CPC, CA
Lieutenant	Charles	MENARD, CIC,CA
Lieutenant	R.-R.	LEBLANC, CIC,CA
Lieutenant	R.	CYR, CIC, CA
Lieutenant	G.-A.	LEROUX, CIC, CA
Lieutenant	J.-G.-R.	BOURDON, CIC, CA
2/Lieutenant	Jean	CARON, CIC, CA
2/Lieutenant	Jean-Jacques	BEDARD, CIC, CA

tous attachés au C. I. (B) T.C. No. 44, CA.

19

J.E. Bellerive Major
Ord. Adm.

No. 44, C. I. (B) T. C.

St. Jérôme, Qué.,
24 août 45.

MEMORANDUM:

PRESIDENT DE LA DCM

OFFICIERS SOUS INSTRUCTIONS
Re: DCM - D-654073 Pte. BELLERIVE, R.

Les officiers sous-mentionnés sont sous instructions pour la DCM de Bellerive:-

CAPT	L.T.	CHARTRAND
LIEUT	G.A.	LEROUX
~~LIEUT~~	~~P.~~	~~LAROCQUE~~
LIEUT	R.	CYR
LIEUT	C.E.	MENARD
LIEUT	J.G.R.	BOURDON
P/2LIEUT	J.J.	BELAND
P/2/LIEUT	J.R.	CARON
LIEUT	R.R.	LEBLANC
CAPT	J.	MASSON

(M. DE ROCHERS) Capt.-Adjt.,
No. 44, C.I.(B)T.C.

18

H. Belleau Master, Pay. Accn

"H" 297

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT S.18, St.Jerome School of A.I.

PART II ORDERS

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 189

STATION St.Jerome, Que.

DATE 31 Aug 44

"Last Order Issued No. 188 dated 30 Aug 44"

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
12	ABSENCE WITHOUT LEAVE	D-654073	PTE. BELLERIVE R.		AWL from 0100hrs	16 Aug 44

CERTIFIED TRUE EXTRACT:-

(M.A. Desrochers) Capt.-Adjt.,
No. 44 C.I.(B) T.C.

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

M. F. D. 873A
1,000,000-10-42 (6791)
H.Q. 1772-39-254

(SGD.) (M.A. Desrochers) Capt.-Adjt.,
S.18 St.Jerome School of Army Instr

CERTIFICATE IN ACCORDANCE WITH O[illegible] IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN ROUTINE ORDER 1877, AND IN GENERAL ORDER No. 127, 1942.

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by ~~surrendered to~~

Reg. No.-14463 Cst. R.A. GERVAIS R.C.M.Police

(Name of ~~Peace Officer or~~ Constable)

at Three-Rivers, P.Q. (Place) at 19.30 (Hour)

on the fifteen day of July 1945

and at the time of arrest ~~(surrender)~~ he was ~~wearing military (air force) uniform~~ dressed in civilian clothes).

Strike out words not applicable

Regimental particulars of officer or soldier referred to above.

No. D-854073
Rank Private
Name BELLERIVE Roch
Unit S-18 S.A.I. Army Instruction St-Jerome

Description

Age 22
Height 5'2"
Complexion Medium
Hair Brown
Eyes Brown
Marks Scar on forehead.

16

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or the officer in charge of police station or other officer or soldier, was taken into custody upon such arrest or surrender

~~(Peace Officer)~~ (Constable) ~~(or Officer in Charge of Police Station)~~

Strike out words not applicable

M.F.M. 315
50M—2-43 (8510)
H.Q. 1772-39-1938

M.F.H. 1481
12M—10-43 (2205)
H.Q. 1772-39-1851

W.E. Bureau - Majors
Pres. & Cons

301

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, M. DESROCHERS (Rank), Capt.-Adjt., Gen. List C.A. attached to No 44 C.I.(B) T.C., St.Jerome, Que. (Unit)

Strike out word not applicable — hereby certify that I ~~[illegible]~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from ST. JEROME. QUE. (Place) to MONTREAL. QUE. (Place) and return to ST. JEROME. QUE. (Place) for the purpose of escorting

Full description of soldier being escorted — D-654073 PTE BELLERIVE, R. (Number) (Rank) R.C.E. (Name in full) CA., attached to No. 44, C. I.(B) T.C., ST.JEROME, QUE. (Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of the ~~transport warrants issued~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
17JUL 45	(D-177625 PTE GUINDON, P.E.-escort) ST.JEORME TO MONTREAL - PROV TRANSP. (return) incl.tax (WARRANT No: G-963374)	1.10
17 JUL 45	(PRISONER) MONTREAL TO ST. JEROME - PROV TRANSP. (one way) inc tax (WARRANT No: G-963372)	.55
		15
	TOTAL	$ 1.65

Dated at ST.JEROME.QUE. this 17th day of JULY A.D. 19 45

(M. DESROCHERS) Capt.-Adjt., Gen List CA.,
Signature, rank, unit, attachment (if any) and appointment of officer
~~(authorized)~~ (authorizing transportation)
Strike out words not applicable
attached to No 44 C.I.(B) T.C. St.Jerome, Que.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.H. 1482.
This form must be signed by the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

W. H. Bellcau, Major,
Pres. Com.

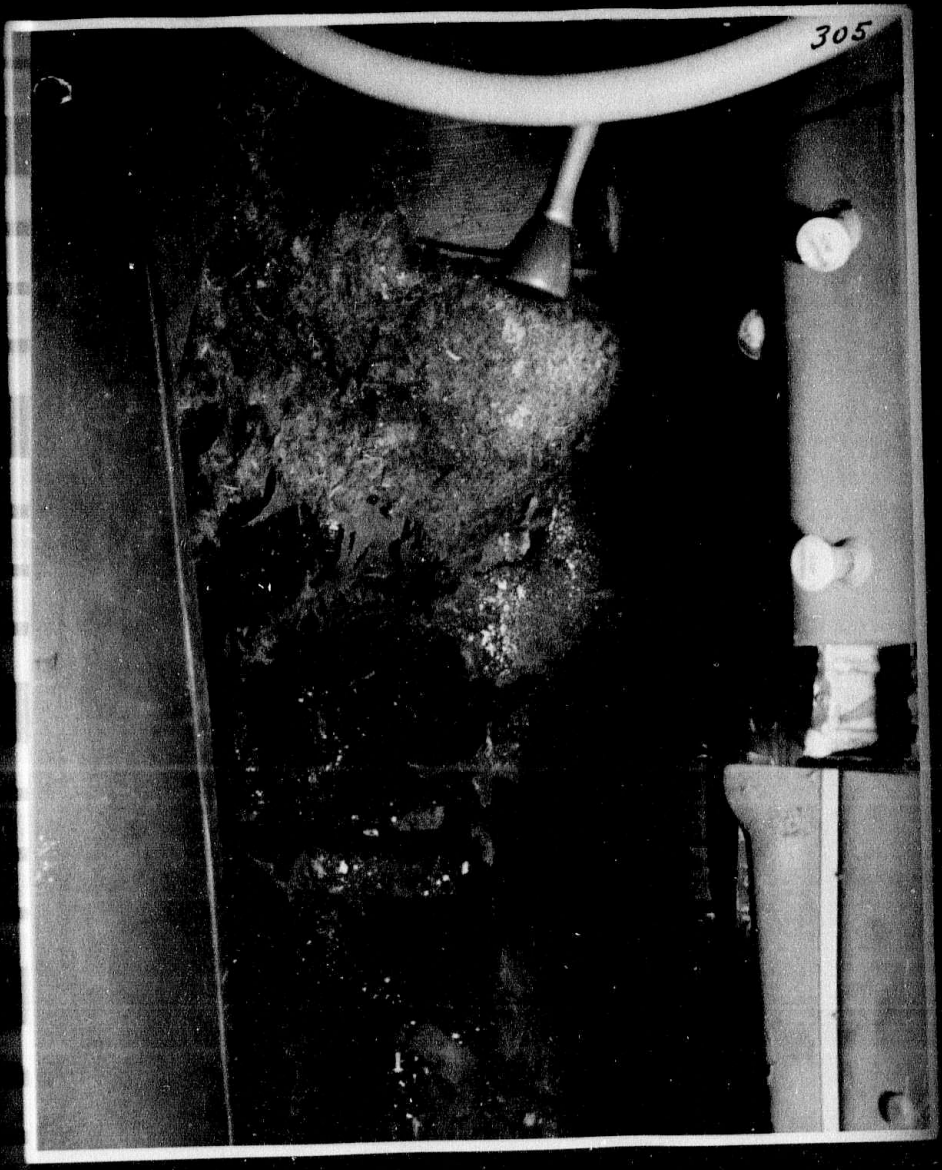
303

'K'

Vous n'êtes obligé de rien dire. Vous n'avez rien à espérer d'aucune promesse ou faveur et rien à craindre d'aucune menace, que vous disiez quelque chose ou non; mais tout ce que vous direz peut servir de preuve lors de votre procès.

Vous n'êtes obligé de rien dire. Vous n'avez rien à espérer d'aucune promesse ou faveur et rien à craindre d'aucune menace, que vous disiez quelque chose ou non; mais tout ce que vous direz peut servir de preuve lors de votre procès.

You need not say anything. You have nothing to hope from any promise or favour and nothing to fear from any threat whether or not you say anything. Anything you do say may be used as evidence at your trial.


305

305

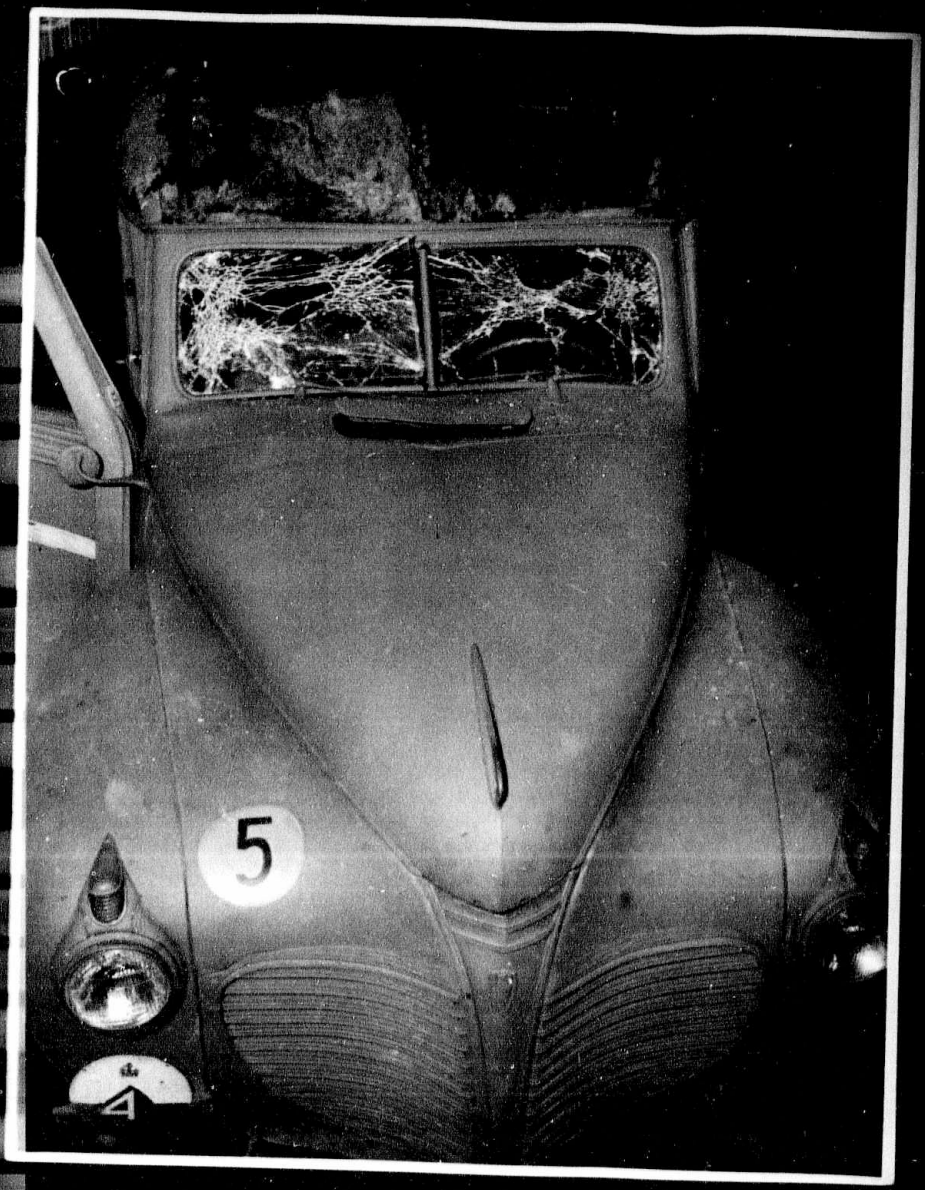
306

"L"

307

PHOTOGRAPHIC-SECTION
R.C.M.P. "C" DIVISION
MONTREAL, QUEBEC.
MAY 19 1945

"M"


5

PHOTOGRAPHIC-SECTION
R.C.M.P. "C" DIVISION
MONTREAL, QUEBEC.
MAY 19 1945

N

CAMBOUIS
PRINTEMPS 45

PHOTOGRAPHIC-SECTION
R.C.M.P. "C" DIVISION
MONTREAL, QUEBEC.
MAY 10 1945

10

PHOTOGRAPHIC-SECTION
R.C.M.P. "C" DIVISION
MONTREAL, QUEBEC,
MAY 19 1945

"D"

PHOTOGRAPHIC-SECTION
R.C.M.P. "C" DIVISION
MONTREAL - QUEBEC.

MAY 19 1945

Q 3/6

H.E. Sullivan, Insp.
R.C.M.P.

R. v 318

H.R. Bullman. Major.
Pres. D.C.M.

PHOTOGRAPHIC-SECTION
R.C.M.P. "C" DIVISION
MONTREAL, QUEBEC.
MAY 19 1945

319

PHOTOGRAPHIC SECTION
R.C.M.P. "C" DIVISION
MONTREAL, QUEBEC.

MAY 19 1945

β 320

Rebellion, maps.
Rec'd.

W.E. Bailey, Major,
Pres. D.C.M.

M.F.B. 356
75M—5-42 (145)
H.Q. 1772-39-520
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-654073	Private	BELLERIVE R., C.I.C. (CA), attached to No. 44 C.I.(B)T.C., St.Jerome, Que.	

1. The following is a fair and true summary of the entries in the [redacted] Field Conduct sheets [redacted] the accused, exclusive of convictions by a Court-Martial or a Civil Court, [redacted] of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	One (1) A.W.L.	times	One (1) A.W.L.	times
For		times		times
For		times		times
For		times		times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted [redacted]

3. The accused is not under sentence at the present time [redacted]

4. The accused has been in confinement awaiting trial on the present charges, for 1 days in civil custody, and 52 days in military custody, making a total of 53 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his [redacted] Enrolment paper is 22 years 9 months

6. The date of his [redacted] Enrolment paper is 22nd June 1944

7. [redacted]

8. [redacted]

9. The accused is in possession of or entitled to no military decoration, or military award (or [redacted]

10. [redacted]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Air Force Unit

Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this..... day of..... (P.A.T. Lupien) Lieut.-A/Adjt.,
No. 44 C.I.(B)F.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the president, and annexed to the proceedings.

M.F.M. 6

Reg. No. D-654073 Name BELLERIVE Roch Corps R.C.E. Date of enlistment or enrolment 22 Jun 44 Date of Birth

Signature O.C. Company, etc. (SGD.) J.A. TREMBLAY Capt.
N.P.M.A. Clearing Depot No. 4.

Sheet No. One of *1, 2, 3, 4, 5
*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Jerome, Que.	12 Aug 44	Pte.		AWL from 1900hrs 12 Aug 44 till 2045hrs 13 Aug 44 Abs.: 1 dy. 1 hr. 45mins. Sec. 15 (1) A.A.	Pte. Therrien C.S.M. Dupuis	7 days C.B.	15 Aug 44	Capt. L.C. Boissonneault	Aut. Forf. 2 days pay FR&I. 149.

CERTIFIED TRUE COPY:-

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
(P.A.Y. Lupien) Lieut.-A/Adjt.,
No. 44 C.I.(B)T.C.

M.F.M. 6—500M—8-44 (5386)
H.Q. 1772-39-1032

H.Q.C.55-5-2048(JAG/D-7)

25 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

District Court-Martial
D.654073 Pte. R. Bellerive,
CIC.,CA.,att.No. 44 C.I.(B)T.C., C.A.

Receipt is acknowledged of your M.1-B-17333 dated 10 Oct 45, under cover of which you forwarded, for registration and custody, the proceedings of the m/n District Court-Martial.

2. It is noted that the accused was found Guilty of Desertion under A.A.12, and Wilfully injuring Public Property under A.A.24(4), and sentenced to 23 months imprisonment and to be discharged with ignominy.

3. The Prosecution called as a witness Pte. Tessier, who had previously been convicted on a similar charge. When Tessier professed that he could not recall various matters connected with the offence, the Prosecutor asked to have him declared hostile. The Court rejected the motion, saying that the Prosecutor might renew it at a later stage. Thereupon the Prosecutor proceeded to cross-examine Tessier on what the latter had said at the Summary of Evidence. Such cross-examination should not have been permitted as Tessier was still giving evidence in chief. Subsequently the Court declared Tessier a hostile witness and after this, cross-examination was perfectly in order.

4. Certain photographs of D.N.D. vehicles, in which explosives had been set off by Bellerive and Tessier, were produced by the witness Cpl. Desmarais, and admitted as exhibits. These photos were received through the evidence of Desmarais, apparently on the ground that when Desmarais showed them to the accused, the latter admitted recognizing them. As the Defence questioned the evidence of Desmarais on this and other statements allegedly made by the accused, it would have been preferable if the photos had been proven by the evidence of the R.C.M.Police photographer who took them.

5. The able argument of the Defending Officer against the admissibility of the confession has been noted. It is considered, however, that there was evidence on which the Court was justified in holding that the statement was freely and voluntarily made.

6. Consideration has also been given to the objection of the Defending Officer to the evidence submitted by the Prosecutor in rebuttal. This evidence consisted of calling a Court Stenographer to prove what the accused had stated as a witness at the trial of Tessier. The opinion of the authorities cited by the Prosecutor in his careful review of the law is to the effect that since

.....(P

3

Bellerive had given evidence at the Tessier trial without invoking the "privilege of silence", his evidence could be used against him at his own trial. This opinion, which the Court accepted, is concurred in.

7. It is noted that the accused was 52 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

8. The Finding is supported by the evidence and the Sentence is legal.

9. It is noted, however, that the Sentence was 23 months imprisonment and to be discharged with ignominy. In view of the lack, in most districts of Canada, of institutions in which sentences of imprisonment (without hard labour) and discharge with ignominy can be served, the practice has been adopted of Courts-Martial awarding either (1) imprisonment with hard labour and discharge with ignominy, or (2) detention. In the case of detention, no discharge with ignominy can be awarded. Where a Court-Martial had awarded imprisonment (without hard labour) and discharge with ignominy, the practice has been to commute the imprisonment to detention and to remit the discharge with ignominy. You may desire to follow this procedure in the present case.

10. The proceedings, which have been registered under No. 40327, the 15th Oct. 1945, are returned to you for any action you may deem necessary. After they have served your purpose, may they be returned to this Headquarters.

K.C. Lt Col

for (R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/MM

THIS COPY FOR: H.Q. M.D

NRMA

MEMORANDUM - DISTRICT COURT-MARTIAL

No. D-654073 Name BELLERIVE, R

Rank Pte Unit CIC, CA, att No 44 CIBTC CA;

Charge (1) AA 12(1)(a) WOAS, Desertion

(2) AA 24(4) Wilfully injuring publi

Date of Crime (1) 16-8-44; (2) 18-5-45.

Date of Arrest (1) 15-7-45; Charge Signed 21-8-45.

Orders for D.C.M. DOC MD 4

Place and Date of Trial No 44 CIBTC CA; 24-8-45.

Sentence Imprisonment 23 mos; to be discharged with ignominy;

Date of Confirmation 27-9-45.

Date of Promulgation 3-10-45.

Entered in Records of J.A.G. as No. 40327

Date 15-10-45.

Balance of sentence remitted by Conf. Auth. 18-8-46

MEMO MD 4 - att No 44 CIBTC CA

Absent 11 mos; Sentence Imprisonment 23 mos; discharge with ignominy;

2

for Judge Advocate-General

10M-8-45(M-189)

THIS COPY FOR: H.Q. C.55-B-2048
M.D. M. 1-R-17333

NRMA

MEMORANDUM - DISTRICT COURT-MARTIAL

No. D-654073 Name BELLERIVE, R

Rank Pte Unit CIC, CA, att No 44 CIBTC CA;

Charge (1) AA 12(1)(a) WOAS, Desertion

(2) AA 24(4) Wilfully injuring public....

Date of Crime (1) 16-8-44; (2) 18-5-45.

Date of Arrest (1) 15-7-45; Charge Signed 21-8-45.

Orders for D.C.M. DOC MD 4

Place and Date of Trial No 44 CIBTC CA; 24-8-45.

Sentence Imprisonment 23 mos; to be discharged with ignominy;

Date of Confirmation 27-9-45.

Date of Promulgation 3-10-45.

Entered in Records of J.A.G. as No. 40327

Date 15-10-45.

MEMO Balance of sentence remitted by Conf. Auth. 15-8-46

MD 4 - att No 44 CIBTC CA

Absent	Sentence
11 mos;	Imprisonment 23 mos; discharge with ignominy;

2

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-17333 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
October 10th, 1945.

R72

REGISTERED

The Secretary
Department of National Defence
O T T A W A - Ontario

C-66-B-2048

DISTRICT COURT MARTIAL
D-654073, Pte. R. BELLERIVE, CIC, CA
attached to C.I. (B) T.C. No. 44, CA.

Herewith, proceedings of the marginally-noted District Court Martial which have been confirmed and promulgated and which are forwarded for registration and custody, please.

2. Private Bellerive was tried by District Court Martial at C.I. (B) T.C. No. 44, C.A., St. Jérôme, P.Q., on the 24th day of August, 1945, on charges of "When on Active Service, deserting His Majesty's Service, A.A. Sec. 12 (1) (a)" and "Wilfully injuring Public Property, A.A. Sec. 24 (4)". He pleaded not guilty to both charges. He was found guilty thereof and on the 6th day of September, 1945, was sentenced to imprisonment for 23 months and to be discharged with ignominy from His Majesty's Service.

3. May this Headquarters be advised of the number and date of registration.

4. Also enclosed, herewith, M.F.'s B. 246 (Medical Officer's Reports) and Summary of Evidence.

Justin Renaud Capt.
(E.J. Renaud), Major-General,
for District Officer Commanding,
Military District No. 4.

enc.

40327

NAT. DEF. B. 440
250DM-4.44 (4321)
H.Q. 1772-19-767

H.Q.C. 55-B-2049

CONFIDENTIAL

N.F.B. 3178
3351—2-45 (1000)
H.Q. 301-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BENOIT, ROLAND D.170182 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2049

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 19 1945		cancelled					
				JAG	NEW FILE	CR	12-10-45
					WithPapersC.R. NOV 8 1945		
NOV 10 1945	12	P.A.		admin	To note pls		10 11 45
NOV 12 1945				CMBR	For Requisition C.R. NOV 15 1945		
DEC 24 1945	24/12/45	PA		admin 3	Recommendation		
JAN 3 1946	3-1-46	PA		CMBR	WithPapersC.R. DEC 31 1945		
				JAG	For Requisition C.R. JAN 9 1946		
JAN 11 1946				CMBR			
JAN 14 1946		cancelled		admin	To note pls		10-1-46
JAN 15 1946							JAN 14 46
JAN 22 1946	21 JAN 46	PA		admin	WithPapersC.R. JAN 19 1946		
				CMBR	to note and date of		21/1/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M.1-B-19808 (A/DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que., 18 Jan 46.

The Secretary,
Department of National Defence,
Ottawa, Ontario.

Army
2976
JAN 19 1946
Referred to: admin

D-170182, Pte. BENOIT, Roland

Reference HQC 55-B-2049,Adm 3(b)1, d/15 Jan 46.

2. Attached hereto, form for remission in respect to the marginally named soldier.

3. Also attached is form M.F.M. 288.

[E.J. RENAUD] Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURE

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-
District File No. M.1- 3-19808

PART I

No. D-170182 Rank Pte Name BENOIT, A.
Unit 4.D.D.

PART II

Date of Trial 19th September 1945
Charge (s) ABSENT WITHOUT LEAVE
Sentence Two hundred and twenty days detention (220D)
Date of sentence 19th September 1945
Confirmation -- (a) Authority: N.D.H.Q.
(b) Date : 19 Sept 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 19 Dec 45

Signed at Montreal this 5 Dec day of 1945.
(Appointment) E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.
To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~)* promulgated and extracts taken at Montreal South Que. this 20th day of December 1945.. (1)

Ass-officer i/c Documents. (L.R. HAMELIN) Lieut.
(1) Unit, attachment and appointment to be stated. C.I.C., C.A., att'd to No. 4 District Depot C.A.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D170182 Rank Pte Name BENOIT Roland Standing
The sentence of Two hundred and twenty days det awarded by ~~Summary~~ Court Martial on the 19th September 1945 has been remitted on the 19th December 1945 by P.D.D.
UNIT Military District No. 4 Montreal Que.
Certified true Extract of Daily Orders Part II of No. 4 District Depot C.A.
No. 305 Place Jacques Cartier Barracks Date 20 December 1945
Montreal South
Adjutant

(J.M.A. CHARLEBOIS) Capt-Adj.
Ass. List. C.A. att'd to
No. 4 District Depot C.A.

* Strike out and initial words not applicable.

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc. considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
16 Nov 45	No suspension recommended. Sentence cont.		
	Def to cont 6 Feb 46	for DOC 4 R S	
24 DEC 45	Sentence remitted wef 19 DEC 45.	(E.J. RENAUD) Major-General, D.O.C., M.D. 4.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15(1) Army Act. ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Valcartier Que. at 0800 hrs on 4th Jan.45, absented himself without leave from his unit CITCA-13 C.A., until he was apprehended by Military Authorities at Montreal, Que. at 0930 hrs. on 24th August, 1945, dressed in civilian clothes	4Jan 45	19Sep 45

Signature of Officer making entry

(E.I. AUERBACK) Capt.,
General List, C.A., att'd
to NO.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24Oct 45	I do not recommend any remission of sentecne in this soldier's case.	(S.ECHENBERG) Colonel, Commanding No.4 District Depot, CA

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Dec 45	Sentence is considered fair and reasonable 1st review on 4 Dec 45	(E.J. RENAUD) Major General, D.O.C. MD No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-170182 (Number) Private (Rank) BENOIT, Roland (Name in full)

C.I.C., G.A., (Unit) attached to No.4 District Depot,C.A. (Attachment (if any))

Sentenced to 220 days detention

on 19th September,1945 at Montreal South,Que.

being served at No.88 Military Detention Barraks,St.Helen's Island,Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19years and 4 months - 11 Oct 1944.

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~ committed to undergo his sentence, which I recommend should (~~not~~ be (~~suspended~~) (put into execution) (~~suspended~~) on ..... (date)) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 5th Novr. 1945

(Confirming Authority) (E.J. RENAUD) Major General, D.O.C., M.D. No.4

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-2100)
50M—4-43 (2200)
H.Q. 1772-99-3059

HQC 55-B-2049,
Adm 3(b)1.

OTTAWA, Ont, 15 Jan 6

District Officer Commanding,
Military District No 4,
MONTREAL, PQ.

D-170182 - Pte BENOIT R

1. Ref your M.1-B-19808 A(DIS) d/28 Dec 45:-

2. Herewith Form for Remission and MFM 288 for this soldier.

3. It is noted that the Form for Remission shows the effective date of remission has been 19 Dec 45 while the MFM 288 shows the effective date as 17 Dec 45.

4. May the document which is in error be amended and both documents returned to this HQ, pls.

(E G Weeks)
Major-General,
Adjutant-General.

Encl 2)
SVL:mw

MR
Confd file

FILE NO: M.1-B-19808 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

233

Montreal, Que.,
28th December, 1945.

JAN 2 1946
Clgd. to
Referred to

The Secretary,
Department of National Defence,
Ottawa, Ontario.

D-170182 - Pte. BENOIT, Roland

XXXXXXXXXX

2. Attached hereto, form for remission in respect to the marginally named soldier.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURE

M.8-1-20 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
27th December, 1945.

CONF 17930
DEC 31 1945
C 39-B-2049
Referred to 6MBR

The Secretary,
Department of National Defence,
Ottawa, Ontario.

REVIEW OF SENTENCES CM CARO 5913

Reference HQC 9039-1, Adm. 3(b)3, dated 8th September, 1945, pertaining to the marginally noted subject.

2. Attached hereto, NFsM 288 duly completed in respect to the undermentioned soldiers, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter:-

D-170182 BENOIT, R. ✓

D-635535 BLANCHARD, R.

B-633199 JOLIVET, J.

D-643031 LEGER, E.

D-156668 MAHEU, A.

D-644329 NANTEL, R.

D-651726 PERREAULT, G.

D-616702 RAYMOND, L.

D-652849 TREMBLAY, H.P.

D-642119 TREMPE, M.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

SNCL.

LOCAL ARMY SIGNAL OFFICE — ARMY MESSAGE — ADDRESS & QUERIES LOCAL ARMY SIGNAL OFF

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE BELOW AND RETURN TO A.D.M. WOODS

BRANCH	TIME	SIGNATURE

64182

ROYAL CANADIAN SIGNALS Woods Block OTTAWA DEC 20 1945 Phone Army Signals

VER V CIM NR 32

FROM COMMANDING FOUR MONTREAL PQ 201415R

TO SEC D N D OTTAWA ONT

GR 39 BT

ADIS 976 UNCLASS RETEL RANKS 1539 DATED 19 DEC 45 RE D ONE SEVEN NOUGHT ONE EIGHT TWO PTE BENOIT R STOP SENTENCE OF ~~XXXX~~ SOLDIER REMITTED WEF 17 DEC 45

BT 201533R SA B

RECEIVED DEC 20 1945 A.D.M.I.N. 3A

HQC 55-B-2049
Adm 3(b)2

CONFIDENTIAL

OTTAWA Ont 20 Dec 5

District Officer Commanding
Military District No 4
MONTREAL PQ

D.170182 Pte BENOIT R

19 Dec 45: Ref M-1-B-19808 ADIS and Ranks 1539 dated

2. Returned herewith MFM 288 for this soldier.

G.D.B.

(A.E. Walford)
Major-General
Adjutant-General

Encl
GDB/jh

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: HQC 55-B-2049 Adm 3(a)

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 4
MONTREAL P Q

OTTAWA ONTARIO 19 DEC 45

RANKS 1539 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REFERS D 170182 PTE BENOIT R (.)

CMBR RECOMMENDS IMMEDIATE RELEASE (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: CMBR

JAG

GDB/MA

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
SIGNED Major-General Adjutant-General		IMMEDIATE	1650

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

IN REPLY PLEASE QUOTE No. M-1-B-19808 ADIS

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que. 29th December, 1945.

NOV

12298

NOV 30 1945

CMBR 15-11-45

CMBR

Secretary,
Department of National Defence,
Ottawa, Ontario.

D-170182 BENOIT, Roland.

Reference your HQC 55-B-2049 (CMBR) dated 16 Nov 45.

2. Herewith included MFM 288 and report on conduct dated 17 Nov 45 in the case of the m/n.

3. This soldier, providing his conduct is satisfactory, will be remitted as of 19 Dec 45.

(E.J. RENAUD), Major-General,
D.O.C. M.D. No. 4

Encl.

REPORT ON CONDUCT

M: -1-B-19808 ADIB

District Headquarters,
Montreal, Que.
17 Nov 45.

TO: COMMANDANT, MILITARY DETENTION BARRACKS.

1.	Soldier under sentence	D 170182 BENOIT, R.
2.	PLEASE STATE:	
	(i) Date of sentence	19 Sep 45
	(ii) Sentence	220 days
	(iii) Date you received soldier	24 Sep 45
	(iv) (a) Can soldier read and write	Yes
	(b) Religion	R.C.
	(c) Married, Widower, Single	Single
	(d) What army trade has soldier?	None
	(v) (a) Conduct of soldier	Good
	(b) Industry of soldier	Good
	(c) Remission earned:-	Yes
	(i) Number of days actually earned	20 days
	(ii) Number of days obtainable to date	20 days
	(vi) Medical Officer or Surgeon's Report on physical and mental condition; if soldier is ill, should state:-	Fit
	(a) Whether detention will seriously aggravate soldier's condition	No
	(b) Whether further confinement is likely to prove fatal.	No
	(vii) (a) Whether in your opinion conduct of soldier warrants suspension of sentence	Too soon to judge, refer back when half sentence completed, 6th January 1946.
	(b) Moral effect confinement has had	Good
	(c) If returned to Army, is soldier likely to become a good soldier?	No.
	(viii) Date term will expire if all remission earned from now on.	12 Feb 46.

J Potter Capt

(E.J.RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

C Potter Major

(C.Potter) Major
Commandant,
No. 65 Mil. Det. Brks.
Montreal South, Que.

HQC 55-B-2049 (OMBR- 4)
EMA

Case No----------

16 Nov 45

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW.

1. No, Rank and Name: D.170182 Pte. BENOIT R.

2. Unit at date of offence: A-13 CITC CA Valcartier, Que.

3. Charge: AA 15(1) - AWL
(From 4 Jan 45 until apprehended in civilian clothes on 24 Aug45) seven and two thirds months.

Plea: Guilty

4. Place and Date of Trial: No. 4 D.D.(CA) Montreal South, Quebec.
(~~RSM~~) (~~GCM~~) (SCM)

5. Finding: Guilty

6. (a) Sentence: 220 days Detention
(b) Date of Sentence: 19 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 65 MDB in M.D. 4 / 1539

(N.B. - Discharged under R.O. 1029 ( ) for wef).

Request for AFA 3104 or MFM 288 sent out 16 Nov 45

Case No----------

PAGE 3

CONDUCT

	Offence	Date	Sentence
11. (a) Prior to conviction			
(1) Civil Convictions:	Nil		
(2) Courts/Martial:	Nil		
(3) Summary Convictions:	3 minor offences of AWL.		

(b) After conviction Good - Date of release - 9 Jan 46

(c) Date of enrolment/~~enlistment~~: 5 Sep 44 Present Age: 20
Enlisted G.S. 11 Oct 44

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances)

STATEMENT BY ACCUSED IN MITIGATION:

Went absent because of his mother who is ill and suffering from general disability. When he told her he was on "Good-bye leave" she begged him not to leave her. While absent, worked on the experimental Farm in St. Cesaire, and gave money home. Father, is alive. Has two brothers one of whom is married, lives at home and does not work.

Produces medical certificate in regard to mother.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr., etc.)

Reviewing Officer:

It is not unlikely that this soldier is hiding behind his mothers skirts . However because of his youth, recommend remission at half sentence viz - 9 Jan 46.

Reviewed by.....
(A.B. Gold) Lieut.

---

14. Recommendation of the Board:

Immediate Release

Date DEC 17 1945 19-----

Secretary
Courts Martial Board of Review

HQC 55-B-2049(JAG/D-6)

10 Nov 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
D.170138 Pte R Benoit
CTC CA att No. 4 DD CA
.....Court-Martial

7th November 5 M. 1-B-1d342 (J)

Receipt is acknowledged of your
dated 194 . under cover of which you
returned to this office for custody the proceedings
of the Court-Martial.
Para 2 of your letter mentioned above has been
noted.
marginally noted

(R.J. Orde) Brigadier,

Judge Advocate-General.

RLM/fdr

Noted & Cl.
) Ass.
APB

17

IN REPLY PLEASE QUOTE No. M. 1-B-18342 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

Montreal, P.Q.,
November 7th, 1945.

The Secretary
Department of National Defence
O T T A W A, Ontario.

7712
NOV 8 1945
File 55-B-2049
Cl'g'd. to
Referred to JAG

STANDING COURT MARTIAL
D-170182, Private Roland BENOIT,
C.I.C., C.A., attached to No. 4 D.D., C.A.

Reference your H.Q.C. 55-B-2049 (JAG/D-4), dated 18th October, 1945,

2. As regards paragraph 2 of your above quoted letter, the attention of the President has been called to the remarks as to the proper manner of expressing sentences of detention in accordance with the provisions of K.R. (Can) paragraph 565.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

Jean Monsau Capt.
(E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

16

NAT. DEF. B 44
3500M-4-44 (4321)
H.Q. 1772-39-70

MEDICAL OFFICER'S REPORT

I certify that No. D-170182 Pte. BENOIT. R.
C.I.C., C.A., attd
of att. No. 4 D.D. CA. is in a good state of health,
and fit to undergo Trial by Court martial.

H.C. Hazell, Capt.

Medical Officer
No. 4 District Coy. R.C.A.M.C.
att. No. 4 District Depot, CA.

Station J.C.Bks., Montreal South, Que.,

Date 19th September 1945

J. C. G. Nelson major
President SCM

15

M. F. B. 246
50M—4-43 (2541)
H.Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue No.4 District Depot,C.A.,Montréal-Sud,P.Q.

le 19ième jour de septembre 19 45 à 10.20 heures,

pour le procès de D-170182 (Matricule) Private (Grade) Roland BENOIT (Nom et prénoms)

C.I.C.,C.A., attached to No.4 District Depot,C.A. (Unité) (Détachement, le cas échéant)

PRÉSIDENT: Major J.A.G.Dubeau,E.D.,Quartiers Généraux,District Militaire No.4

PROCUREUR: Capitaine (Grade) P.J.F. Bousquet (Nom et prénoms)

Quartiers Généraux,District Militaire No. 4 (Unité) (Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) L.R. Hamelin (Nom et prénoms)

J.A.G. ~~ADVOCATE~~

C.I.C.,C.A., attached to No.4District Depot,C.A. (Unité) (Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-170182 Private Roland BENOIT, C.I.C.,C.A., attached to No.4 District Depot,C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-170182 Private Roland BENOIT, C.I.C.,C.A., attached to No.4 District Depot,C.A., à la détention pendant deux cent vingt jours.

14

Signé à Montréal-Sud,P.Q. ce 19ième jour de septembre 1945

J.A.G. Dubeau

(J.A.G.Dubeau)Major
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-93-2206
K.P. 26109

Extracts entered as No. 40331 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 15 day of Oct 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Vous opposez-vous à comme interprète ?~~

Question à l'accusé. Vous opposez-vous à D-625377 Cpl.H.Turcot,No.4District Depot,C.A. attached to Headquarters, M.D. No.4 comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est dûment assermenté.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.)

J. A. G. Kuhlen major
President SCM "B2"

CHARGE SHEET

The Accused, D-170182, Private Roland Benoit, C. I. C., C. A., attached to No. 4 District Depot, C. A., a G. S. Soldier of the Canadian Army placed on Active Service, is charged with:-

FIRST CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Valcartier, Quebec, at 0800 hours on 4th of January, 1945, absented himself without leave from his unit. C. I. T. C., A-13, C. A., until he was apprehended by Military Authorities at Montreal, Quebec, at 0930 hours on 24th of August, 1945, dressed in civilian clothes.

Signed at
Montreal South, Quebec,
6th September 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C. A.

2

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~La déclaration de l'accusé doit être consignée sur une feuille séparée.~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

C'est à propos de ma mère si j'ai déserté. Ma mère souffre d'une débilité générale. C'est une femme qui a subi une opération il y a quelques années et elle est pas très forte. Quand je lui ai appris que j'étais dans ma passe d'adieu elle m'a demandé de pas la quitter. J'ai travaillé sur la terre à St-Césaire, je gagnais $40.00 par mois. Je donnais $25.00 chez nous. Avant d'entrer dans l'armée je travaillais comme ajusteur machiniste. Mon père vit. Il a sa pension de postillon. Il demeure à Cartierville. Il y a deux garçons à part de moi. Un est marié sur çà. Ils ont vingt-deux et vingt-quatre ans. Celui qui est marié se trouve à rester chez nous. Il ne travaille pas. Durant mon absence j'ai travaillé à la ferme expérimentale à St-Césaire. J'ai été arrêté à Montréal parce que j'étais allé chez nous. J'allais chez nous une fois par quinze jours. J'ai travaillé durant toute mon absence sans permission. En entrant dans l'armée j'avais pas signé rien mais j'en donnais sur mes paies. A l'appui de ma déclaration, je désire soumettre un certificat du Dr. L. Carignan relativement à la santé de ma mère.

"Le certificat précité est lu, marqué CC-5, signé par le président et versé au dossier."

10

A. G. G. Nabeau major
Président S.C.A.

RECEIVED

Je soussigné certifie que Madame Bernard Benoit est sous mes soins souffrant de nervosisme et de debilité generale

L. L. Carignan
12231 Ranger
Carterville

25 aout
1945

9.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Pour mes quatorze jours d'absence sans permission, dans ce temps-là j'avais mal aux jambes. J'avais été au M.I.R. voir ce que j'avais. Ils m'avaient retiré, j'avais attendu un peu, ça m'avait rien fait. A la prochaine passe j'ai été chez un spécialiste pour passer une radiographie pour voir ce que j'avais au juste. J'ai attendu les résultats, ça pris treize jours. Le rapport du spécialiste je l'ai, il se trouve à être au dépôt-police.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

L'officier défenseur s'adresse à la cour:

Monsieur, le Président,

Je soumets le cas tel que présenté.

8

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

J. C. G. Cantlie mgr
President SCA "F"

DAILY ORDERS PART II

No. 22

BY

COLONEL DOLLARD MENARD, D.S.O., Place Valcartier, Que.

Commanding

Date 26 Jan 45

A-13 CANADIAN INFANTRY TRAINING CENTRE

(Last Order Issued No. 21 of 25 Jan 45

HOLDING ESTABLISHMENT

"B" OTHER RANKS

RECEIVED
SEP 7 1945
CENTRAL REGISTRY
N.D.H.Q.

11. ABSENT WITHOUT LEAVE

(j) Absent without leave from 0800 hrs 4 Jan 45.
Still absent at 0800 hrs 25 Jan 45 (22nd day).

D-170182 Pte. BENOIT, R.

(Signed) R. Plante Capt
(R. PLANTE) CAPT & ADJ'T
A-13 CANADIAN INFANTRY TRAINING CENTRE
VALCARTIER CAMP, P.Q.

7

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of
Regimental PART II ORDERS
kept by the Officer i/c.
Records N.D.H.Q.
DATE AUG 29 1945

Prepared by:
and
Checked by:

J.A.E. Parker major "G"
Provost Corps

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W. POULIOTTE, O.C. Composite Provost Companies M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-170182 Private BENOIT, Roland
(Number) (Rank) (Name in full)

of the C.I.C., C.A., att'd to C.I.T.C. A-13 (5th Inf.) Valcartier, Que.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) D-143137 Lance-Corporal
(Number) (Rank)

DAVID, A.P. Composite Provost Companies M.D. 4
(Name) (Unit or appointment)

at Montreal, Que. at 0930
(Place) (Hour)

on the 24th day of August 19 45

Strike out words not applicable } as a ~~deserter~~ (or absentee without leave), and that at the time of his arrest he was ~~wearing military uniform~~ (dressed in civilian clothes).

Dated at Montreal, Que. this 25th day of August 19 45

JPG...

(R.W. POULIOTTE) Major R.W. Pouliotte Maj
(Signature, Number, Rank, Unit or appointment)

O.C. Composite Provost Companies M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

SOLDIER of the ACTIVE ARMY.

6

-1-

J. C. G. Hurbeam major
President SCM

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-26-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-170182	Private	Roland Benoit, C. I. C., C. A.,	attached to No. 4 District Depot, C. A.

1. The following is a fair and true summary of the entries in the ~~Service~~ General ~~Regimental and Service~~ Battery ~~Conduct Sheet or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	7 times	AWL 3 times
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheet of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act Section 47 of the Army Act ~~and dispensations with trial under~~ A.F.A. 70 A.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ..... ~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement ~~awaiting~~ trial on the present charges, for nil days in civil custody, and 26 days in military custody, making a total of 26 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 20 years 3 months (17th June 1925)

6. The date of his ~~commission~~ specified in his ~~record of service is~~ attestation attestation paper 11th October 1944 (enrolled 5th Sept., 1944)

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ ..... ~~service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~ .....

5

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .

Permanent Force
unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit Regiment Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(P. Paradis) Lieut.
Reg. de Maisonneuve, C. A.,
Att'd to No. 4 District Depot, C. A.
Asst. Officer i/c Records,
No. 4 District Depot, C. A.

Signed this 19 Sept 1945

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked 4 signed by the president, and annexed to the proceedings.

J. A. P. Duhaime major
President F.C.M.

-21-

Reg. No. D-170182 Name Roland Benoit Corps C. I. T. C. A-13, C. A., Date of enlistment or enrolment 11th October 1944 Date of Birth 17th June 1926.

Signature O.C. Company, etc. Champion, Major

Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
J.-C. Bks	16Sep44	Gnr		AWL from 2200hrs. 16Sep44 until 0630hrs.19Sep44,Abs.2dys.8hrs.	Cpl.Dubuc	5 dys, O. P.	19Sep44	Colonel Echenberg	tot.forf. 8dys,pay FR&I 149
Valcartier	13-11-44	Pte		AWL from 0100 hr 13-11-44 to 1630 hrs 16-11-44, (Abs.: 3days, 15 hrs, 30 mins.)	Documentary	2 days C. B.	17-11-44	JR. Brillant Capt.	Forf. 4dys pay under FR&I Art 149 (1) (a)
Valcartier	4 Dec 1944	Pte		AA Sec 15 (1) AWL fr. 0100 hr 4 Dec 44 to 1520 hrs 18 Dec 44 (Abs:14 ds 14 hrs, 20 mins.)	Doc.	7 days Ord. F. 7 days C. B.	19 Dec. 1944	Col. D. Menard	Forf: 15 days pay F. R. & I.

(P.T.O.)

M.F.M. 6—500M—8-44 (5398)
H.Q. 1779-39-1652

H.Q.C.55-B-2049 (JAG/D-4)
Your M. 1-B-18342

18 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

Standing Court-Martial
D.170182 Pte. Roland Benoit,
CIC.,CA.,att.No. 4 District Depot,C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. It is observed that the sentence of the Court is informally expressed in that it is expressed in days while the time of detention awarded is over six months. It should be expressed according to K.R.(Can) 565 (iii). Your attention is directed to my letter HQC55-B-2047 dated 18th October 1945 in the case of Pte.BELANGER, your file M.1-B-18281.

3. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

JOGR/MM

3

THIS COPY FOR: H.Q. C.55-B-2049
M.D. M. 1-B-18342

GS

MEMORANDUM - STANDING ~~DISTRICT~~ COURT-MARTIAL

No. D-170182 Name BENOIT, Roland

Rank Pte Unit CIC, CA, att No 4 DD CA

Charge AA 15(1) AWL

Date of Crime 4-1-45

Date of Arrest 24-8-45. Charge Signed 6-9-45.

Orders for D.C.M.

Place and Date of Trial No 4 DD CA; 19-9-45.

Sentence Det 220 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40331

Date 15-10-45.

MEMO. Balance of sentence remitted by Conf. Auth. 17-9-45.

MD 4 - att No 4 DD CA

Absent	Sentence
7 2/3 mos;	det 220 days.

2

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-18342

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 1st October 1945.

CONFIDENTIAL.

S. 55-B-2049

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL.
D-170182 Private Roland BENOIT,
C.I.C., C.A., attached to
No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/19 Sept. 45.

2. Submitted for your information, consideration and approval, please.

J. C. G. Dubeau

(J.A.G. Dubeau) Major
Headquarters, Military District No.4
President of Standing Court-Martial.

NAT. DEF. B. 640
2500M-4-44 (4321)
H.Q. 1-72-39-767

40331

H.Q.C. 55-B-2050 CONFIDENTIAL

N.F.B. 2070
RM—2-45 (6067)
H.Q. 201-1-62

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BOURGET, RODOLPHE E.610730 FUS.

CONFIDENTIAL
H.Q.C. 55-B-2050

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 16 1945	16/10/45	cancelled		JAG	NEW FILE	CR	12-10-45
				JAG	With Papers C.F. OCT 27 1945		
OCT 29 1945	29/10/45	PA	AR	CRLeg	With memo	EKM	29-10-45
NOV 3 - 1945	2-11-45	PA		J. A. G.	Per Requisition C.R. NOV 2 1945		
				JAG	With Papers C.R. NOV 3 1945		
NOV 14 1945				CMR	To note		13.11.45
DEC 28 1945	28 Dec 45	PA	Sm	Adm 2 D.S.C.	Inter Rem	ewas	15/11/45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2050
(JAG/D-6)

OTTAWA, 13 November, 5

District Officer Commanding
Military District No 5
QUEBEC, Que

E-610730, Fus Rodolphe BOURGET
Fus du St-Laur Cn, Att No 5 DD CA

Receipt is acknowledged of your Q.39-B-3880 (JA) dated 7 Nov 45, under cover of which you forwarded to this office for custody MFM 288, together with Form of Remission, in respect of the marginally named soldier.

E.L.M.

for (R J Orde) Brigadier
Judge Advocate General

/jm

D

Name not on Nominal Roll, sentence remitted before roll was ready!!

AAG Capt
CMBR-3

15/11/45.

IN REPLY PLEASE QUOTE No. Q. 39-B-3880 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 7 Nov 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY Army
COMF. SEC.
7983
NOV 8 1945
File C55-B-2050
Chgd. to
Referred to JAG

REMISSION OF SENTENCE - SCM.

E-610730 Fus Rodolphe BOURGET
Fus du St-Laur CA Att No.5 DD CA.

1. Ref HQC. 55-B-2050 (JAG).

2. A remission of sentence in this case has been granted w.e.f. 29 Oct 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

62

NAT. DEF. B. 449
2500M-4-44 (431)
H.Q. 1772-39-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC 55-B-2050 (2)
District File No. Q.39-B-3880(7A)

PART I

No. E-610730 Rank Fus. Name Redolphe BOURGET

Unit Les Fus. du St-Laurent, Att. No. 5 District Depot, CA.

PART II

Date of trial 27th. Sept. 45

Charges 44. Sec. 12(1)(a). 44. Sec. 24(2)

Sentence 21 months detention & Stopp: $5.26

Date of Sentence 28th. Sept. 45.

Confirmation - (a) Authority Standing Court-Martial MD No. 5.

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E-610730, Fus. Redolphe BOURGET, Fus. du St-Laurent, Attached No. 5 DD CA, effective 29th. October 1945.

Signed at QUEBEC, P.Q., this 18th. day of October 1945.

Edmond Blais

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon

this 3rd. day of November 1945

(W.C. LAROCHE) Capt
RCCS Att 5DD

Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-610730 Rank Fus Name BOURGET R.

The sentence of 21 months detention and stopp 5.26

awarded by Court-Martial on the 28 Sep 194 5

has been remitted

on the 29 Oct 1945 by Brig EDMOND BLAIS CBE MC

D.O.C. MD 5

Unit No. 5 District Depot

Certified true Extract of Daily Orders Part II of

No. 273 Place Lauzon Date 5 Nov 45

M R Ledoux Capt

(M. R. LEDOUX) Capt.
Ben List Att 5DD
Adjutant.

D 34 - B - 3880

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-610730 (Number) Fusilier. (Rank) Rodolphe BOURGET. (Name in full)

Les Fusiliers du St-Laurent, A.C. (Unit) Att'd No 5 D.D. (Attachment (if any))

Sentenced to 21 Months Det.

on 28 September, 1945. at Lauzon, P.Q.

being served at Val Mil Det Brrks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 25 yrs 5 Months. 4-12-41

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~xx~~) committed to undergo his sentence, which I recommend should (~~xx~~) be ~~xxxxxxxxxxxxxxxxxxxxxx~~ (reviewed on 28 September 1946, (date) for reasons given in paragraph X.

Place QUEBEC QUE

Edmond Blais

(Edmond BLAIS) - Brigadier, D.O.C., MD No.5., (Confirming Authority)

Date 24 Oct 45.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on

Place

Date

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To

Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced

to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-39-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
7 Nov 45:	Remission of Sentence granted w.e.f. 29 Oct 45.	Edmond Blais (Edmond BLAIS) - Brig DOC MD No.5.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
A.A. Sec 12 (1)(a) A.W.L. from 2200 hrs 4 Nov, 43 until he was app at 0330 hrs 14 sep 45 Civil.	4 Nov 43.	28 Sep 45.
A.A. 24 (2) Los by Negl his Equip Cloth and Reg Necc forr $6.26	21 Sep 45.	28 Sep 45.

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
19 oct, 45.	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	(E.L.Taschereau.Lt-Col. Commanding Officer.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2050 (JAG/D-6)

2 Nov 45

District Officer Commanding,
Military District No. 5,
Quebec, Que.

Standing
E.610730 Fus Rodolphe Bourget
Fus du St-Laurent CA Att No. 5 DD CA
.....Court-Martial

24th October 5 Q. 39-B-2050 (JA)

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Standing Court-Martial.

E.L.M.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

IN REPLY PLEASE QUOTE No. Q. 39-B-2050 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 24 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

CENTRAL REGISTRY Army
QUEBEC
5822
OCT 29 1945
File 55-B-2050
Chgd. to
Referred to

STANDING COURT-MARTIAL

E-610730 Fus Rodolphe BOURGET
Fus du St-Laurent CA Att No.5 DD.CA.

1. Ref HQC. 55-B-2050 (JAG).

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. B. 140
206694 4-44 10211
HQ 1772-39 767

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Dépôt Régional No. 5, A.C., Lauzon, P.Q.

le vingt-septième jour de septembre 1945 à 1540 heures,

pour le procès de E-610730- Fusilier Rodolphe BOURGET
Matricule Grade Nom et prénoms

Les Fusiliers du St-Laurent, A.C., attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Quartiers-Généraux, R.M. No. 5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent, Quartiers-Généraux, Région Militaire No. 5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant J.Y.BERNIER,
~~OU AVOCAT~~ Grade Nom et prénoms

R.C.E., A.C., attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

" LA COUR DECLARE LE PREVENU:"

E-610730- Fusilier Rodolphe BOURGET, Les Fusiliers du St-Laurent, A.C., attaché au Dépôt Régional No.5, A.C., innocent de l'accusation de désertion mais coupable d'absence sans permission sous le premier chef d'accusation et coupable sous le deuxième chef d'accusation, sauf que la valeur des effets perdus est de $6.26 au lieu de $28.13".

SENTENCE:

" LA COUR CONDAMNE LE PREVENU:"

E-610730- Fusilier Rodolphe BOURGET, Les Fusiliers du St-Laurent, A.C., attaché au Dépôt Régional No. 5, A.C., à subir une peine de vingt-un (21) mois de détention et à une supression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, à savoir:- $6.26".

Signé à Dépôt Régional No.5, A.C., ce vingt-huitième jour de septembre 1945.

Pierre Decary Major.
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1272-39-2296
K.P. 25109

Facts entered as No. 40329 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 15 day of Oct 1945
L.J.B.

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.* Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à Mademoiselle HELENE LAVOIE - - - - - - - - - - comme sténographe ?

Réponse: Non, monsieur.

La sténographe ~~et l'interprète (le cas échéant)~~ sont dûment assermentés.

(POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir document marqué "F" ci-joint)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?~~

~~*Réponse:*~~

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

~~(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.~~

"B-2"

(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

ACTE D'ACCUSATION.

Le prevenu, E-810730 Fusilier Rodolphe BOURGET. Les Fusiliers du St-Laurent, A.C. attache au Depot Regional No 5, A.C. un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF.
Art 12 (1)(a)
Army Act.

D'AVOIR EN ACTIVITE DE SERVICE
DESERTE LE SERVICE DE SA MAJESTE.

en ce que,

a Prince-George, B.C. a 2200 heures, le 4 novembre, 1943, il s'est absente sans permission du Les Fusiliers du St-Laurent, A.C. jusqu'a ce qu'il soit apprehende a Charlebourg, P.Q. a 0330 heures, le 14 septembre, 1945, en tenue civile. par les autorités militaires

DEUXIEME CHEF.
Art 24 (2)
Army Act.

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES
SES EFFETS D'EQUIPEMENT, D'HABILLEMENT
ET AUTRES EFFETS REGIMENTAIRES.

en ce que,

a Lauzon, P.Q. le 21 septembre, 1945, il etait en deficit des articles suivants:

	C.A.R.O.	Moins 25% C.A.R.O.
HABILLEMENT DIVISION "B"	1862	3464
1 Anklets pr.	.79	.59
1 Gloves M.T. pr.	.78	.58
HABILLEMENT DIVISION "C"		
1 Cap winter M.C.	1.06	.79
1 Battle dress trousers.	5.39	4.04
1 Battle dress blouses.	5.25	3.93
1 Boot ankle.pr.	5.46	4.09
2 Drawers woollen.	2.40	1.80
1 Jacket Sweater.	1.38	1.04
2 Shirts flannel.	3.42	2.56
2 Shirts woollen.	2.40	1.80
1 Shoes leather. black.	4.41	3.30
1 Socks pr.	.37	.27
1 Trousers K.D.	1.60	1.20
HABILLEMENT DIVISION "C"		
1 Blacking tin.	.05	.04
1 Brass button.	.02	.01
1 Brush hair.	.26	.19
1 Brush shaving.	.42	.31
1 Brush tooth.	.09	.07
1 Cap comforter.	.33	.24
1 Comb hair.	.04	.03
1 Holdall.	.19	.14
1 Razor set safety.	.39	.29
2 Towels hand.	.46	.34
1 Necktie black.	.21	.16
1 Pin collar safety.	.06	.04
1 Sock black pr.	.27	.20
HABILLEMENT DIVISION "D"		
1 Badge cap.	.09	.07
SECTION A-2		
Eyeshield M.K.M. 1 pr.	.15	.11
Tot:	$37.74	$28.13

Lauzon, P.Q.
25 sept, 1945.

(PIERRE TASCHEREAU.) Capitaine.
Procureur Permanent 5em District Militaire.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse:

Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~Bourget, témoin à charge,~~

~~étant dûment assermenté, est interrogé par le procureur.~~

~~Question.~~

" LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE "

1.- Une formule M.F.B. 375, en date du 2 décembre, 1943, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2.- Une formule M.F.M. 216, en date du 14 septembre, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

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- LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS-

TEMOIN POUR LA POURSUITE:

E-30500- C.Q.M.S. C. ANNETT, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C.

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR:

Q.- Quelles fonctions exercez-vous?
R.- Je travaille au quartier-maître au Dépôt No. 5.

Q.- Est-ce que vous connaissez l'accusé?
R.- Oui, monsieur, Fusilier H. Bourget.

Q.- Est-ce que vous avez eu l'occasion de faire un inventaire de son équipement?
R.- Le Fus. Bourget s'est présenté devant moi le 21 septembre, 1945. Il n'avait alors aucun article retourné.

Il lui manquait les articles suivants:-

1 Anklets pr	.79
1 Gloves M.T. pr	.78
1 Cap winter M.C.	1.06
1 Battle dress trousers	5.39
1 Battle dress blouses	5.25
1 Boot ankle pr	5.46
2 Drawers woollen	2.40
1 Jacket sweater	1.38
2 Shirts flannel	3.42
2 Shirts woollen	2.40
1 Shoes leather black	4.41
1 Socks pr	.37
1 Trousers K.D.	1.60
1 Blacking tin	.05
1 Brass button	.02
1 Brush hair	.26
1 Brush shaving	.42
1 Brush tooth	.09
1 Cap comforter	.33
1 Comb hair	.04
1 Holldall	.19
1 Razor set safety	.39
2 Towels hand	.46
1 Necktie black	.21
1 Pin collar safety	.06
1 Sock black pr	.27
1 Badge cap	.09
Eyeshield M.K.M. 1 pr	.15
	$37.74
moins 25%	9.43
montant à payer:-	$28.31

Q.- Sur quoi vous êtes-vous basé pour faire vos constatations?

R.- Sur la 375.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT

De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

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- LE TEMOIN SE RETIRE -

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sous serment (voir page D-3 et suivantes)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

Question à l'accusé. ~~Entendez-vous témoigner à l'appui de votre réputation?~~

Réponse:

TEMOIN POUR LA DEFENSE:

L'accusé:- Mat. E-610730- Fusilier Rodolphe BOURGET, Les Fusiliers du St-Laurent, A.C.,attaché au Dépôt Régional No. 5, A.C.

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR:

Q.- Est-ce que vous voulez dire depuis quand vous êtes dans l'armée?
R.- Le 4 décembre 1941.

Q.- Où avez-vous été stationné depuis ce temps?
R.- A Lauzon, Valcartier, Sussex, Mulgrave, Vernon, Wainright.

Q.- Avez-vous déjà été stationné à Prince-George?
R.- Non, monsieur.

Q.- Lorsque vous vous êtes absenté sans permission est-ce que vous étiez en congé?
R.- J'avais un "furlough".

Q.- De quel quand êtes-vous parti?
R.- De Wainright.

Q.- Où deviez-vous vous rapporter?
R.- A Wainright.

Q.- Est-ce que vous connaissez ce papier?
R.- Oui, monsieur.

Q.- Est-ce que vous pouvez dire ce que c'est?
R.- Mon "furlough" quand je suis parti de Wainright.

Q.- Est-ce que vous connaissez ceci?
R.- Mon billet de retour pour Wainright.

Q.- Voulez-vous produire ces documents à la Cour?
R.- Oui, monsieur.

(Ces documents sont lus par la Cour, marqués respectivement "I" et "J", signés par le Président et versés au dossier.)

Q.- Vous avez entendu l'acte d'accusation; on dit que vous avez été appréhendé à Charlesbourgh, Province de Québec. Est-ce que vous êtes déjà allé à Charlesbourgh?
R.- Non, monsieur.

Q.- Où étiez-vous à 0330 heures, le 14 septembre 45?
R.- J'étais à St-Louis de Pintendre, chez-nous.

Q.- Sur le deuxième chef d'accusation, vous avez entendu le Président lire une série d'articles de votre équipement dont vous êtes déficient. Lorsque vous êtes parti de Wainright dites ce que vous avez fait de votre équipement?

R.- J'ai pris toute mon équipement, j'ai été le retourner au quartier-maître.

Q.- Est-ce que vous avez mis une étiquette?

R.- Oui, monsieur.

Q.- Qu'est-ce que vous avez marqué sur cette étiquette?

R.- Mon nom et mon numéro matricule.

Q.- Je vais vous lire une série d'articles; dites à la Cour où ces articles sont actuellement:

1 paire d'anklets?

R.- Non, monsieur.

Q.- 1 paire de gants M.T.?

R.- J'en ai jamais eu.

Q.- 1 Cap melton?

R.- Laissé à Wainright.

Q.- Au Quartier-maître?

R.- Au quartier-maître.

Q.- Pantalons de battle-dress?

R.- Je les ai ici au camp. J'ai 2 battle-dress.

Q.- Où est le deuxième?

R.- Au cling.

Q.- Est-ce que le battle-dress est complet?

R.- Oui, monsieur.

Q.- 1 paire de boots?

R.- Non, monsieur.

Q.- Caleçons de laine?

R.- Wainright.

Q.- 1 Jacket Sweater?

R.- Non, monsieur.

Q.- 2 corps de sous-vêtements de laine?

R.- Wainright.

Q.- 1 paire de souliers noirs?

R.- Wainright.

Q.- 2 shirts flannel?

R.- Wainright.

Q.- Une paire de bas?
R.- J'en avais une paire quand j'ai descendu, ils sont chez-nous.

Q.- 1 paire de pantalons khaki drill?
R.- Wainright.

Q.- 1 boite de cirage?
R.- Je l'ai dépensée.

Q.- Un "U" en cuivre?
R.- Chez-nous.

Q.- 1 brosse à cheveux?
R.- Chez-nous.

Q.- 1 savonnette?
R.- Chez-nous.

Q.- 1 brosse à dents?
R.- Chez-nous.

Q.- 1 passe-montagne?
R.- Wainright.

Q.- 1 peigne?
R.- Chez-nous.

Q.- 1 holdall?
R.- Ici, à la chambrée.

Q.- 1 razoir?
R.- Chez-nous.

Q.- 2 serviettes?
R.- Une chez-nous, une restée à Wainright.

Q.- 1 cravate noire?
R.- Chez-nous.

Q.- 1 épingle de collet de sûreté?
R.- Chez-nous.

Q.- 1 paire de bas noirs?
R.- Ici à la chambrée.

Q.- 1 badge cap?
R.- Je l'ai ici sur mon képi.

Q.- 1 paire de eyeshields?
R.- Restée dans mon masque à gaz.

Q.- Où est le masque à gaz?
R.- Wainright.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:

Q.- Quand vous êtes parti, votre unité était à Wainright?
R.- Oui, monsieur.

Q.- Vous étiez dans l'ouest depuis un certain temps?
R.- Depuis quatre mois.

Q.- Vous avez déjà déménagé dans l'ouest?
R.- C'était la première fois.

Q.- Pendant que vous étiez dans l'ouest?
R.- Oui, j'ai nommé les places tout à l'heure.

Q.- Vous avez changé de place?
R.- Oui, monsieur.

Q.- Vous saviez pas que pendant votre "furlough" votre unité devait déménager?
R.- Non, monsieur.

Q.- Est-ce que c'est pour cela que vous avez pas retourné?
R.- Parce-que j'étais malade.

Q.- Qu'est-ce que vous aviez?
R.- Des ulcères sur l'estomac.

Q.- Est-ce que vous avez vu des médecins civils?
R.- J'ai vu le Docteur Turmel.

Q.- Ici, à Lauzon?
R.- A Lévis, chez-lui.

Q.- Est-ce qu'il vous a soigné?
R.- Il m'a donné des remèdes; ça n'a rien fait.

Q.- C'était pendant votre "fourlough"?
R.- Oui, monsieur.

Q.- Après cela est-ce que vous avez vu d'autres médecins?
R.- Oui, monsieur.

Q.- Qui?
R.- Le Docteur Fortin.

Q.- A Lévis?
R.- A Lauzon.

Q.- Après votre "furlough" avez-vous vu d'autres médecins?
R.- Non, monsieur.

Q.- On dit que vous avez été absent du 4 novembre 1943 au 14 septembre 1945, est-ce exact?

R.- Oui, monsieur.

Q.- Qu'est-ce que vous avez fait pendant ce temps-là?

R.- J'ai resté chez-nous, chez mes parents.

Q.- Qu'est-ce que vous faisiez?

R.-- Je faisais rien, seulement l'automne passé je menais un tracteur sur la ferme chez-nous.

Q.- Vous avez pas travaillé à part de cela?

R.- Non, monsieur.

Q.- Qu'est-ce que vous faisiez quand on vous a arrêté?

R.- J'étais couché.

Q.- Dans ce temps-là est-ce que vous travailliez?

R.- Non, monsieur.

Q.- Vous ne faisiez rien chez-vous?

R.- Non, monsieur.

Q.- Quand vous êtes parti vous avez laissé certains articles au quartier-maître?

R.- Oui, monsieur.

Q.- Qui vous avait dit de faire cela?

R.- C'est le sergent du quartier-maître.

Q.- A qui vous avez remis cela?

R.- Au sergent du quartier-maître ou au caporal.

Q.- Comment il s'appelait?

R.- Je ne peux pas dire son nom.

Q.- Vous avez remis votre masque à gaz?

R.- Oui, monsieur.

Q.- Est-ce que les eyeshields étaient dedans?

R.- Oui, monsieur.

Q.- Il vous en manquait pas un quand vous l'avez remis?

R.- Je n'ai pas compté.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU

- INTERROGE PAR LA COUR-

Q.- Le 14 septembre 1945vous avez été appréhendé par des membres de la Prévôté?
R.- Oui, monsieur.

Q.- Et vous aviez avant cela un congé qui se terminait à 2200 heures le 4 novembre 1943?
R.- Oui, monsieur.

Q.- Et c'est de ce congé-là que vous n'êtes pas retourné?
R.- Oui, monsieur.

Q.- Vous êtes pas retourné pourquoi?
R.- Parce-que j'ai été malade.

Q.- Vous avez été malade combien de temps?
R.- Je le suis encore.

Q.- Vous avez pas vu de médecin civil ou autre?
R.- Oui, monsieur.

Q.- Est-ce que vous aviez l'intention de retourner?
R.- Certainement.

Q.- La seule raison pour laquelle vous n'êtes pas retourné c'est parce-que vous vous croyiez malade?
R.- Oui, monsieur.

Q.- Quel âge avez-vous?
R.- Vingt-cinq ans, monsieur.

Q.- Qu'est-ce que vous faites de votre métier?
R.- Je travaille la mécanique.

Q.- Vos parents qu'est-ce qu'ils font?
R.- Ils cultivent.

Q.- Quelles instructions aviez-vous reçues quant à la disposition de votre équipement avant de partir en congé?
R.- De prendre mon équipement, de le mettre dans la doublure de mon matelas, mettre une étiquette et le porter au quartier-maître.

Q.- Qu'est-ce que vous avez fait?
R.- C'est cela que j'ai fait.

Q.- Comment se fait-il qu'ils ont eu la doublure du matelas au quartier-maître et que d'autres articles manquaient?
R.- Je ne sais pas pourquoi.

Q.- Vous jurez sur votre serment que tous les articles que vous avez mis dans votre couverture de matelas, vous les avez mis dans la doublure du matelas et portés au quartier-maître?

R.- Oui, monsieur.

Q.- Vous n'en avez pas chez-vous?

R.- Non, monsieur.

Q.- Vous en avez pas disposé?

R.- Non, monsieur.

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De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b)

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- LE TEMOIN REPREND SON SIEGE-

-o-o-o-o-o-o-o-o-o-

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE ET L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE.

-o-o-o-o-o-o-o-o-o-o-

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: (l'accusé, par son Officier, Défenseur, dit:)

" Lorsque vous rendrez votre sentence je vous demanderais de considérer que le soldat Bourget, l'accusé, souffre d'ulcères d'estomac. Il est malade. J'ai ici des lettres de médecins attestant sa maladie. Même durant son congé il s'est fait traiter d'abord par le Docteur Turmel ensuite par le Docteur Fortin de Lauzon, ce qui atteste sa bonne foi. Durant son absence, c'est à peine s'il a travaillé chez-lui lorsque son état de santé lui permettait. Je demande la clémence de la Cour. Je produis une lettre du Dr. Fortin".

(Ce document est lu par la Cour, marqué "K", signé par le Président et versé au dossier.)

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary
(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

"P"

" MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE"

" A 1542 heures, le vingt-septième jour de septembre, 1945, la Cour s'est ajournée".

-o-o-o-o-o-o-

" A 1700 heures, le vingt-septième jour de septembre, 1945, la Cour se rassemble".

-o-o-o-o-o-o-o-

" A 1702 heures, le vingt-septième jour de septembre, 1945, la Cour s'est ajournée".

-o-o-o-o-o-o-o-o

" A 1430 heures, le vingt-huitième jour de septembre, 1945, la Cour se rassemble".

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- LE PROCES SE POURSUIT-

"G"

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S.G.M.

RECORD of the Declaration of a Court of Inquiry assembled at Prince George, B.C. on the 2nd day of December 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-610730 Fus. Bourget R., Fus. du St-Laurent CA

DECLARATION

The Court declare that No. E-610730 Fus Bourget R. Fus. du St-Laurent CA illegally absented himself without leave from Fus. du St-Laurent CA at Prince George B.C. at 2200 on the 4th day of November 43, that he is still so absent, and that on the 29th day of Nov 43 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE $	
Clo. Div. "A"			
Anklets, web prs	1	0	79
Caps Winter, M.C.	1	1	06
Gloves M.T. prs	1	0	78
Clo. Div. "B"			
Battle dress, trousers	1	5	39
Battle dress, blouse	1	5	25
Boots ankle, prs	1	5	46
Drawers, woolen, prs	2	2	40
Jacket sweater	1	1	38
Shirts flannel khaki	2	3	42
Shirts woolen	2	2	40
Shoes Leather Blk pr	1	4	41
Socks, prs	1	0	37
Trouser khaki drill pr	1	1	60
Clo. Div. "C"			
Blacking tin	1	0	05
Brass button	1	0	02
Brush hair	1	0	26

ARTICLES		VALUE $	
Brush shaving	1	0	42
Brush tooth	1	0	09
Cap comforter	1	0	33
Comb hair	1	0	04
Holdall	1	0	19
Razor set (safety)	1	0	39
Towels hand	2	0	46
Clo. Div. "D"			
Badges cap F.S.L.	1	0	09
Clo. Div. "C"			
Necktie black	1	0	21
Pins collar safety	1	0	06
Socks black pr.	1	0	27
Section "A-2"			
Eyeshields, Mk 11.Pr.	1	0	15
TOTAL		37	74

Capt. C. D'Anjou, Fus. du St-Laurent CA — President

Signed at Prince George B.C.

Lieut. W. Racine, Fus. du St-Laurent CA — Member

this 2nd day of Dec 1943

Lieut. G. Jean, Fus. du St-Laurent CA — Member

Signature of Commanding Officer L.P. Payan, Lt.Col.— A/O.C. Fus. du St-Laurent CA

Certified true copy (P.J. Lemieux) Capt. Fus. du St-Laurent CA — Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
100(6)—4-42 (4337)
H.Q. 1773-30-237

"H"

Pierre Decary

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 16th, 1942, and in General Order No. 127, 1942.

(PIERRE DECARY) MAJOR
PRESIDENT, S. C. M.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Capt. Marc Pelletier (Number) (Rank) A/O.C. 36 Coy., C. Pro. C. (CA) (Name) (Unit)

hereby certify that E-610730 (Number) Pte. (Rank) BOURGET (Name in full) Rodolphe

of the Fus. St.Laurent (CA) (Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~XXXXXXXXXX~~ E-10454 E-348/8 (Number) L/Cpl. Cpl. (Rank)

O. Lajoie
M. LeBrun (Name) 36 Coy., C. Pro. C. (CA) (Unit or appointment)

at Charlesbourg, P.Q. (Place) at 0330 (Hour)

on the 14th day of September 1945

Strike out words not applicable } as a ~~XXXXXXXX~~ absentee without leave), and that at the time of his arrest he was ~~XXXXX~~ ~~XXXXXXXXXXXXXXXXXXXX~~ (dressed in civilian clothes).

Dated at Cove Fields, Que. this 14th day of September 1945

Marc Pelletier Capt.
(Marc Pelletier) Capt.
(Signature, Number, Rank, Unit or appointment)
A/O.C. 36 Coy., C. Pro. C. (CA)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

Serial [redacted] "I"

FURLOUGH

(PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

The bearer hereof, No. E-610730 RANK. Fus NAME. BOURNEUF Rodolphe

is hereby permitted to proceed to St Louis de Pintande P.Q.

on furlough from the 16th day October 1943 to the 4th

day of November 1943 at the end of which period he is to be present at his quarters or he will be proceeded against as an absentee.

DESCRIPTION OF PERSON	23 Years of age. 5'5" Height. Brown Complexion. Lt Brown Hair. Grey Eyes. IDEN. MARKS Nil	To prevent any improper use of this furlough an exact description of the above named ..... is inserted aside.

L.A.R.C. Issued

SOLDIER'S POST OFFICE OR TELEGRAPHIC ADDRESS WHILST ON FURLOUGH St Louis de Pintande P.Q.

OFFICE STAMP — FUSILIERS DU ST-LAURENT (M.C.A.) OCT 15 1943

Signed by me at Wainwright Alta

this 15th day of October 1943.

(L.P. Payan) Lt.Col. COMMANDING.
1st Bn. Fusiliers du St-Laurent C.A.

M.F.B. 322. NOTE INSTRUCTIONS ON BACK.

1.- A soldier on furlough is never to appear in a public place unless properly dressed in uniform except that when engaging in athletic exercises for which a special dress is necessary plain clothes may be worn.

2.- A soldier on furlough must rejoin before tattoo on the last day of his furlough. If he does not, he may be dealt with as an absentee.

3.- A soldier who obtains an extension of furlough or a warrant by false representation or who, in applying for the same, commits an offence to the to the prejudice of godd order and military discipline, will be dealt with by his Commanding Officer.

4.- Soldiers on furlough who require medical aid shall apply for it to the nearest military station. When this is inpractical, they shall apply to the nearest medical representative of the Department of Pensions and National Health. If no such representative exists in the locality they may apply to a civil practitioner to whom they will show this furlough paper.

5.- When a soldier on furlough is prevented by sickness, which must be properly certified, or by other unavoidable cause, from rejoining his Corps by the date on which his furlough expires, he is to report himself before that date to the nearest Commanding Officer of any Unit of the Canadian Army, or (if not within convenient distance) to a Justice of the Peace)

6.- Before proceeding on furlough a soldier is to leave his address with his Commanding Officer, and he must be all times prepared to rejoin on the shortest notice, if ordered to do so.

7.- N.B.- Army Act, Sec. 173 If any soldier on furlough is detained by sickness or other casualty rendering necessary any extension of such furlough in any place and there is not any officer in the performance of military duty of the rank of Captain, or of hi her rank within, convenient distance of the place, any Justice of the Peace who is satisfied of such necessity may grant an extension of furlough for a period not exceeding one month; and the said Justice shall by letter immediately certify such extension, and the cause thereof, to the Commanding Officer of such soldier, if known, and if not, then to the Secretary Department of National Defence, Ottawa, Ontario, or the Senior Combatant Officer, Canadian Military Headquarters, England.

8.- The soldier may be recalled to duty by his Commanding Officer, or other competent military authority, and the furlough shall not be deemed to be extended after such recall, but save as aforesaid, the soldier shall not, in respect of the [redacted] of such extension of furlough, be liable to be treated as a deserter or as absent without leave.

"J"

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

"J"

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

Canadian National Railways
SPECIAL FURLOUGH
Good for One Passage IN COACHES, also in Tourist Sleeping Cars, where operated. BERTH EXTRA
Form 374 C
From Leave blank.
WAINWRIGHT, Alta.
To
Via
GOOD FOR 30 DAYS IN ADDITION TO DATE OF SALE
RETURN COUPON—NO STOP-OVER
NOT TRANSFERABLE
Conductor

"K"

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

St-Georges de Beauce

A qui de droit

Je certifie et déclare par la présente que, durant les années que j'ai été médecin suppléant à Sauzay, j'ai examiné et traité le soldat Bauset pour cécité d'estomac et cela à deux ou trois reprises différentes.

Richard Jordan

17 septembre 1945

"Y"

Pierre Decary
(PIERRE DECARY), MAJOR
PRÉSIDENT, [illegible]

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name		Regiment (or unit)
E-610730	ZPrivate	BOURGET	Rodolphe	N.R.M.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron, Battery or Company Conduct sheets~~ ~~Air Force Pocket~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times
~~Number of instances of gallantry or distinguished conduct~~		times

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act or Army Act and dispensations with trial under A.F.A. 73 or A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for 13 beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 days in military ~~Air Force~~ custody, making a total of 13 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 years, 5 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 3-12-41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to)~~ ~~military~~. ~~State any air force~~ military decoration or reward.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps) the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

A(B. TASCHEREAU) Lieut.
Ass. Records Officer.
No. 5 D.D. Lauzon, Que.

Signed this 28th day of SEPTEMBER 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. E-610730 Name BOURGET Rodolphe Unit, Battery, or Company

Corps A.N.R.M.A.

Date of enlistment 4-12-41 G.C. Badges

Tradesmen's Rates of Pay

(A.F.B. 104) 8055—11-41 (1000) H.Q. 1773-30-1630

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				« N I L —					
				CERTIFIED TRUECOPY (B. TASCHEREAU) Lieut, Ass. Records Officer, No.5 DD. Lauzon, Que.					

(P.T.O.)

PIERRE DESCARY MAJOR
PRESIDENT S.C.M.

MEDICAL OFFICER'S REPORT

I certify that No E 410730 PE Bougart R.

of DDTS is in a good state of health,

and fit to undergo Trial by Court martial.

Thielt, capt.
Medical Officer

Station Lauzon Guard Room

Date 27 Sept 45

Medical Inspection Room
D.D. M.D. No. 6
SEP 27 1945
LAUZON, P.Q.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. 2410730 PFC Bruyet, L.
of 2d D #5 is in a low state of health,
and fit to undergo Trial by Court martial.

Medical Officer

Station Lauzon Guard Room

Date 28 Sep 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

Medical Inspection Room
D.D. M.D. No. 6
SEP 28 1945
LAUZON, P.Q.

RESUME DE LA PREUVE

Procès de E-610730 Fusilier Rodolphe BOURGET. Les Fusiliers du St-Laurent, A.C. attaché au Depot Regional, No 5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifié des O.P.IX No: 228 d/ 8 Novembre, 1943, a PrinceGeorges, B.C.
2. M.F.B. 375
3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE: E-30500 CQMS. Annett, C. Liste Generale, C.A.C. attaché au Depot du District No.5 A.C., qui rendra temoignere au sujet du deficit de l'accuse constaté a l'inventaire de son equipement.

L O 1507 (9-6-45)

29-10-45

MEMO FOR C.R.(CONF.) AND FOR FILE:

The papers referred to in the minute on the face of this file "J.A.C. With Papers C.R. Oct 27 1945", and registered at Central Registry as Number 5371, were Orders for release of persons subject to military law as soldiers undergoing detention, and were addressed to the Commandant of the Detention Barracks at Military Detention Barracks No. 66, Valcartier Camp. They had apparently reached this Headquarters through error; they have been removed from the file and directed to the a/m Commandant.

E.L.M
for J.A.C.

ELM/6296

noted
C R Boyd
CR 29/10/45

H.Q.C.55-B-2050 (JAG/D-7)
Your Q. 39-B-3880

16 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 610730 Fus. Rodolphe Bourget,
Les Fus. du St. Laurent, C.A., att. No.
5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J. Orde) Brigadier
Judge Advocate-General.

LJR/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-2050
M.D. Q:39-B-3880

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E-510730 Name BOURGET, Rodolphe

Rank Fus Unit Les Fus du St Laur CA, att No 5 DD CA

Charge (1) AA 12(1)(a) WOAS, Desertion

(2) AA 24(2) Losing by neglect....

Date of Crime (1) 4-11-43; (2) 21-9-45.

Date of Arrest (1) 14-9-45. Charge Signed 25-9-45.

Orders for D.C.M.

Place and Date of Trial No 5 DD CA; 27-9-45.

Sentence Det 21 mos; stoppages $6.26.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40329

Date 15-10-45.

MEMO Balance of sentence remitted by Conf. Auth. (1) Guilty AWL

MD 5 - att No 5 DD CA

Absent	Sentence
1 yr 10 1/3 mos;	dt 21 mos;

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-B-3880

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Oct. 10, 1945.

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

6.55-B-2050

STANDING COURT MARTIAL

E/610730, Fus. Rodolphe BOURGET.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

40329

NAT. DEF. 8 480
(500M-4-44-1321)
S.Q. 1772-29-787

H.Q.C.55-B-2051 CONFIDENTIAL

N.F.B. 3078
25M—2-41 (6690)
H.Q. 321-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT STANDING COURT-MARTIAL

BUCKNELL, JAMES ROBERT M.608257 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2051

CENTRAL REGISTRY	DATE	P.A. OR B.P.	INITIALS	REFERRED TO	FOR REMARKS (If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")	INITIALS	DATE
OCT 19 1945		cancelled		JAG	NEW FILE	CR	12-10-45
10 1945		PA		JAG	With Papers C.R. NOV 9 1945		
NOV 20 1945	20 11 45	PA		E.M.B.R.	With Papers C.R. NOV 19 1945		
JAN 11 1946	11 Jan 46	PA		E.M.B.R.	JAN 9 1946		
JAN 16 1946	16/1/46			JAG	With Papers C.R. JAN 14 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE
No. C.36-B-4065(JAF)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters M.D.#13,
CALGARY, Alberta, 10 Jan 46

CONFIDENTIAL

CONF SEC
2028
JAN 13 - 2051
File:
Chgd. to
Referred to

Secretary,
Department of National Defence,
OTTAWA, Ont.

M.608257 Pte. James R. BUCKNELL
No.13 District Depot

1. Attached hereto copy of Remission Order duly completed in the case of the marginally-noted soldier and also attached is M.F.M.288. Soldier's sentence was remitted effective 20 Dec 45.

(T. E. Snow) Colonel
T/D.O.C. M.D. No. 13

Encl.

N.D. 23
3 M-11-43 (2979)
H.Q. 1772-101-23

C. 36-Ma/ 3209 (JAD)
C. 36-B-4065 (JAD)
C. 36-B-3941 (JAD)

Headquarters, M.D. No.13,
Calgary, Alberta
9th October, 1945.

REGISTERED
CONFIDENTIAL
AIRMAIL

The Judge Advocate General,
Department of National Defence,
Ottawa, Ontario.

C.55-B-2057

Standing Courts-Martial
No. M.41324, Pte. L.B.N. McKay,
No. M.608257, Pte. J.R. Bucknell,
No. K.58002, Pte. E.W. Reynolds,
No. 13 District Depot, C.A.

1. Attached hereto are the proceedings of the marginally named Courts-Martial.

(N.D. Dingle) Lieut. Col.
President,
Standing Court - Martial.

40332

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE BY COURT-MARTIAL.

NDHQ FILE:
OUR FILE: 22-B-#5780

PART I

No. M.608257 Rank Private Name BUCKNELL James Robert

Unit. No 11 District Depot CA

Part II

Date of Trial 5 Oct 45

Charge(s) Sec 12 (1)(a) A.A. Desertion

Sentence 150 days' detention. Placed under stoppage of pay in the amount of $9.60, cost of return to his corps.

Date of Sentence 5 Oct 45

Confirmation (a) Authority
(b) Date

Part III
REMISSION

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit ~~xxxxxx~~ ~~xxxxxxxx~~ a balance of sentence of detention effective 20 Dec 45.

Signed at Vancouver, B.C., this 14th day of Dec 45

F. F. Worthington
Major General
GOC-in-C Pacific Command
To be signed by the Remitting Authority personally.

Part IV
PROMULGATION

Remission ~~(Commutation)(Mitigation)~~ promulgated and extracts taken at Calgary, Alberta this 7th day of January 1946.

Capt.,
Officer i/c Documents (V.L.Sims).,
(1) No. 13 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

Part V
Certified True Extract of Daily Orders Part II

No M.608257 Rank Private Name Bucknell, J.R.

The ~~xxxxxx~~ balance of 150 days Detention

awarded by ~~District General (District~~ (Standing) Court-Martial on the 5th day of October 1945 has been remitted.

on the 20th day of December 1945 by GOC-in-C, Pacific Command.

Certified true Extract of Daily Orders Part II of No. 13 District Depot, C.A.
No. 5 Place Calgary, Alberta Date 7th January 1946.

Adj.
(W.H.Sellar),
No. 13 District Depot, C.A.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of M.608257 Private James Robert Bucknell
Number Rank Name in full

No. 13 District Depot, C.A.
Unit Attachment (if any)

Sentenced to 150 days detention. Placed under stoppage of pay in the amount of $9.60, cost of return to his corps.
on 5th October 1945 at Calgary, Alberta.

being served at No. 81 Military Detention Barracks.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 21 years 4 months 5 May 1943

Medical grade or category 22-1111111

FIRST TRIAL—PART II

To Adjutant-General
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should (not) be (suspended) (~~XXXX

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc. considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
25 Nov 45	No remission. BF for review 15 Dec 45	Major General G.O.C. in C. Pacific Command	
20 Dec 45	Balance of sentence of detention remitted wef 20 Dec 45	Maj Gen GOC-in-C Pac Comd	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Charge Sec. 12(1)(a) Army Act. Desertion: In that he at Calgary, Alberta, at 0001 hours on the 16th June 1945 absented himself from No. 13 District Depot, C.A., until apprehended by civil Authorities at Carbon, Alberta, at 1330 hours on the 29th September 1945, dressed in plain clothes, cost of apprehension and return to his corps being $9.30. Lt.Col. (J.W.Littleton) Signature of Officer making entry Commanding, No. 13 District Depot, C.A.	16 June 1945	5 October 1945

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
1 November 1945	nil	.....Lt.Col. (J.W.Littleton) Commanding, No. 13 District Depot, C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
3rd November 1945	Suspension not recommended	(F M W Harvey) Brigadier District Officer Commanding Military District #13.

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

LOCAL ARMY SIGNAL OFFICE - ARMY MESSAGE - ADDRESS OVER

ROYAL CANADIAN SIGNALS
Wood's Bldg.
OTTAWA
JAN 10 1946
Phone
Army Signal Office

IF INDICATED BELOW ADD REFERENCE | SIGNATURE

CMBR

ER V CIV NR 151

H COMMANDING PACIFIC VANCOUVER 101632U

O THE SECTY NDHQ OTTAWA

R 63 BT

PCA 1906G UNCLASSIFIED YOUR CMBR 79 DATED 9 JAN 46 STOP REFERS M608257 PTE BUCKNELL J R AND M610304 PTE EWASKOW W J STOP GOC IN C PACIFIC COMMAND REMITTED BALANCES SENTENCE EFFECTIVE 20 DEC 45 AND 22 DEC 45 RESPECTIVELY

59760

T 101632U

101655U B

ARMY MESSAGE
(OUTGOING)

CLEAR

FILE: HQC 55-B-2052
HQC 55-E-233 (CMBR)

PLACE: OTTAWA, Ontario

DATE: 9 Jan 46

GOC-in-C Pacific Command,
VANCOUVER, B.C.

CMBR 79 UNCLASSIFIED

REF M 608257 PTE BUCKNELL J R AND M 610304 PTE EWASKOW W J

STOP INFORM LATEST REPORT ON CONDUCT ATTENTION CMBR

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT WIRELESS INCLUDING (E.G. weeks)

DEGREE OF PRIORITY

TIME OF ORIGIN: 1500

SIGNED: W. A. Griffith
Major-General, Adjutant-General

COPY 2

10058
C.55 B-2057
Referred to C.M.R.

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

22-B-5780

Headquarters, Pacific Command.
Vancouver, B.C.
15 November 1945

Secretary,
Dept. of National Defence,
Ottawa, Ont.

SOLDIERS UNDER SENTENCE - Transfer
Military Detention Barracks

M.608257 Pte. BUCKNELL, J.R.

In accordance with the provisions of C.A.R.O. 4567, para 15, the attached notification of transfer of the m/n S.U.S. is forwarded herewith.

Major-General.
G.O.C. in C., Pacific Command.

Headquarters,
Pacific Command.
(Attention G.A.P.M.)

S.U.S. TRANSFER BETWEEN M.D.BKS.

The transfer of the u/m S.U.S. has been completed with effect date stated hereunder;

No.	Rank	Name	Unit
M 608257	Pte.	BUCKNELL, J.R.	No. 13 D.D.

Transferred from No. 81 M.D.Bks. at Calgary, Alberta

to No. 92 M.D.Bks. at Chilliwack, B.C.

with effect 9 Nov 45

Commandant
No. 92 M.D.Bks.

submitted in duplicate.

HQC 85-B-2051 (JAG/D-6)

9 Nov 45

District Officer Commanding,
Military District No. 13,
Calgary, Alberta.

Standing
M.608257 Pte. JR Bukhnell
No. 13 District Depot, CA
.....Court-Martial

36-B-4056 (JAS)

5th November 5

Receipt is acknowledged of Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

RLM/fdf

ar

R56

File: 36-B-4065 (JAS)

DEPARTMENT OF NATIONAL DEFENCE
Army
Headquarters, M.D. 13
CALGARY ALBERTA

AIR MAIL
REGISTERED
CONFIDENTIAL

5th November 1945

The Secretary
Department of National Defence
OTTAWA, Canada

CENTRAL REGISTRY Army
7974
NOV 8 1945
File 55-B-2051
Chgd. to
Referred to Jas

STANDING COURT-MARTIAL
M-608257 Pte James Robert Bucknell
#13 District Depot (CA)

Reference 55-B-2051

1. Returned herewith are the Proceedings of the marginally noted Standing Court-Martial for registration and safekeeping.

2. The time between the return of the soldier to his unit (29 Sep 45) and trial (3 Oct 45)

is 3 days

The time between apprehension and trial is 3 days.

3. ~~Excuses in K.R.&O. 266 in the above case.~~

4. Upon review, no remission has been ordered by the District Officer Commanding, Military District No. 13.

W Shepard Maj.

(F.M.W. Harvey) Brigadier
District Officer Commanding
Military District No. 13.

REVIEW OF STANDING COURT-MARTIAL

Trial by Standing Court-Martial of M-608257 Pte James Robert Bucknell
#13 District Depot (CA)

Reviewed on 29th day of October 1945

Decision Confirmed

(F M W Harvey) Brigadier
District Officer Commanding, M.D. 13.

MEDICAL OFFICER'S REPORT

I certify that No. M.608257 Private James Robert Bucknell of No. 13 District Depot, C.A. in a good state of health, and fit to undergo Trial by Court martial.

Station Calgary, Alberta.

Date 3rd October 1945

L. G. Johnson Capt.
Medical Officer
R.C.A.M.C., C.A. Attached to
No. 13 District Depot, C.A.

M. F. B. 246
30M—9-44 (5437)
H.Q. 1773-39-480

MEDICAL OFFICER'S REPORT

I certify that No. M.608257 Private James Robert Bucknell of No. 13 District Depot, C.A. is in a good state of health, and fit to undergo Trial by Court martial.

R. E. Dunlop
Medical Officer
R.C.A.M.C., C.A. Attached to
No. 13 District Depot, C.A.

Station Calgary, Alberta.

Date 4th October 1945.

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

MEDICAL OFFICER'S REPORT

I certify that No. M.608257 Private James Robert Bucknell
No. 13 District Depot, C.A.
of ..... is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer
R.C.A.M.C., C.A. Attached to
No. 13 District Depot, C.A.

Station Calgary, Alberta.

Date 5 October 1945

M. F. B. 246
50M—9-44 (5437)
H.Q. 1775-39-480

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at The Armouries, Calgary

on the 3rd day of October 1945 at 1400 hours,

for the trial of: No. M 608254 Pte James Robert Bucknell
Number Rank Full Name

No 13 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Lt. Col. O. D. Dingle E. D.

PROSECUTOR: Capt. D. Bigham, No 13 District Depot, C.A.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: Capt. C. L. Hamilton, No 13 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING:

Not guilty of desertion, but guilty of absence without leave.

SENTENCE:

One hundred and fifty days detention, and to be put under stoppages of pay of $9 60/xx, with respect to costs of apprehension.

Signed at Calgary this 5th day of October 1945

Thomas D. Dingle, Lt. Col.
President, Standing Court-M.

M.F.B. 1486
25M-6-44 (4526)
H.Q. 1772-39-2296

Extracts entered as No. 40332 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 15 day of Oct 1945

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: "No, Sir"

For minute of adjournment see page BB

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to No. 11/41138 L.Cpl. (W.O. II) L. Ryg Perks, ~~as interpreter~~? (G.M.L.C.) Headquarter M.L. No. 13.

Answer:

Question to the accused. ~~Do you object to~~ as shorthand writer? "No Sir"

Answer:

The shorthand writer and interpreter (if any) are duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: "No Sir, he was remanded for trial by the G.O."

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. "Right, Sir"

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: "Not guilty, Sir"

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you~~ have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

At 1410 hours on the 3rd day of October, 1945 the Court adjourned.

At 1545 hours on the 4th day of October, 1945 the Court-re-opened.

62 Number of Digit. Hed.
Pers. S.C.M.,

CHARGE SHEET

The accused, No. N608257 Private James Robert Bucknell, No.13 District Depot, C.A., an N.R.M.A.soldier of the Canadian Army, placed on active service is charged with:

Charge
Sec 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

at Calgary, Alberta, at 0001 hours on the 15th. June, 1945, absented himself from No. 13 District Depot, C.A., until apprehended by civil authorities at Carbon, Alberta, at 1330 hours on the 29th. September, 1945, dressed in plain clothes, cost of apprehension and return to his corps being $9.90.

D Bingham
.....Capt.,
(D.Bingham)
Prosecutor
No. 13 District Depot, C.A.

CALGARY, ALBERTA,
2nd. October, 1945.

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. "No, Sir, but I may do so after the prosecution is closed"

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. Capt. D. Bingham, Legal Officer, No. 13 District Depot, C.A.

being duly sworn, ~~Examined by the Prosecutor~~ states:

Question I am Capt. D. Bingham, the Legal Officer of No. 13 District Depot, C.A. and I am producing the following documents.

M.F.B. 375.

(M.F.B. 375 is read, marked Exhibit "F", signed by the President and attached to the Proceedings.)

M.F.M. 215.

(M.F.M. 215 is read, marked Exhibit "G", signed by the President and attached to the Proceedings.)

M.F.B. 1481.

(M.F.B. 1481 is read, marked Exhibit "H", signed by the President, and attached to the Proceedings.)

M.F.B. 1482.

(M.F.B. 1482, is read, marked Exhibit "I", signed by the President and attached to the Proceedings.)

I identify the accused M.608257, Pte. James Robert Bucknell, No. 13 District Depot as the person to whom these documents relate.

Cross-examined by the Defending Officer.

Q. This rate of 6 cents per mile is that an established rate for a D.N.D. vehicle?

A. I know of no such authority for that charge.

Q. Also the supper for 75¢ is there any established limit in these cases?

A. I don't think so.

The Prosecutor declines to make any statement in lieu of re-examination.

The witness resumes his seat.

Def. Offr. I would like to have an adjournment sfr of this case at this time in order that I might discuss the the accused the possibility of bringing forward a witness.

Court. Would 1000 hours tomorrow morning be all right?

Def. Offr. Yes sir.

Court. This case will stand adjourned until 1000 hours on the 5th day of October, 1945.

At 1600 hours on the 4th day of October, 1945 the Court adjourned.

At 1015 hours on the 5th day of October, 1945 the Court re-opened.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. "I wish to make a sworn statement, Sir."

Question to the accused. Do you intend to call any witness in your defence?

Answer. "No, Sir."

Question to the accused. Is the witness to be called a witness as to character only?

Answer. .....

First witness for the Defence — No. M.608257, Pte. James Robert Bucknell, No. 13 District Depot, C.A. having been duly sworn is examined by the Defending Officer.

Q. Will you give the court your number, rank, name and unit?

A. M.608257, Pte. James Robert Bucknell No. 13 District Depot.

Q. Will you give the court your age?

A. 22.

Q. What education have you?

A. Grade seven sir.

Q. Are you married?

A. Married sir with two children.

Q. When were you called up?

A. I was called up, my first was in 1942.

Q. Approximately when?

A. I believe it was fall of 1942 around October, or November.

Q. Were you enrolled at that time?

A. I was working at the mine at Drumheller.

Q. They had you postponed?

A. I didn't apply for it sir.

Q. When were you called up again?

A. I was called up again on the 5th, I had to report on the 5th May, 1943.

Q. What happened to you then?

A. I was at this Depot here approximately a week or better and then I was transferred to Camrose and I was there a couple of weeks.

Q. Did you take any training there?

A. Very little sir as far as I could see.

Q. And then where did you go?

A. From there we were put on Pacific Draft to Port Alberni, B.C.

Q. What did you do there?

A. Mostly fatigue duties and a little battle drill.

Q. Then what happened?

A. Then we were sent to Eculade B.C. or Long Beach.

Q. Did you take any training there?

A. When I hit there I went to or on leave. I had a leave of five or six days and I went on leave sir there and when I returned to my unit and while I was away I was not on this medical and when going through this medical I had something wrong with me. I was in hospital then for a month, the hospital in Nanaimo. When I returned to my unit my coal mining leave was granted to me.

Q. Did you apply for that?

A. No I didn't sir. The mine manager of Fox mine.

Q. So you say you went on Miners leave.

A. Yes sir.

Q. You went then on leave?

A. Right sir.

Q. How long was that leave for?

A. Six months.

Q. Then what happened?

A. Then I had a nother three months on top of that which the boss applied for.

Q. Yes?

A. In 1944 I was called back to my depot?

Q. Did you go back?

A. Yes sir. I was allocated to another mine.

Q. To another mine?

A. Yes sir.

Q. Yes?

A. Then I went to Drumheller and they posted me to the Ideal Mine.

Q. That was in 1944?

A. Yes sir.

Q. And have you been there since?

A. I have been there since sir.

Q. Then what happened? That leave was up when?

A. I had three or four leaves from the Ideal Mine.

Q. Did you apply for them yourself?

A. I never applied for one leave sir.

Q. Go on?

A. I had worked there all that winter.

Q. What winter,

A. The winter of 1944 and 1945 the fall and the spring and then in April, 1945 I had an operation for appendix and a while or after this happened I was returned to my home which was in Carbon and then in the latter part of May I went back to the mine and inquired about my postponement, as the one I had was due. The mine manager told me not to worry about any postponement as we were automatically postponed until further notice so from there I returned to my home. It was in July I went back again I figured I was able to work and tried to get into the mine and the results were, the same week they were taking a two weeks holdiay and they were just keeping a few for the repair of the mine that had been caved so from there I returned home and then I went into Calgary to the stampede and while I was there I was up to selective service and told them my situation that I had had this operation and was not able to do any hard work and they said to try to get some outside work and if I couldn't do that I was to go back to my unit or wait until I was able to work again. I knew I couldn't get on outside so I returned home and around the middle of August I had a letter from my folks up north in Edmonton and it stated in the letter my grandmother was not expected to live so I went down there for two weeks and my uncle was the only one there and I helped him at his haying while I was there. I returned to Carbon around the first part of September and on returning to Carbon I had a letter from the selective service asking my when I was going to return to the mine. I was down to the mine three times in September and the result was that the old place where I was at couldn't--the place I had worked had caved in and it took some time to repair and I was supposed to get back into the mine thise week, that is, this week right here.

Q. So you were at home?

A. Yes sir I was home.

Q. You were not working at the time?

A. Yes sir.

Q. Were you known to the R.C.M.P.?

A. Yes sir for two or three years.

Q. He knew you very well?

A. Yes sir as I have had a lot to do with him.

Q. Did you intend at any time to desert his majesties forces?

A. I never did.

Q. Did you intend to go absent without leave?

A. I never did sir.

Q. What is the cost of meals in a cafe in Carbon?

A. Well sir any meal I have every had there, I have

seen chicken dinners, pie and coffee served with it for sixty cents.

Q. Were you given any meal the night you came down?

A. No sir I had to go without until Sunday morning and I was apprehended at noon Saturday.

Q. You stated that your mine manager applied for the leaves for you?

A. Yes sir.

Q. You did not make application yourself?

A. I never did sir.

Q. Did he also inform you that your leaves had been granted?

A. Yes sir.

Q. How did you learn that your leaves had been granted?

A. The postponements were automatic postponements.

Q. Did he apply for them?

A. Yes sir.

Q. Did he inform you that the leaves were granted?

A. Yes sir.

Cross-examined by the Prosecutor.

Q. Never at any time, you never applied for aleave or extension of leave?

A. No sir.

Q. Come around here. Is that your signature?

A. I don't know sir.

Q. You don't know your own signature?

A. I wouldn't say that it was mine sir.

Q. Is it or is it not?

A. I believe that is my signature sir.

Q. Do you remember writing that?

A. That letter was written by the Coal Company and I just signed it.

Q. Did you sign it?

A. I signed it sir.

Q. You have had considerable leave since you were called up?

A. Yes sir.

Q. And extension after extension has been granted?

A. Yes sir.

Q. And you have been in the army and on leave long enough to know the routine the average routine that is followed for a soldier going on leave. You know you are granted six months leave?

A. Yes sir.

Q. You know that you have to return at a certain time. Your leave expires on a certain date and if you haven't got an extension you have to come back don't you?

A. I didn't think that sir.

Q. If you are given six months coal mining leave which ends at the end of January, if you haven't got an extension you have to come back?

A. Right sir.

Q. Why didn't you come back at the end of your leave?

A. Well sir my mine boss told me that at the expiration of my last leave I didn't have to worry about it.

Q. Your last leave was from the first of April, 1945 until the 14th June, 1945 is that right?

A. Right sir.

Q. Did you sign the form granting you your leave?

A. Yes sir.

Q. Did you read that form?

A. I never paid much attentionto it sir.

Q. You have signed quite a considerable number of these?

A. Yes sir.

Q. Have you ever read any of them?

A. I never paid any attention to them.

Q. I suggest that at the expiration of this leave that the form says that you will report to No. 13 District Depot. You know that don't you.

A. (Witness hesitates)

Q. At the expiration of a mine leave you are to come back aren't you?

A. Yes sir.

Q Your last leave terminated on the 5th June, 1945 is that right?

A. I didn't figure it was up sir when the mine manager told me we were postponed indefinitely.

Q. When?

A. Around the middle of May.

Q. What is his name?

A. Martin MacGookie.

Q. And he is the manager of the Ideal Coy.?

A. Supposed to be sir.

Q. And in May of this year he told you waht?

A. He told me that I didn't have to worry about any more postponements because as far as his understanding we were automatically postponed until further notice.

Q. Well in June according to your own admission the actual leave issued by the army expired the last one?

A. Yes sir.

Q. And in consequence of what the mine manager told you you didn't think it was necessary to come back?

A. No sir.

Q. What did you do after the 15th June?

A. I was right at home.

Q. Doing what?

A. I was not able to do much and I did do a little one the farm?

Q. I suggest to you that if the police didn't pick you up you wouldn't be back here now?

A. No sir I would still figure I was on leave.

Q. When did you go to Carbon after the 15th June.

A. Right away sir.

Q. Where is the R.C.M.P.?

A. Right in Carbon sir. As a matter of fact my house is only four or five blocks from there.

Q. And you know the R.C.M.P. quite well.

A. Yes sir.

Q. Did you ever have a discussion with him as to your status with the army?

A. No sir.

Q. In any conversation that you had with the R.C.M.P.

what did he say?

A. By the looks of it you did the government out of a month and that is all he said to me about it.

Q. In any case he apprehended you in reference to the conversation you had?

A. Yes sir.

Q. Was that the first time you and he had had a conversation with regard to being away from the army?

A. That's right sir.

Q. The charge against you or the particulars of the charge state that at 0001 hours on the 16th June, 1945 you absented yourself from this Depot which was the end of your leave. Were you absent from here at that time?

A. As fqr as I know I was.

Q. You weren't here at that time?

A. No sir.

Q. And you remained away until you were away from here at that time until you were apprehended by the civilian police?

A. (Witness hesitates)

Q. I am not trying to catch you but you weren't here?

A. Right sir.

Q. You were away until 29th September, 1945?

A. Right sir.

Q. And at the time you were apprehnded you were dressed in civilian clothes?

A. Right sir.

Q. During that time did you work for anybody else other than your uncle?

A. At the time I was apprehended I was helping a fellow here. I was looking after his cattle for two days while he was away.

Q. Who was he?

A. Jim Hudson of Carbon.

Q. What did you go to hospital for in Nanaimo?

A. V.D. sir.

Q. Where is your wife now?

A. In Carbon sir.

Q. And your children?

A. Yes sir.

Re-examined by the Defending Officer.

Q. Why were you dressed in civilian clothes?

A. I was dressed in civilian clothes because when I was on leave we were not allowed to wear our uniform and I figured I was following orders.

Q. Did you sign letter that were written by your mine manager requesting leave?

A. Yes sir.

Q. Did you read these letters?

A. I never paid much attention to them.

Q. Why?

A. He would just come in and say I have a few things for you to sign.

The witness resumes his seat.

The Prosecutor makes a closing address.

The Defending Officer makes a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. "No, sir"

Question to the accused. Do you wish to address the Court?

Answer. "I would like my officer to do so for me, sir"

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE ACCUSED ADDRESSES THE COURT THROUGH HIS DEFENDING OFFICER

Sir this man told me that he wanted to be a soldier that when he was called up as a N.R.M.A. he went out to the Pacific Coast and he was ready then to go active as a matter of fact he was ready to go active when his mine manager wrote to him and asked him to come back. They said they needed him and he did co-operate with that because he is a miner and after the war is over he had to go back to that work. However he has told you that his mine boss told him that he had been placed on indefinite leave. He took the word of his mine boss which I think in the case of labourers, is I might say, would be done in 99 out of a 100 cases. I think he was under a misapprehension. He was mislead by his employer. I don't think he did this wilfully. He has a clean sheet. He has a wife and two children. I would ask sir that in these circumstances that he be given a minimum sentance.

Exhibit #
Norman Bagg Pte.
Pte. Bucknell

RECORD of the Declaration of a Court of Inquiry assembled at Calgary, Alberta on the 10th day of September 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M608257 Private James Robert Bucknell, No.13 District Depot, C.A.

DECLARATION

The Court declare that No. M608257 (Regt'l No.) Private (Rank) James Robert Bucknell (Full Name) No.13 District Depot, C.A. (Unit) illegally absented himself without leave from No.13 District Depot, C.A. at Calgary, Alberta (Place) 0001 hours on the 16th day of June, 1945 that he is still so absent, and that on the 17th June 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	Vocabulary Rate		Less 25% VALUE CARD 3464		ARTICLES	Vocabulary Rate		Less 25% VALUE CARD 3464	
Clothing Division "B"					Clothing Division "C"				
Blouses, Battle dress	1	6.50	4	88	Brushes, Shaving	1	.42		32
Boots, Ankle prs	1	5.82	4	37	Brushes, Tooth	1	.09		07
Caps, Field service	1	.70		53	Combs	1	.04		03
Drawers, Cotton short	1	.42		32	Holdalls	1	.22		17
Shirts, Cotton khaki	1	1.95	1	46	Housewives	1	.35		26
Shirts, Undercotton	1	.43		33	Razors, Safety	1	.42		32
Socks, Army prs	3	1.38	1	04	Badges, Cap	1	.09		07
Trousers, Battle dress prs	1	6.55	4	91					
Clothing Division "C"							TOTAL	20	24
Bags, Kit MK II	1	1.27		95					
Braces, prs	1	.28		21					

"D.Bingham" Capt., (Name) (Rank) (Unit) President
No.13 District Depot, C.A.

Signed at Calgary, Alberta (Name) (Rank) (Unit) Member

this 10th day of September 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer "J.W.Littleton" Lieut-Col.,
Officer Commanding, No.13 District Depot, C.A.

Certified true copy W.A.Blench Lieut., (Rank) (Unit)
(W.A.Blench) (Signature of Officer having custody of original record)
Ass't. Adjutant,
No.13 District Depot, C.A.

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1773-39-257

Exhibit G

CERTIFICATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2797 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.

(Apprehension ~~[illegible]~~ Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by ~~[illegible]~~ of

Strike out words not applicable

Constable ROSS, C.T. Reg.No. 12481. Carbon Detachment R.C.M.Police

(Name of ~~[illegible]~~ or Constable)

at Carbon, Alta. (Place) at 13.30 (Hour)

on the 29th day of September 1945

Strike out words not applicable

and at the time of arrest ~~[illegible]~~ he was ~~[illegible]~~ (dressed in civilian clothes).

Regimental particulars ~~[illegible]~~ or soldier referred to above.

Description

No.	M 608257
Rank	Pte.
Name	BUCKNELL, James Robert
Unit	13 District Depot Calgary, Alta.
Age	24 years.
Height	5' 9"
Complexion	Fresh
Hair	Dk brown
Eyes	Gray
Marks	Scar little finger left hand

Signature of ~~[illegible]~~ constable ~~[illegible]~~ in charge of police station ~~[illegible]~~

(Constable) Const. (Ross, C.T.) 12481. R.C.M. Police (Officer in Charge of Police Station)

Strike out words not applicable

M.F.M. 215
75M—12-43 (5178)
H.Q. 1772-39-1935

M.F.B. 1481
175M—10-43 (2266)
H.Q. 1772-39-1861

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/40 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Exhibit H
Thomas W. Oldfield
Major

Fill in complete description / Strike out word not applicable / Complete / Full description of soldier being escorted / Strike out phrase not applicable

I, MAJOR THOMAS W. OLDFIELD, OFFICER COMMANDING, NO. 44 COMPANY-
(Rank) (Name) CANADIAN PROVOST CORPS, CA(A)
hereby certify that I ~~XXXXXX~~ (authorized) the hereinafter itemized transportation for escort
to proceed from CALGARY, Alberta (Place) to CARBON, Alberta (Place)
and return to CALGARY, Alberta (Place) for the purpose of escorting
M608257 Pte. BUCKNELL, James Robert, (Number) (Rank) (Name in full)
No. 13 District Depot, CA., Calgary, Alta. (Unit) (Attachment, if any)
alleged to be ~~XXXXXXXX~~ an absentee without leave, the facts, date and particulars of ~~XXX~~
~~XXXXXXXXXXXXXXXXXXXX~~ the transportation required) and the cost thereof for said soldier
and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
29 Sep 45.	Transportation via D.N.D. Vehicle #68-173 (Jeep), from Calgary to Carbon, Alta., and return to Calgary, for the purpose of returning absentee M608257 Pte. BUCKNELL, J.R., No. 13 District Depot, CA., to Calgary, Alta.	8.40
	Mileage: 140 miles @.06¢ per mile.....	
	TOTAL	$ 8.40

Dated at Calgary, Alberta this 29th day of September A.D. 19 45

Thomas W. Oldfield
Major.

(Thomas W. Oldfield)
O.C. No. 44 Coy., C. Pro. C. CA. ~~XXXXXXXXXXXXXXXX~~
Signature, rank, unit, attachment (if any) and appointment of officer
(authorizing transportation)
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorize or issues the transportation and *not* by an Officer "for" him.

M.F.B. 1481
175M—10-43 (3206)
H.Q. 1772-39-1651

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

Exhibit F
Thomas Oldfield

(TRANSPORTATION ONLY)

Fill in complete description — I, MAJOR THOMAS W. OLDFIELD, OFFICER COMMANDING, NO. 44 COMPANY-
(Rank) (Name) CANADIAN PROVOST CORPS, CA(A)

Strike out word not applicable — hereby certify that I ~~XXXXXX~~ (authorized) the hereinafter itemized transportation for escort

Complete — to proceed from CALGARY, Alberta (Place) to CARBON, Alberta (Place)
and return to CALGARY, Alberta (Place) for the purpose of escorting

Full description of soldier being escorted — M608257 Pte. BUCKNELL, James Robert,
(Number) (Rank) (Name in full)
No. 13 District Depot, CA., Calgary, Alta.
(Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be ~~XXXXXXXXX~~ an absentee without leave, the facts, date and particulars of ~~XXX~~ ~~XXXXXXXXXXXXXXXXXXXXXXXX~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
29 Sep 45.	Transportation via D.N.D. Vehicle #68-173 (Jeep), from Calgary to Carbon, Alta., and return to Calgary, for the purpose of returning absentee M608257 Pte. BUCKNELL, J.R., No. 13 District Depot, CA., to Calgary, Alta.	
	Mileage: 140 miles @.06¢ per mile.....	8.40
	TOTAL	$ 8.40

Dated at Calgary, Alberta this 29th day of September A.D. 1945

(Thomas W. Oldfield) Major.
O.C. No. 44 Coy., C. Pro. C. CA. ~~XXXXXXXXXXXXXXXXXX~~ (authorizing transportation)
Signature, rank, unit, attachment (if any) and appointment of officer
Strike out description not applicable.

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*
Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and not by an Officer "for" him.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER ~~1099, 1941~~ 1877, 1942

(INCIDENTAL EXPENSES)

Exhibit F
Annual Diffidavit
Tab 12 ad.

Complete description

Strike out words not applicable

Members of escort

Name and description of soldier escorted

I, No. M62262 Sgt. Summers, T.R., No. 44 Coy., C. Pro. C. CA., (No.) (Rank) (Unit) as ~~XXXXXX~~ (commander of escort) consisting of No. M103454 Pte. Baik, J., (Rank) (Name) No. 44 Company - Canadian Provost Corps, CA. (A). (Unit) detailed to proceed from CALGARY, Alberta (Place) to CARBON, Alberta. (Place) to return No. M608257 Pte. BUCKNELL, James Robert, #13 Dist. Depot. (Rank) (Name) (Unit) alleged to be a ~~XXXXXXX~~ absentee without leave, to CALGARY, Alberta. (Place) CA.

hereby certify that all incidental expenses of apprehension and return of said soldier to his corps, unit or station and of such escort properly incurred, exclusive of transportation, are hereinafter itemized as follows:—

Statement	Amount
29th September 1945.	
Incidental expenses incurred by escorts, M62262 Sgt. Summers, T.R., and M103454 Pte. Baik, J., both of No. 44 Coy., C. Pro. C. CA., for the returning of absentee M608257 Pte. BUCKNELL, J.R., No. 13 District Depot, CA., to Calgary, Alta.	
1 Supper for escort M62262 Sgt. Summers, T.R., at Carbon, Alta.	.75
1 Supper for escort M103454 Pte. Baik, J., at Carbon, Alta.	.75
29th September 1945.	
Incidental expenses incurred by the Royal Canadian Mounted Police at Carbon, Alta., in the apprehension and detention of absentee M608257 Pte. BUCKNELL, J.R., No. 13 District Depot, CA., was nil.	
Total	$ 1.50

Dated at Calgary, Alberta this 29th day of September A.D. 1945

T.R. Summers
(M62262 Summers, T.R.) Sgt.
No. 44 Coy., C. Pro. C; CA. (Signature and rank of commander of escort)

Strike out description not applicable.

Certificate to be completed by the officer or soldier in charge of an escort detailed to effect the arrest or return to his corps, unit, or station of a soldier proceeded against as a deserter or absentee without leave, stating the itemized cost of *all incidental expenses* properly incurred in respect of the escort and of such soldier, exclusive of transportation.

M.F.B. 1463
TRM—3-45 (3500)
H.Q. 1773-36-1550

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Field Unit ~~Regiment (or unit)~~
M608257	Private	James Robert Bucknell	No.13 District Depot,C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General,~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	AWL 1	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

~~NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ ~~Air Force Act~~ ~~Section 47 of the Army Act~~ ~~A.F.A. 73~~ ~~and dispensations with trial under~~ A.A. 73 ~~are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for~~ ..... ~~beginning on the~~ ..... ~~day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 2 days in military custody, making a total of 2 days in custody, of which Nil days were spent in hospital.

~~Air Force~~

Close arrest 2 days
Open arrest Nil days

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper.~~ enrolment is 23 years 8 months

6. The date of his ~~commission~~ specified in his ~~record of service~~ ~~attestation~~ enrolment ~~attestation paper~~ enrolment is 5 May 1943

~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ ..... ~~service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward,~~ ~~military.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ ~~Air Force~~ ~~the regimental rank of~~ .....

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Air Force Unit Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5 day of October 1945 W.A. Blench Lieut., (W.A. Blench) Ass't. Adjutant, No. 13 District Depot, R.C.A.F.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Exhibit "T" signed by the president, and annexed to the proceedings.

2

13 NRMA - Clearing Depot

Date of Birth

Date of enlistment or enrolment 5 May 1943

Reg. No. M608257 Name BUCKNELL James Robert Corps

Character: Capt.

Sheet No. of *1, 2, 3, 4, 5

Signature O.C. Company, etc. "W.L.Love" Signed

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Pt. Alberni, B.C.	23-6-43	Pte.	Nil	Absent Without leave in that he was absent from 0300 hrs. 23-6-43 to 0505 hrs. 23-6-43 Total absence 2 hrs. 5 minutes. AA Sec.15(1)	Pte. R.J.Harper	5 days C.B.	23-6-43	Capt. S.B. Phipps	Signed OBP

Certified to be a true copy of M.F.M. 6 of which it purports to be a copy.

W.A.Blench Lieut.,
(W.A.Blench) Ass't.Adjutant,
No.13 District Depot,C.A.

Exhibit "7"
[illegible]

(P.T.O.)

M.F.M. 6—500M—6-44 (5286)
H.Q. 1772-39-1653

PRECIS OF EVIDENCE

in respect to the trial by Standing Court-Martial of

The accused, No. M608257 Private James Robert Bucknell, No. 13 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army placed on active service is charged with:

CHARGE: Desertion

To prove the charge the following evidence is available:

DOCUMENTARY: N.F.B.375
N.F.M.215
N.F.B.1481
N.F.B.1482

Bingham
.....Capt.,
(D.Bingham)
Prosecutor
No. 13 District Depot, C.A.

CALGARY, ALBERTA,
2nd. October, 1945.

H.Q.C.55-B-2051 (JAG/D-4)
Your C. 36-B-4065 (JAD)

18 Oct 45

The District Officer Commanding,
Military District No. 13, Calgary, Alta.

STANDING COURT-MARTIAL

M. 608257 Pte. James Robert Bucknell,
No. 13 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

JOGR/MM

8M-7-45(M-168)

THIS COPY FOR: H.Q. C.55-B-2051
M.D. C.[redacted]-B-4085
36

NRMA

STANDING
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. M-608257 Name BUCKNELL, James Robert

Rank Pte Unit No 13 DD CA

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 15-6-45

Date of Arrest 29-9-45. Charge Signed 2-10-45.

Orders for D.C.M.

Place and Date of Trial The Armouries, Calgary; 3-10-45.

Sentence Det 150 days; stoppages $9.60

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40332

Date 15-10-45.

MEMO. Balance of sentence remitted by Conf. Auth. Guilty AWL

MD 13 - No 13 DD CA

Absent	Sentence
3½ mos;	det 150 days

W.G. Robertson
for Judge Advocate-General

10M-8-45(M-189)

H.Q.C. 55-B-2052 CONFIDENTIAL

M.F.B. 5478
25M—3-42 (8697)
H.Q. 201-1-48

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BREMNER, JOHN DUNCAN A-23407 CFN.

CONFIDENTIAL
H.Q.C. 55-B-2052

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 25 1945							
	15-11-45			JAG	NEW FILE	CR	15-10-45
OCT 31 1945							
	30-10-45	PA		JAG	Papers C.P. OCT 29 1945		

Purpose for which referred cannot be expressed on one line, add minute to file and initial here (With Month)

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2052 (JAG/D-6)

30 Oct 45

Commander,
Petawawa Military Camp,
Petawawa, Ontario.

Standing
A.23407 Gfn. John Duncan BREMNER
No. 13 Coy., RCEME CA
.....Court-Martial

C.B. 40-B-5929 (AJAG)

27th October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

(R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

2

File No. C.B. 40-B-5929 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Camp Borden,
Camp Borden, Ontario,
27 OCT 45.

The Secretary,
Dept. of National Defence,
OTTAWA, Ont.

5701
OCT 29 1945
55-B-2052
Referred to: JPG

STANDING COURT-MARTIAL
A-23407, Cfn. John Duncan BREMNER,
No. 15 Coy., RCEME, CA.

Reference HQC 55-B-2052 (JAG/D-8), d/25 Oct 45.

2. Returned herewith for custody the proceedings of the marginally-noted Standing Court-Martial.

3. No administrative action would appear to be required in this case.

H.B. Bruce Major

(A.C. Spencer)
Major-General
Commander - Camp Borden

(1)

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at CAMP BORDEN, Ontario,

on the 10th day of October, 1945, at 0920 hours,

for the trial of: A.23407 Cfn. John Duncan BREMNER,
Number Rank Full Name

No.15 Coy., R.C.E.M.E., C.A.
Unit Attachment, if any

PRESIDENT: Major J.C.A. Campbell, President Courts-Martial, Camp Borden, CA.

PROSECUTOR: Capt. J.A. Mullin, Prosecutor Courts-Martial, Camp Borden, C.A.
Rank Full Name Unit Attachment, if any

DEFENDING OFFICER: Capt. V.M. Humphries, No.15 Coy., RCEME, CA.
Rank Full Name Unit Attachment, if any

FINDING: The Court finds that the accused is guilty of both the charges.

SENTENCE: The Court sentences the accused to undergo detention for sixty days.

Extracts entered as No. 40362 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 16 day of Oct 19 46

Signed at CAMP BORDEN, Ont. this 10th day of October, 1945.

J.C.A. Campbell (Major)
(J.C.A. Campbell) President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4326)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~[illegible]~~

Answer:

Question to the accused. Do you object to B.83584,SM(WOI)F.J.McGuigan,HQ,Camp Borden,CA, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~[illegible]~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~[illegible]~~ first charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer. Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to ..... charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

B2

J.A. Campbell Capt
Rec Sec. 5

CHARGE SHEET

The accused, A. 23407 Cfn. John Duncan Bremner, No. 15 Coy., R.C.E.M.E., C.A. (A) a G.S. soldier of the Canadian Army placed on Active Service is charged with:-

FIRST CHARGE
Sec. 9 (2)
Army Act

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at Camp Borden, Ontario on 3rd October, 1945 did not return to work when ordered to do so by B. 122217 Sgt. Burns, R.E., No. 15 Coy., R.C.E.M.E., C.A. (A).

SECOND CHARGE
Sec. 9 (2)
Army Act.

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at Camp Borden, Ontario on 3rd October, 1945 did not return to his place of work when ordered to do so by Capt. J.W. Whittingham, No. 15 Coy., R.C.E.M.E., C.A. (A).

J.W. Sugden Capt

Camp Borden, Ontario.
5th October, 1945.

(J.W. Sugden)Capt.,
A/Officer Commanding,
No. 15 Coy., R.C.E.M.E.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B-2185, Armt. Sgt.-Major (WO I) O. M. K E T O L A, No.15 Coy.,R.C.E.M.E.,C.A., being duly sworn, is examined by the Prosecutor.

Question

Q- To what unit do you belong, Sgt.-Major?

A- No.15 Coy.,R.C.E.M.E.

Q- Do you recall the 3rd of October, 1945?

A- I do, sir.

Q- Would you tell the Court what happened on the morning of that day?

A- On the 3rd of October about 8:30, the accused, Bremner, came up to me and told me....

Q- Just a moment; you say the accused, Bremner. Is he in Court to-day?

A- Yes, sir.

Q- Would you point him out to the Court?

A- Sitting over at the table, sir (indicating the accuse

Q- Carry on.

A- He came to me and he told me he didn't want to work on the vehicles. I said, "What's wrong?" He said he didn't know the work....

Q- Just a moment; he came to you. What are your duties?

A- I am in charge of the Workshop.

Q- Is he working in your workshop?

A- He is, sir.

Q- Carry on, please.

A- He wanted to be put on as a floor sweeper. I told him we couldn't do that because he was a driver-mech drawing driver-mech's pay or supposed to be drawing it;

he had qualified for it. I told him to report to the section sergeant.

Q- Who was his sergeant?

A- Sgt. Burns.

Q- What time was that you told him to go back?

A- I imagine, sir, it would be about approximately around quarter to nine, something like that.

Q- In the morning?

A- In the morning, sir.

Q- Do you know what job he was assigned to in your workshop?

A- Yes, sir, he is working on the section where they do motor exchanges and transmissions and clutch jobs, sir.

Q- Is he qualified for that job?

A- He is, sir, yes. I mean, sir, as a helper. He is not a vehicle mechanic; he is a driver-mech, but a large percentage of the men in our shop are driver-mechs at the moment.

CROSS-EXAMINED BY DEFENDING OFFR :-

Q- Did the accused ask you to be paraded to Capt. Whittingham?

A- Yes, he did.

Q- What did you tell him?

A- I told him that the parade would be arranged for him, sir.

Q- You didn't say that he'd see Capt. Whittingham when you were ready to have him see him?

A- No, sir.

Q- Did he go back to work at that time, or did he

go back to his place of work?

A- No, he didn't, sir, because I checked with Sgt. Burns and.....

COURT :- Just a moment. (To Def.Offr) I don't know for sure whether you are referring in your questioning to the statement made by the witness that he ordered the accused to report back to Sgt. Burns or if you are referring to something that happened when the accused apparently saw Capt. Whittingham.

DEFENDING OFFR :- I am referring to when he told him to report back to Sgt. Burns.

COURT :- In that case the witness can anser.

WITNESS :- No, he did not go back to his place of work.

DEFENDING OFFR :- (resuming)

Q- How did you know he didn't?

A- When I checked for myself with Sgt. Burns and the accused wasn't there.

----- Prosecutor declines to re-examine.

----- Witness withdraws.

SECOND WITNESS FOR PROSECUTION

No. B-122217, Sgt. R.E. BURNS, No.15 Coy.,R.C.E.M.E.,C.A., being duly sworn, is examined by the Prosecutor :-

Q- Sgt. Burns, what is your unit?

A- No.15 Coy.,R.C.E.M.E.

Q- What are your duties in that unit?

A- I am in charge of pulling motors and transmissions out of vehicles.

Q- In one of the workshops?

A- Yes, sir.

Q- Who is in charge of the workshop over you?

A- Sgt.-Major Ketola.

Q- Is there an officer in charge above him?

A- Yes, sir, Capt. Whittingham.

Q- Do you recall the 3rd of October, this year?

A- Yes, sir.

Q- Would you tell the Court what happened on the morning of that day?

A- The accused came over to me....

Q- Who do you mean by that?

A- Craftsman Bremner, sir.

Q- Is he in Court to-day?

A- Yes, sir.

Q- Would you point him out to the Court, please?

----- Witness indicates accused.

Q- Carry on.

A- He came over to me in the morning and told me he had been talking to the Sgt.-Major and he was to report back to me to work....

Q- What time was this?

A- It must have been around a quarter to nine.

Q- What happened then?

A- And he said that he wasn't going to work, that he didn't want to, didn't want any part of it, all he wanted was a discharge. I went to the office to see Sgt.-Major Ketola and he said he'd like to have another talk with him, and when I went back for him he wasn't there.

Q- What took place then?

A- I went looking for him. It must have been pretty nearly two hours before I got back and he was back up

at the bay.

Q- That is in the workshop?

A- Yes.

Q- What happened then?

A- I ordered him to work and he wouldn't work.

Q- Was there anybody present when you ordered him to work?

A- Yes, sir.

Q- Who?

A- S/Sgt. Holland.

Q- Why was he there?

A- As a witness.

Q- You deliberately got him as a witness?

A- Yes, sir.

Q- You say you ordered him to work? Tell the Court just exactly what took place, what words you used, if you can recall them? First of all, about what time in the morning was this that you found him?

A- That would be around 11 o'clock.

Q- Was he working when you came up to him?

A- No, sir.

Q- What did you do?

A- Well, we talked to him and asked him if there was anything else he'd like to do and he said he didn't want any other job, that he wouldn't work, that he didn't want to work.

Q- What did you do?

A- I ordered him to work and he wouldn't work.

Q- Are you able to recall the words you used, or is that just your impression of what took place?

A- I think that is just what took place, sir.

Q- You felt that you were definitely giving an order then, did you?

A- Yes, sir.

Q- What happened when you gave the order?

A- Well, he wouldn't work so I went to see the Sgt.-Major and they told me to go and get the R.P.'s.

Q- You say he didn't work. Did you stay there long with him to see whether he did return to his work?

A- Yes, sir.

Q- How long did you stay with him?

A- Approximately two or three minutes.

Q- Did he make any effort to work at all in that period of time?

A- No, sir.

Q- How long would it be before you came back with the police, or did you come back with the police?

A- Yes, sir, about 5 minutes.

Q- Were you able to tell whether any work had been done in the meantime?

A- Well, there were two other fellows working on the vehicle at the same time and....

Q- I am not interested in what they said. Were you able to see whether any work had been done by the accused?

A- No, sir.

Q- One further thing, Sergeant, how were you dressed that day?

A- Just the way I am now only I didn't have gaiters on, sir.

Q- Did you have your rank showing on you?

A- Yes, sir.

CROSS-EXAMINED BY DEFENDING OFFR :-

Q- You are sure that S/Sgt. Holland was with you when you told the accused to work?

A- Yes, sir.

Q- You don't remember the words that you used to tell him to go to work -- you didn't say, "Are you going to work?"

A- I said, "I have to order you to go to work."

Q- Did the accused ask you to see Mr. Ketola about an interview with Capt. Whittingham?

A- No, he said he had talked to Sgt.-Major Ketola in the morning about wanting an interview with the Captain.

Q- At this period you say you came back after two hours and found him there -- he didn't ask you at that time to see Mr. Ketola about an interview with Capt. Whittingham?

A- No, sir.

Q- He definitely said that he wouldn't go to work on any conditions? He didn't tell you that he would go to work but not on that type of work?

A- No, sir.

Q- Do you usually use driver-mechanics on that type of work he was doing?

A- Yes, sir.

Q- Are they actually qualified to do motor work?

A- Well, I was only qualified as a driver-mechanic myself, sir, and I started on it.

Q- There were no R.P.'s with you when you told

the accused to go back to work?

A- No, sir.

Q- When the R.P.'s came over, when you brought the R.P.'s over, did you tell the accused to go back to work then?

A- No, he went to Capt. Whittingham's office, sir.

Q- Did you not talk to him before he went to Capt. Whittingham's office?

A- Yes.

Q- What did he say at that time, that is immediately before?

A- Well, after I went to the office and after I went after the R.P.'s I came back with them and we went over towards the office. I went to see Sgt.-Major Ketola....

Q- Before you saw the accused?

A- No, the accused was there.

Q- Well, where was the accused? Was he standing right outside the office when you came back with the R.P.'s?

A- Yes. I came out of the office and Cfn. Bremner went to see the Captain.

Q- When he came out from seeing the Captain did he talk to you, the accused?

A- Yes, sir.

Q- What did he say to you at that time?

A- You mean Capt. Whittingham?

Q- No, the accused -- what did he say to you after he came out of Capt. Whittingham's office? You saw him after he came out of Capt. Whittingham's office. What was the conversation at that time?

A- He said he'd come back but he wouldn't work.

Q- He definitely said he wouldn't work? Not that he wouldn't work at that job? He said he wouldn't work?

A- Yes.

Q- Did you tell the RP's to put him under close arrest?

A- We talked for a minute. I didn't know what to do and then I said it would be best to go with the RP's.

Q- Who said that?

A- I did.

RE-EXAMINED BY PROSECUTOR :-

Q- How long had Bremner been working for you?

A- Pretty close to a week, sir.

Q- And he had been employed on this particular job?

A- Well, he was with me but he was just wandering around here and there laying up against the bins. I thought he'd get tired of it after laying around for a while.

Q- Well, he was supposed to be working for you, is that it?

A- Yes, sir.

------The witness withdraws.

THIRD WITNESS FOR PROSECUTION

B-2617, S/Sgt. P. J. HOLLAND, No.15 Coy.,R.C.E.M.E.C.A., being duly sworn, is examined by Prosecutor :-

Q- What is your unit, Staff?

A- R.C.E.M.E.

Q- What company?

A- 15 Company, sir.

Q- What are your duties in that unit?

A- As a motor-mechanic, sir.

Q- What workshop do you work in?

A- RCEME Workshop, Camp Borden.

Q- Do you work in the same shop as Sgt. Burns?

A- Yes, sir.

Q- Do you recall the 3rd of October, this year?

A- Yes, sir.

Q- Will you tell the Court what happened on the morning of that day, please?

A- Sgt. Burns and I were talking to the accused and Sgt. Burns ordered the accused.....

A- Just a moment. How did this all arise? Did Sgt. Burns call you or did you just happen in on the affair?

A- No, he called me before.

Q- About what time?

A- It was about 8 or 9 minutes before we were talking to the accused.

Q- When were you talking to the accused?

A- I was talking to Sgt. Burns at first and....

Q- What time did you finally find the accused?

A- I didn't notice the time.

Q- Would it be late in the morning or early?

A- It was quite early in the morning.

Q- You used the words "the accused", who do you mean by that?

A- Well, Sgt. Burns and I were talking and Sgt. Burns ordered the accused to work which he refused.

Q- Who is the accused?

A- Cfn. Daimler.

Q- Is he in Court to-day?

A- Yes, sir.

Q- Would you point him out to the Court then?

A- Right there (indicating the accused).

Q- You used the word "Daimler", do you know the accused at all?

A- No, sir, I don't even know how to pronounce his name properly.

Q- Are you sure the man you pointed out is the man you refer to?

A- Yes, sir.

Q- What happened when you saw the accused? Was there any conversation with the accused before the order was given?

A- No, I had nothing to say with the accused.

Q- Did Sgt. Burns talk to him?

A- He ordered him to work and that was all.

Q- Were there any words used before the order?

A- No.

Q- Do you remember how the order was given, what the words were?

A- Sgt. Burns just told him to go to work. He ordered him to work,which the accused refused. He said he didn't want to work, all he wanted was a discharge. So I asked him if there was any other line or kind of work he would like to do, to which he said, "No."

Q- What happened then?

A- That was all that was said while I was there.

Q- How long did you stay there?

A- About ten minutes, sir.

Q- Did the accused do any work at that time?

A- No, sir.

----- Defending Offr declines to cross-examine.

QUESTIONED BY COURT :-

Q- Staff, you said that Sgt. Burns ordered the accused to work. Can you tell me the words that Sgt. Burns used, approximately the words he used?

A- He just said, "Will you go to work" as far as I know.

Q- That is what you heard?

A- Yes, as far as I know, sir.

----- The witness withdraws.

FOURTH WITNESS FOR PROSECUTION

Captain J. W. WHITTINGHAM, No.15 Coy.,R.C.E.M.E.,C.A., being duly sworn, is examined by Prosecutor :-

Q- What is your unit?

A- No.15 Coy.,R.C.E.M.E.,sir.

Q- What are your duties there?

A- I am O.C.,B.Coy.

Q- Does that include the workshops?

A- That includes the M.T. Hangars and the workshop.

Q- Do you recall the 3rd of October, 1945?

A- Yes.

Q- Will you tell the Court what happened then, please?

A- I understood from my Sgt.-Major that there was a little trouble with reference to Bremner who didn't want to work. The Sergeant was told to go over and give the man an order to go to work. If he refused to go to work he was to be put under arrest and a charge laid against him.

Q- What actually happened? Did you have any contact with Bremner at all yourself?

A- Yes, I was just coming to that. A few moments later Bremner appeared outside of my office....

Q- About what time was this?

A- Around 11 o'clock -- I'm not sure.

Q- Is Bremner in Court to-day?

A- Yes, he is.

Q- Would you point him out to the Court?

A- Right here, sir (indicating the accused).

Q- What happened when he came into your office?

A- He came into my office saying he wouldn't do that work. I then called Sgt. Burns into the office, gave Bremner a direct order saying "I order you to return to your place of work now. I'll give you one minute to get there." He was taken out then by the Sergeant, or, rather, he was walked out of the office by the Sergeant and some three or four minutes later, Bremner having not returned to work he was presumably placed under arrest.....

Q- Just a moment. With regard to the one minute you referred to,when he walked out of your office was he under arrest?

A- No.

Q- He was free to return to his work then?

A- Yes, he was free to return to his work.

Q- Did you see he didn't return to his work?

A- Yes, I did.

Q- How long did you watch him?

A- About four minutes.

Q- During that period he didn't return to his work?

A- No, he stood outside my office.

Q- What happened then? Was he placed under arrest?

A- Presumably. I would imagine the Sgt.-Major placed him under arrest. I didn't actually place him under arrest.

Q- Did you see him arrested?

A- I saw him marched out of the office.

Q- How long would it take him to return to his work?

A- About 10 seconds I would imagine; it was about 75 feet away.

Q- How were you dressed?

A- As I am now.

Q- With your rank showing?

A- Yes.

CROSS-EXAMINED BY DEFENDING OFFR :-

Q- Did any of your NCO's try to make an appointment for the accused with you for an interview?

A- Not to my knowledge. Appointment hours are at 9 o'clock in the morning and 1 o'clock in the afternoon.

Q- Is that posted anywhere?

A- That has been notified to the entire company. All warrant officer, NCO's and officers know I will see men at 9 o'clock and 1 o'clock.

----- Prosecutor declines to re-examine.

----- Witness withdraws.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence, sir. (See overleaf)

Question to the accused. Do you intend to call any witness in your defence?

Answer. Yes, sir. (see overleaf)

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No, sir.

D-3

The Accused, A.23407 Cfn. John Duncan BREMNER, No.15 Coy.,R.C.E.M.E.,C.A., being duly sworn, is examined by the Defending Offr :-

Q- Will you just make a statement to the Court as to what happened on October 3rd at the time you went to work in the morning?

A- With regard to time it would be about twenty to nine or a quarter to nine when I first went to see Sgt.-Major Ketola and I asked him if he could change my job to floor sweeper from the driver-mech job there, and the Sgt.-Major told me there would be no chance at all. I then asked him if he would parade me before the officer, being Capt. Whittingham, and Sgt.-Major Ketola answered me, "When we want you to see him, we'll send for you." Also I told the Sgt.-Major that he could take the trades pay which I was drawing as a driver-mech if he would get me off that job because I couldn't do the work, and Sgt.-Major Ketola said there was no chance at all of getting off it. From there I walked back with Sgt. Burns and was working at the bench and I told Sgt. Burns what happened between Sgt.-Major Ketola and myself. I told him I couldn't work at that job because I didn't know enough about it. I was only holding up the other fellows. As far as I know, S/Sgt. Holland, that's the time that S/Sgt. Holland came up and Sgt. Burns requested me or questioned me with the words, "Are you coming back to work?" or "Are you going back to work?" One of the two phrases was used. I said I'd gladly stay around and answer roll calls and be there but I couldn't work at that type of work. With that I think, that is all that occurred there. I can't remember the time but I

know when I walked over to the bathroom I think it was coming back that I met Sgt. Burns and the two RP's standing outside the RSM's office. Sgt. Burns called me over. I think he requested me to go back to work again. I told him I couldn't do that type of work and he, we talked; I don't remember exactly what we said, but we talked for about a minute and I asked Sgt. Burns again if I could see Sgt.-Major Ketola to be paraded before Capt. Whittingham. Sgt. Burns came out from the RSM's office and RSM Ketola had said that I couldn't be paraded. Then I just saw red and I walked into Capt. Whittingham's office. As far as that goes, I tried to explain to Capt. Whittingham just what I was doing, that I was trying to get off the job and that and before I knew it Capt. Whittingham had given me a minute to go back to work. I remember telling him I would go back to the place of work but I couldn't work at that job. As I remember it, Capt. Whittingham walked out of the office first and I followed Capt. Whittingham and, as far as I remember, I don't remember Sgt. Burns being there at all. I walked outside to where Sgt. Burns and the two RP's were standing and we talked for, I would say, a matter of a minute or so, and I think Sgt. Burns requested me again -- I am not sure -- to go back to work. I told him, "Not that type of work," and the two RP's suggested to me it would be better to go to the guardhouse and there I could see Sgt.-Major Black and get things straightened out from there. I remained in the guardhouse until the charge sheet came in.

Q- You didn't remember Sgt. Burns being in Capt. Whittingham's office?

A- No, sir.

Q- But he may have been there?

A- He may have, sir. I just didn't see him.

Q- What was your state of mind when you went into Capt. Whittingham's office? Were you cool or excited?

A- To tell you the truth I wasn't exactly excited. I was going in to try to get a change of ~~jobs~~ and try to get straightened out.

Q- Did Sgt. Burns ever give you a direct order?

A- Not that I remember, sir.

Q- When were you placed under close arrest?

A- It must have been, well, after dinnertime because when I went to the guardhouse I was there just a matter of ten or fifteen minutes to see Sgt.-Major Black, so it was after dinner I was placed under close arrest.

Q- Who went to dinner with you?

A- Two RP's. I think the same fellows that brought me in the workshop.

Q- Did they go as an escort or did they just go....

A- I don't know whether it was as an escort or not. They just said, "We better go to dinner now." I don't think they were escort.

CROSS-EXAMINED BY PROSECUTOR :-

Q- Bremner, how long had you been employed in the workshop under Sgt. Burns?

A- About I'd say six days previous to October 3rd.

Q- You had been working on the work which you said you can't do?

A- No, sir.

Q- What had you been doing?

A- I had been trying it, sir.

Q- And what did you find wrong with it?

A- Well, sir, to begin with I didn't know enough about the work to actually work on it, and I didn't like the work in the second place.

Q- Didn't like the work, that is the main thing?

A- No, sir.

Q- Are you not fed up and want a discharge?

A- I was fed up and I would like a discharge but that wasn't the whole reason,

Q- You were trying your best to get one?

A- No, sir.

Q- What did you tell Mr. Ketola and Sgt. Burns about a discharge?

A- Nothing that I know of, sir.

Q- Didn't you tell Sgt. Burns that you weren't going to work, that you wanted a discharge?

A- I told Sgt. Burns that I would gladly stay there but I couldn't do that type of work. If I mentioned anything about a discharge it was on the side; it was no direct statement to anything he asked me.

Q- Now, on this particular morning, the 3rd of October, you saw Mr. Ketola, is that right?

A- Yes, sir.

Q- And you were told to go back to your work?

A- Yes, sir.

Q- And you went over to the workshop?

A- That was in the workshop that Sgt.-Major Ketola was talking to me.

Q- Did you go over to your work?

A- As far as I remember I did, sir.

Q- Did you start to work?

A- No, sir. I explained to Sgt. Burns what had happened.

Q- What happened then? Did Sgt. Burns give you an order then to work?

A- No, sir, Sgt. Burns requested me to work.

Q- That was about a quarter to nine?

A- I imagine it would be a little later than that.

Q- In any event, you disappeared from your place of work for a while, did you?

A- Yes, sir, I went....

Q- About 11 o'clock Sgt. Burns came back and found you in the workshop?

A- At 11 o'clock, sir, I met Sgt. Burns coming from the bathroom with the two RP's.

Q- Did you go over to the workshop?

A- No, sir, that was in the workshop.

Q- Was Staff Holland with him then?

A- Not that I know of, sir.

Q- Staff Holland was with him around a quarter to nine or nine o'clock, the first time?

A- Staff Holland was with Burns the first time I seen him, sir.

Q- But not the second time?

A- No, sir.

Q- And Sgt. Burns started talking to you again, did he?

A- Yes, sir, with the two RP's.

Q- Now, he has given in evidence that he said,"I have to order you to go to work." Do you remember that?

A- No, sir.

Q- It doesn't strike a familiar chord at all?

A- No, sir. Sgt. Burns requested me, either "Are you going back to work?" or "Will you go back to work?"

Q- He just requested you?

A- Yes.

Q- That doesn't sound right. He had two provost there. Do you think he just asked you to go back to work?

A- Yes, sir. Sgt. Burns requested me. It was either a request or question to go back to work and I told Sgt. Burns I would gladly go back to the place of work but I couldn't work there.

Q- What did you do then?

A- The two RP's told me it would be better to go back to the guardhouse and straighten it out with Sgt.-Major Black.

Q- Instead of that you went to Capt. Whittingham's office?

A- No, sir, I went to Capt. Whittingham's office previously. This was just before we left the workshop.

Q- When did you see Capt. Whittingham, before or after seeing Sgt. Burns?

A- After, sir.

Q- What did you do there?

A- Well, I went into Capt. Whittingham's office and, as far as I know, I tried to explain it to him, just what

had happened and tried to get a different job out of it, a change.

Q- Do you remember him ordering you to return to work, "I order you to return to your place of work in one minute."

A- I remember him giving me one minute.

Q- What did you do?

A- That is the time I walked out with the two RP's.

Q- You didn't return to your place of work in one minute?

A- No, sir.

Q- Why not?

A- I don't know. I just walked out with the two RP's. Sgt. Burns requested me to go back to work and the two RP's told me it would be better to go to the guardhouse and straighten it out with RSM Black.

Q- That would be three or four minutes later?

A- Yes, sir, a couple of minutes.

Q- In other words, in those three or four minutes you discussed whether you would or would not do it? In other words, you didn't follow Capt. Whittingham's order?

A- No, sir.

RE-EXAMINED BY DEFENDING OFFR :-

Q- Did you request to see Capt. Whittingham before you went in to see him?

A- Yes, sir, through Sgt. Burns.

Q- Is that the only time you requested it?

A- No, sir, I requested Sgt.-Major Ketola to get me an interview with him.

Q- What time was it that you asked Sgt. Burns to get you an interview with Capt. Whittingham? Was that immediately before you went into Capt. Whittingham's office?

A- Yes, sir.

----- The accused resumes his seat.

SECOND WITNESS FOR DEFENCE

B-91059, L/Cpl. K. J. B R I G H T, No.15 Coy.,R.C.E.M.E.,C.A., being duly sworn, is examined by Defending Offr :-

Q- Who came over to get you at the guardhouse on the morning of October 3rd?

A- Sgt. Burns, sir.

Q- When you first came over to the workshop, where did you find the accused?

A- On the east side of the MT Workshop by the hallway running between the two buildings.

Q- Who was with you at the time?

A- Sgt. Burns and Pte. Mepham.

Q- Was the accused given an order to go to work at that time by Sgt. Burns?

A- I don't remember exactly, sir.

Q- Did you stand and talk to the accused?

A- Yes, we stood and talked to the accused, sir.

Q- Did the accused refuse to go to work at that time?

A- Well, he did say he'd go back to his job but that he couldn't do the work, he didn't know how.

Q- Then after the accused came out of Capt. Whittingham's office, did Sgt. Burns give him an order to go back to work then?

COURT :- That is a leading question.

DEFENDING OFFR :- (resuming)

Q- Can you tell the Court exactly what happened after the accused came out of Capt. Whittingham's office?

A- I didn't take much notice of what they were talking about. The accused was talking to Sgt. Burns. Then I remember the accused saying that he would go back to the job but he couldn't do the work, he didn't know the work so he couldn't do it.

Q- What happened after that?

A- He wished to see the O.C. so I asked him to go back to the RP office and we would straighten it out from there.

Q- Did you put the accused under close arrest?

A- Not right at the time, not until we got over to the office.

CROSS-EXAMINED BY PROSECUTOR :-

Q- When you were with Sgt. Burns, you say you don't remember whether an order was given or not. Is it possible an order was given that you didn't hear?

A- It may have been given. I didn't just take notice of it for to remember it up to this date.

Q- While you were with Sgt. Burns did the accused return to work or not?

A- No, he didn't return to work.

Q- When the accused came out of Capt. Whittingham's office, about how long was he outside the office until he went over to the guardroom with you?

A- It seems to me to be about five minutes, but I wouldn't say for sure.

Q- During that time he was talking to you about returning to work?

A- No, we were, more or less, standing around there and waiting for him and the Sgt. to make up their minds what they were going to do.

Q- In other words, there were no restrictions upon his returning to work at that time?

A- It didn't seem to me.

Q- You were the only one that could place a restriction on him?

A- I was waiting for the Sergeant to give me an order.

Q- No order was given at that time?

A- No, sir.

Q- In other words, he had about five minutes during which he could have returned to work?

A- Yes, sir.

----- Defending Offr declines to re-examine.

QUESTIONED BY COURT :-

Q- You were in charge of the regimental police that day?

A- No, sir, I wasn't.

Q- What were you in charge of?

A- I was one of the crew of RP's working that day.

Q- You were a member of the RP?

A- Right, sir.

----- The witness withdraws.

----- The Defending Offr makes a closing address.

----- The Prosecutor makes a closing address.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

JCC

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer, sir. (The Defending Offr addresses the Court.)

JCC

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"Y" J.C. Campbell Maj-i/c Pers Scu

M.F.B. 355
7M—8-40 (6409-1)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A. 23407	Craftsman	BREMNER, John Duncan	No. 15 Coy., RCEME

1. The following is a fair and true summary of the entries in the Field ~~xxxxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ Conduct sheets ~~xxxxxxxxxxxxxxxxxx~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~xxxxxxxxxx~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	one times	A.W.L.	two times
For		times	Failing to comply with Camp Standing Order	one times
For		times	Drunkenness	one times
For		times		times

~~xxxxxxxxxxxxxxxxxxxx

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Unit Regiment Name..... of..... Air Force

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~5th~~ 10th day of October, 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(E.W.Cole)Lieut.,
A/Regt'l Officer, No. 15 Coy., R.C.E.M.E., CA

"Z"

Reg. No. A-23407 Name BREMNER John Duncan Corps RCASC Date of Attestment or enrolment 10 Nov 42 Date of Birth 21 Jun 1926

Signature O.C. Company, etc. Captain Sheet No. 9B9 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

J C Campbell Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 12 May 45					
Field	1 Mar 44	Pte		AA15(1) AWL from 1330 hrs 1 Mar 44 to 1500 hrs 1 Mar 44	Documentary	Awarded forf 7 dys pay	2 Mar 44	Major J.B. Mothusier	
Field	1 Mar 44	Pte	ONE	AA19 DRUNKENNESS	Documentary	Admonished	2 Mar 44	Major J.B. Mothusier	
Field	2 Jul 44	Pte		AA11 Failing to comply with Camp Standing Orders	Documentary	Awarded forf 10 dys pay	4 Jul 44	Lt Col CS Hadley	
Field	31 Oct 44	Pte		AA15(1) AWL from 1300 hrs 31 Oct 44 to 2145 hrs 7 Nov 44	Documentary	Awarded forf 12 dys pay	8 Nov 44	Lt Col HB McIntyre	Auto forf 8 dys pay FAM I 149(1(a(

Bad Jaw

certified true copy. E M Cole Capt

M.F.M. 6—500M—6-44 (5386) HQ 1000-10-1059

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks

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Certified True Copy:

E.W. Cole Lieut

(E.W. Cole) Lieut., No. 15 Coy., R.C.E.M.E.
Officer in charge of the
Original Document.

MEDICAL OFFICER'S REPORT

gcxe

I certify that No. A. 23407 Cfn. Bremner, J.D.

of No. 15 Coy., RCEME is in a good state of health,

and fit to undergo Trial by Court martial.

C B Coghill Capt. RCAMC
Medical Officer
Att. #15 Coy., RCEME, CA.

Station Camp Borden, Ontario.

Date 10 Oct 45

M. F. B. 246
25M—6-42 (4744)
H.Q. 1773-39 480

7

H.Q.C.55-B-2052 (JAG/D-8)
Your CB 40-B-5929

23 Oct 45

The Commander,
Camp Borden Military Camp, Ont.

STANDING COURT-MARTIAL

A.23407 Cfn John Duncan Bremner,
No. 15 Coy., R.C.E.M.E., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R. J. Orde) Brigadier
Judge Advocate General.

MO/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-2052
M.D. CR 40-B-5929

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. A-23407 Name BREMNER, John Duncan

Rank Cfn Unit No 15 Coy RCEME, CA

Charge (1) AA 9(2) WOAS, Disobeying a lawful...

(2) AA 9(2) WOAS, Disobeying a lawful....

Date of Crime (1) and (2) 3-10-45.

Date of Arrest Charge Signed 5-10-45.

Orders for D.C.M.

Place and Date of Trial Camp Borden; 10-10-45.

Sentence Det 60 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40362

Date 16-10-45.

MEMO

Borden - No 15 Coy RCEME CA

for Judge Advocate-General

10M-8-45(M-139)

15 Oct 45

I am of the opinion that there is not sufficient evidence before the Court on the 1st charge to warrant a finding of Guilty.

Passed
[illegible]

However the 2nd charge has, in my opinion been proven and the sentence can be properly made on the 2nd charge.

[illegible]

C.B. 40-B-5929 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
A R M Y

Headquarters, Camp Borden,
Camp Borden, Ontario.

11 Oct 45.

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C-55-B-2052

STANDING COURT-MARTIAL
A.23407, Cfn.J.D. BREMNER
No.15 Coy.,RCEME.

Herewith proceedings of the m/n trial by Standing Court-Martial, for registration and custody, please.

J. C. A. Campbell major

(J. C. A. Campbell), Major,
President,
Standing Court-Martial.

40362

H.Q.C. 55-B-2053

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BOUCHER, ROLLAND D-63558 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2053

CENTRAL REGISTRY	DATE	F.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					ADMIN NEW FILE	CR	15-10-45
OCT 25 1945	25/10	PA		Jay	To note pls		23-10-45
				CMBR			
NOV 19 1945	30-1-46	BA		Adm 3	Recommendation		NOV 16 1945
JAN 11 1946	6-1-46			Admin			
JAN 30 1946	29-1-46			D. Adm.			
MAR 13 1946	13-3-46			Admin			
				J. A. G.			
MAR 28 1946	1/4/46	PA		Admin	To note Commission file	AB	29/3/46
APR 2 1946							

Gt purpose for which referred cannot be expressed on one line, add minute to file and Minute

Per Recommendation C.R. NOV - 6 1945

Per Recommendation C.R. DEC 29 1945

BER B.F. JAN 30 1946

With Papers C.R. MAR 12 1946

Per Recommendation C.R. MAR 26 1946

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

M. 1-B-5144 ADIS
1-C-3505
1-C-3784
1-F-236
1-L-2177

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

MONTREAL, 2 Mar 46

CENTRAL REGISTRY ARMY
CONTROL
13700
MAR 22 1946
File 6-55-B-2053
Chg. to
Entered

The Secretary,
Department of National Defence,
OTTAWA, Ontario

COMPLETED AFsA 3104 and
FORMS OF REMISSION

Att hereto are the marginally noted forms pertaining to the undermentioned:

D63558	BOUCHER,	R.
D125177	CARRIERE,	N.
D128099	CHARRON,	PE
D57446	FRANCOEUR	A.
D46800	LESLIE,	AFW

(E.J.Renaud) Maj-Gen
DOC MD 4

encl

noted
GJR

Substitute
AF A3104

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

1. Case of No. D63558 Pte BOUCHER R Unit Fus MR

Sentenced to detn for 2 yrs ~~and DI~~ on 17 May 45

Age on, and date of, enlistment 18 yrs 17 Dec 41 Term of service, duration.

II. To

Superior Military Authority

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place

Date Confirming Authority

III. I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) and be reviewed on

Place
Date

Superior Military Authority

(For action on review, see Paragraph VI.)

IV. To

Superior Military Authority.

This man was again convicted on and sentenced to and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place
Date Confirming Authority

V. I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) with the previous sentence of
and be reviewed on

Place
Date Superior Military Authority.

16

VI. - Action on Review
(Whether the sentence or sentences are suspended or in execution).

Any Reviewing Authority under Section 57 of the Army Act may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc, considered upon review should be posted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of OC Prison or Detention Barracks.
	NO REMISSION- RETURN TO CANADA IN CUSTODY UNDER SENTENCE	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 1 SEP 1945	
13 Mar 46	Sentence remitted wef 16 Mar 46	(E.J.Renaud) Major General DOC MD 4 (S.ECHENBERG) Colonel, Commanding No.4 D.D.CA.	Released from det on 16 Mar 46.

(Continued on page 4).

Charge or charges giving particulars	Date of Offence	Date of Trial
VII.- First Trial AA Sec 15(1) AWL from 2230 hrs 4 Apr 45 until 1830 hrs 26 Apr 45 (Absent 21 days 20 hrs) Signature of Officer making entry	4 Apr 45	17 May 45
VIII. - Second trial. Signature of Officer making entry		

IX. - CO's remarks and recommendations on First Trial.

Date	Signature
24 May 45	Normal review. Accused committed to: awaiting despatch to Ch. Reb. & Pr. Cdn Comdg. 1 Cdn Disciplinary Centre, Lt-Col.

X. - Confirming Officer's remarks and recommendations on First Trial.

Date	Signature
31 May 45	Normal Review Commander 2 Cdn Base Rft Gp

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-
District File No. M.1- B-5144

PART I

No. D 63558 Rank Pte. Name Boucher R.
Unit No. 4 DD

PART II

Date of Trial 17th May, 1945
Charge (s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence 2years detention
Date of sentence 17th May 1945
Confirmation -- (a) Authority:
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention as of 16 Mar 46

Signed at Montreal this 13th day of ~~June~~ Mar 46

(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~xxxxxxxxxxx~~) (~~xxxxxxxxxxx~~)* promulgated and extracts taken at Montreal South,Que. this 19th day of March 1946 (1)

Ass- Officer i/c Documents. (J.A. BROOKS) Lieut., R.C.Armd.C.,C.A.,att'd to No.4 District Depot,C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D-635558 Rank Pte. Name BOUCHER, R. Standing ~~xxxxxxx~~ Court.
The sentence of 2years detention awarded by ~~xxxxxxx~~ Court Martial on the 17th May 1945 has been remitted on the 16th March 1946 by D.O.C. Military District No.4, Montreal,Que.

UNIT 4 District Depot,C.A.

Certified true Extract of Daily Orders Part II of No.4 District Depot,C.A.
No. 67 Place Jacques Cartier Barracks, Montreal South,Que. Date 19th March, 1946

Adjutant

(H.de G. STEWART) Capt-Adjt. General List,C.A.,att'd to No.4 District Depot,C.A.

* Strike out and initial words not applicable.

M. 1-B-5144 ADIS
1-C-3505
1-C-3784
1-F-236
1-L-2177

DEPARTMENT OF NATIONAL DEFENCE
-ARMY-

MONTREAL, 2. Mar 46

The Secretary,
Department of National Defence,
OTTAWA, Ontario

COMPLETED AFsA 3104 and
FORMS OF REMISSION

Att hereto are the marginally noted forms pertaining to the undermentioned:

D63558	BOUCHER,	R.
D125177	CARRIERE,	N.
D128099	CHARRON,	PE
D57446	FRANCOEUR	A.
D46800	LESLIE,	AFW

(E.J.Renaud) Maj-Gen
DOC MD 4

encl

CB 1-4-8-2 (SCA)
and Personal File

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

Headquarters, Camp Borden,
Camp Borden, Ontario,
6 MAR 46

District Officer Commanding,
Military District No. 4
MONTREAL, Quebec.

Officer Commanding,
No. 2 District Depot,
TORONTO, Ontario.

Officer Commanding,
No. 86 M.D.B.,
CAMP BORDEN, Ontario.

CENTRAL REGISTRY Army
MAR 19 1946
11691
MAR 12
File 8J3-B-2053
Chgd to
Referred to admin

D 63558 Pte. BOUCHER, R. CARO 1029 (8)
SUS - XUR at No. 86 M.D.B.

The m/n soldier under sentence by Court Martial O/S and presently serving his sentence in No. 86 M.D.B. has been recommended for remission of the rest of his sentence on 17 Feb 46 by C M B R under Authority HQC 9055-B-2053 Adm 3(b)2.

2. The Commander, Camp Borden is prepared to remit the balance of sentence in this case and the DOC MD 4 is requested to carry out this remission. In this connection Report on Conduct and AFA 3104 are enclosed for this soldier. May these forms be forwarded to NDHQ when they have served their purpose.

3. This SUS is therefore being despatched to his home District Depot in accordance with NDHQ letter HQC 9039-1-1(Adm3) dated 31 Oct 45 (R863A) for discharge as indicated after his name.

4. This SUS will be despatched to No. 4 D.D. on 7 Mar 46 as per schedule below. O.C. No. 48 Coy. C. Pro. C. Camp Borden will provide necessary escort and arrange movement including necessary meals and transportation en route.

Train Schedule:

Leave	Allandale	0510 Hrs	7 Mar 46
Arrive	Toronto	0700 Hrs	7 Mar 46
Leave	Toronto	0915 Hrs	7 Mar 46
Arrive	Montreal	1745 Hrs	7 Mar 46

noted
JCK

Maj Sargeant Cpl
for (J.F. Bingham)
Colonel
T/Commander, Camp Borden.

Copies to: The Secretary,
Department of National Defence,
OTTAWA, Ontario.

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

Officer Commanding,
No. 48 Coy. C. Pro. C.
CAMP BORDEN, Ontario.

Officer Commanding,
No. 4 District Depot,
MONTREAL, Quebec.

File CB 1-4-8-2 (SCA)
& Pers Files

DEPARTMENT OF NATIONAL DEFENCE
- A R M Y -

Headquarters Camp Borden,
Camp Borden, Ontario,
11 JAN 46.

PA on file
AMA

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUS - HMS KHEDIVE

Receipt is acknowledged of AFA 3104 and CMHQ letter for under-mentioned personnel.

D.163157	Dionne, P.E. Adm 3 (b)2	C 55-D-1394
B.159109	Cameron D.E.	C 55-C-1134
D.143116	Vandermeerschen, L.	C 55-V-268
B.22678	Vandervliet, H.	C 55-V-290
K.52795	Taylor, O.J.	C 55-T-788
D.56842	St Laurent, A.	C 55-S-1629
K.574552	Smith, W.H.	C 55-S-559
A.106134	Smith, G.W.	C 55-S-1740
F.56576	MacDonald, J.B.	C 55-M-1993
K.37377	MacDonald, G.A.	C 55-M-1992
D.72163	Grandchamp, R.	C 55-G-222
G.2650	Gibson, G.	C 55-G-1129
F.55616	Francis, H.	C 55-F-580
B.138275	Dart, L.R.	C 55-D-1207
E.22490	Couture, M.	C 55-C-1489
D.59372	Daigneault, G.	C 55-D-1385
C.43503	Cousineau, M.	C 55-C-1589
L.108448	Christianson, C.P.	C 55-C-1435
E.5477	Chouinard, H.	C 55-C-1436
D.6831	Chard, W.F.	C 55-C-1491
B.83908	Cassels, R.P.	C 55-C-1460
D.63558	Boucher, R.	C 55-B-2053
B.37643	Bigley, J.H.	C 55-B-2269
D.144190	Belanger, L.N.	C 55-B-1902
B.267	Beamer, H.D.	C 55-B-1953
D.137961	Barette, J.J.	C 55-B-2183
F.36113	Banks, L.H.	Unnumbered
D.157656	Bailly, A.E.	C 55-B-2271
B.92782	Agnew, W.	C 55-A-477

(A.C. Spencer)
Major-General
Commander, Camp Borden.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

10 Jan 46

HQS 8536-6 Vol 5 xxxxxxxxxxxxxxx C 55-B-2053

Adm 3(5)2

Commander,
Camp Borden,
Ontario.

D.63558 Boucher R.
SUB - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is AFA3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(5).

3. ~~It will be noted that this SUB was convicted and sentenced by a civil court under CARO 1029(5).~~

4. The sentence awarded has been reviewed by CMBR who have recommended remission on 17 Feb 46.

5. Ack.

(E.G. Weeks)
Major-General
Adjutant-General

Case No. 6831

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No., Rank and Name: D-63558 Pte. BOUCHER, P.

2. Unit at date of offence: 10 Cdn Base Reinforcement Bn.

3. Charge: Sec 15(1) AWL from 2030 hrs 4 Apr 45 till apprehended at 1830 hrs 26 Apr 45. Length of Absence 21 days.

Plea: Guilty

4. Place and Date of Trial: Belgium, 17 May 45.
(FGCM) (~~SCC~~) (~~GCCC~~)

5. Finding: Guilty

6. (a) Sentence: 2 years detention and discharge with Ignominy.

(b) Date of sentence: 17 May 45

7. Date of Confirmation: 19 May 45

8. Date of Promulgation: 24 May 45

9. Being served at: To be ascertained o/s in N.D.

21

(N.B. - Discharged under RO 1029 ( ) for
ref)

CONDUCT

11. (a) Prior to conviction: Offence Date Sentence

(i) Civil Convictions Nil

(ii) Courts-Martial. (1) Awarded 180 days detention by F.G.C.M. in Jan 44 for AWL of 13 days.
(2) Awarded 18 months detention in Jul 44 by RCCM for AWL of 44 days. (This sentence was suspended in Sep 44.)

(iii) Summary Convictions 7 offences of AWL.

(b) After conviction: Good.

(c) Date of ~~enrolment~~/enlistment 17 Dec 41 Present Age 23

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Item 10 has been omitted.

The accused called no witnesses and made no statement. This man served with the Fusiliers Mont Royal till hospitalized in Sep 44. After conviction, this soldier states that his recent bad conduct was caused by his disappointment in not being sent back to the Fusiliers Mont Royal.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

C.M.H.Q. Serve Sentence in full and thereafter be discharged for misconduct.

Rev. Offr.: Recommend this soldier serve one half of his sentence and be released approximately 16 Nov 46.

Reviewed by A. M. Stephenson
(A. M. STEPHENSON) Major.

14. Recommendation of the Board:

For remission on 17 Feb 46
or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date NOV 15 1945

N. A. Stalwell
Secretary
Courts-Martial Board of Review.

H.Q.C. 55-B-2053
THIS COPY FOR: M.D. 10/Boucher R/1

FIELD GNERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. GS D-63558 Name BOUCHER, Rolland

Rank Pte Unit on strenght 20 Coy 10 CBR Bn

Charge AA 15 (1) WOAS AWL

Date of Crime 4-4-45

Date of Arrest 26-4-45 Charge Signed 1-5-45

Orders for ~~D.C.M.~~ FGCM By Ord Brig Comd 2 CBRG

Place and Date of Trial In the field 17-5-45

Sentence Det 2 years Discharge with ignominy

Date of Confirmation 19-5-45

Date of Promulgation 24-5-45

Entered in Records of J.A.G. as No. 4348

Date 24-10-45

MEMO Balance of sentence remitted by Conf. Auth.

Reviewed at CMHQ

19

for Judge Advocate-General

10M-8-45(M-189)

Quote No. HQC.55-B-2053(JAG/D-6)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada

24 Oct 45

Canadian Military Headquarters,
2 Cookspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial

D.63558 Pte. Boucher, R.

1. Receipt is acknowledged of your 10/Boucher, R/4 dated 4 Oct 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

for (R.J. Orde), Brigadier
Judge Advocate-General.

ELN/fdf

18

BOUCHER
CONFIDENTIAL

AIR MAIL

Quote No. 10/Boucher, R/4

CANADIAN MILITARY HEADQUARTERS

LONDON 4 Oct 45.

The Secretary,
Department of National Defence,
OTTAWA, Canada.

C.55-B-2053

D-63558 Pte Boucher, R.

1. The m/n soldier is now serving a sentence of 2 years detention awarded by FGCM 17 May 45 for an absence without leave from which he was apprehended after 21 days (AA Sec 15(1)).

2. This soldier was awarded a sentence of 18 months detention by FGCM 8 Jul 44 for an absence without leave from which he was apprehended after 64 days (AA Sec 15(1)). This sentence was suspended with effect 12 Sep 44 in order that this soldier could be made available as a reinforcement for the field. In order to simplify this soldier's return to Canada it was directed that the remainder of this sentence be remitted.

3. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which he should be released if he continues to do so, is 16 Sep 46.

4. This soldier enlisted 17 Dec 41 at Montreal, P.Q. and he is now 23 years of age. In addition to the offences mentioned in paras 1 and 2 above he has since enlistment been found guilty of 8 offences under AA Sec 15(1). He has had 1 previous FGCM, on 6 Jan 44, when he was awarded a sentence of 180 days detention for an absence without leave of 13 days (AA Sec 15(1)).

5. This soldier has been medically examined and certified as fit to undergo his sentence.

6. The Neuropsychiatrist and S.P.O. who have examined this soldier state that he was granted suspension of his sentence awarded by FGCM 8 Jul 44 but due to hospitalization was not despatched to 10 Bn 2 CBRG as a reinforcement for Fus M.R. until Feb 45; that he was placed on draft 3 times but taken off at the last minute; that after the first disappointment he went absent without leave for 4 days and was awarded 28 days F.P. in Mar 45; that after his 3rd disappointment he went absent without leave for 21 days in respect of which his FGCM of 17 May 45 was held; that he is an individual of low average intelligence, immature in his judgement and mildly irresponsible who has failed to realize his obligation to the army; that he shows no remorse over his behaviour; that there is not sufficient reason to alter his S rating; and that he is unlikely to give consistent service in any capacity.

7. In view of this soldier's very poor record since enlistment, the fact that he failed to take advantage of the suspension of his sentence of 8 Jul 44 and his apparent determined effort to avoid effective duty in an operational theatre as outlined in para 6 above, it is considered that he should be required to serve his sentence of detention in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier deliberately misconducted himself in an operational theatre in order to avoid active service; that he must have realized that such misconduct would probably result in his discharge; and that he had such an end in view.

(over)

17

4326

1/39B CMHQ 1060-73
G.P.O. P & S. 3816 (6147)

8. It has accordingly been directed, pursuant to P.C. 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of the FGCM held 17 May 45, together with original A.F.A3104 in respect thereof on which this direction has been endorsed.

for (E.G. Weeks), Major-General
In Charge of Administration
Canadian Military Headquarters.

Enc. 2.

Copy to OIC Records.

Pre Record - 106

RECEIVED 7 - JUN 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/16pk (6000) 4/38B

Convened by Brig J.G Spragge) DSO MBE ED Comd 2 CBRG dated 12 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-63558	Pte		Rolland	BOUCHER	1 Ech HQ 21 Army Gp.

PROCEEDINGS REVIEWED

Capt 5 Sept 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED

Capt

Offr Rec. 1 Ech HQ 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 17 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

32173.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 10.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans N/A

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D MacKENZIE	Essex Scot X-9 List 3 Cdn NETD
Member	CAPT.	G.T. CLARK	CDN C.M. CENTRE
Member	CAPT.	R.E. DOWLER	CDN. C.M. CENTRE
Judge-Advocate	N/A		
Prosecutor	LT	G.K. BISSETT	CDN. C.M. CENTRE
Defending Offr	LT.	L.L. LAZURE	R. de CHAUD. 10 CURBN

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D-63558 Pte Rolland BOUCHER before arraignment make(s) (no) ~~(s)~~ plea

.....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1 CBRG. 14.7.45.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(~~s~~), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(~~s~~) and call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(~~s~~). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence (or accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans....NO.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex....B..... and Ex....C..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans....YES, THROUGH MY DEFENDING OFFICER.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extract entered as No. 4348 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 25 day of Oct 19 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-63558 Pte Rolland BOUCHER Fus N R 10 GBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for two (2) years and to be discharged with ignominy from His Majesty's service.

(Sgd) N/A Judge-Advocate, if any. 17 May 45 Date awarded. (Sgd) Donald MacKenzie Brown President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further order~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) H G Maggs

Date 19 May 45. Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D63558 PTE ROLLAND BOUCHER	24 MAY 45	J Medhurst LT-COL Comdg, 1 Cdn Disciplinary Centre

RP# 309 23 May 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Medical Officers Certificate

I certify that I have this day examined D63558 Pte Boucher R and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 17 May 45

G. Smith Capt
Medical Officer

10 CBR Bde
Unit

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (or, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(a).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (A).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML p* 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-63558	Pte		Rolland	BOUCHER	Fus M R 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 12 May 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D MacKENZIE	Essex Scot X-9 List 3 Cdn MTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G T CLARK	Cdn Courts-Martial Centre
Capt	P E DOWLER	Cdn Courts-Martial Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.)
(J G Maggs)

Brigadier (Rank.)

Date 12 May 45

Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA85 (In lieu of AFA3)
40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

In the case of D-63558 Pte. Rolland BOUCHER (Fus M.R.) on the strength of 20 Coy, 10 C.B.R. Bn., a soldier of the Cdn Army Overseas.

is charged with

FIRST CHARGE
AA Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 2230 hrs on the 4 Apr 45 absented himself without leave until apprehended by Cdn Provost Corps at 1830 hrs 26 Apr 45
Total absence: 21 days, 20 hrs.

(J. RUNCIE) Lt.-Col.
O.C., 10 C.B.R. Bn.

In the Field
1 May 45

To be tried by FIELD GENERAL COURT MARTIAL.

(J. C. Spragge) Brigadier,
Commander
2 Cdn Base Rft Gp

In the Field
12 May 45

EXA
DM

SUMMARY OF EVIDENCE

In the case of D-63558 Pte. Rolland BOUCHER(F.M.R.) on the strength of 20 Coy, 10 C.B.R. Bn., a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

FIRST WITNESS
Prosecution

E-42160 Sgt. BLANCHETTE, V., on the strength of 20 Coy, 10 C.B.R. B.

I certify that due to the exigencies of the service, this witness is not immediately available to give evidence. Statement signed by Sgt. Blanchette, V. was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

Albert G. Decelles
(A.G. DECELLES) Lieut.
Officer detailed to take
Summary of Evidence

I do not require the attendence of E-42160 Sgt. Blanchette V. for the purpose of cross-examination.

R. Boucher
(R. BOUCHER) Pte D-63558

SECOND WITNESS
Prosecution

D-156742 Sgt. DUBOIS, G. (C.I.C.) on the strength of 20 Coy, 10 CBR Bn having been duly sworn states:

I am D-156742 Sgt. DUBOIS, G. (C.I.C.) on the strength of 20 Coy, 10 CBR Bn. D-63558 Pte. BOUCHER, R., whom I now identify by his identity discs, was absent from Tattoo roll call, which I took, on the night of 4 Apr 45, at 2230 hrs. During the following days, I called his name on Platoon Roll Calls and he was still absent until I learned he had been apprehended on the 26 Apr 45.

R.P. 83 (b) complied with.

The accused declines to cross-examine this witness.

G. Dubois
(G. DUBOIS) Sgt. D-156742

DOCUMENTARY EVIDENCE 1. Statement of Sgt. Blanchette, V., first witness.

2. Certificate Under Army Act Section 163(i)(j) produced as evidence was read over to the accused, marked Exhibit "B", and signed by me.

3. A Certified True Copy of Page XIII Classification Medicale of Service Book. was read over to the accused marked Exhibit "C", and signed by me.

Albert G. Decelles
(A.G. DECELLES) Lieut.
Officer detailed to take
Summary of Evidence

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The accused having been cautioned as follows: "Do you wish to make any statment, or give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but what-so-ever you may say or any evidence you may give, will be taken down in writing and may be used in evidence," declines to give any evidence and reserves his defence.

I certify that the fore going Summary of Evidence, consisting of two (2) pages was taken down in writing by me in the presence and hearing of the accused.

I certify that R.P. 4 (C)(D)(E) and (F) AND (G) have been complied with.

Albert G Decelles
(A.G. DECELLES) Lieut.
Officer detailed to take
Summary of Evidence

10

LIST OF WITNESSES

FOR THE PROSECUTION

E-42160	Sgt	BLANCHETTE,	V. (P.M.R.)	20 Coy, 10 C.B.R. Bn.
D-156742	Sgt	DUBOIS,	G. (C.I.C.)	20 Coy, 10 C.B.R. Bn.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" - Statement of E-42160 Sgt. Blanchette, V.

Exhibit "B" - Certificate Under Army Act Section 163 (i)(j).

Exhibit "C" - Certified True Copy of Page XIII of accused MEM Part I.

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE, A COPY OF THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, THE LIST OF WITNESSES AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

R Boucher

(R. BOUCHER) Pte D-63558

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STATEMENT OF E-42160 Sgt., A/C.S.M. BLANCHETTE, V.

E-42160 Sgt. A/C.S.M., BLANCHETTE, V., (Fus.M.R.) on the strength of 20 Coy, 10 C.B.R. Bn., having been duly sworn states:

I am E-42160 Sgt., A/C.S.M. BLANCHETTE, V., (Fus.M.R.) of 20 Coy 10 C.B.R. Bn. As A/C.S.M. of 20 Coy, at 0815 hrs every day from the Tattoo Roll Call I mustered the parade of my Coy. Every day the name of D-63558 Pte. BOUCHER, R., (Fus.M.R.) who is on the strength of my Coy was called and he did not answer. He was reported as an absentee until the Coy was advised on 27 Apr 45 that he had been apprehended.

V. Blanchette A/CSM
(V. BLANCHETTE) Sgt. A/CSM
E-42160

Exhibit "A"
Albert S. Decelles.
Officer detailed to take
Summary of Evidence

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CERTIFICATE UNDER ARMY ACT. SECTION 163 (1) (j)

Certified that No. D.83558 Rank. Pte Name. Boucher R.
of the F.M.R. 20 Coy 10 Bn 2 C.B.R.G. Regt, ~~xxxxxxxxxxxxxxxx~~ No. L/72
was apprehended by
Rank. L/cpl Name. Puff J.E.
Ghent Detach at. Ghent Belgium of the 2 Cdn L of C Prov Coy
day of. April 45 at. 1830 hrs, on the 26
He was wearing Military Uniform as an absentee without leave.
~~xxxxxxxxxxxxxxxx~~ at the time of his ~~xxxxxxxxx~~
Arrest.

Place. Ghent Belgium

Date. 26 April 45

Canadian Provost Corps
J. Moon Lieut
2 Cdn L of C Prov Coy.
21 Army Grp.

Lieut i/c Ghent Detach

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EXHIBIT "B"
Officer detailed to take
Summary of Evidence
Albert G. Decelles

10 CDN BASE RFT. BN.
28 APR 1945
CONL of C
PROVOST CORPS

Classification Medicale

Date.	Categoriex ou grade	Examinateur medical des recrues, ou autre autorite medicale	Signature du medecin
16-12-41 20- 6-42 17 -12-41	"A" "A"	Medical Board Re-checked X-Ray Chest (102684 N)	J. C. Steen

EXHIBIT "C"
Albert G. Decelles
Officer Detailed to take
Summary of Evidence.

CERTIFIED TRUE COPY OF PAGE XIII - D-63558 Pte. Rolland BOUCHER's
MBM Part 1.
Officer i/c Regimental Books .....Capt

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Ex B

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED. ARMY FORM B

Number	Rank	Name	Regiment (or as the case may be)
H-63558	Pte	Rolland BOUCHER	10 C.B.R. Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months.	Since Enlistment.
For	AA Sec 15(1) 2 times	8 times
For	~~times~~	~~times~~
For	~~times~~	~~times~~
For	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct.~~ nil

or

~~There are no entries in the conduct sheets of the accused.~~ nil

2. ~~The accused has not been previously convicted, or~~ nil

Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for~~ nil ~~.....beginning on the day of.....~~ nil

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 235 days in military custody, making a total of 235 days of which NIL days were spent in hospital.

5. The present age of accused according to his ~~record of service~~ attestation paper is 23 yrs, 12 dys.

6. The date of his ~~commission~~ nil attestation specified in his ~~record of service~~ attestation paper nil is 17 Dec 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs, 4 mths, 15 dys.

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs, 4 mths, 15 dys service.

9. The accused is entitled to reckon 3 yrs, 4 mths, 15 dys service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward): nil

11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of..... nil

12. (In the case of an officer.) The accused holds in the army the rank of..... nil dated....., and in his regiment (or corps or department) the rank of..... nil dated.....

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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-63558 Rank Pte Name Rolland BOUCHER of 10 CBR Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating those convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A.47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
	(1) AA Sec 15(1) (2) AA Sec 15(1)	F.G.C.M. 6 Jan 44	180 days Det Remainder of sentence awd 6 Jan 44 (180) days det is remitted (Rem 124 days pay Total forf 210 dys pay	54 days.
	AA Sec 15(1)	F.G.C.M. 8 Jul 44	18 mos det. Stoppages pay cost of apreh. SL.O.2 172(8) FRAI Forfs 15 dys pay 149(1)(a)(ii) FRAI Forfs 18 mos pay 149(1)(b) FRAI Forfs 64 dys pay 149(1)(a) FRAI	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17 day of May 45

.....

Rank ..... Date of Promotion

In the rank of ..... years,

In the rank of ..... years,

In the rank of ..... years,

(INSTRUCTIONS.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

15. The accused has served as a non-commissioned officer continuously, without reduce-tion, to the present date.

No B-63558 Name BOUCHER, R. Sqn, Battery, or Company

Date of last entry in Company Conduct Sheet | No and date of last drunk | Corps | Period not reckoning towards freedom from extra fine | Date of enlistment | Sheet No | GC Badges | Signature OC Company, etc | Service or Proficiency Pay | Character

MFM 6 (AFB 122) 40/P22/136 (3428)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sorel PQ		Pte		AWL AA 15(1) 2 days 3 hrs 10 mins		14 days CB & 8 days pay	23 Mar 43		Total Forf 11 days pay
Sorel PQ		Pte		AWL AA 15(1) 4 days 22 hrs 30 mins		27 days Detn	9 Apr 42		Total forf 32 days pay
Field		Pte		AWL AA 15(1)		7 days CB	3 Aug 43		Forf 9 dys pay
Field		Pte		AWL AA 15(1)		14 days CB.	12 Nov 43		Forf 30 dys pay
Field		Pte	(1)	AWL AA 15(1)		180 days Det	6 Jan 44	FGCM	Total forf 210 days pay
			(2)	AWL AA 15(1)					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte				Remainder of sentence awd 6 Jan 44 (180) days det is remitted (Rem 124 days pay). £1.0.2.	2 Mar 44	FGCM	
Field	20 Apr 44	Pte		AA 15(1) WOAS A WL from 1000 hrs 20 Apr 22 until 1030 hrs 23 Jan 44. (Total absent 64 dys 30 mins) (Cost of app £1.0.2)		18 mos detn. Stop of pay (Cost of apprehn) £1.0.2. FR&I 172(8) Forfs 15 dys pay Forfs 18 mos pay	8 Jul 44 149(1)(c)(ii) FR&I FR&I 149(1)(b)	FGCM	Forf 64 days pay FR&I 149(1)(a) Released from the Detention H. Downs sentence suspended by Sr. Auth. wef 12 Sep 44 market earned toward rem 544 days.

J.E. MILLER Lieut.
CERTIFIED TRUE COPY OF ORIGINAL IN MY POSSESSION

No D-63558 Name BOUCHER, R. | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | MPM 6 (APB 122) 40/PAM/136 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc T.P. TASCHEREAU, Captain

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22 Feb 45	Pte		AA Sec 15(1) AWL from 2230 hrs 22 Feb 45 until 1630 hrs 26 Feb 45 (Absent 3 days 18 hrs.)	Sgt. Blanchette Documentary	Awarded 28 dys FP Forf 28 dys pay FR&I 149(2)	1 Mar 45	Lt.-Col. J. RUNCIE	Aut. Forf. 4 dys pay Total Forf of 32 days pay.

CERTIFIED TRUE COPY

Officer i/c Regimental Books

(PTO)

Plea of Mitigation 17 May. 45.

Sir.

Pte Boucher enlisted in the Cdn. Army. the 19th dec. 41. Came Overseas the 28th aug. 42. Joined his Regt. the Fus. Mont. Royal (F.M.R.). Served with them. untill sent to hospital the 2 sept. 44. Came in this theatre of operation last FEB. and has been waiting to rejoin his regiment since then. but never had the opportunity.

Pte Boucher volunteered yesterday the 16 May 45 for the Cdn. Far East force.

Pte Boucher has already spent 23 days in custody.

L. J. Laguerre Lieut.
DEF. OFFICER.

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The Assistant Deputy Judge Advocate General, Cdn Sec 1 Ech, HQ 21 Army Group, having advised that the sentence in these proceedings is invalid, I, being an authority who would have had the power to commute the punishment awarded by the sentence in these proceedings if such sentence had been valid, hereby direct that the sentence be and the same is hereby removed and the accused relieved of all consequences of such sentence and I do hereby sentence the accused, D/63558 Pte Rolland BOUCHER, Fusiliers Mont-Royal, attached 10 Cdn Base Rft Bn, to undergo detention for two years, such sentence to be effective as if awarded by the court-martial on the 17 May 45.

E L M Burns
(E L M Burns) Maj-Gen
GOIC
Cdn Sec 1 Ech - HQ 21 Army Gp

In the Field,
19 Jun 45.

Promulgated and extracts taken in the Field in

.....Signature
.....Rank
.....Appointment
.....Unit

24th Aug 45.
(Date)

H.Q.C. 55-B-2054 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BOISSONNAULT, ERNEST JACQUES B-59158 PTE.

CONFIDENTIAL H.Q.C. 55-B-2054

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				ADMIN NEW FILE		CR	15-10-45
OCT 25 1945	25-10-45	P.A.		Gay	To note pts		23-10-45
				CMBR	For Requisition C.R. NOV - 5 1945		
NOV 13 1945	22-1-46			Adm 3	Recommendation		NOV 8 1945
JAN 11 1946	11-1-46	Pa		Admin	For Requisition C.R. DEC 29 1945		
JAN 21 1946				D. Adm.	PER B.F. JAN 22 1946		
JAN 28 1946	19-2-46			D. Adm.	PER B.F. JAN 28 1946		
				C.M.B.R.	With Papers C.R. FEB 9 1946	OK	
FEB 21 1946	12-2-46	Pa		Adm 3	To note Remission		11 Feb 46
					With Papers C.R. MAR 1 1946		
MAR 2 - 1946 MAR 4 - 1946	4-3-46	Pa		Admin	To note Remission		13/3/46
				DAB	For Information SEP 16 1946		
				Adm 3	With 405-B-12137		16/10/46
				VAG			18/10/46
				Adm			18 Oct 46
				Dir			21/10/46
				Sd	Passed		29 Oct 46
				DR 3	Closed w papers		9 Nov 46
				F.I.	With Revocation from		13/11/46
				DR 3			
NOV 22 1946	12/11/46			WSG			

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All original letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQ 405-B-12,137 DR 5(d)
HQC 55-B-2054

REGISTERED MAIL

5th November, 1946.

Mr. Ernest J. BOISSONNEAULT,
Bonfield, Ontario.

B-59158 Ex-Pte. BOISSONNEAULT,
Ernest Joseph

Dear Sir:

This is to inform you that the Sentence of the Field General Court-Martial by which you were tried Overseas, on the 12th April 1945, has been reviewed. It has been directed that the Portion of the Sentence "To be discharged with Ignominy from His Majesty's Service" which was awarded by the Court be remitted. As a consequence thereof the reason for your discharge from the service is, therefore, being amende d to read "Services being no longer required."

May the Discharge Certificate issued to you at time of discharge be forwarded to the undersigned. On receipt of this a new Certificate will be issued showing the amended reason and despatched to you. In addition, if as a result of your service, you have earned a War Service Badge, this will also be forwarded to you.

As the matter of War Service Gratuity may or may not be involved, this matter will be referred to the Paymaster-General, National Defence Headquarters, for whatever action is indicated.

Yours truly,

(C.L. Laurin) Colonel,
Director of Records,
for Adjutant-General.

DESP. NOV 16 1946
REGN No. 107503

/JS

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AFTER ORDER

ISSUED BY THE DIRECTOR OF RECORDS

SUPPLEMENT TO DAILY ORDER 83 DATED 30 NOV 45

1ST BATTALION REGT DE MAISONNEUVE (MONTREAL, P.Q.)

No.11
23 Oct 46
Ottawa, Ont.

Last Part II Order, "After Order" No.10 d/22 Oct 46

"B" OTHER RANKS

1. PUNISHMENTS

AMENDMENTS

(a) That part of sentence "To be disch with ignominy" awarded to the u/m, by FGCM on 12 Apr 45 published in para 7(a) of DO 39 d/16 Jun 45 is remitted. (Auth: HQ 405-B-12137 - HQC 55-B-2054)

B 59158 Pte BOISSONNEAULT E.J.

C.L.LAURIN, COLONEL,
DIRECTOR OF RECORDS,
AHQ.

MEMORANDUM

Department of National Defence,

D Records

(Attn: DR 6)

HQC 55-B-2054
HQ 405-B-12137 Adm B1(c)

OTTAWA, Ont, 21 Oct 46

B-59158 Pte BOISSONNAULT E J

1. Attn is invited to direction of the AG on reverse side of folio 1 of the confidential file and recommendation of DRB on this soldier's open file, which is passed herewith.

2. It is requested that necessary action be taken to promulgate the above direction to the soldier and to issue a new Discharge Certificate, pursuant to the recommendation of the Board, pls.

(H H Cuthbert)
Colonel
D Adm

JLT:2891:ls

MEMORANDUM

Department of National Defence

TO: AG
(Through VAG)

HQC: 55-B-2054
HQ: 405-B-12137 Adm Bl(c)

OTTAWA, Ontario, 18 Oct 46

OCT 18 1946

REMISSION OF SENTENCE

1. The DNB has recommended that part of the sentence directing discharge with ignominy be changed to discharge under CARO 1029(12) ref at folio ..39.. open file.

2. The above recommendation was approved by the VAG on 15 Oct 46 ref at folio ..37.. open file.

3. The att submission on reserve side of folio ..1.... of the confidential file is recommended for your signature, please.

for (H.M. Cathcart)
Colonel
D Adm

JLT/2891/PB

Concur
J. WEEKS
Maj-General
Adjutant-General
OCT 18 1946

M E M O R A N D U M

Department of National Defence,
-Army-

HQ 405-B-12137 (DRB)

TO:

D ADM

OTTAWA, Canada 16 Oct 1946.

B.59158 Boissonneault. E.J.

REVIEW OF DISCHARGE

1. Ref CM sentence on HQC 55-B-2054

2. This is to recommend that a submission be made to superior mil authority to remit that part of the sentence directing discharge with ignominy.

3. The recommendation of the Board that the stated reason "that services be terminated in the interests of the service" has been approved by VAG on folio 37

4. The Board further recommends that, if the submission is allowed, the stated reason for discharge be changed to discharge under CARO 1029 (12), and that the file be passed to D Records for necessary action.

W.A. Stilwell

(W.A.STILWELL) MAJOR
Secretary
DISCHARGE REVIEW BOARD

WAS:5935:C

COPY ON HQC 55-B-2054

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T-36-10-282 Vol.3(AJAG)
T-20-B-6160
T-23-H-3775
T-20-P-6325

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

H.Q. M.D. 2
27 Feb 46

CENTRAL COPY
C.O.F.A.C.
FEB 28 1946
8027
File 6.25-B-29-52
Chief
Copy to

The Secretary,
D.N.D. (Army).

Remissions of Sentences - SUS ex ITALY and U.K.

B-59156	Pte. BOISSONNEAULT, E.J.	- 1029(9)
B-79440	Pte. HAY, J.T.	- 1029(8)
B-143456	Pte. PARKER, B.N.	- 1029(9)

Reference KS 674(A) dated 25 Jan 46.

2. Herewith completed Appendix "C" to C.A.R.O. 5813 and A.F.A. 3104 for each of the m/n SUS discharged under the provision of C.A.R.O. 1029 as indicated after the name in each case on 11 Feb 46, with remission of sentence granted, effective date of discharge.

for (C.C. Mann)
Brigadier
D.O.C. M.D. 2.

COPY TO : D.O.C. (FOR INFORMATION)
M.D. 3

noted
JCK

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APPENDIX "G" TO CANADIAN ARMY REMITTER ORDER No. 5915

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CSM.

NDHQ File No.
District File No. T-20-B-6160

PART I.

No. B-59158 Rank Pte. NAME BOISSONNEAULT, E.J.
Unit No. 2 District Depot, C.A. (formerly Le Regiment de Maisonneuve)

PART II.

Date of Trial 12 Apr. 45 (FGCM)
Charge(s) Disobeying a lawful command given by his superior officer (AA Sec.9(2)

Sentence 3 years' penal servitude - Discharge with Ignominy
Date of Sentence 12 Apr. 45
Confirmation - (a) Authority ????? 5 Cdn Inf Bde.
(b) Date

PART III.
REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxx do hereby remit xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx the balance of penal servitude awarded the above-noted soldier, effective the date of discharge, namely(11 Feb. 46).

SIGNED at TORONTO, Ontario, this 6th day of February 1946.

C.C. Mann

(xxxxxxxxxx (C.C. Mann)
xxxxxxxxxxxx Brigadier
D.O.C. M.D. 2.

Remanded
Lt. Col.

PART IV
PROMULGATION

Remission (xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx) promulgated and extracts taken on #2 D.D.
this 11th day of Feb. 1946

Maylo capt
Officer i/c Documents

(1) Unit, attachment and appointment to be stated.

PART V
CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. B.59158 Rank PTE. NAME BOISSONNEAULT, E.J.
The sentence of 3 years' penal servitude awarded by FG Court-Martial on the 12 Apr. 1945 has been remitted by 790 days on the 11 Feb. 1946 by Brig. C.C. Mann DOC MD 2

Unit
Certified true Extract of Daily Orders Part II of #2 D.D.
Para. 33(k) of DO #41 Place TORONTO, Ont. Date 12 Feb. 46
(Auth: T.20-B-6160 (AJAG) d/6 Feb. 46)

Maylo capt
Adjutant

Strike out and initial words not applicable.

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Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B59158 Pte Bossonneault, Ernest, J. Unit Le Regiment de Maisonneuve

Sentenced to To suffer penal servitude for 3 years to be discharged with ignominy on 12 Apr 45.

Age on, and date of enlistment 17 years 3 oct 41 Term of service 3 years 7 months

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

12

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20018) Wt.20872/376 100,000 2/42 A.A.&Q.W.Ltd. Gp.498 Forms/A.3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION- RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 25 JUL 1945	
6 Feb 46	Remit effective date of discharge.	(C.C. Mann) Brigadier D.O.C. M.D. 2.	

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
SECTION 9 (2) ARMY ACT WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER in that he in the field on 9 Mar 45 at about 1645hrs when ordered by Capt Beauchemin JR ,R de Mais, his superior officer to advance with his unit in an attack against the enemy, refused to do so and did not do so. Signature of Officer making entry. Capt & Adjt. Le Regiment de Maisonneuve CA(O)	9 Mar 45	12 Apr 45
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
31 May 45	I recommend that sentence be served in full	G. H. Salmond Lt Col

X.—Confirming Officer's remarks and recommendations on First Trial.

11

Date		Signature
11 June 45	I recommend that sentence be served in full	Harold Kerr Brig 5 Can Inf Bde

T-36-10-282 Vol.3(AJAG)
T-20-B-5160
T-20-H-3775
T-20-P-5325

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
6th February 1946.

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

CENTRAL REGISTRY Army
COMF. SEC.
FEB 9 1946
File
Chgd. to
Referred to

Remissions of Sentences - SUS ex ITALY and U.K.

B-50158	Pte. BOISSONNAULT, E.J.	- 1029(9)
B-79440	Pte. HAY, J.T.	- 1029(8)
B-143458	Pte. PARKER, B.N.	- 1029(9)

Reference KS 674(A) dated 25th January 1946.

2. The District Officer Commanding, Military District No. 3, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A. for discharge under the provision of C.A.R.O. 1029 as indicated after each name and remission of balance of sentence.

3. The District Officer Commanding, M.D. 2, has remitted the balance of the sentence now being served by the marginally-named SUS effective the date of discharge and hereby authorizes discharge as indicated above.

4. Enclosed herewith Appendix "G" to C.A.R.O. 5913 effecting remission.

5. May Promulgation of the remission be made to the said respective SUS effective the date of discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

23

COPY

VER V CIA NRE 4

CIB V CIA NRS 1 & 2

FROM COMMANDING 3 KINGSTON JAN 310937 R

TO THE SECTY DND OTTAWA

TO DOC MD 2 TORONTO

TO CO NO 2 DD TORONTO

GR 89 BT

KD 70 RESTD

RELET KS 674(A) DATED 25 JAN 46 THE FOLLOWING SUS PRESENTLY HELD AT NO 89 MDB FORT HENRY BARRIEFIELD WILL CEASE ATTACHMENT THAT UNIT AND SOS NO 3 DD TO NO 2 DD WEF 6 FEB 46

B.59158 PTE BOISSONNUEALT E J CMBR RELEASE 12 FEB 46

B.79440 PTE HAY J T CMBR RELEASE 13 FEB 46

B.143458 PTE PARKER B N CMBR RELEASE 14 FEB 46

STOP THESE SUS WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE TORONTO 1730 HOURS SAME DATE STOP REQUEST COMMANDING TWO HAVE ESCORT DETAILED TO MEET THIS TRAIN ON ITS ARRIVAL AT TRAINSIDE STOP REGIMENTAL DOCUMENTS OF EACH SUS WILL BE HANDED OVER TO NCO I/C OF ESCORT MEETING THIS DRAFT ON ARRIVAL STOP AFA 3104'S WILL BE FORWARDED UNDER SEPARATE COVER DIRECT TO COMMANDING TWO STOP ADDRESSED COMMANDING TWO REPEATED OFFICER COMMANDING NO 2 DD AND DEFENSOR

BT KM 311024 R AR K

CR(C)

PA ON file

C 55-B-2054

27

Adm 3(b)2

MEMORANDUM

TO: DEPARTMENT OF NATIONAL DEFENCE
(ARMY)

M.S.

HQC 55-B-2054 Adm 3(b)2
BDF-SK-AG 1143

OTTAWA, Ontario 16 Feb 46

BDF 1143 D/13 Feb 46
Min File: 1101-94

B.59158 Pte BOISSONEAULT, E J

This SUS was tried by FGCM 12 Apr 45 for disobeying a lawful command given by his superior offr, that is to say, when ordered by his superior offr to advance with his unit in an attack against the enemy, refused to do so. He was found guilty and was sentenced to 3 years penal servitude and to be discharged with ignominy.

2. Sentence was reviewed by CMHQ and it was directed, in view of the serious nature of the offence, that no remission should be granted at that time.

3. Sentence was again reviewed by CMBR during Nov 45 and recommendation was made "for remission on 12 Feb 46 or as soon as may be after the return of the SUS to Canada, whichever is the later."

4. Subsequently, this SUS was returned in custody to this country during Jan 46. On 6 Feb 46 DOC MD 2 remitted the balance of sentence eff date of discharge and authorized discharge under CARO 1029(9) with ignominy. This soldier was immediately despatched to No 2 DD for discharge.

(E C Weeks)
Major-General
Adjutant-General

FINAL

GDB/6293/da

21

T-36-10-282 Vol.3(AJAG)
T-20-B-6160
T-20-H-3775
T-20-P-6325

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
6th February 1946.

CENTRAL REGISTRY Army
CONF 6553
FEB 8 1946
File CSS - B-2054
Class. to
Referred to: C.M.B.R.

The Officer Commanding,
No. 2 District Depot, C.A.,
Stanley Barracks,
TORONTO, Ontario.

Remissions of Sentences - SUS ex ITALY and U.K.

B-59156	Pte. BOISSONNEAULT, E.J.	- 1029(9)
B-79440	Pte. HAY, J.T.	- 1029(8)
B-143458	Pte. PARKER, B.N.	- 1029(9)

Reference KS 674(A) dated 25th January 1946.

2. The District Officer Commanding, Military District No. 3, has advised that the marginally-named SUS were despatched to No. 2 District Depot, C.A. for discharge under the provision of C.A.R.O. 1029 as indicated after each name and remission of balance of sentence.

3. The District Officer Commanding, M.D. 2, has remitted the balance of the sentence now being served by the marginally-named SUS effective the date of discharge and hereby authorizes discharge as indicated above.

4. Enclosed herewith Appendix "C" to C.A.R.O. 5913 effecting remission.

5. May Promulgation of the remission be made to the said respective SUS effective the date of discharge, Parts IV and V of the said form completed and the form then returned to this Headquarters, please.

P.J. Flynn
(P.J. Flynn)
Major
A.J.A.G. M.D. 2.

COPY TO : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

The District Officer Commanding, (FOR INFORMATION)
Military District No. 3,
KINGSTON, Ontario.

70

/AF

405-B-12,137

File: B.59158-C(A)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 24 Jan 46.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUS - XUK "HMS KHEDIVE"

B.59158, Pte. BOISSONNEAULT, E.J.

Reference Radiogram Ranks 6805 Restricted dated 21st January, 1946 from National Defence Headquarters, Ottawa, Ontario.

2. Receipt is hereby acknowledged of the following documents in the case of the n/a soldier.

CMHQ Letter 10/Boissonneault E.J./1, d/4 Oct 45.

NDHQ Letter HQC 55-B-2054 Adm 3(b)2, dated 10 Jan 46.

CMBR Recommendations 12 Feb 46.

Le on file
31-1-46

W.J. MacBrayne
Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

19

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

~~HQS 8536-6 Vol 5~~ ~~xxxxxxxxxxxx~~ ARM 3(3)2 HQC 55-B-2054

10 Jan 46.

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

~~B.69154 Pte BOISSONNEAULT~~ E J
SUS - HMS Thedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is ARA3104 and CMHQ letter.

3. ~~It will be noted that CMHQ have recommended discharge under CARO 1029.~~

3. It will be noted that this SUS was sentenced to be discharged with ignominy under CARO 1029(9).

4. The sentence awarded has been reviewed by CMBR who have recommended **for remission on 12 Feb 46.**

5. Ack.

(E.G. Weeks)
Major-General
Adjutant-General

18

Case No. HQC 55-B-2054 (CMBR-6) MGC
7 NOV 45

0748

REVIEW OF SENTENCE

BY

0712

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: B-59158 Pte. BOISSONNAULT, E.J.

2. Unit at date of offence: Le Regt de Maie

3. Charge: AA Sec 9 (A) (2) Disobeying a lawful command. On 9 MAR 45 when ordered by Capt Beauchemin, his superior officer, to advance with his Unit in attack against the enemy refused to do so and did not do so.

Plea: GUILTY

4. Place and Date of Trial: (FGCM) HOLLAND 12 APR 45.

5. Finding: GUILTY

6. (a) Sentence: 6 yrs Penal servitude and discharge with ignominy.

(b) Date of sentence: 12 APR 45

7. Date of Confirmation: 24 MAY 45

8. Date of Promulgation: 31 MAY 45

9. Being served at: in N.D.

Conf Auth mitigates sentence to read "to suffer penal servitude for a term of three years and to be discharged with ignominy".

(N.B. - Discharged under RO 1029 ( ) for wef)

17

CONDUCT

HQC
Case No.....

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	Nil		
(ii) Courts-Martial:	Nil		
(iii) Summary Convictions:	(1)AWL 1 day	6 Mar 44	(10 dys CB)
	(2)AWL 2 dys	10 Apr 44	(7 dys CB)
	(3)AWL 2 dys	27 Jun 44	(7 dys CB)

(b) After conviction: GOOD

Expected date release: 11 APR 47.

(c) Date of ~~enrolment~~/enlistment: 17 AUG 43 Present Age: 20

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) This prisoner originally enlisted at the age of 16 on 3 OCT 41 was discharged and re-enlisted 17 AUG 43. Served in action and was wounded and evacuated to UK. After re-joining his Regt. was unable to stand up to operational duties with the Front Line Unit. He was young at time of offence & had a good previous record.

13 Recommendations: (State by whom made, e.g., CMHQ, DOD, Reviewing Officer, etc.)

Reviewing Officer.: Recommend release at 12 APR 46 at which time 1 yr of sentence awarded will have been served.

Reviewed by Moss
W.A. MOSS, Maj.

14. Recommendation of the Board:
For remission on 12 Feb 46
or as soon as may be after the return of the
SUS to Canada whichever is the later.

W.A. Stilwell
Secretary Maj.
Courts-Martial Board of Review.

HQC
Case No.....

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	Nil		
(ii) Courts-Martial:	Nil		
(iii) Summary Convictions:	(1)AWL 1 day	6 Mar 44	(10 dys CB)
	(2)AWL 2 dys	10 Apr 44	(7 dys CB)
	(3)AWL 2 dys	27 Jun 44	(7 dys CB)

(b) After conviction: GOOD

Expected date release: 11 APR 47.

(c) Date of ~~enrolment~~/enlistment: 17 AUG 43 Present Age: 20

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) This prisoner originally enlisted at the age of 16 on 3 OCT 41 was discharged and re-enlisted 17 AUG 43. Served in action and was wounded and evacuated to UK. After re-joining his Regt. was unable to stand up to operational duties with the Front Line Unit. He was young at time of offence & had a good previous record.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

Reviewing Officer.: Recommend release at 12 APR 46 at which time 1 yr of sentence awarded will have been served.

Reviewed by W.A. Moss
W.A. MOSS, Maj.

14. Recommendation of the Board:
For remission on 12 Feb 46
or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date NOV 8 1945

W.A. Stilwell Maj.
Secretary
Courts-Martial Board of Review.

16

THIS COPY FOR:

H.Q.C. 55-B-2054
M.D. 10/Boissonnault E.J.

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. GS B-59158 Name BOISSONNAULT, Ernest Jacques

Rank Pte Unit Le Regt de Mais

Charge AA 9 (2) WOAS Disobeying a lawful command

Date of Crime 9-3-45

Date of Arrest Charge Signed 9-4-45

Orders for ~~DXXXX~~ FGCM By Ord Brig Comd 5 CIB

Place and Date of Trial In the field 12-4-45

Sentence Penal Servitude 6 years Discharge with ignominy

Date of Confirmation 24-5-45

Date of Promulgation 31-5-45

Entered in Records of J.A.G. as No. 4347

Date 24-10-45

MEMO Conf Auth mitigates sentence to read "to suffer penal servitude for a term of three years and to be discharged with ignominy"

Balance of sentence remitted by Conf. Auth. 11-2-46

Reviewed at CMHQ

15

for Judge Advocate-General

10M-8-45(M-169)

Quote No. HQC. 55-B-2054(JAG/D-6)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada

24 Oct 45

Canadian Military Headquarters,
2 Cookspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
B.59158 Pte. Boissonneault, E.J.

1. Receipt is acknowledged of your 10/Boissonneault E.J./1 dated 4 Oct 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

E. L. M.

for (R.J. Orde), Brigadier
Judge Advocate-General.

ELM/fdr

14

AIR MAIL

Quote No. 10/Boissonneault E.J/1

CANADIAN MILITARY HEADQUARTERS

BOMBER

LONDON

4 Oct 45

CONFIDENTIAL

The Secretary,
Department of National Defence (Army),
Ottawa, Canada

6.55-B-2054

B 59158 Pte Boissonnault, E.J.

1. The m/n soldier is now serving a sentence of 3 years penal servitude and discharge with ignominy awarded by FGCM 12 Apr 45 for disobeying a lawful command given by his superior officer, that is to say, when ordered by his superior officer to advance with his unit in an attack against the enemy, refused to do so (AA Sec 9(2)).

2. The earliest date on which his sentence of penal servitude should terminate, if he earns full remissions for good conduct while serving his sentence, is 11 Apr 47.

3. This soldier enlisted 17 Aug 43 at Toronto, Ont., and he is now 20 years of age. In addition to the offence mentioned in para 1 above, he has, since enlistment been found guilty of 3 offences under AA Sec 15(1) in respect of which summary punishment was awarded.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. In view of the serious nature of the offence of which this soldier has been convicted and the necessity for exemplary punishment in such cases, it is considered that his sentence, including discharge with ignominy, is appropriate and that he should be required to serve his sentence of penal servitude in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered that this soldier deliberately disobeyed a lawful command in order to avoid battle and very probably for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of FGCM held 12 Apr 45 together with original AF A3104 in respect thereof, on which this direction has been endorsed.

for (E.G. Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters

Enc

Copy to:- O i/c,
Records

13

4347

RECORDED AT CMHQ IN AB 160 5M-6.

CFA96 (In lieu of AFA3) 40/P & S/1608/(4970) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by W. J. Megill Brig Comd 5 CIB dated 7 April 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 409. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-59158	Pte	Ernest Jacques	Bourdonnault	R de Maio

PROCEEDINGS REVIEWED

Wm Capt. 28 Jun 45

REVIEWING OFFICER, JAG BRANCH O.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (~~country~~) Holland on (date(s)) 12 April 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/38

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(✓) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to~~ ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No. Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C.S. Thacker	R.H.C
Member	Capt.	N.L. Lyster	Calg Highrs.
Member	Lieut	H.N. Sparrow	R.H.C.
Judge-Advocate	Capt.	A.P.L. Drolsum	HQ 2 Can Inf Div.
Prosecutor	Capt.	F.D. Bowen	R de Maio
Defending Offr	Lieut	L.J.A. Woods	R de Maio

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol I Fd

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir .....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). ~~The accused is (are) so informed~~, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly. AD

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is ~~(are)~~ not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1) AD

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. "A", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges ~~on which~~ accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. AD

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans..... Do you intend to call witnesses on your behalf?

Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(4). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. My defending officer will.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4347 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 25 day of Oct 19 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-59158 Pte E. J. Boissonnault R de Mais

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 9(2)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on an alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ~~54~~ 34 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for a term of five years and to be discharged with ignominy from His Majesty's service

(Sgd) Arne Dobson capt Judge-Advocate, if any. 12 apr 45 Date awarded. (Sgd) C.S. MacDonald Maj President (RP 49, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

"I reserve the finding and sentence for confirmation".

Date 23 Apr 45 (Sgd) [illegible] Commanding 5 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pb 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding but mitigate the sentence so that it shall read "To suffer penal servitude for the term of three years and to be discharged with ignominy from His Majesty's Service" and I confirm the sentence as so mitigated.

~~I direct that the accused be not committed to prison or detention barracks until further order.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] (H D G Crerar) General

Date 24 May 45 Commanding ~~GOC in C First Cdn Army~~ Confirming Officer.

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings.

for DJAG Cdn Sec. HQ 1 Cdn Corps 23 Gp. 30/38.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 59158 Pte Boissonnault E.J.	31 May 45	[illegible] Capt adj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

B-59158 Pte BOISSONNAULT E J

REMISSION OF SENTENCE

I, Ernest Geoffrey Weeks, Adjutant-General, an authority having power to mitigate, remit or commute the punishment awarded by the sentence of these proceedings do hereby remit that part of the sentence "to be discharged with ignominy from His Majesty's Service", awarded by the Court and confirmed by the confirming authority.

(E.G. Weeks)
Major-General,
Adjutant-General.

SIGNED at OTTAWA 18th day of Oct., 1946

Promulgated by registered letter No._____to

Mr. Ernest J. BOISSONNEAULT, Bonfield, Ontario.

on 5th November 194 6 and extracts taken at N.D.H.Q.

this Fifth day of November 194 6

784

(C.L.Laurin) Colonel,
Director of Records,
for Adjutant-General.

MEDICAL CERTIFICATE (K.R. (C an) 557)

I certify that I have this morning examined No. B-59158 Pte.

Boissonneau F. J. of Regt. de Maisonneuve and in my opinion

he is fit to undergo trial by Court Martial.

Station in the Field

Date 12/4/45.

Réné Hendreault capt

Medical Officer.

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(a).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*h*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML p* 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Oversecs, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-59158	Pte		Ernest Jacque	BOISSONNAULT	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 9 Apr 45 endorsed by me, ~~[illegible]~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~[illegible]~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C.S. MacKlaren	R.H.C.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W.L. Lyster	Calg Highrs
Lt	H.W. Sparrow	R.H.C.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	P. Rosentrater	Calg Highrs

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	A.P.L.DesRosiers	H. 2 Cdn Inf Div

On Active Service in the Fd

in HOLLAND (Country.)

Date 9 Apr 45

(W.J. Megill DSO) (RP 105 fn 1.)

Commanding 5 Cdn Inf Bde

Brigadier (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/F & S/1807 (46931)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The Accused, No. B-59158 Pte Ernest Jacque BOISSONNAULT, "Le Regiment de Maisonneuve", a soldier in the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 9(2)
ARMY ACT

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, on 9 Mar 45 at about 1645 hrs, when ordered by Capt Beauchemin, J R, R de Mais, his superior officer, to advance with his unit in an attack against the enemy, refused to do so and did not do so.

J J Bibeau

In the Field
Mar 45

(J.J.Bibeau) Lt-Col
Commanding Officer
R de Mais C.A.(O)

To be tried by F.G.C.M.

9 Apr 45.

Cmd 1 Cdn Inf Bde

12/4/45.

Men of Investigation in the Case of 59158 - Pt Boissonneault E. 55

Pte Boissonneault has been wounded once at St Leonard in Belgium and was evacuated in U.K. now he claim he's not the same man. He says that it's a crazy idea that went into his head to disobey an order to go forward in the field. I would asked the court that this man be reboarded and properly examined.

The accused joined when he was 16 on 3rd oct 41 and again he joined on 17 aug. 43 having been discharged from J & W Bde on the 14th Jun 42 Invalid for being underaged.

6

Summary of Evidence
in the case of:

Ex A
A

D-59158 Pte Boissonneault Ernest Jacque. ''Le Regiment de Maisonneuve'' a soldier of the Cdn Army(O) while on active service is charged with:

Short statement of charge:

Disobeying a lawful Command Given by a Superior Officer A.A.Sec99

The Commanding Officer has directed that the evidence be taken on oath.

Fir t Witness for the prosecution:

Capt Beauchemin J.R. ' Le Regiment de Maisonneuve ' Cdn Army (O) having been duly sworn states:

On the 9 March 45 between Xanten and the Rhine we were told to attack a certain place, at the start line the accused came to me and told me that he could not go forward to put him closed arrest or anything but he would not go forward. I gave him an order twice to go and follow his company like the others and each time he refused. I then left with the coy to the attack and when we reached the objective the accused was not to be found in the coy.

Jean R. Beauchemin
Capt Beauchemin J.R.
R de Mais Cdn Army (O).

THE accused does not wish to cross examine the witness

Second Witness For The Prosecution:

D-142615 Pte Fontaine R.J.' Le Regiment de Maisonneuve' Cdn Army (O) having been duly sworn states:

On the 9 March 45 I was beside Capt Beauchemin when the accused told Capt Beauchemin that he would not go forward regardless of the circumstances and the accused twice refused the order given to him by his superior officer in that he would not go forward.

G. Fontaine
D-142615 Pte Fontain R.J.
R de Mais Cdn Army (O).

The Accused Does Not Wish To Cross Examine The Witness

5

Capt Beauchemin J.R. ''Le Regiment de Maisonneuve'' Cdn Arm
(sd) having been duly sworn states:

On the 9 Mar 45 between Kanten and the Rhine we were told to
attack a certain place, at the start line the accused came to
me and told me that he could not go forward to put him under
arrest or anything but he could not go forward. I gave him a
order twice to follow his Coy likex the others and each time
he refused. I then told him to report to Bn H.Q. and that he
was under arrest. After the attck the accused was picked at
H.Q. and put in the guard room.

Jean R. Beauchemin

Capt Beauchemin J.R.
R de Mais Cdn Arm

Third Witness For The Prosecution:

D-56437 Pte Potvin R. 'Le Regiment de Maisonneuve' Cdn Army (o) having benn duly sworn states:

On the 9 Mark 45 I was beside Capt Beauchemin J.R. at the start line when the accused came to him and told him that he would not go forward. Capt Beauchemin twice gave the accused the order to follow the coy like the others and twice the accused refused to do so in saying that he would not go forward.

R. Potvin
D-56437 Pte Potvin R.

The Accused Does Not Wish To Cross Examine The Witness

THE ACCUSED WAS CAUTIONED AS FOLLOW.

Q.1 Doyou wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but what ever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make a statement.

Boissonneault E.
D-59158 Boissonneault E.
R de Mais Cdn Army (o).

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I certify that the foregoing Summary of Evidence, consisting of two (2) pages was taken down by me in the presence of the accused and that R.P.4 (c) (d) (e) (f) have been complied with;

Capt F.D.Bourcier R de Mais
Officer detailed to take summary.

4

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
B 59158	Pte	Boissonnault L.	R de Maisonneuve

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15(1) 3 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 9-1-44

Date of last entry in Field Conduct Sheet 27-6-44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N.A.

beginning on the N-A day of N-A

4. The accused has been awaiting trial on the present charges for N.A. days in civil custody; and for ..... days in military custody, *i.e.*, ... days in open arrest, ~~N.A.~~ 34 ~~57~~ days in close arrest; of which ..... days were spent in hospital.

5. The present age of the accused is 20

6. The date of his attestation / calling up for military service is 3 Oct 41

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of† .....

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	N-A	
In the war substantive rank of	N-A	
In the acting rank of	N-A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

[redacted]

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~16 March~~ 17 April 45 day of

for E. Boisvert Lt.
(G. Hed sec) Offr i/c Records.

NoB-59158 Name Boissonneault, Sqn, Battery, or Company | Corps GIC | Date of enlistment | GC Badges | Service or Proficiency Pay | PAY (AFB 126) 10/548/136 (1-44)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SHEET DESTROYED 17-2-44 in accordance with R.O. 393 - last entry 9-1-44					
Long brach	6-3-44			AA Sec 15(1) AWOL from 0745 hrs 6th Mar 44 till 0740 hrs, 7th Mar 44 Total: 23 Hrs. 55 mins	Sgt cote	10 Days CB	7-3-44	Col-G.B. McGloughlin	Forfeit 1 pay under F.R. 4 I
Lauzon	10-4-44			A.W.L. 2 days 6 hrs 45 mins	Documentary	7 Days C.B.	10-4-44	H.R. Gillet	Forf 3 days pay
Valcartier	27 Jun 44			AA Sec 15(1) AWL 0630 hrs 27 Jun 44 to 2215 29 Jun 44 Abs 2 days 15 hrs 45 mins	L-Cpl St-Laurent	~~29 Days~~ 7 Days CB.	29 Jun 44	Col P.E. Poirier	3 days Forf

I certify True Copy From original books held in my custody.

Officer i/c Records

Capt Adjt Regt. de Mais.

(FTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B.59158 Pte E. J. Boissonnault R de Mais

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A.9(2)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... AD (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 59 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court ; To suffer penal servitude for a term of six years and to be discharged with ignominy from His Majesty's Service

(Sgd) Aime Desrosiers Capt
Judge-Advocate, if any.

12 Apr 45
Date awarded.

(Sgd) "C.S.MacLaren" Maj
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 23 Apr 45 (Sgd) "W. J. Megill" Brig Commanding 5 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : I confirm the finding but mitigate the sentence so that it shall read "To suffer penal servitude for the term of three years and to be discharged with ignominy from His Majesty's service" and I confirm the sentence as so mitigated.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ GOC

(1. AA 57A. Delete if not used.)

Date 24 May 45

(Sgd) " H D G Crerar "
(H D G Crerar) General
Commanding GOC in C First Cdn Army
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B59158 Pte Boissonnault E.J.	31 May 45	" G Leclerc " Capt Adjt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings.
" G E Tritschler " Lt Col
DJAG Cdn Sec GHQ
Mch 21 A Gp

FIELD GENERAL COURT-MARTIAL

5M-6

CPA86 (To Ilus Nr AFA87 40/P & S/1698 (46301) 4/38B

Convened by Order of W. J. Megill Brig Comd 5 CIB dated 9 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apppmt, A/rank or A/apppmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.59158	Pte		Ernest Jacques	Boissonnault	R de Mais

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 12 April 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/38

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) AD

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ AD

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer ? Ans .....~~

The shorthand writer is sworn.(1) AD

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ? Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	C. S. MacLaren	R.H.C.
Member	Capt	W.L.Lyster	Calg Highrs
Member	Lieut	H. W. Sparrow	R.H.C.
Judge-Advocate	Capt	A.P.L.DesRosiers	HQ 2 Cdn Inf Div
Prosecutor	Capt.	F. D. Bourcier	R de Mais
Defending Offr	Lieut	L.J.A.Woods	R de Mais

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea AD

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in A8 rank and name of the accused making the plea.) (1)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. AD

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B AD

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's~~ statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). ~~The accused is (are)~~ so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly. ab

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of ab Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A..., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the ~~charges on~~ which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p ~~3 before~~ proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY ~~are~~ read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3) ab

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2) ab

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL CERTIFICATE (K.R. (Can) 557)

I certify that I have this morning examined No. B-59158 Pte Bisonneau E.J. of Regt de Mais and in my opinion he is fit to undergo trial by Court Martial.

Station in the Field

Date 12/4/45

" Reine Goudreault " Capt
Medical Officer

DD

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.59158	Pte		Ernest Jacque	BOISSONNAULT R de Mais	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (date) 9 Apr 45 endorsed by me, ~~(or by an Offr of my staff for me)~~, " To be tried by Field General Court-Martial ". WJM WJM WJM

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ WJM

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder. WJM

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ WJM

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C. S. MacLaren	R.H.C.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W. L. Lyster	Calg Highrs
Lt	H. W. Sparrow	R.H.C.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	P. Rosentrater	Calg Highrs

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt.	A.P.L. DesRosiers	HQ 2 Cdn Inf Div

On Active Service in the Fd

in Holland (Country.)

"W. J. Megill" (Signed personally. RP 105 fn 2.)

(W.J.Megill)

Brigadier (Rank.)

Date 9 Apr 45

Commanding 5 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

AD

CHARGE SHEET

FIRST CHARGE
SECTION 9(2)
ARMY ACT

The Accused, No. B-59158 Pte Ernest Jacque BOISSONNAULT, "Le Regiment de Maisonneuve", a soldier in the Canadian Army Overseas, is charged with:

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the field, on 9 Mar 45 at about 1645 hrs, when ordered by Capt Beauchemin, J.R., R de Mais, his superior officer, to advance with his unit in an attack against the enemy, refused to do so and did not do so.

"J J Bibeau"

In the Field
Mar 45

(J.J. Bibeau) Lt-Col
Commanding Officer
R de Mais C.A. (O)

To be tried by F.G.C.M.

9 Apr 45

" W J McGill " Brig

CERTIFIED TRUE COPY OF ORIGINAL

for (G.Leclerc)Capt and Adjt,
LE REGIMENT DE MAISONNEUVE CA(O)

AD

Certified true copies from Original Summary of Evidence in the case of the N/mi soldier
Capt
R de Mais

PLEA OF MITIGATION
IN THE CASE OF
D-59158 Pte. Boissonneault, E.J.

Pte Boissonneault has been wounded at St-Leonard Belgium and was evacuated in U.K. Now he claims he's not the same man. He says that it's a crazy idea that went into his head to desobey an order to go forward in the field. I would ask the court that this man be reboarded and properly examined. The accused joined when he was 16 on 3rd Oct 41 and again he joinéd on 17 Aug 43 having been discharged on the 17th June 42 for being underaged.

"Louis J.A. Woods," Lt.

AD

Ex A
AD

Summary of Evidence
in the case of:

D-59198 Pte Boisonneault Ernest Jacques. "Le Regiment de Maisonneuve" a soldier of the Cdn Army (O) while on active service is charged w th:

Short statement of charge:

Disobeying a lawful command given by a Superior Officer
A.A. Sec 9

The Commanding Officer has directed that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION:

Capt Beauchemin J.R. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn states:

On the 9 Mar 45 between Xanten and the Rhine we were told to attack a certain place, at the start line the accused came to me and told me that he could not go forward to put him under arrest or anything but he could not go forward. I gave him an order twice to follow his Coy like the others and each time he refused. I then told him to report to Bn H.Q. and that he was under arrest. After the attack the accused was picked at Bn H.Q. and put in the guard room.

"Jean R. Beauchemin" Capt.
(J.R. Beauchemin)
R de Mais Cdn Army (O)

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

SECOND WITNESS FOR THE PROSECUTION

D-142615 Pte Fontaine R.J. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn states:

On the 9 Mar 45 I was beside Capt Beauchemin when the accused told Capt Beauchemin that he would not go forward regardless of the circumstances and the accused twice refused the order given to him by his superior officer in that he would not go forward.

"R. Fontaine"
.....
D-142615 Pte Fontaine, R.J.
R de Mais Cdn Army (O)

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

THIRD WITNESS FOR THE PROSECUTION;

D-56437 Pte Potvin R. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn states:

On the 9 Mar 45 I was beside Capt Beauchemin J.R. at the start line when the accused c mt to him and told him that he would not go forward. Capt Beauchemin twice gave the accused the order to follow the Coy like the others and twice the accused refused to do so in saying that he would not go forward.

"R. Potvin"
D-56437 Pte Potvin, R.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

THE ACCUSED WAS CAUTIONED AS FOLLOW.

Q.1 Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but what ever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make a statement.

"Boissonneault E.J."
D-59158 Boissonneault, E.J.
R de Mais Cdn Army (O).

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I certify that the foregoing Summary of Evidence, consisting of two (2) pages was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) have been complied with:

"F.D. Bourcier" Capt
(F.D. Bourcier) R de Mais
Officer detailed to take summary.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-59158	Pte	Boisonneault E.J.	R de Mais

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) 3 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 9-1944

Date of last entry in Field Conduct Sheet 27-6-44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for NIL GB beginning on the n/a day of n/a GB

4. The accused has been awaiting trial on the present charges for NIL GB days in civil custody; and for ..... days in military custody, *i.e.*, ... days in open arrest, ~~22~~ 34 days in close arrest; of which ..... days were spent in hospital.

5. The present age of the accused is 20

6. The date of his attestation / calling up for military service is 3 Oct 41

7. The service which the accused is allowed to reckon is .....

†State the military decorations (if any) held by accused.

8. The accused is in possession of†

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

			Date of Promotion.
In the substantive rank of	n/a	GB	
In the war substantive rank of	n/a	GB	E-1B
In the acting rank of	n/a	GB	19D

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 Apr day of 45

" G Boisvert " Lt
for
(G Leclerc) Offr I/c Records

C.I.C.
AD

No	Name	Sqn, Battery, or Company	Corps	Date of enlistment	GC Badges	Service or Proficiency Pay	Character
B-59158	Boisonneault, E.J		CIC				

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

(AFB 122)
10/Pads/136 (3428)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	SHEET	DESTROYED		17-2-44 in accordance with R.O. 393 last entry 9-1-44					
Long Branch	6-3-44			AA Sec 15(1) AWL from 0745hrs 6 Mar 44 till 0740hrs 7 Mar 44 Total 23 hrs 55 mins.	Sgt Cote	10 days CB	7-3-44	Col. W.B. McLoughlin	forfeit 1 pay under FR.I
Lauzon	10-4-44			AWL 2 days 6 hrs 45 mins	Documentary	7 days CB	10-4-44	H.R.I. Gillet	3 days pay ~~Forf~~
Valcartier	27 Jun			AA Sec 15(1) AWL 0630 27 Jun 44to 2215 29 Jun 44 Abs 2 days 15 hrs 45 mins.	L/cpl St-Laurent	7 days CB	29 Jun 44	Co. P.E. Poirier	~~5 days pay Forf~~

CERTIFY TRUE COPY FROM ORIGINAL BOOKS HELD IN MY CUSTODY

"G. Leclerc" Capt'y Adjt
(G. Leclerc) Regt de Mais

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B.59158 Pte E. J. Boissonnault R de Mais

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.9(2)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... AD ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 59 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To suffer penal servitude for a term of six years and to be discharged with ignominy from His Majesty's Service

(Sgd) Jime DesRosiers Capt ..... 12 Apr 45 ..... (Sgd) "C. S. MacLaren" Maj
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 13 Apr 45 (Sgd) "W. J. Megill" Brig Commanding 5 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : I confirm the finding, but quash the sentence as it shall read: To suffer penal servitude for the term of three years and to be discharged with ignominy from his Majesty's Service" and I confirm the sentence as so mitigated

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) HDGG
(1. AA 57A. Delete if not used.)

(Sgd) H D G Crerar
(HDG CRERAR) General
Date 24 May 45 Commanding C.O.C in C First Cdn Army
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B.59158 Pte Boissonnault R de	31 May 45	E Leclerc Capt Adjt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that this is a true copy of the original in my custody and that nothing has been added or deleted.
D.A.G. - C.M.S. Ottawa
Date 27 May 45

5M-6
CFA86 (In lieu of AFA81) 40/P & S/1698 (45/10)
4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of W. J. Megill Brig Comd 5 CIB dated 9 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.59158	Pte		Ernest Jacques	Boissonault	R de Mais

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 12 April 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) AD

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ AD

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans .....
The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer ? Ans .....~~ AD
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	C. S. MacLaren	R.H.C.
Member	Capt	W.L.Lyster	Calg Highrs
Member	Lieut	H. M. Sparrow	R.H.C.
Judge-Advocate	Capt	A.P.L.DesRosiers	HQ 2 Cdn Inf Div
Prosecutor	Capt.	F. D. Bourgier	R de Mais
Defending Offr	Lieut	L.L.A.Woods	R de Mais

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea AD
..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. AD

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol 1 Sec 11

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). ~~The accused is (are) so informed, and he (they)~~ change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly. AB
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(~~s~~) to which the plea(~~s~~) of Guilty is (~~are~~) not changed the President records finding(~~s~~) of Guilty in Part I of the Schedule.(1) AB
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3. AB

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2) AB
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Not one
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3) AB
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. I not disposed of [illegible] wish.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname.	Unit.
B.59158	Pte	Ernest Jacque BOISSONNAULT	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 9 APR 45 endorsed by me, (or by an offr of my staff for me),“ To be tried by Field General Court-Martial ”. WJM WJM WJM

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) WJM

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. WJM

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ WJM

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C. S. MacLaren	R.H.C.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W. L. Lyster	Calg Highrs
Lt	H. M. Sparrow	R.H.C.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	P. Rosentrater	Calg Highrs

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt.	A.P.L. DesRosiers	HQ 2 Cdn Inf Div

On Active Service in the Fd

in Holland (Country.) "W. J. Megill" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(W.J.Megill)

Date 9 Apr 45 Commanding 5 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAS6 (In lieu of AFA3) 40/P & S/1607 (4931)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

FIRST CHARGE
SECTION 9(2)
ARMY ACT

The Accused, No. B-59158 Pte Ernest Jacque BOISSONNAULT, "Le Regiment de Maisonneuve", a soldier in the Canadian Army Overseas, is charged with:

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the field, on 9 Mar 45 at about 1645 hrs, when ordered by Capt Beauchemin, J.R., R de Mais, his superior officer, to advance with his unit in an attack against the enemy, refused to do so and did not do so.

"J.J. Bibeau"
(J.J. Bibeau) Lt-Col
Commanding Officer
R de Mais C.A. (O)

In the Field
Mar 45

CERTIFIED TRUE COPY OF ORIGINAL

for (G. Leclerc) Capt and Adjt,
LE REGIMENT DE MAISONNEUVE CA(O)

To be tried by F.G.C.M.
"J.D. Megill" Brig
Comd 6 Cdn Inf Bde

9 Apr 45

Certified true copies from Regimental Summary Evidence in the case of the #/m soldier
E. Murrell Capt
B.L.O. Mais

MEDICAL CERTIFICATE (K.R. (Can) 557)

I certify that I have this morning examined No. B-59158 Pte Boisonneau E.J. of Regt de Maia and in my opinion he is fit to undergo trial by Court Martial.

Station in the Field

Date 12/4/45

"Reine Goudreault" Capt
Medical Officer

PLEA OF METIGATION
IN THE CASE OF
D-59158 Pte. Boisonneault, E.J.

Pte Boissonneault has been wounded at St-Leonard Belgium and was evacuated in U.K. Now he claims he's not the same man. He says that it's a crazy idea that went into his head to desobey an order to go forward in the field. I would ask the court that this man be reboarded and properly examined. The accused joined when he was 16 on 3rd Oct 41 and again he joined on 17 Aug 43 having been discharged on the 17th June 42 for being underaged.

"Louis J.A. Woods," Lt.

AD

Exp
JD

Summary of Evidence
in the case of:

D-59188 Pte Boisonneault Ernest Jacques. "Le Regiment de Maisonneuve" a soldier of the Cdn Army (O) while on active service is charged with:

Short statement of charge:

Disobeying a lawful command given by a Superior Officer
A.A. Sec 9

The Commanding Officer has directed that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Capt Beauchemin J.R. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn states:

On the 9 Mar 45 between Xanten and the Rhine we were told to attack a certain place, at the start line the accused came to me and told me that he could not go forward to put him under arrest or anything but he could not go forward. I gave him an order twice to follow his Coy like the others and each time he refused. I then told him to report to Bn H.Q. and that he was under arrest. After the attack the accused was picked at Bn H.Q. and put in the guard room.

J.R. Beauchemin Capt.
(J.R. Beauchemin)
R de Mais Cdn Army (O)

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

SECOND WITNESS FOR THE PROSECUTION

D-142615 Pte Fontaine R.J. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn states:

On the 9 Mar 45 I was beside Capt Beauchemin when the accused told Capt Beauchemin that he would not go forward regardless of the circumstances and the accused twice refused the order given to him by his superior officer in that he would not go forward.

R Fontaine
D-142615 Pte Fontaine, R.J.
R de Mais Cdn Army (O)

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

THIRD WITNESS
FOR THE
PROSECUTION

D-56437 Pte Potvin R. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn states:

On the 9 Mar 45 I was beside Capt Beauchemin J.R. at the start line when the accused c mt to him and told him that he would not go forward. Capt Beauchemin twice gave the accused the order to follow the Coy like the others and twice the accused refused to do so in saying that he would not go forward.

R. Potvin
D-56437 Pte Potvin, R.

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

THE ACCUSED WAS CAUTIONED AS FOLLOW.

Q.1 Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but what ever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make a statement.

Boissonneault E.J.
D-59158 Boissonneault, E.J.
R de Mais Cdn Army (O).

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I certify that the foregoing Summary of Evidence, consisting of two (2) pages was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) have been complied with:

F.D. Bourcier
.....Capt
(F.D. Bourcier) R de Mais
Officer detailed to take summary.

D-59158 Boisonneault E.J. Corps C.I.C.

No | Name | Sqn, Battery, or Company | Period not reckoning towards freedom from extra fine | Date of enlistment | Sheet No | GC Badges | Signature OC Company, etc | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		SHEET DESTROYED 17-2-44 in accordance with R.O. 393-							
Long Branch	6-3 44			AA Sec 15(1) A.W.L. from 0745hrs 8th Mar 44 till 0740 hrs 7 Mar 44 Total 23 hrs 55 mins.	Sgt Cote	10 days C.B.	7-3-44	Col W.B. McCloughlin	Forfeit 1 pay under FR&I
Lauzon	10-4-44			AWL 2 days 6 hrs 45 mins	Documentary	7 days C.B.	10-4-44	H.M. Gillet	Forf 3 days pay
Valcartier	27 Jun 44			AA Sec 15(1) AWL 6636hrs 27 Jun 44 to 2215 29 Jun 44 abs. 2 days 15 hrs 45 mins	L/cpl St-Laurent	7 days C.B.	29-6-44	Col. P.E. Poirier	3 days Forf

CERTIFIED TRUE COPY FROM ORIGINAL BOOKS HELD IN MY CUSTODY

(G. Leclerc) Capt.
Officer i/c Records, R de Mais.

(PTO)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-59158	Pte	Boissonneault, E.J.	R de Mais

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) 3 times.

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

Date of first entry in Field Conduct Sheet 9-1-44

Date of last entry in Field Conduct Sheet 27-6-44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for NIL beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for _____ days in military custody, *i.e.*, _____ days in open arrest, 34 days in close arrest; of which _____ days were spent in hospital.

5. The present age of the accused is 20

6. The date of his attestation / calling up for military service is 3 Oct 41

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of†

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or* N.C.O.). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	n/a	
In the war substantive rank of	n/a	
In the acting rank of	n/a	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Ex "B"

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

CONFIDENTIAL

H.Q.C. 55-B-2055

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

ELANCHETTE, PAUL EMILE D-127253 PTE

CONFIDENTIAL
H.Q.C. 55-B-2055

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for which referred cannot be expressed on one line, add minute to file and		
					ADMIN NEW FILE	CR	15-10-45
OCT 25 1945	25/10/45	PA			Copy to DCG pls		
					CMBR		
					Per Requisition C.R. NOV - 5 1945		
					Admin 3 Recommendation		NOV 8 1945
NOV 16 1945	12.1.46				Per Requisition C.R. DEC 29 1945		
JAN 11 1946	11-1-46			Admin	PER B.F. JAN 12 1946		
JAN 12 1946	11/1/46	PA		Admin			
FEB 22 1946	21-2-46			Admin	With Papers C.R. FEB 21 1946		

NOTICE

1. This should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to see it.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. If sending whole file, always keep the original file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M. 1- B-3440 A/DIS

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

MONTREAL, 20 Feb 46

CENTRAL REGISTRY ARMY
CONFIDENTIAL
8600
FEB 21 1946
File 6.55-B-2055
Chgd. to
Referred to admin

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM CARO 5913 (HQC

D-127253 Pte. BLANCHETTE, P.E.

Ref HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to the m/n soldier.

1. Att hereto AFA 3104 XXXXXXXX duly completed with respect to the m/n soldier, submitted to MDHQ in accordance with instrs contained in Para 4 of the above mentioned letter.

3. Also appended hereto is Form of Remission.

(E.J. BENAUD) Major General,
DOC MD No. 4.

Encl.

noted
JCK

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D.127253 Pte Blanchette P.E. R de Mais

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To suffer Penal Servitude for the term of three (3) years

(Sgd) Errol K McDougall Capt — Judge-Advocate, if any.
15 Mar 45 — Date awarded.
(Sgd) V.E.Traversey Major — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 17 Mar 45 (Sgd) "W.J.Megill" Brig Commanding 5 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) "H.D.G.Crerar" (H.D.G.Crerar) General
Date 30 Mar 45 — Commanding GOC in C First Cdn Army — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.127253 Pte Blanchette P.E.	7 Apr 45	G. Leclerk Capt and Adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that this document is a true and correct copy of the original
W. B. Scott Maj
Cdn Sec & Exh HQ 21 Army Gp

SG-88

CFA96 (In lieu of AFA3) 40/P & S/1698 (4070)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig W. J. Megill Brig Comd 5 C I B dated 14 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or conf rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.127253	Pte		Paul Emile	Blanchette	DJA Cdn Sec Eng & Exh Hq

Certified true copy
W. B. Scott Maj
Cdn Sec & Exh HQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 15 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) EJM EJM
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences. EJM

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) EJM
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ EJM
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....
The shorthand writer is sworn.(1) Ellery
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans no (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	V. E. Traversey	R.H.C.
Member	Lt	M. T. Engelhardt	R.H.C.
Member	Lt	F. C. Lycett	18 Cdn Fd Amb
Judge-Advocate	Capt	E. K. McDougall	HQ 2 Cdn Inf Div
Prosecutor	Capt	C. E. Laurendelle	R de Mais
Defending Offr	Capt	R. M. Prevost	R de Mais

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D.127253 Pte Blanchette, P.E. before arraignment make(s) (no) (~~a~~) plea EJM
..... (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. EJM
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Nil Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Nil Ans.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. Y and Ex. Z respectively.(3)
(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. I have nothing to say at all.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D.127253 Pte Blanchette, Paul Emile
Le Regiment de Maisonneuve a soldier of the Cdn
Army (C) is charged with

Sec 12(1)
Army Act

WHILE ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the field on 8 Feb 45 after being warned that he was to take part in an attack, absented himself without leave from 0645 hrs on said 8 Feb 45 with intent to avoid taking part in said attack until he surrendered himself at about 1030 hrs on 8 Feb 45

Time absent 3 hours 45 mins

"J.J.Bibeau" Ltecol
(J.J.Bibeau) Commanding Officer
Le Regiment de Maisonneuve
Cdn Army (C)

Dated in the field
15 Feb 45

TO BE TRIED BY F.G.C.M.

"W.J.Megill" Brig
4 Mar 45 Comd 5 Cdn Inf Bde

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FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.127253	Pte		Paul Emile	BLANCHETTE R de Mais	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 Mar 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	V. E. Traveray	R.H.C.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lieut	N. T. Engelhardt	R.H.C
Lieut	F. C. Lycett	18 Cdn Fd Amb

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	B. S. Lewis	Hq 5 Cdn Inf Bde

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E. K. McDougall	Hq 2 Cdn Inf Div

On Active Service in the Fd

in Holland (Country.) "W. J. Megill" (Signed personally. RP 105 fn 2.) (W.J.Megill) Brigadier (Rank.)

Date 14 Apr 45 Commanding 5 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 46/P & S/1097 (46931)

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE (F.R.(CAN) 557)

I certify that I have this morning examined no. D.123253 Pte Blanchette P.E. Le Regiment de Maisonneuve CA(O) and in my opinion he is fit to undergo trial by Court-Martal

"L.T.Sauras Capt
Medical Officer

Station Field
Date 15 Mar 1945

SUMMARY OF EVIDENCE "A"

IN THE CASE OF:

D-127253 Pte Blanchette, Paul Emile "Le Regiment de Maisonneuve" a soldier of the Cdn Army (O) while on active service, is charged with:

Short Statement of the charge:

DESERTING HIS MAJESTY'S SERVICE (A.A. Sec 12 (1).

The Commanding Officer has directed that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION:

D-140936 L/Cpl. Belanger, J.A. "Regt de Mais" C.A. (O) having been duly sworn, states:

On the 7 Feb 45, the coy was brieffed by our Coy Comdr, on an attack we had to do the next day, and the accused was present at the brieffing, and like all of us he has been warned of what we will have to do on the said attack, and also our Platoon Comdr Lieut. J.A.M. Prud'homme gave us a warning, explaining again what will happen and what we will have to do. So on the day of the battle at approximately 0645 hrs when we were concentrated on a determine area, I checked my section and I found that the accused was missing, I then reported the matter to my Platoon Commander.

... .
(D -140936 L /Cpl. Belanger, J.A)
Regt de Mais. C.A. (O).

THE ACCUSED DECLINE TO CROSS EXAMINE THE WITNESS.

SECOND WITNESS FOR THE PROSECUTION:

Capt. D.V. Tremblay "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On the 8 Feb 45, I was with the Tactical H.Q. of the Coy, just before the attack, and at about 1030 hrs, the accused reported to me saying that he could'nt go into the battle. I ordered him to join the coy, and he said "No". I sent him to Bn H.Q. to see the M.O., and the M.O., found him fit for duty. I brought him forward with the kitchen to the Coy area and paraded him before the Coy Comdr, when the attack was finish.

.....Capt.
(D.V, Tremblay) Regt de Mais.
C.A. (O).

THE ACCUSED DECLINE TO CROSS EXAMINE THE WITNESS.

THE ACCUSED WAS CAUTIONED AS FOLLOW:

Q.1 Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make a statement.

.....
(D-127253 Pte Blanchette, P.J.)
Regt de Mais. C.A. (O).

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I CERTIFY that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) have been complied with:

.....Capt.
(C.S. Laurencelle) Regt de Mais.
Officer detailed to take the Summary.

Dated in the Field,
15 Feb 45.

THE ACCUSED WAS CAUTIONED AS FOLLOW:

Q.1 Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make a statement.

.....
(D-197253 Pte Blanchette, P.E)
Regt de Mais. C.A. (O).

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I CERTIFY that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) have been complied with:

.....Capt.
(C.E. Laurencelle) Regt de Mais.
Officer detailed to take the Summary,

Dated in the field,
15 Feb 45.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
D.127253	Pte	Blanchette J.E.	Regt de Mais C.A.(O)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For .... times.

For .... times.

For .... times.

For .... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for nil

beginning on the n/a day of .....

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for ..... days in military custody, *i.e.*, ... days in open arrest, 34 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 26

6. The date of his attestation / calling up for military service is 13 Jan 42

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of† CVSM & Cl

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or* N.C.O.). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of n/a	.....
In the acting rank of	.....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1002 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

"G. Leclerc"
(G. Leclerc) Capt
O i/c Records Regt de Mais

Signed this 15th day of March 25

COUNTER NUMBER 78721

HOUR 11:30

OPERATOR'S INITIALS GV

RELIEVING OPERATOR AW

No. D.127251 Name Blanchette P.E. Sqn. Battery or Company | Corps CIC | Date of enlistment | GC Badges | Service or Proficiency Pay

MFM 6 (AFB 122) 40/P&S/136 (3433)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Temporary sheet (original not available)					
				"G. Leclerc" (G. Leclerc) O i/c Records Regt de Mais C A (O)					

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. D127253 Pte Blanchette,PE. Unit Le Regt de Maisonneuve

Sentenced to three (3) years penal servitude on 15 Mar 45

Age on, and date of enlistment 24 years old Term of service 3years3months

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

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(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(15712) Wt.24366/175 7,000 8/40 A.& E.W.Ltd. Gp.698
(16816) Wt.35615/29 7,000 12/40 " " Forms/A.3104/11

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION-RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 21 JUN 1945	
13 Feb 46	Sentence remitted wef 15 Feb 46	(E.J. RENAUD) Maj-Gen DOC"MD 4 (S. ECHENBERG) Col. Commanding No.4 D.D., C.A.	Released from detention on 15th February, 1946

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA SEC 12 (1) DESERTING HIS MAJESTY'S SERVICE" in that he in the field on 8Feb45 after being warned that he was take part in an attack, absented himself without leave from 0645hrs 8 Feb 45 with intent to avoid taking part in said attack untill he surrendered himself at about 1030hrs 8 Feb 45 (absent : 3 hours 45 mins) (G. Leclerc) Capt., Adjutant, Le Regiment de Maisonneuve CA(O) Signature of Officer making entry.	8 Feb 45	15 Mar 45.
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
12 Apr 45	I recommend FULL sentence be served.	(J. Bibeau) Lt-Col., Commanding Officer Le Regiment de Maisonneuve CA (O)

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
13 Apr 45	I concur	

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5-5
District File No. M.1-B-3440 (A Dis)

PART I

No....D.127253..... Rank.....Pte. Name.....BLANCHETTE P.E.....
Unit.....4 D.D.....

PART II

Date of Trial...15th March 1945.....
Charge (s)...Deserting His Majesty's Service. AA Sec. 14(1).....
Sentence....Three years penal servitude.....
Date of Sentence.....15th March 1945.....
Confirmation -- (a) Authority:.....
(b) Date :.....

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention as of 15 Feb 46 Signed at Montreal 13 Feb 46 1945.

(E.J. RENAUD), Major-General
D.O.C. M.D. No. 4

PART I V
PROMULGATION

Remission (commutation) (mitigation) promulgated and extracts taken at...Montreal South, Que...this day.....15th.....of.....February 1945....

(1) J.A. Brooks Lieut.
Ass - Officer i/c Documents. (J.A. BROOKS) Lieut. RC.Arm'd C., C.A.? att'd No.4 D.D., C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D127253 Rank...Pte... Name.....P.E. BLANCHETTE.....P.E.....
The sentence of Three years penal servitude awarded by District Court-Martial on the...15th March.....1945.....has been remitted.....
.....on the...15th February.....194.6.....by...P.....
UNIT. Military District No.4, Montreal, Quebec.....
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No.....40.....Place. Jacques Cartier Wks. Date. 15th February, 1946
Montreal South, Que.....
Adjutant

(A.M.) G. HUNAULT Capt-Adjt.
Gen. List., C.A., att'd to
No.4 District Depot, C.A.

COPY

VER V CIA NRS 1 2 & 3

FROM COMMANDING 3 KINGSTON ONT JAN 310935 R

TO DOC MD 4 MONTREAL

TO OC NO 4 DD MONTREAL

TO SECTY IND OTTAWA

GR 216 BT

KD 69 RESTD

RELET KS 674(A) DATED 25 JAN 46 FOLLOWING NUS PRESENTLY HELD 89 MDB FORT HENRY BARRIEFIELD WILL CEASE ATTACHMENT THAT UNIT AND SOS 3 DD TO 4 DD WEF 6 FEB 46 STOP

D.163126 PTE SYLVIAN J E T L CMBR RELEASE 28 FEB 46
D.156145 PTE PANE J CMBR RELEASE 15 FEB 46
D.59485 PTE LAMBERT J E CMBR RELEASE 27 FEB 46
D.57550 PTE GEORGE P CMBR RELEASE 24 FEB 46
D.127253 PTE BLANCHETTE P E CMBR RELEASE 15 FEB 46

STOP THESE NUS WILL BE DESPATCHED UNDER E SCORT AND ARRIVE MONTREAL CENTRAL STATION 1745 HOURS SAME DATE STOP REQUEST CMDG FOUR HAVE ESCORT DETAILED TO MEET THIS TRAIN ON ARRIVAL AT TRAINSIDE STOP REGIMENTAL DOCUMENTS OF EACH SOLDIER WILL BE HANDED OVER TO NCO I/C ESCORT MEETING THIS DRAFT ON ARRIVAL STOP AFA 3104 IN EACH CASE WILL BE FORWARDED UNDER SEPERATE COVER DIRECT CMDG FOUR STOP ADDSD CMDG FOUR RPTD 4 DD AND DEFENCOR

BT KM 311013 R

C;;;D.59485 PE// PTE LAMBERT

CR(C) PA on file

C 55- B-2055

Adm 3(b)2

/AF

405-B-13890

File: D.127253-C(A)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 24 Jan 46

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUS - XUK "HMS KHEDIVE"

D.127253, Pte. BLANCHETTE, P.E

Reference Radiogram Ranks 6805 Restricted dated 21st January, 1946 from National Defence Headquarters, Ottawa, Ontario.

2. Receipt is hereby acknowledged of the following documents in the case of the m/n soldier.

CMHQ Letter 10/Blanchette PE/1, dated 3 Oct 45.

NDHQ Letter HQC 55-B-2055 Adm 3(b)2, d/10 Jan 46.

CMBR Recommendations 15 Feb 46

Pa on file
28-1-46

Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

HQS 8536-6-Vol 5 HQC 55-B-2055
Adm 2(b)2
10 Jan 46

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

D.127253 Pte BLANCHETTE, P.E.
SUS - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is APA3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(S).

4. The sentence awarded for remission reviewed by CMBR who have recommended to be discharged with ignominy under CARO 1029(9).

19 Feb 46.

5. Ack.

(E.G. Weeks)
Major-General
Adjutant-General

REVIEW OF SENTENCE

HQC 55-B-2055 (CMBR)-6WC
6 NOV 45.

Case No. 00036

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: D-127253 Pte. BLANCHETTE, P.E.

2. Unit at date of offence: Le Regt de Mais

3. Charge: AA-12 (1) (a) DESERTION in the Field on 8 FEB 45 after being warned that he was to take part in an attack absented himself with intent to avoid taking part in that attack until he surrendered at about 1030 hrs 8 FEB 45. Absent: 3 hrs. 45 mins.

Plea: GUILTY

4. Place and Date of Trial: HOLLAND 15 ~~APR~~ Mar. 45
(FGCM) (///) (///)

5. Finding: GUILTY

6. (a) Sentence: 3 yrs penal servitude
(b) Date of sentence: 15 MAR 45

7. Date of Confirmation: 30 MAR 45

8. Date of Promulgation: 7 APR 45

9. Being served at: to be ascertained in N.D. _____

(N.B. - Discharged under RO 1029 ( ) for
wef)

15

 Case No.....

CONDUCT

11. (a) Prior to conviction: Offence Date Sentence

(i) Civil Convictions: No offence in 3 yrs. 2 mos.

(ii) Courts-Martial: Nil

(iii) Summary Convictions: Nil

(b) After conviction: GOOD. Expected date release: 14 MAR 47.

(c) Date of ~~enrolment~~/enlistment: 13 JAN 42 Present Age: 26

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.

(b) Accused did not give evidence or call any witnesses in his defence.

13 Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

Reviewing Officer: Recommends release 15 MAR 46.

Reviewed by W.A. Moss
W.A. MOSS, Maj.

14. Recommendation of the Board:
For remission on 15 Dec 46
or as soon as may be after the return of the SUB to Canada, whichever is the later.

Date NOV 8 1945

W. A. Stilwell Maj.
Secretary
Courts-Martial Board of Review.

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THIS COPY FOR: H.Q.C. 55-B-2055
M.D. ~~10/Boanchette PE/1~~

FIELD General
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

No. GS D-127253 Name BLANCHETTE, Paul Emile

Rank Pte Unit Le Regt de Mais

Charge AA12 (1)(a) WOAS Deserting....

Date of Crime 8-2-45

Date of Arrest 8-2-45 Charge Signed 15-2-45

Orders for ~~DCCM~~ FGCM By Ord Brig Comd 5 CIB

Place and Date of Trial In the field 15-3-45

Sentence Penal Servitude 3 years

Date of Confirmation 30-3-45

Date of Promulgation 7-4-45

Entered in Records of J.A.G. as No. 4346

Date 26-10-45

MEMO

Reviewed at CMHQ

13

for Judge Advocate-General

10M-8-45(M-189)

Quote No. HQC. 55-B-2055(JAG/D-6)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada

24 Oct 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
D.127253 Pte.BLanchette, P.E.

1. Receipt is acknowledged of your 10/Blanchette PE/1 dated 3 Oct 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

RLM

for (R.J. Orde), Brigadier
Judge Advocate-General.

RLM/rdf

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AIR MAIL Quote No. 10/Blanchette PE/1

CANADIAN MILITARY HEADQUARTERS

LONDON 3 Oct 45

BOMBER

CONFIDENTIAL

C.55-B-2055

The Secretary,
Department of National Defence (Army),
Ottawa, Canada

D 127253 Pte Blanchette, P.E.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 15 Mar 45 for deserting His Majesty's Service, that is to say, after having been warned that he was to take part in an attack, absented himself with intent to avoid taking part in said attack (AA Sec 12(1)(a)).

2. The earliest date on which his sentence of penal servitude should terminate, if he earns full remissions for good conduct while serving his sentence, is 14 Mar 47.

3. This soldier enlisted 13 Jan 42 at Sherbrook, P.Q., and he is now 26 years of age. His records show no previous offences.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. In view of the serious nature of the offence of which this soldier has been convicted and the necessity for exemplary punishment in such cases, it is considered, despite his previous clear record, that he should be required to serve his sentence of penal servitude in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier deliberately deserted His Majesty's Service in order to avoid battle and in all probability for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of FGCM held 15 Mar 45 together with original AF A3104 in respect thereof, on which this direction has been endorsed.

for (E.G. Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters

Enc

Copy to: O i/c,
Records

11

1/39B

RECORDED AT CMHQ IN AD 100 5G-88

CFA96 (In lieu of AFA31) 40/P & S/1698 (40/P) 4/38B

RECEIVED 14 MAY 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

Convened by Order dated 16 W.T. Megill Comd 5 Can Inf Bde dated 14 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
D122753	Pte		PAUL EMILE	BLANCHETTE	R.C.R.

PROCEEDINGS REVIEWED

JH Read Capt 14 Mar 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 15 MAR '45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/31

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See Back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(✓) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) SMM SMM

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences. SMM SMM

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ SMM

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans ..... SMM

~~The Interpreter is sworn.(1)~~ Do you object to ..... as shorthand writer? Ans ..... SMM
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJ.	V.E. Trovenzi	R1+C
Member	Lt.	N.T. Engelhardt	R1+C
Member	Lt.	F.C. Lycett	18 Cdn Fd Amb
Judge-Advocate	Capt	[illegible]	HQ 2 Cdn Inf Div
Prosecutor	Capt	C.E. Lawrencells	Rde Maur
Defending Offr	Capt.	B.M. Prevost	Rde Maur

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D122753 Pte Blanchette, P.E. before arraignment make(s) (no) plea(s) SMM (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form A-E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol IV Fol 136

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans.....No Sir.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.....Y..... and Ex.....Z..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....I have nothing to say at all.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4346 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 25 day of 25 1945

Echelon

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 127253 Pte. Blanchette, P.E. Rde Mais

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

NIL ~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to suffer Penal Servitude for the term of three (3) years.

(Sgd) Ernest McDonald 15 Mar 45 (Sgd) [illegible] Maj.
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 17 Mar 45 (Sgd) [illegible] Commanding 8 Can Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) (H.D.G. CRERAR) GENERAL

Date 30 March 45 ~~Commanding~~ GOC in C FIRST CDN ARMY
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D127253 Pte Blanchette P.E.	7 April 45	[illegible] Capt

I certify that there are no irregularities or irregularities to justify withholding confirmation of these proceedings.

21 Mar 45 [illegible] DJAG Can Sec. GHQ 1 Ech. Can

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

MEDICAL CERTIFICATE (K.R. CAN 557)

I certify that I have this morning examined No D-127253

Pte Blanchette P.A. Le Regiment de Maisonneuve CA(O) and in my opinion

he is fit to undergo trial by Court-Martial.

P. Lavoie capt CAPT

MEDICAL OFFICER

Station FIELD

DATE 15 March 1945

VCT

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*h*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML* p 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA83)
40/P&S/1697 (25653)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-127253	Pte		Paul Emile	BLANCHETTE	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above, as the accused, being subject to military law, has ~~they~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on ~~the~~ 14 Mar 45 endorsed by me, ~~[illegible]~~ To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that the offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~(A) I accordingly to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons therein and thereunder~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	V.Z. Traversy	R.H.C.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lt	N.T. Engelhardt	R.H.C.
Lt	F.C. Lycett	18 Cdn Fd Amb

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	B.S. Lewis	HQ 5 Cdn Inf Bde

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E.K. McDougall	HQ 2 Cdn Inf Div

On Active Service in the Fd

in HOLLAND
(Country.)

Date 14 Mar 45

(W.J. Megill) (Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Commanding 5 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused D-127253 Pte Blanchette, Paul Emile "Le Regiment de Maisonneuve" a soldier of the Can Army (O) is charged with:

Sec 12 (1)(a) Army Act.

WHILE ON ACTIVE SERVICE "DESERTING HIS MAJESTY'S SERVICE"

In that he,

In the field, on 8 Feb 45, after being warned that he was to take part in an attack, absented himself without leave from 0645 hrs on said 8 Feb 45 with intent to avoid taking part in said attack untill he surrendered himself at about 1030 hrs on 8 Feb 45.

Time absent: 3 hours 45 mins.

J.J. Bibeau
.....Lt-Col.,
(J.J. Bibeau) Commanding Officer
Le Regiment de Maisonneuve
Can Army (O).

Dated in the field,
15 Feb 45.

To be tried by F.G.C.M.
Comd 5 Cdn Inf Bde
4 Mar 45

SUMMARY OF EVIDENCE "A"

IN THE CASE OF:

D-127253 Pte Blanchette, Paul Emile "Le Regiment de Maisonneuve" a soldier of the Cdn Army (O) while on active service, is charged with:

Short Statement of the charge:

DESERTING HIS MAJESTY'S SERVICE (A.A. Sec 12 (1).

The Commanding Officer has directed that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION:

D-140936 L/Cpl. Belanger, J.A. "Regt de Mais" C.A. (O) having been duly sworn, states:

On the 7 Feb 45, the coy was brieffed by our Coy Comdr, on an attack we had to do the next day, and the accused was present at the brieffing, and like all of us he has been warned of what we will have to do on the said attack, and also our Platoon Comdr Lieut. J.A.M. Prud'homme gave us a warning, explaining again what will happen and what we will have to do. So on the day of the battle at approximately 0645 hrs when we were concentrated on a determine area, I checked my section and I found that the accused was missing, I then reported the matter to my Platoon Commander.

J.A. Belanger
(D-140936 L/Cpl. Belanger, J.A)
Regt de Mais. C.A. (O).

THE ACCUSED DECLINE TO CROSS EXAMINE THE WITNESS.

SECOND WITNESS FOR THE PROSECUTION:

Capt. D.V. Tremblay "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On the 8 Feb 45, I was with the Tactical H.Q. of the Coy, just before the attack, and at about 1030 hrs, the accused reported to me saying that he could'nt go into the battle. I ordered him to join the coy, and he said "No". I sent him to Bn H.Q. to see the M.O., and the M.O., found him fit for duty. I brought him forward with the kitchen to the Coy area and paraded him before the Coy Comdr, when the attack was finish.

D. Tremblay Capt.
(D.V, Tremblay) Regt de Mais.
C.A. (O).

THE ACCUSED DECLINE TO CROSS EXAMINE THE WITNESS.

5

BT

THE ACCUSED WAS CAUTIONED AS FOLLOW:

Q.1 Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make a statement.

W. L. Blanchette
.....
(D-127253 Pte Blanchette, P.E.)
Regt de Mais. C.A. (O).

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I CERTIFY that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) have been complied with:

R. E. Lauroncelle
.....Capt.
(C.E. Lauroncelle) Regt de Mais.
Officer detailed to take the Summary,

Dated in the Field,
15 Feb 45.

185

4

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-127253	Pte.	Blanchette, P.E.	"Regt de Mais" C.A. (O).

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for nil beginning on the n-a day of .....

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for ..... days in military custody, *i.e.*, ... days in open arrest, 34 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 26

6. The date of his ~~enlistment~~ attestation is 13 Jan 42.

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of† C.V.S.M. & Cl.

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	n-a	
In the war substantive rank of	n-a	
In the acting rank of	n-a	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

3

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 15 ~~Feb~~ Mar 45. day of

(G. Leclerc) Capt.
O. i/c Records. Regt de Mais.
C.A. (O)

MFM 6
(AFB 122)
KD/43/136 (3438)

No D-12725 Name Blanchette, P.E. Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Temporary sheet (Original not available)					

G. Leclerc
.....Capt.
(G. Leclerc) O. i/c Records
Regt de Mais. C.A. (O).

VGT

(PTO)

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

H.Q.C. 55-D-2056 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BISSOL, DELPHIS D-61617 PTE.

1066-80

CONFIDENTIAL
H.Q.C. 55-D-2056

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and state in Minute)		
				ADMIN	NEW FILE	CR	15-10-45
25 1945	25/10/45	PA					
				GMBR	Per Requisition C.R. NOV - 5 1945		
NOV 16 1945	15.11.45			Admin 3	Recommendation		NOV 8 1945
				Admin 3(b)	Per Requisition C.R. DEC 7 1945		
				SE(OG)	SE		
DEC 18 1945	18.12.45	PA				DX	11.12.45
JAN 11 1946	11-1-46	PA		Admin	Per Requisition C.R. DEC 27 1945		
JAN 15 1946	15/1/46	PA		Admin	PER B.F. JAN 15 1946		
MAR 14 1946	14.3.46	PA		Admin	Per Requisition C.R. MAR 12 1946		
				Adm	Per Papers C.R. APR 6 1946	DX	
APR 9 -1946	10/4/46						
JUN 14 1946	14/6/46			J.A.G.	Per Requisition C.R. JUN 13 1946		
SEP 21 1946	21/1/46	PA			Per Requisition C.R. JUL 31 1946		
20 1947	20 Jan 47				PER REQUISITION C.R. DEC 12 1946		
OCT 10 1947	10/10/47	PA		W.G.R.	PER REQUISITION C.R. OCT 2 1947		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

M.1-B-740 A/DIS
M.1-B-861
M.1-B-2406
M.1-B-5106
M.1-D-1567

M.1-F-1021 A/DIS
M.1-G-1243
M.1-H-2086
M.1-L-1960
M.1-L-11005

DEPARTMENT OF NATIONAL DEFENCE
(A R M Y)

MONTREAL, Que.,
4 APR 46

DEPARTMENT OF NATIONAL DEFENCE
16473
APR 6 1946
Referred to admin

The Secretary,
Department of National Defence,
OTTAWA, Ont.

COMPLETED FORMS OF REMISSION AND AFB A3104

Att hereto are the m/n forms for the u/m:

D 56515	Pte	BEAUDOIN	A
D 61617	Pte	BISSON	D
D 57926	Pte	BLANCHETTE	F A
D 63535	Pte	BRISEBOIS	J P
D 77629	Pte	DUPUIS	F
D 123434	Pte	FORTIER	H
D 46474	Pte	GAONE	J H A
D 83129	Pte	HIGGINS	C
D 125110	Pte	LALONDE	J N M
D 138887	Pte	LAPORTE	J R Y

(W J HOME) Brig
DOC MD NO 4

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-
District File No. M.1-B-861

PART I

No. D-61617 Rank PTE Name BISSON, D.
Unit 4 pp

PART II

Date of Trial 25th February, 1945
Charge (s) 3charges of ABSENTING HIMSELF WITHOUT LEAVE IN THE FIELD
Sentence 2years imprownment with H.L. and to be discharged with ignominy
Date of sentence 25th February, 1945
Confirmation -- (a) Authority:
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention and discharge with ignominy as of 1 Apr 46.

Signed at Montreal ~~this~~ 27 day of ~~XXX~~ MAR 46
(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.
To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~XXXXXXXXXX~~)(~~XXXXXXXXXX~~)* promulgated and extracts taken at Montreal South, Que. this 1st day of April 1946 (1)

Ass-Officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-61617 Rank Pte. Name BISSON, D.
The sentence of 2years imprownment with H.L. awarded by ~~District~~ Field Gen. Court Martial on the 25th February, 1945 has been remitted on the 1st April, 1946 by D.O.C.
UNIT Military District No.4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No.4 District Depot C.A.
No. 79 Place Jacques Cartier Barracks, Montreal South, Que. Date 1st April 1946

Adjutant

(R.de G. STEWART) Capt-Adjt, General List, C.A., att'd to No.4 District Depot, C.A.

* Strike out and initial words not applicable.

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

R de Chaud, att 1 Cdn
Unit Disciplinary Centre

I.—Case of No. D-61617 Pte BISSON D on 25 Feb 45

Sentenced to be imprisoned with HL for two years and to be discharged with ignominy from HM Service Term of service duration

Age on, and date, of enlistment 19 years - 20 Oct 39

FIRST TRIAL

For details of offence, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place

Confirming Authority.

Date

III.—I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on (3).

Place

Date

Superior Military Authority (4).

(For action on review, see paragraph VI).

SECOND TRIAL

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To Superior Military Authority.

This man was again convicted on and sentenced to and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place

Confirming Authority.

Date

V.—(5) I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of and be reviewed on (3).

Place

Superior Military Authority (4).

Date

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) As order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

12,500 J 296. 9/44. 24 H D.P.S.S.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution).

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	NO REMISSION- RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters	
		15 JUN 1945	Released from det on 1 Apr 46
27 Mar 46.	Sentence remitted wef 1 Apr 46.	(E.J. RENAUD) Major-General, D.O.C., M.D. 4.	(S. ECHENBERG) Colonel, Commanding No.4 D.D., CA.

(Continued on page 4.)

All recommendations, etc., considered upon review, should be posted here.

1st AA Sec 15(1) - in the Field in BELGIUM absented himself without leave from 1700 hrs 2 Oct 44 until surrendering himself at 0850 hrs 26 Nov 44 (Absent 54 days 15 hrs 50 minutes)	2 Oct 44	25 Feb 4
2nd AA Sec 15(1) - in the Field in BELGIUM while under arrest, absented himself without leave from 0700 hrs 21 Dec 44 until apprehended at 2215 hrs 11 Jan 45 (Absent 21 days,15 hrs, 15 mins)	21 Dec 44	25 Feb 4
3rd AA Sec 15(1) - in the Field,in BELGIUM while under arrest, absented himself without leave from 1615 hrs 16 Jan 45 until apprehended at 1515 hrs 21 Jan 45 (Absent 4 days 23 hrs)	16 Jan 45	25 Feb 4

14

VIII.—Second Trial.

Signature of Officer making entry.

required, an additional slip should be paste

Recommend sentence be served in full.

8 Mar 45

Comdg, ~~1 Cdn Disciplinary~~ Centre

15

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
12 Mar 45	Recommend sentence be carried out IN FULL. This man has a bad record. Precedent of Court says he gave impression of misleading the Court to date's worst.	(G S N Gostling) Brigadier Commander 2 Cdn Base Rft Gp

13

M.1-B-740 A/DIS
M.1-B-861
M.1-B-2406
M.1-B-5106
M.1-D-1567
M.1-F-1021 A/DIS
M.1-G-1243
M.1-H-2086
M.1-L-1960
M.1-L-11005

DEPARTMENT OF NATIONAL DEFENCE
(A R M Y)

MONTREAL, Que.,
4 APR 46

The Secretary,
Department of National Defence,
OTTAWA, Ont.

COMPLETED FORMS OF REMISSION AND AFB A3104

Att hereto are the m/n forms for the u/m:

D 56515	Pte	BEAUDOIN	A
D 61617	Pte	BISSON	D
D 57926	Pte	BLANCHETTE	F A
D 63535	Pte	BRISEBOIS	J P
D 77629	Pte	DUPUIS	F
D 123434	Pte	FORTIER	H
D 46474	Pte	GAGNE	J H A
D 83129	Pte	HIGGINS	C
D 125110	Pte	LALONDE	J N M
D 138887	Pte	LAPORTE	J R Y

(W J HOME) Brig
DCC MD NO 4

COPY

ER V CIA NRS 21 22 & 23

FROM CMDG THREE KINGSTON ONT MAR 151630R

TO DOC MD NO 4 MONTREAL P Q

TO OC NO 4 DD MONTREAL P Q

TO SECTY DND OTTAWA ONT

GR 190 BT

KD 147 RESTD

RELET KS 674(A) DATED 14 MAR 46 AT PRESENT IN MAIL BEING DESPATCHED YOUR HQS THIS DATE STOP THE FOLLOWING SUS PRESENTLY HELD 89 MDB FORT HENRY BARRIEFIELD ONT WILL CEASE ATTACHMENT THAT UNIT AND SOS NO 3 DD TO NO 4 DD WEF 18 MAR 46 STOP

D.56515 PTE BEAUDOIN A

D.61617 PTE BISSON D

D.57926 PTE BLANCHETTE F A

D.77629 PTE DUPUIS F

D123434 PTE ~~XXXXX~~ FOURTIER H

STOP THESE SUSK WILL BE DESPATCHED UNDER ESCORT AND WILL ARRIVE MONTREAL CENTRAL STATION 1745 HOURS SAME DATE STOP REQUEST COMMANDING FOUR HAVE ESCORT DETAILED TO MEET THIS TRAIN ON ITS ARRIVAL STOP REGIMENTAL DOCUMENTS IN EACH CASE WILL BE HANDED OVER TO ESCORT PARTY MEETING TRAIN ON ITS ARRIVAL STOP AFA 3104's WILL BE FORWARDED UNDER SEPARATE COVER DIRECT TO COMMANDING FOUR STOP ADDSD CMDG FOUR RPTD OC NO 4 DD AND DEFENSOR.

BT 151937R WE B

CR(C) PA on file

C 55- 8-2036

Adm 3(b)3

HQC 55-B-2056
Adm 3(b)3

OTTAWA, Ontario, 14 Mar 6

District Officer Commanding,
Military District No. 3,
KINGSTON, Ont.

D.61617 Pte BIRKETT D

1. Herewith copy of a translation of a letter received from the n/m [illegible].

2. This letter has not been acknowledged but is passed to you for any action you may consider appropriate.

(H. G. Weeks)
Major-General
Adjutant-General

HDM/AA

Encl: 1

C-55-B-2056

ADMIN.

(Feb. 21-45)

RECEIVED
MAR 11 1946
3B

TRANSLATION
(March 5-1946)

Sir:

I beg of you to give my letter your special attention.

I have been in active service since Oct.2/39; for 5 years and 6 months, I served in various Countries, i.e., Iceland, England, France, and Belgium, and then had the the misfortune of commiting an offence - I was A.W.L. for about 86 days.

I admit that I committed a very serious offence which, to-day, I deeply regret. I was sentenced to 2 years in jail, at hard labour. I deserve such punishment, but what I am grieving about is my honour, for as per regulations, upon my release, I shall be issued with a dishonourable discharge; will be a branded man, whose sole recourse to make a living will be to lead a criminal's life. Besides, I shall lose any benefits, which would have helped towards my civil re-establishment. There are no words to express how I feel!

How can I face my parents, and my fiancée, who has waited for me all those years? .....

Before it is too late, for I am still in the army, I beg of you to be lenient with me. Please, at least, leave me my honour, for without his honour a man cannot live a respectable life, and do right by those he loves.....

Trusting that you will have pity on a young man, who is greatly depressed, and afraid about the future, I thank you, and remain,

Respectfully yours,

(SGD) Pte. Delphis Bisson, A 7667,
Fort Henry,
Kingston, ONT.

CHJ (Personal add: 7827
St.André St.,Montreal,
Que.)

Confidential
17/3/46

M. Telphis Bisson.
182 [redacted]t André.
Montréal.
P. Qué.

Fort Henry = Kingston, 21 Février 194[illegible]

Au # Ministère de la Défense Nationale.
Parlement S. Ottawa.
Ottawa, Ontario.

Monsieur.

MAR 5 1946
MAR 11 1946
Rec'd
PUBLIC RELATIONS DIVISION

Je suis: 161619 Soldat Bisson Telphis.

De grâce Monsieur ne rejettez pas cette application sans en connaître la raison qui m'oblige à écrire.

Je viens pour mon propre cas sans me servir des bonnes paroles des autres car, de cette manière je serai plus sincère et, vous pourrez plus facilement comprendre le coeur d'un jeune canadien français.

Je suis dans les forces actives canadienne depuis le 2 octobre 1939 dont, cinq années et six mois de ce séjour furent servis en périodes variées dans les pays étrangers, suivants: L'Islande, l'Angleterre, France

et en Belgique. J'avouerai que j'ai commis une faute et c'est pour la raison que je ne suis pas encore près de mes parents mais bien en détention. Mais, Monsieur je souffre. C'est un jeune cœur qui vous parle comme un fils doit souvent le faire avec son Père. J'ai eu la malchance de commettre une erreur durant un repos en Belgique après quelques mois passé en première ligne et je fus condamné à "deux années d'emprisonnement aux travaux forcés et être déchargé de l'armée avec mention deshonorable pour une absence sans permission de quatre vingt six jours environ. Je comprends que je mérite d'être puni mais pourquoi être si sévère enlever le peu de courage que je possédais, me jeter dans la rue sans avenir, avec complètement rien devant moi. En plus Monsieur j'avais quelqu'un de très cher que je chérissais et adorais "une Fiancée" qui avec courage et sacrifice m'attendit jusqu'à l'instant que je perdis mon honneur. Ah soyez indulgent ne me condamnez pas à un supplice

immortel et immortel je suis jeune et avec un peu de considération j'aurai le courage de racheter mon passé. J'ai souffert depuis et je souffre encore surtout par la perte de mon honneur et de celle que j'aime ainsi je ne pourrai pas venir à mes Parents avec cette mention.
Je prie Monsieur je suis sincère et demande votre aide je ne veux pas être obligé de courir les rues pour mon gagne pain en étant une nuisance pour la société en commettant des actes malhonnêtes. Hélas par malheur à l'heure même il y en a trop de ceux qui se servent de ces mauvais actes pour pourvoir à leurs besoins. Je ne veux pas ajouter mon nom à cette liste de misérables et malhonnêtes hommes. Alors tandis que je suis dans l'année encore et qu'il y a encore temps, je place ma confiance + mon espoir entre vos mains pour que vous soyez le juge et père à ce fils de la nation canadienne. Repousser pas sans y porter aucune attention car je suis sincère. J'espère en votre bonté pour juger plus dignement le cas malheureux de ce jeune canadien français qui aimerait avec votre bonté et le futur être un citoyen digne de sa Nation avec son honneur. Avec mes respectueux remerciements espérant recouvrir l'honneur perdue: Votre dévoué

J. 6.6.7 # Bisson Elphis-Pte.

File: D.61617-C(A)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 25 Jan 46

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUS - XUK "HMS KHEDIVE"
D.61617, Pte. BISSON, D.

Reference Radiogram Ranks 6805 Restricted dated 21st January, 1946 from National Defence Headquarters, Ottawa, Ontario.

2. Receipt is hereby acknowledged of the following documents in the case of the n/n soldier.

CMHQ Letter 10/Bisson, D/1, d/3 Oct 45.

NDHQ Letter HQS 55-B-2056, d/10 Jan 46
Adm 3(b)2

CMBR Recommendations no remission

Pa on file
28-1-46

Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

~~HQS 8536-6 Vol 5~~ HQC 55-B-2056
Adm 3(b)2

10 Jan 46

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario

~~D.61617 Pte BISSON, D.~~
SUS - HMS Khedive

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is AFA3104 and CMHQ letter.

3. ~~It will be noted that CMHQ has recommended that SUS Bisson be dealt under CARO 1029(9).~~

3. It will be noted that this SUS was sentenced to be discharged with ignominy under CARO 1029(9).

4. The sentence awarded has been reviewed by CMBR who have recommended **no remission**.

5. Ack.

(E.G. Weeks)
Major-General
Adjutant-General

F.T. For translation and return, please.

Col. M.S.

15 December, 1945.

Antoine Bisson, Esq.,
2172 Bordeaux,
Montreal, P.Q.

Dear Mr. Bisson,

Re: D.61617, Pte. Bisson, D.

With reference to your letter of 19th November requesting the pardon of your son the above soldier, a report on the disciplinary action taken against him has now been received.

I am advised that Private Bisson was tried by Field General Court Martial on 25 February, 1945, in Belgium on three charges of absence without leave. He was found guilty of all three offences and sentenced to two years imprisonment with hard labour and to be discharged with ignominy.

I am advised that his sentence has been taken under review but in view of the gravity of the offence for which he was tried and after consideration of his previous conduct it was not considered that any remission of sentence could be recommended. I regret that I must also advise you that Private Bisson's case has been reviewed by the Special Court Martial Board of Review and again no remission has been recommended.

It may, however, be of some comfort to you to know that it is possible for him to earn remission of a substantial portion of his sentence for consistant good conduct while in detention. I would like to assure you also that it is not the desire of the Department to retain a soldier in confinement longer than is necessary in the interests of justice and military discipline and when your son's case comes up for further review it will be given careful consideration.

Yours very truly,

AGC/EW

(H.L. Cameron) Colonel,
Military Secretary.

MEMORANDUM

TO:

M.S.

Department of National Defence,
(Army)

HQC 55-B-2056 Adm 3(b)2

OTTAWA, Ontario 10 Dec 45

S.E. 1169C d/4 Dec 45
Min File: 1066-80 Sen.

D.61617 Pte BISSON, D

This soldier was tried by FGCM 25 Feb 45 in Belgium on 3 charges of AWL:

(i) from 2 Oct 44 to 26 Nov 44 (an absence of approx 55 dys)

(ii) from 21 Dec 44 to 11 Jan 45 (an absence of approx 22 dys)

(iii) from 16 Jan 45 to 21 Jan 45 (an absence of approx 5 dys)

The SUS surrendered from his first absence but was apprehended on his second and third absences.

2. He was found guilty of all 3 offences and was sentenced to be imprisoned with hard labour for 2 years and to be discharged with ignominy from His Majesty's Service.

3. In addition to the offences mentioned in para 1, he had been found guilty of the following offences:

14 offences AA Sec 15(1) - AWL.
4 offences AA Sec 40 - Conduct to the Prejudice.
1 offence AA Sec 18(1) - Malingering.
1 offence AA Sec 41 - Theft

4. He has had 4 previous FGCsM.

5. CMHQ has directed that this soldier be returned to Cda in custody with the recommendation that he serve the sentence in full and be discharged with ignominy from His Majesty's Service in accordance with the sentence of the Court. It was considered that he deliberately misconducted himself in an operational theatre to avoid rendering effective serve and in all probability for the purpose of obtaining his discharge.

6. This SUS has not yet been returned. He will be returned when shipping facilities will permit.

7. The sentence awarded has recently been reviewed by CMBR. No remission has been recommended.

MILITARY SECRETARY
1066-8 Sen
DEC 12 1945
RECEIVED

MINISTERS OFFICE
DEC 11 1945
DEPT. N.D. OTTAWA

(A E Walford)
Major-General
Adjutant-General

FINAL

WOP:da

TRANSLATION
MB/CGa
26/11/45

Montreal, November 19th, 194

Dear Sir:

My son has been serving Overseas since 5½ years. I am old and I have been sick for some time. Having but that son, I am anxious to see him again before I die. He has been in detention for the last 9 months. He is young and he does not always think well before he acts. Maybe you could grant him his pardon and return him to Canada. In his name and mine, I would beg you to do so now that the war is over. Please have him returned to Canada soon.

Looking forward to a favourable reply and thanking you in advance, I am,

Yours truly,

(SGD) Mr. Antoine Bisson,
2172 Bordeaux,
Montreal, P.Q.

P.S. My son's address is as follows:

D-61617, Pte. Delphis Bisson,
R. de la Chaudière,
No. 4 Cdn: Military Prison (D.B.),
Canadian Army Overseas (England).

F.T. FOR TRANSLATION AND RETURN, PLEASE.

Colonel
Military Secretary.

December 3rd, 1945.

Antoine Bisson, Esq.,
2172 Bordeaux,
Montreal, P.Q.

Dear Mr. Bisson:

Re: D.61617 Pte. Delphis Bisson

Mr. Abbott has directed me to acknowledge receipt of your letter of November 19th in which you ask that your son, the above mentioned soldier, be pardoned and returned to Canada.

All sentences imposed by Courts Martial are carefully reviewed so as to ensure that no injustice is done and the Minister does not feel that he would be justified in granting remission unless so advised by the officers having jurisdiction over such matters.

I am, however, asking the responsible officers of the Department for particulars of the disciplinary action taken against your son, and the results of any review which may have been made.

As soon as I have a report I shall be pleased to write to you again.

Yours very truly,

(H. L. Cameron) Colonel,
Military Secretary.

RECEIVED
DEC 5 1945
ADMIN.
314/2

A.G. (Co-ord 3). Min.File 1066-80 Gen.
May the Minister be informed of the offence, sentence, and any review which may have taken place, please.

Col. D.S.

/AMC

C-55-B-2056

U R G E N T
SPECIAL ENQUIRY

DEC 4 1945

Date _____

No. 1169C

To: D Admin

Reply addressed to M.S will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY L.M.D at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an Interim Reply or other advice will be forwarded to the Special Enquiry Section (Room 354 Aylmer Annex) immediately. Replies will be signed in the Directorate concerned, for the A.G.

E. Hutchinson Capt
A.G. Co-ord 3
(S.E. Section)

Montréal 19 Novembre 1915

FOR TRANSLATION AND RETURN TO MIN. OF N. D.

Il y a 5 ans et demi que mon fils est en France, je suis âgé et malade depuis quelques temps, alors comme je n'ai que ce fils je voudrais bien le revoir avant la fin de mes jours. Il est en détention depuis 9 mois. Il est jeune et ne réfléchis pas toujours à ce qui il fait. Peut être pourriez vous lui pardonner et le faire revenir au Canada. En son nom et au mien je vous demanderais de lui pardonner vie que la guerre est finie, s'il vous plait le faire revenir au Canada bientôt. Une réponse est attendue avec plaisir, en vous remerciant d'avance.

Votre tout dévoué
Mr Antoine Bisson
2172 Bordeaux
Montréal

MINISTER'S OFFICE NOV 23 1915 DEPT. N.D. OTTAWA.

NOV 27 1915 PRIVATE SECRETARY

Voici l'adresse de mon fils
061617 PTE BISSON DELPHIS
REGT DE LA CHAUDIÈRE

2

NO 4 Can Military Prison
& D.B.
Canadian Army Overseas
England.

NOV 26 1945
NOV 23 1945

Sch 1. B-2056 6

7 Nov 45.

0734

DATA OF SENTENCE
BY
COURTS MARTIAL, BASE OF RAMEN

1. No, Rank and Name: D-61617 Pte. BISSON, D

2. Unit at date of offence: Regt. de Chaud. N.W.E.

3. Charge: (1) AA Sec 15 (1) AWL - absent from 2 Oct 44 until surrendering 26 Nov 44 (Absent 54 days)

(2) AA Sec 15 (1) AWL - while under arrest absented himself from 21 Dec 44 until apprehended 11 Jan 45. Absent 21 days)

(3) AA Sec 15 (1) AWL - while under arrest absented himself from 16 Jan 45 until apprehended 21 Jan 45. (Absent 4 days 23 hrs.)

Plea: Guilty of all charges.

4. Place and Date of Trial: Belgium 25 Feb 45.
(FGCM) (xxx xxxx

5. Finding: Guilty of all charges.

6. (a) Sentence: 2 yrs imp WHL. Discharge with ignominy.
(b) Date of sentence: 25 Feb 45

7. Date of Confirmation: 26 Feb 45

8. Date of Promulgation: 8 Mar 45

9. Being served at: ? in M.D.

(N.B.- Discharged under RO 102) ( ) for
wef

21

CONDUCT

11. (a) Prior to Conviction:

	Offence	Date	Sentence
(i) Civil Conviction:	N/A		
(ii) Courts-Martial:	4		
	Theft and producing desease	25 Oct 41	9 mos. detn
	AWL - 20 days	24 Mar 43	185 days detn
	AWL - 16 days	22 Sep 43	180 days detn
	AWL - 7 days and Imp. Possession	9 Nov 43	12 mos detn.
(iii) Summary Convictions;	10 AWL 2 Imp. possession		

(b) After conviction: Good
Expected date of release with normal remission 24 Jun 46.
(c) Date of enlistment: 2 Oct 39 Present Age: 24.

---

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted.
(b) President of the Court stated this Prisoner gave the impression he dared the court to impose the maximum sentence and that he was proud of the number of FGC'sM he had.
(c) Statement by prisoner on the Statement of Character and Conduct Sheet:-
"I have been in the army 5 yrs. 4 mos. I never did like the army and never will. I expect to keep going on the loose as long as I am in the army. I am single and category A1."

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Officer, etc.)

Rev. Offr:
Recommend sentence be served in full.

Reviewed by WAMoss
W.A. Moss, Major

---

14. Recommendation of the Board:

No Remission Recommened.

Date NOV 8 1945

W.A. Stickwell Maj
Secretary
Courts-Martial Board of Review.

THIS COPY FOR:

H.Q.C. 55-B-2056
M.D. ~~10/Bisson D/1~~

MEMORANDUM - ~~DISTRICT~~ FIELDGENERAL COURT-MARTIAL

No. GS D-61617 Name BISSON, Delphis

Rank Pte Unit R de Chaud Att 1 CDC

Charge (1) AA 15 (1) WOAS AWL

(2) AA 15 (1) WOAS AWL

(3) AA 15 (1) WOAS AWL

Date of Crime (1) 2-10-44 (2) 21-12-44 (3) 16-1-45

Date of Arrest (1) 26-11-44 (2) 11-1-45 (3) 21-1-45 Charge Signed ~~21-2-45~~

Orders for ~~DGCMX~~ FGCM By Ord Brig Comd 2 CBRG

Place and Date of Trial In the field 25-2-45

Sentence Imp WHL 2 years Discharge with ignominy

Date of Confirmation 26-2-45

Date of Promulgation 8-3-45

Entered in Records of J.A.G. as No. 4345

Date 24-10-45

MEMO. Balance of sentence remitted by Conf. Auth. 1-4-46

Reviewed at CMHQ

19

10M-8-45(M-189)

R.D. Ryan Lt.
for Judge Advocate General

Quote No. HQC 55-B-2056(JAG/D-6)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada

24 Oct 45

Canadian Military Headquarters,
2 Cookspur St.,
LONDON S.W.1, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial

D.61617 Pte. Bisson, D.

1. Receipt is acknowledged of your dated 2 Oct 45 which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

(R.J. Orde), Brigadier
Judge Advocate-General.

KLM/fdf

18

AIR MAIL Quote No. 10/Bisson, D/1

CANADIAN MILITARY HEADQUARTERS

BOMBER LONDON 3 Oct 45

CONFIDENTIAL

C.55-B-2056

The Secretary,
Department of National Defence (Army),
Ottawa, Canada.

D 61617 Pte Bisson, D.

1. The m/n soldier is now serving a sentence of 2 years imprisonment with hard labour and discharge with ignominy awarded by FGCM 25 Feb 45 for an absence without leave from which he surrendered after 54 days (AA Sec 15(1)), and 2 absences without leave while under arrest from which he was apprehended after 21 days and 4 days respectively (AA Sec 15(1)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which his sentence of imprisonment should terminate, if he continues to do so, is 24 Jun 46.

3. This soldier enlisted 2 Oct 39 at Montreal, P.Q., and he is now 24 years of age. In addition to the offences mentioned in para 1 above, he has, since enlistment, been found guilty of 14 offences under AA Sec 15(1), of 4 offences under AA Sec 40, and of one offence under each of AA Secs 18(1) and 41. He has had 4 previous FGCSM: the first on 25 Oct 41 when he was awarded a sentence of 9 months detention for theft (AA Sec 41), and producing disease (AA Sec 18(1)); the second on 24 Mar 43 when he was awarded a sentence of 185 days detention for an absence without leave of 20 days (AA Sec 15(1)); the third on 22 Sep 43 when he was awarded a sentence of 180 days detention for an absence without leave of 16 days (AA Sec 15(1)); and the fourth on 9 Nov 43 when he was awarded a sentence of 12 months detention for 2 absences without leave of 1 day and 6 days respectively (AA Sec 15(1)), and 2 offences of improper possession of public property (AA Sec 40).

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. In view of the length of the illegal absences in an active theatre of operations of which this soldier has been convicted and his previous extremely poor record, it is considered that his sentence, including discharge with ignominy, is appropriate and fully deserved and that he should be required to serve his sentence of imprisonment with hard labour in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered that this soldier deliberately misconducted himself in an operational theatre to avoid rendering effective service and in all probability for the purpose of obtaining his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of FGCM held 25 Feb 45 together with original AF A3104 in respect thereof, on which this direction has been endorsed.

for (E.G. Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters

Enc

Copy to:- O i/c,
Records

1/39B CMHQ 1000:77
40/P & S/903 (6740)

RECORDED AT CMHQ IN AD 100. 5C-99

CFA96 (In lieu of AFA3) 40/P & S/1608 (6144) 4/388

FIELD GENERAL COURT-MARTIAL

Convened by order of Brigadier G.S.N. Gostling, ED Comd 2 CBRG dated 24 Feb 45

16 APR 1945

ACCUSED.

(For the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-61617	Pte		Delphis	BISSON	R de Chaud att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED
16 Apr 45 K.G. Dick Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 25 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 14.50 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans no (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	PS Osler	RCA	att 3 Cdn NETD
Member	Capt	JPG Gagnon	CIC	13 Bn 2 CBRG
Member	Lt	JY Vilandré	CIC	10 Bn 2 CBRG
Judge-Advocate		nil		
Prosecutor	Lt	JP Gougeon	CIC	10 Bn 2 CBRG
Defending Offr	Lt	WH Sparrow	CIC	10 Bn 2 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans no Is the Defending Offr a lawyer? Ans no (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D-61617 Pte Delphis BISSON before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG. Vol III R 18.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans no .....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4345 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of Oct 19 44.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-61617 Pte Delphis BISSON — R de Chaud att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA sec 15 (1)	Guilty	Guilty	
2nd AA sec 15 (1)	Guilty	Guilty	
3rd AA sec 15 (1)	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1) PO

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 35 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majesty's service

(Sgd) ..... Judge-Advocate, if any. — 25 Feb 45 Date awarded. — (Sgd) P J Osler major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not~~ committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) Unknown Brigadier

Date 26 Jul 45 — Commanding 2 CBRG — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. — Date. — Signature of Offr.

D61617 Pte Bisson, D. — 8 Mar 45 — Unknown, Lt-Col. Comdg, 1 Cdn Disciplinary Centre

CR # 234 8 Mar 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Besson gave the impression that he dared the Court to do its worst and he would not care. There was some indication that he is proud of the number of times he has had Courts Martial.

It is recommended that he be interviewed by a psychiatrist with a view to preventing him becoming a public menace after discharge from the prison.

P A Osler major

3.10.4.

Include a digest of this in Full.

11

CHARGE SHEET

The accused, D-81617 Pte Delphis BISSON, R de Chaud, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT
LEAVE

in that he
In the Field, in BELGIUM, absented himself without leave from 1700 hrs 2 Oct 44 until surrendering himself at 0850 hrs 26 Nov 44.
(Absent 54 days 15 hrs 50 minutes)

SECOND CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT
LEAVE

in that he
In the Field, in BELGIUM, while under arrest, absented himself without leave from 0700 hrs 21 Dec 44 until apprehended at 2215 hrs 11 Jan 45.
(Absent 21 days 15 hrs 15 mins)

THIRD CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT
LEAVE

in that he
In the Field, in BELGIUM, while under arrest, absented himself without leave from 1615 hrs 16 Jan 45 until apprehended at 1515 hrs 21 Jan 45.
(Absent 4 days 23 hrs)

In the Field
21 Feb 45

(A C Hood) Lt-col
OC 1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
22 Feb 45

(G S N Gostling) Brigadier
Comd
2 Cdn Base Rft Gp

P10

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-61617	Pte		Delphis	BISSON (R de Chaud)	1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 24 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	P.S. Osler RCA	att 3 Cdn NETD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 13 CBR Bn	
Lieut	to be detailed by OC 10 CBR Bn	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G S N Gostling)

Date 24 Feb 45

Commanding 2 Cdn Base Rft Gp Convening Officer.

9

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4631)

P20

MEDICAL OFFICER'S REPORT

I certify that No. D6/617 Pte. Brisson, D.
of 6 D B is in a good state of health,
and fit to undergo Trial by Court martial.

[illegible] Capt.
Medical Officer

Station 6 D B

Date 25/2/45

8

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

Statement by Bisson on the Statement of Character and Conduct Sheet.

I have been in the Army 5 years and 4 months. I never did like the Army and never will. I expect to keep going on the loose as long as I am in the Army. I am single and category A1.

~~Approved~~
This statement was read over to Bisson

PJO

1

Exhibit A p10

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D.61617 Pte BISSON, D. R de Chaud, on strength 1 Cdn Disciplinary Centre, a soldier of the Cdn Army Overseas, charged with, "absence without leave (AA Sec 15(1)). (3 Charges.)

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit 'A' - Certified true copy of Extracts from Part II Orders No.99 dated 16 Dec 44, No.5 dated 27 Jan 45 and No.8 dated 7 Feb 45.

Exhibit 'B' - Certificate of Apprehension dated 20 Jan 45.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

RP 83(B) complied with.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

J. F. Lutterford Capt.
R.C. Sigs.
Officer detailed to take Summary of Evidence.)

In the Field,
2/Feb 45.

6

Exhibit A.

TO: OC
1 Cdn Disciplinary Centre
Canadian Army Overseas

PART II ORDER EXTRACT FORM

99/20/Chaud/1(A5c)

9 FEB 1945

EXTRACTS FROM: Unit LE REGIMENT DE LA CHAUDIERE

Part II Order No. ..... dated .....

ABSENT WITHOUT LEAVE

Part II Order No 99 d/16 DEC 44

AWL from 1700 hrs 2 OCT 44 Ret from AWL 0850 hrs 26 NOV 44
D61617 Pte BISSON D

Part II Order No 5 d/27 JAN 45

AWL from 0700 hrs 21 DEC 44 App from AWL 2215 hrs 11 JAN 45
D61617 Pte BISSON D

Part II Order No 8 d/7 FEB 45

AWL from 1615 hrs 16 JAN 45 App from AWL 1515 hrs 21 JAN 45
D61617 Pte BISSON D

The following documents are { attached. Please acknowledge receipt on attached duplicate. required. Please forward same.

Certified True Copy of regimental documents in my custody.

This is exhibit A referred to in summary of evidence in the case of Pte Bisson taken before me this 21 Feb 45
J. F. Butterfield Capt.

Officer IC Records
Cdn Sec GHQ 2 Ech 21 A Gp.

Originating Clerk's Initials GV

(J. R. FENELON) Captain for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

5

ECH—6
40/P & S/1276 (4032)

Exhibit B.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY that No. D-61617 Rank Pte. Name Bisson, D.
Unit "C" Coy. Regt. De Chaud. was arrested at Paris (Place)
at 15.15 (hour) on 21 Jan-45 (date) and that at the time of his arrest he was wearing (military uniform) ~~xxxxxxxxxxxxxxxxxxxxxx~~

Signature of Provost-Marshal, Assistant Provost Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

C. Beaulne Lieut

Field
22-Jan-45.

D.A.P.M. Paris
(C. Beaulne.) Lieutt
D.A.P.M. CDN. MIL. STAFF PARIS.

This is exhibit "B" referred to in Summary of Evidence in the case of A/pte Bisson taken before me 21 Feb 45
J. F. Lucknford Capt

4

Exhibit B250

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D6167	Pte	Bisson, Delphis	R de Chaud C.I.C.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
*For	no m for 6 available times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted~~, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and ~~28~~ 35 pto days in military custody, making a total of ~~28~~ 35 pto days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / ~~attestation paper~~ is 24 yrs 1 Month.

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / ~~attestation paper~~ is 20 Oct 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is _____

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. The accused is entitled to reckon _____ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

CVSM & Clasp.

3

12. (*In the case of an officer.*) The accused holds in the army the rank of _____ dated _____ and in his regiment (*or* corps *or* department) the rank of _____ dated _____

(*25806) Wt.34598/1750 20,000 10/43 A.& E.W.Ltd. Gp.498
(25806) Wt.55994/1499 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D61617 Rank Pte. Name BISSEN of R de C HAUD Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	WORTHING, ENGLAND NOV 43.	1. AWL Sec 15(1) about 35 days. 2. AA Sec 40 Improper possession	12 MONTHS DETENTION	Less 3 MONTHS.
FGCM	BROWNING CAMP SUSSEX SEP 43.	1. AWL Sec 15(1) 22 days.	6 MONTHS DETENTION Broke arrest after serving one month.	
FGCM	BROWNING CAMP SUSSEX MAR 43.	1. AWL Sec 15(1) 20 days.	6 MONTHS DETENTION	2 MOS.
FGCM.	LEWES SUSSEX 25 OCT 41	1. STEALING 2. DISOBEYING AN ORDER 3. AWL 2 Hours.	9 MONTHS DETENTION	3 MOS.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd 25 day of Feb 1945

J. Dibb Capt Admin. Offr.
1 Cdn Disciplinary Centre

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

In the rank of ..... years, ... Date of Promotion.

In the rank of ..... years ....

In the rank of ..... years, ...

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extracts from Part II Orders No 99 dated 16 Dec 44, No 5 dated 27 Jan 45 and No 8 dated 7 Feb 45. "A"

Certificate of Apprehension dated 20 Jan 45. "B"

I, D-61617 Pte Delphis BISSON, hereby certify that I have received one (1) copy of Charge Sheet and one (1) copy of Summary of Evidence free of charge on 23 Feb 45.

D Bisson

D61617 Pte BISSON D

2

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D61617 Pte Delphis BISSON R de Chaud att 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd	AA Sec 15(1)	Guilty	Guilty	
3rd	AA Sec 15(1)	Guilty	Guilty	
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1) PSO

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 35 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majesty's Service.

(Sgd) ..... Judge-Advocate, if any. 25 Feb 45 Date awarded. (Sgd) P S Osler Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) GSNG

(1. AA 57A. Delete if not used.)

(Sgd) G S N Gostling Brigadier

Date 26 Feb 45 Commanding 2 CBRG Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D61617 Pte Bisson, D.	8 Mar 45	"A O Hood" Lt-Col Comdg, 1 Cdn Disciplinary Centre

CR #234
d/8 Mar 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SC-99

CPA96 (In lieu of APA3) 40/P & S/1608 (4000) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier GSN Gostling ED Comd 2 CBRG dated 24 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.61617	Pte	Delphis	BISSON	R de Chaud att 1 Cdn Disciplinary Centre

CERTIFIED TRUE COPY
J. D. Kidd Lieut
Pay Sec GHQ Group 12 Apr 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) PSO 25 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 25/22

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) PSO amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) PSO brought before the Court. At 1450 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) PSO fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ PSO

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~ PSO
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	P S OSLER	RCA	att 3 Cdn NETD
Member	Capt	J P G GAGNON	CIC	13 Bn 2 CBRG
Member	Lt	J Y VILANDRE	CIC	10 Bn 2 CBRG
Judge-Advocate		Nil		
Prosecutor	Lt	J P GOUGEON	CIC	10 Bn 2 CBRG
Defending Offr	Lt	W H SPARROW	CIC	10 Bn 2 CBRG

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D61617 Pte Delphis BISSON before arraignment make(s) (no) (~~is~~) PSO plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) PSO arraigned (~~separately~~) STET PSO on all charges in the charge sheet.(1) The accused does (~~do~~) PSO not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) PSO considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....NO.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement.* *Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans.....Do you intend to call witnesses on your behalf ? Ans.....Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....NO.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex....B..... and Ex....C..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....YES.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Bisson gave the impression that he dared the Court to do its worst and he would not care. There was some indication that he is proud of the number of times he has had courts martial.

It is recommended that he be interviewed by a physhiatrist with a view to preventing him becoming a public menace after discharge from the prison.

"P S Osler"Major

Includea dijest of this in 3104

"FWG"

"PSO"

CHARGE SHEET

The accused, D61617, Pte Delphis BISSON, R de Chaud, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT
LEAVE
in that he

In the Field, in BELGIUM, absented himself without leave from 1700 hrs 2 Oct 44 until surrendering himself at 0850 hrs 26 Nov 44.
(Absent 54 days 15 hrs 50 minutes)

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT
LEAVE
in that he

In the Field, in BELGIUM, while under arrest, absented himself without leave from 0700 hrs 21 Dec 44 until apprehended at 2215 hrs 11 Jan 45.
(Absent 21 days 15 hrs 15 mins)

THIRD CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT
LEAVE
in that he

In the Field, in BELGIUM, while under arrest, absented himself without leave from 1615 hrs 16 Jan 45 until apprehended at 1515 hrs 21 Jan 45.
(Absent 4 days 23 hrs)

In the Field
21 Feb 45

"A O Hood" Lt-Col
OC 1 Cdn Disciplinary Centre

To b e tried by Field General Court-Martial.

In the Field
24 Feb 45

"G S N Gostling" Brigadier
Comd
2 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D61617	Pte		Delphis	BISSON (R de Chaud)	1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(xxxx~~committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 24 Feb 45 endorsed by me, ~~xx by order of my superior~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~xxxx

MEDICAL OFFICER'S CERTIFICATE (KR(Can)Para 557)

I certify that I have this day examined D61617 Pte BISSON, D. of 1 C D C and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station 1 C D C

Date 25/2/45

??? ???? ?????Capt
Medical Officer

Unit

STATEMENT BY BISSON ON THE STATEMENT OF CHARACTER AND CONDUCT SHEET.

I have been in the Army 5 years and 4 months. I never did like the Army and never will. I expect to keep going on the loose as long as I am in the Army. I am single and category A1.

This statement was read over to Bisson.

"PSO"

Exhibit "A" "B"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D.61617 Pte BISSON, D., R de Chaud, on strength 1 Cdn Disciplinary Centre, a soldier of the Cdn Army Overseas, charged with, absence without leave (AA Sec 15(1)). (3 Charges).

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extracts from Part II Orders No. 99 dated 16 Dec 44, No.5 dated 27 Jan 45 and No.8 dated 7 Feb 45.

Exhibit "B" - Certificate of Apprehension dated 20 Jan 45.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

R P 83 (b) complied with.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

In the Field,
21 Feb 45.

"J F Rutherford Capt"
R C Sigs
Officer detailed to take Summary of Evidence.

Exhibit "A"

PART II ORDER EXTRACT FORM

Fo: OC
1 Cdn Disciplinary Centre

99/20/CHAUD/1(A5c)

9 Feb 1945

EXTRACT FROM: Unit LE REGIMENT DE LA CHAUDIERE

Part II Order No.....dated.....

ABSENT WITHOUT LEAVE

Part II Order No 99 d/16 DEC 44

AWL from 1700 hrs 2 Oct 44 Ret from AWL 0850 hrs 26 Nov 44
D61617 Pte BISSON D

Part II Order No 5 d/27 Jan 45

AWL from 0700 hrs 21 DEC 44 App from AWL 2215 hrs 11 Jan 45
D61617 Pte BISSON D

Part II Order No 8 d/7 FEB 45

AWL from 1615 hrs 16 Jan 45 App from AWL 1515 hrs 21 JAN 45
D61617 Pte BISSON D

Certified true extract from the regimental books and documents in my custody.

"J R FENELON" Captain
Officer IC Records "C"
Cdn Sec GHQ 2 Ech 21 A Gp

Originating Clerk's Initials GV

This is exhibit "A" referred to in the Summary of Evidence in the case of a/m taken before me this 21 Feb 45.

"J.F. Rutherford" Capt

Exhibit "B"

CERTIFICATE IN ACCORDANCE WITH P.C. a797 of 10 Apr 42

I CERTIFY that No D61617 Rank Pte Name Bisson, D.

Unit "C" Coy Regt de Chaud was arrested at Paris (place)

at 1515 (hour) on 21 Jan 45 (date) and that at the time of his arrest he was wearing military uniform.

Signature of Provost-Marshal, Assistant Provost Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

"C Beaulne "Lieut

DAPM Paris
(C. Beaulne) Lieut
D.A.P.M. CDN MIL STAFF PARIS

Field
22 Jan 45

This is Exhibit "B" referred to in Summary of Evidence in the case of a/m taken before me 21 Feb 45.

"J F utherford Capt"

Exhibit "B" RCC

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D61617	Pte	Bisson, Delphis	R de Chaud CIC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For No MFM 6 available ..... times.

For .... times.

For .... times.

For .... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 35 days in military custody, *i.e.*, ... days in open arrest, ... days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 24 yrs 1 month

6. The date of his attestation ~~XXXXXXXXXXXXXXXXXXXX~~ is 2 Oct 39

7. The service which the accused is allowed to reckon is .....

†State the military decorations (if any) held by accused.

8. The accused is in possession of† C.V.S.M. & Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Worthing England Nov 43	1. AWL Sec 15(1) about 35 days) 2. AA Sec 40 Improper possession)	12 months Detn	Less 3 months
FGCM	Browning Camp Sussex Sep 43	1. AWL Sec 15(1) 22 days	6 months detn Broke arrest after serving one month	
FGCM	Browning Camp Sussex Mar 43	1. AWL Sec 15(1) 20 days	6 months Detention	2 months
FGCM	Lewes Sussex 25 Oct 41	1. Stealing 2. Disobeying an order 3. AWL 2 hours	9 months detention	3 months

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25 day of Feb 45

"J D Dibb" Capt Admin Offr
1 Cdn Disciplinary Centre

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extracts from Part II Orders No 99 dated 16 Dec 44, No 5 dated 27 Jan 45 and No 8 dated 7 Feb 45. "A"

Certificate of apprehension dated 20 Jan 45 "B"

I, D61617 Pte Delphis BISSON, hereby certify that I have received one (1) copy of Charge Sheet and one (1) compy of Summary of Evidence free of charge on 23 Feb 45.

"D Bisson"
D61617 Pte BISSON D

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 61617 Pte Delphis Bisson

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	Guilty	
2nd	Not guilty	Guilty	
3rd	Not guilty	Guilty	
4th	Not guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present ~~under sentence~~ for 280 days detention beginning on (date) 22 Sep 43 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned ~~for~~ with hard labour for 12 months.

(Sgd) ..... Judge-Advocate, if any. 9 Nov 43 Date awarded. (Sgd) W G Oslen Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm but commute the sentence to 12 months detention.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 10 Nov 43 (Sgd) [signature] Commanding G S N Costling Brig Comd 6 Can Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D61617 Pte Bisson Delphis	12 Nov 43	[signature] Capt AGJ

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S/1666 (2864)

Convened by Order of Brig G. S. N. Costling Comd 6 Can Inf Bde dated 7 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Pmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 61617	Pte	Proceedings Reviewed 27 Nov 43 J A Waugh Capt Reviewing Officer (J.A.G.) C.M.H.Q.	Delphis	Bisson	Fus. M. R.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 8-9 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 15.20 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

~~(1. RP 72. Delete, if none employed.)~~

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W. G. Oslen	Cameron of C.
Member	Capt	E. Barnard	Fus. M. R.
Member	Lt.	J. K. Kemp	S. Sask R.
Judge-Advocate			
Prosecutor	Capt	M. Rousseau	Regt St Hyacynthe
Defending Offr	Capt	L. O. Goulet	Fus. M. R.

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused Pte Delphis Bisson before arraignment make(s) (no) ~~the~~ plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No. (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. B5, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. Yes. (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes. subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. ~~The Prosecution is closed.~~(1) The Defending Offr submits that the evidence for the Prosecution ~~does not~~ establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. No.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. ..... and Ex. ..... respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes. (counsel) (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

In the case of D-61617 Pte Delphis Bisson, Les Fusiliers Mont-Royal, C.A.O., a soldier of the Canadian Army Overseas is charged with:

First Charge
A.A. Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the field absented himself without leave, while under close arrest, from 2115 hrs 2 Oct 43 until apprehended by Military Police at 24 Dinapore St., Brighton, 3 Oct 43 at 2230 hrs.

Total absence 1 day 1 hr 15 mins.

Second Charge
A.A. Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the field absented himself without leave, while under close arrest, from 1900 hrs 4 Oct 43 until apprehended by Military Police at 24 Dinapore St., Brighton, at 2330 hrs 10 Oct 43.

Total absence 6 days 4 hrs 30 mins.

Third Charge
A.A. Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the field on 10 Oct 43 when apprehended by the Military Police at Brighton did not have in his possession his MBM 1.

Fourth Charge
A.A. Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the field, on 10 Oct 43, when apprehended by Military Police at Brighton was improperly in possession of three magnetic compasses numbers B-14293, B-14284 and B-14286, public property.

In the Field
20 Oct 43

(J.G. Gauvreau) Lieut-Col.,
Officer Commanding, Fus M R, C.A.O.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
21 Oct 43

(G.S.N. Gostling) Brigadier,
Commander 6 Cdn Inf Bde.

A 4. Bisson mor

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. D-51617 Pte. Bisson, D.

of Fusiliers Mont-Royal and in my opinion he

is FIT or ~~UNFIT~~ to undergo Trial by Court-Martial.

Station In the field

Date 8 Nov 43

G. Lewis Capt.
Medical Officer

A's

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. 261417 Pte Bisson D.

of ~~Bisson~~ Id. F.M.R. and in my opinion he

is FIT ~~or UNFIT~~ to undergo Trial by Court-Martial.

Station In the Field

Date 9. Nov. 43

G. Sourie Capt.
Medical Officer

CFA 95 (In lieu of AFA3)
40/PAS/1697 (3868)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.61617	Pte		Delphis	Bisson	Fus M R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) ..... endorsed by me, ~~XXXXXXXXXXXXXXXXXX~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~XXXXXXXXXXXXXXXXX

D 1.

Accused applies for an adjournment on the ground that he has not been provided with a copy of the summary of evidence

Court adjourns till 10. a.m. 9 ~~Dec~~ Nov 43.

At 10 a.m. 9 Nov 43 trial re-opens.

B E Boles
Maj

D 2.

Prosecutor's opening address

There are four charges. The prosecution will try to bring proofs before the court proving that on 2 Oct 43 the accused went A.W.L. and was later apprehended. Secondly, that on 4 Oct 43, while under close arrest, the accused escaped and none; that on 10 Oct 43, when he was apprehended by military police in Brighton, the accused was not in possession of his MBM, and finally that on the same day, 10 Oct 43, he was searched and three magnetic compasses, belonging to the public, were found amongst his things. The evidence will be written and verbal.

K. Rose
Maj

D3.

First witness for the prosecution

D63518, L/cpl Rio Lalonde, Pus M.R., sworn, states

On 2 Oct 43, I was a member of the Regimental Police. I recognize the accused, Pte Delphis Bisson.

On 2 Oct 43 at approximately 21.00 hrs I was on duty at the guard room. I was replaced by Pte Lanzieres for a time. When I came back at 21.15 I noticed that the accused, who was a prisoner in the guard room, had disappeared.

Cross Examination

Q. Is Lanzieres a R.P.?

A. No.

Q. How is it that you asked Lanzieres to relieve you?

A. Lanzieres had been working with us for the last week

Q. In what capacity?

A. He was detailed for guard duty.

Second Witness for Prosecution

E 101063 Pte Paul Henri Sicard, P.M.R., being sworn states.

I recognize the accused Pte Bisson.

On 4 Oct 43 I was on duty guarding prisoners at the regimental guard room. The accused was one of the prisoners.

Q. Do you know anything about the accused that happened on 4 Oct 43?

A. No.

Q. When you started your tour of duty was the accused in the guard room?

A. Yes sir

Q. When you finished was he there?

A. No sir.

~~Q. What happened to the accused during the time you were on duty?~~

~~A. There were two bottles and they escaped.~~

~~Q. What time was it when you noticed the accused had disappeared?~~

~~A. I did know. I had no watch.~~

Stricken from record because further questioning showed he did not know the lad had merely been held up.

No Cross Examination

~~Q. (By Court) You did~~

Third Witness for Prosecution

No D138394 Pte Lanzieres A, Pro. M.R., being sworn, states he does not recognise the accused and never was on guard over him but it was another Lanzieres.

Fourth Witness for prosecution.

7684181 Cpl McCormick, L. Corps of Military Police, being sworn, states he recognizes the accused Pte Bisson.

On the night of 10 Oct 43, I was on duty in Dienapre St, Brighton where I saw the accused. Knowing him to be A.W.L. I escorted him to Provost M.P. 19 Old Slam, Brighton, where he was searched by me and he was not in possession of M.B.M. I ~~He was~~ I found in his possession these ~~permanent~~ magnetic compasses bearing U.D. stamp. I cautioned the accused and he declines to make any statement. I arrested him and conveyed him on the 11 Oct to his own unit.

(Produces these magnetic compasses, Nos B14293 B14294 and B14296 and identifies them as those he took from accused, MARKED "Y")

No Cross examination

Under R.P. 38 accused asks permission to change his plea and pleads guilty to all charges.
The president complies with R.P. 35 B and the court accepts the plea of guilty to all charges.

J. E. Oxley
Maj

In the case of St. Elphis Bisson 7616 N. Dn. R.
Remand for A: N.G.C.M.

This 9 of November 1943.

E3
Blocker
major

Sirs:

I am not alone or proud by defending myself but there is something than an officer cannot see plain for me in my case.

When I did join the army I was old enough to know what I was doing.

I knew well I mean I thought that one day I shall have to went in action.

But I found my mistake.

After three years and four months overseas I still in this Country always the same training. I am really fed up of it.

I shall admit that if I ain't got no pay since three years or more is sadly October 1940 how do you think I feel I understand its all my fault.

I see in the unit they had no taylor I am one by trade having work two years in this trade before I join the army.

I have asked for it and the answer was: They need more my services in the ranks than on that work.

They believe that I am ready for the action that I am qualified and also that I had the aptitudes of wearing stripes.

So when I heard about it I also make an application to be send outside this Country as I could prove what I can do.

But again it was the same answer.
I know so many peoples who are ready to
help me on any time feeling sorry for me being three
years without paid so had an I help to do so.
If I was some where else I should be ready
to do as well as a good soldier should do.
Because it would be a new training
for me away from all those I know and in a
few weeks or months in the place for which I did
join the army and not to have an holiday.
Why the Canadian Army has so
many men in Detention.
All for the same cause as me
to day
If there was some one to ask us our opinion
perhaps after a while it would be different.
We are all suffering for the same
reason. When they need some men for overseas
in another word section.
I believe they should take the oldest
one. After all the training here will not
make any different in what we know.
But to be send where and for
what we have join the army you
would'nt have to give three free meals every
days to them who are doing nothing.
I believe that if you all: Sirs: you take
these points in consideration you will find
that I shall do more my part in action than in this
Country. One more point that I wish bring to
the court some cases happened in this unit.
On five different mens after that they
have been sentenced by a court Martial
all of them escape from the clink

So after we all have been caught four of them are sentenced of a few days pay.
And the other one of me remained for a trial. How can I called this justice.
Do you believe I would again in this unit serve for his majesty.
After all we had the same charges why should I be trial beside a few days pay.
So I ask the Mercy of the court hoping to lose more justice.
And could I have an interview with the Brigadier for special reasons.

I thank you all sirs for your good attention

and remaind.

A. Delphis Lisson
D 6167
R. M. R.
Canadian Army Overseas.

CHARGE

Army Form B 252
(See King's Regulations)

Fus.Mont Royal Regt. — Regiment / Battery / Squadron / Troop or Company

2nd Division.

CHARGE against No. D61617 — Rank Pte

Name Bisson, D.

Place Brighton — Date of Offence 10/10/43

OFFENCE W.O.A.S. (1) Absent without leave from ..... until apprehended by the Military Police in Dinapore Street about 2330 hrs.
(2) Irregular conduct, i.e., Not in possession of his MB.I or any means of identification.
(3) Irregular conduct, i.e., Being in possession of W.D.property - 3 Magnetic Compasses.
B14293, B14284 & B14[illegible]

D. R. P. M. SUSSEX DISTRICT

Names of Witnesses :—

Cpl. McCormick, L. C.M.Police.

" Manaley, H. No.13 Cdn.Provost Company.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

20188. Wt.W31374/1961. 2,000,000 10/42. K. & H., Ltd. G657/47.

Statement of **EVIDENCE** in the case of:-

No.D61617 Pte.Bisson, D.
Mus.Mont Royal Regiment.
2nd Division.

Sir,

At Brighton on 10th October 1943 about 2330 hrs acting on information received, I proceeded to the junction of Dinapore Street & Albion Hill, where I saw the A/n soldier.

He was not in possession of his MBI or any other means of identification and when searched the following was found on his person:-

3 W.D.Magnetic Compasses. Nos B14293, B14284 & B14286.

Knowing him to be an absentee I arrested and conveyed him to the Civil Police Station where he was detained awaiting arrival of escort.

Brighton.
11th October,1943.

Cpl.,
Brighton & Hove Mily.Police.

Sir,

I have read over and corroborate the above statement.

Cpl.,
No.13 Canadian Provost Company.

REMARKS

Brighton.
11th October,1943.

Certificate in accordance with Army Act. Section 163 (1) (ii)

I certify that No. D.61617 Rank... Pte. ..... Name.. BISSON. D. ....

Unit. MONT. ROYAL. REGT. was arrested at. DINAPORE. ST. BRIGHTON. ..

about. 23.30 HRS. 10-10-43. and that at the time of his arrest he

was wearing military uniform.

Signature of Provost Marshal ..... Major.
A.P.M., or other officer into
whose custody the above named
person was taken into arrest.

D. A. P. & P. 1 OCT 1943 SUSSEX DISTRICT

A

Certificate in accordance with Army Act. Section 163 (1) (ii)

I certify that No. [illegible] Rank. [illegible] Name. [illegible] D. ....

Unit F.M.R. ..... was arrested at [illegible] Brighton ..

about. [illegible] 3/10/43 ..... and that at the time of his arrest he

was wearing military uniform.

Signature of Provost Marshal .....
A.P.M., or other officer into
whose custody the above named
person was taken into arrest.

Major D.A.P. & P. BRIGHTON & HOVE OCT 1943 SUSSEX DISTRICT

B

CHARGE

Army Form B
(See King's Regulations

FUSILIER MONT ROYAL (2 Cdn Div) Regiment

"D" COY Battery, Squadron, Troop or Company

CHARGE against No. D61617 Rank Pte

Name BISSON, D.

Place BRIGHTON. Date of Offence?

OFFENCE N.C.A.S. Absenting himself without leave from.....until apprehended by an N.C.O. of the Military Police at 24 Dinapore Street about 2230 hrs. 3 Oct 43.

4 OCT 1943

Names of Witnesses :—

Cpl. McCormick, Brighton & Hove Military Police.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

whom arded

Adjutant.

374 1961 2,000,000 10/42 R. & H., Ltd. G657/47 P

Statement of **EVIDENCE** in the case of

D61617 Pte Bisson, D.
Fusilier Mont Royal
2 Cdn Div.

Sir,

At Brighton on the 3 Oct 43 about 2230 hrs I proceeded to 24 Dinapore Street acting on information received. On arrival I saw the a/n soldier. I questioned him. and he admitted he was A.W.L. and stated he had escaped from detention on 2 Oct, 43.

He was arrested and conducted to Brighton Police Station and detained to await an escort.

Cpl.
Brighton & Hove Military Police.

Brighton.
3.10.43.

REMARKS

SUMMARY OF EVIDENCE

In the case of D-61617 Pte Delphis Bisson, Les Fusiliers Mont-Royal, C.A.O. a soldier of the Canadian Army Overseas:

The accused is informed of his rights.
The Commanding Officer directs that the evidence be taken on oath.

First Witness for prosecution — D-61977 Sgt. Roger Bergeron, Les Fusiliers Mont-Royal C.A.O. states:

I present certificate in accordance with Army Act section 163 (1)(jj), dated 3 Oct 43. The person referred to in this document is the accused.

I present certificate in accordance with Army Act section 163 (1)(jj), dated 10 Oct 43. The person referred to in this document is the accused. [illegible]

Certificate attached hereto as exhibit "A" and "B".

R Bergeron Sgt

Second Witness for prosecution — D-63518 Lance-Corporal Rio Labrosse, M.P. Les Fusiliers Mont-Royal having been duly sworn states:

At 2100 hrs on the 2 Oct 43 I was on duty at Hamstead Billet on Marine Road Worthing. I absented myself approximately 15 minutes and left Pte Lauziere, G. in charge. On my return the accused had escaped.

The accused declines to cross-examine this witness.

L/Cpl. R Labrosse

Third Witness for prosecution — D-138726 Pte Gerard Lauziere, 'D' Coy. Les Fusiliers Mont-Royal, having been duly sworn states:

At about 2100 hrs on 2 Oct 43 I was in the Edenhall Billet on Marine Road Worthing. Lance-Corporal R. Labrosse who was in charge of the prisonners atthe Hamstead Billet next door, came and told me he did not have any cigarettes I told him I did not feel like going out but if he wished he could go and get some himself that I would replace him during his absence. He did not tell me how many prisoners there were but I knew about the number having been on duty at he guard house the previous week. I proceeded to the prisoners quarters, every bed was made and everybody was there, except one which I knew was on duty in the kitchen, and I know it was not the accused. I then went to the bathroom and proceeded downstairs and remained on the first and second floor untill Cpl. Labrosse's return, about 15 minutes later. I walked out of the billet and remained on the sidewalk. Cpl. Labrosse returned at once and informed me that two prisoners ~~had~~ were not in their room. I went with him and looked in rooms on the third and fourth floor. We did not find them and I told Cpl. Labrosse to report them.

Pte G. Lauziere

The accused declines to cross examine this witness.

FOURTH WITNESS FOR prosecution Cpl. McCormick, Brighton & Hove Military Police.

I certify that, in my opinion, the attendance of this witness is, owing to be employed on special duty, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as exhibit "C"

P. Steve Lambert Lieut
(Officer detailed to take summary)

I do not require the attendance of this witness for the purpose of cross examination.

H. D. Bisson (accused)

Fifth Witness for prosecution

E-101063 Pte Paul Henri Sioui, Les Fusiliers Mont-Royal C.A.O. having been duly sworn states:

On the 4 Oct 43 I was on duty as prisoners guard at 12 Crescent Road. I was standing near the stairs and somebody shouted at me that the M.P. Sgt. wanted to see me downstairs. It was dark and I could not see who it was but I proceeded downstairs but nobody was there so I went went back to my post. About 20 minutes later I heard the M.P. Sgt. say to L/Cpl Choquette that two prisoners were missing.

The accused declines to cross examine the witness

Sioui P. H.

Sixth Witness for prosecution

D-51033 Lance Corporal Alban Choquette, M.P. Les Fusiliers Mont-Royal, having been duly sworn states:

On 4 Oct 43 I was guard commander. At about 1900 hrs. I went out to fetch blankets and electric bulbs - on my return a few minutes later, I discovered that the x accused had escaped.

Lcpl Choquette A.

The accused declines to cross examine the witness

Seventh Witness for prosecution

Cpl. McCormick, L. Brighton & Hove Military Police.

I certify that in my opinion, the attendance of this witness is, owing to be employed on special duty, not readily procurable, and a written statement of his evidence signed by him, has been read to the accused and is attached hereto as exhibit "D".

P. Steve Lambert Lieut
(Officer detailed to take summary)

I do not require the attendance of this witness for the purpose of cross examination

(accused)

H. D. Bisson

Question to the accused:

Do you wish to say anything or to give evidence under oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or the evidence you give will be taken down in writing and may be produced as evidence.

Answer by the accused:

"I have nothing to say."

I undersigned certify that the present summary of evidence consisting in three pages was taken down by me and that the rules of procedure 4(c), (d) and (e) have been complied with.

P. Herve Lambert Lieut

(Philippe Herve Lambert) Lieutenant
Les Fusiliers Mont-Royal, C.A.O.

LIST OF WITNESSES IN THE CASE OF:

D/61617 Private Delphis Bisson, Les Fusiliers Mont-Royal. C.A.O. a soldier of the Canadian Army Overseas,:

PROSECUTION

D-61977 Sgt. Roger Bergeron, Les Fusiliers Mont-Royal, C.A.O.
D-63518 Lance Caporal Rio Labrosse, Les Fusiliers Mont-Royal C.A.O.
D-138726 Pte Gerard Lauziere, Les Fusiliers Mont-Royal, C.A.O.
Corporal McCormick, Brighton & Hove Military Police.
E-101063 Pte Paul Henri Sioui, Les Fusiliers Mont-Royal, C.A.O.
D/51033 Lance Corporal Alban Choquette, M.P. Les Fusiliers Mont-Royal, C.A.O.
Corporal Mc.Cormick, L., Brighton & Hove Military Police.

DEFENCE

" NIL "

LIST OF EXHIBITS.

Exhibit "A" Certificate of arrest by Major H.L. Bucknall D.A.P.M. Sussex district.
Exhibit "B" Certificate of arrest by Major H.L. Bucknall D.A.P.M. Sussex district.
Exhibit "C" Written evidence of Corporal McCormick, L. Brighton & Hove Military Police.
Exhibit "D" Written evidence of Corporal McCormick, L. Brighton & Hove Military Police.

STATEMENT OF THE ACCUSED.

I, undersigned, desire the services of an Officer to represent me at my trial by Field General Court Martial.

I desire the services of ~~[illegible]~~ Capt Rousseau

I, undersigned, acknowledge having received the summary of evidence documents, etc,,for my trial by Field General Court Martia

D. Bisson
D-61617 Pte Bisson,D.

Pocket Compass
F.H. & S (1932)
Mk VI - B14293
" - B14284
" - B14286

HQ 6 Cdn Inf Bde
9 Nov 43.

The above mentioned exhibits filed as 'Y' in the trial of D.61617 Pte Bisson, Delphis, Fus MR, have been returned to Brighton and Hove Military Police by order of the Confirming Authority for use as exhibits on charges of theft against another soldier.

(G.S.N. Gostling) Brigadier
Confirming Officer.

E1 [illegible]

(Substitute for A.F.B. 296)
or M.F.B. 355

S T A T E M E N T OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D-61617 Rank. Pte Name Delphis, Bisson Unit Les Fusillers Mont-Royal C.A.O

Age 22 ~~Married or~~ Single Single ~~No. of Dependants~~ Nil

Date of Attestation 2 Oct 39

No. of Days spent in close Arrest (To date of trial)

Civil Nil Military Military 28 Hospital Nil Total 28

Dates of Promotions, Appointments and Confirmation of Rank, if any

Nil.

A CERTIFIED TRUE COPY OF M. I. M. 6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)

Dated at: Ashburton Capt. Unit

This 8 day of nov. 1943

To be dated and signed as for date of trial)

No. 361617 Name Bison, S. | Sqn., Battery, or Company 2 CDI RU | Corps I. M. R. | Date of enlistment 2-10-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /S136

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc | Character

Substitutes for original lost 2-6-42

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Eng.	17-11-40	Pte		A.W.L. from 1400 hrs 17 Nov. 40		2 days C.B.		G.A.W.	2 days pay.
	20-11-40	"		A.W.L. (1 day 5 hrs)				G.A.W.	2 days pay.
	3-1-41	"		A.W.L. from 2359 hrs 3 Jan 41 to 1630 hrs 5 Jan 41 (1 day 16 hrs 30 mins)		7 days C.B.		G.A.W.	2 days pay.
	27-1-41	"		A.A. Sec. 40 Conduct to the prej.		5 days Fatigs		G.A.W.	
	31-3-41	"		A.A. Sec. 40 Conduct to the prej.		28 days Ed. P.		G.A.W.	28 days pay.
Field	14-6-41	"		A.A. Sec 40 for offence		28 days Ef. C.		G.A.W.	28 days pay.
Witley	30-8-41	"		F.G.C.		9 months det		Lt. Col.	408 days pay.
New Haven	25-5-42	"		A.W.L. from 2015 hrs 25-5-42 to 2145 hrs 25-5-42 (1 hr 30 min)	Sgt Cisotenko, Cpl Bromilette		26-5-42	Hervey	2 days pay
	3-5-42	"		A.W.L. from 0800 hrs 3-5-42 to 1645 hrs 3-5-42 (Absent 8 hrs 45 min)		5 days extra fatigue		Lt. Col.	1 day pay
Lanarkside	20-6-42	"		A.W.L. 1200 hrs 20-6-42 to 1330 hrs 20-6-42. Abs 3 days 1 hr 30 min	Cpl Kennedy	10 days pay	24-6-42	Lt. Redman	3 days deduction of pay. S. Rol

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	4-7-42	Pte		A.W.L. 2300 hrs 4-7-42 to 1200 hrs 6-7-42 abs. 1 day 13 hrs A.A. Sec. 15(1)	L/Cpl Charbonneau, R.	10 days pay	7-7-42	Lt-Col. Redman	Auto. Forf. 2d F&E.
Witley	17-7-42	"		A.A. Sec. 40 - Failed to come out for Reveille roll call.	Cpl Desponting	1 days C.B. 28 days F.P. 28 days pay	17-7-42	Major Morin	
Witley	20-7-42	"		A.W.L. 0700 hrs 20-7-42 until 1638 hrs 31-7-42. Abs 11 days 9 hrs 30 mins. A.A. Sec. 15 (1)	Written	F&E 1. 14 2(1) B.	3-8-42	Lt-Col. Redman	Automatic Forf. 1 F&E 1. 14 4 (1) Cells 4 days.
In the Field	23 Aug 42	"		A.A. Sec. 15(1) A.W.L. from 1000 hrs 13 Aug 42 until about 2300 hrs 31 Aug + 2. Total: 8 days 17 hrs.	061047 Sgt Hodges 3-63267 L/Cpl Lapointe, L.	14 days F.P.	1 Sep. 42	Lt-Col. J. Harrison	4 days pay F&E 1.
In the Field	26 Dec 42	Pte	Nil	A.A. Sec. 15(1) A.W.L. from 2300 hrs 4 Oct. 42 until 1345 hrs 14 Oct. 42. (14 days, 14 hrs 25 mins)	Cpl Lapointe	27 days F.P.	20 Oct. 42	Lt-Col. Fraser Harrison	
				A.A. Sec. 15(1) A.W.L. from 2300 hrs 26 Dec. 42 until 1000 hrs 1 Jan. 43. Total of absence: 11 days, 11 hrs	062523 Cpl Setny, H.	28 days pay. 14 days C.B.	8 Jan. 43	Lt-Col. Fraser Harrison	12 days pay F&E 1.

CERTIFIED TRUE COPY.

No. 361617 Name Brisson, D. | Sqn., Battery, or Company: D Coy. | Corps: Ins. M.R. | Date of enlistment: 2.10.39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.12[illegible]) 40/P & /8136 ([illegible])

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	15 Jan. 43.	Cte		A.W.L. from 2300 hrs 15 Jan. 43 to 1815 hrs 28 Jan. 43.				Lt Col.	
					Cpl Hetu, H.	28 days F.P.	29 Jan. 43	Lt Colonel	
						RELEASED FROM the DETENTION BARRACK field on AUG. 2 1943 SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" 50 days			
						COMMANDANTS Initials		Sgd. Jh. Lt.	
Field	18-8-43	Cte		W.O.A.S. A.W.L. from 0800 hrs from 18-8-43 till 2330 hrs 20-8-43. Total: 2 days, 15 hrs 30 min.					
					Cpl Cachon	7 days C.B.	23-8-43	Major Lambert.	S.A.W.L. Forf. 3 days F.R. & I. 149(1)a.
				CERTIFIED TRUE COPY. [illegible]					

B1 RR-71

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-SECOND day of SEPTEMBER, 19 43

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is expedient that the trial should be held by a superior Court Martial~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~I do not think it expedient~~

*~~Three Officers to form the Court~~

*~~A Field Officer as President~~

*~~Three Officers having more than one year's service~~

~~Four other Officers, namely~~

President.

Rank.	Name.	Regiment.
Major	W.E. Osler	Camerons of C

Members.

Rank.	Name.	Regiment.
Capt or Lieut	To be detailed by O.C. S Sask R	
Capt or Lieut	To be detailed by O.C. Fus M R	
Waiting Member Capt or Lieut	To be detailed by O.C. Fus M R	

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (C.A.F. McCarter) Brigadier,

Commanding 6 Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-61617 Pte DELPHIS BISSON Fus M R	First Charge AA Sec 15 See charge sheet attached.	Guilty	Guilty 180 days detention 22 Sep 43 W. C. Osler Major	Confirmed E. de Burns Maj-Gen Comd 2 Cdn Div 30 SEP 1943

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (G.A. McCarter) Brigadier, *Commanding* 6 Cdn Inf Bde. *Convening Officer* (e)

(Signed) W. C. Osler Major. *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the twenty-second day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~

were duly sworn.

* Omit if not applicable.

Signed this twenty-second day of September 1943.

W. C. Osler Major.

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this ____ day of ____ 19__~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

Signed this 30th day of Sept 1943.

E. de Burns

Confirming Officer

Maj-Gen
Comd 2 Cdn Div
30 SEP 1943

Promulgated and extracts taken in the case of

(a) (Dated) 4 Oct 43 (Signed) A. Duptraz, Capt

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41759) Wt. 40115—893 300 12 1/40 P. St. G. 620

B2. D. Clark major

C H A R G E S H E E T

The accused D-61617 Pte BISSON Delphis, Les Fusiliers Mont-Royal, C.A.O. a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
AA Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

In that he,

In the Field, at or about 2230 hrs 31st August, 1943, absented himself without leave from his unit until he was apprehended by the Canadian Military Police in Brighton at or about 2000 hrs 17th September, 1943.

H. Langlois

(H.N. Langlois), Major,
T/Officer Commanding,
Les Fus M R C.A.(O)

In the Field
21 Sep 43

To be tried by Field General Court Martial.

N.S. Bergman, Capt.

(N.S. Bergman), Capt.,
S.C. 6 Cdn Inf Bde.
for and at the direction of
G.A. McCarter, Brigadier,
Commander 6 Cdn Inf Bde.

In the Field
22 Sep 43

F.M.R. 5-2- M.

Medical certificate

Date 27 Sep 1943

I hereby certify that I have examined No. 3.4617 Rank Pte.

Name Bisson D. And find him free from vermine, V.D. or disease

And consider him in a fit of health to undergo, XXXXXXX. F.G.C.M.

Place IN The Field

Date 22 Sept 43

G. Lorne Capt.

Medical Offecer R.C.A .M.C.

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 22nd day of September 1943 by order of Brigadier G. A. McCarter Commanding 6 Cdn Inf. Bde dated the 22nd day of September 1943

Major W. C. Osler President.
Cameronians of C.

Members.

Capt J. W. Park.
Regina Rifle Regt.
attd S. Sask R.

Capt. G. A. White
Fus. M. R.

K.C.
~~Judge Advocate.~~

Trial of* D61617 Pte Delphis Bisson
Fusiliers Mont Royal.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

K.C. ~~The Court satisfy themselves that~~ is ~~not available to serve owing to~~

K.C. ~~Waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lt. J. P. Morin Fus M. R

K.C. ~~Counsel~~‡ or defending officer† Lt. M. Lamarche Fus M. R.

At 10 o'clock the Trial commences.

The order convening the Court is read, and is marked B1 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—3-41 (9670)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~ WEO

Charge-Sheet

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~[first]~~ charge against you, which you have heard read? *Question to the accused.*

guilty sir. *Answer.*

WEO ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

WEO ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

WEO ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused D 61617 Pte Delphis Bisson is found guilty of absenting himself without leave AA 15 (1)

*The summary (~~or abstract~~) of evidence is read, marked B 3, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

yes

Answer. The accused in mitigation of punishment ~~says:~~

[~~or~~ hands in a written statement, which is read, marked B4, signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Yes, Lt L. Normandin.

Answer.

Evidence as to character.

Lt. L. Normandin, R.C.N.R.,
having been duly sworn, states:

I was the accused's platoon commander for a period of three weeks, ending about a month ago. On parade his conduct was very good, and he was rather impressed. He would work very well for several days and then not so well, and would seem to be absent-minded or thinking of something else. He was a good leader and with his company commander and I have on different occasions recommended him for promotion to N.C.O. rank.

Q. Would you be willing to take him back in your platoon?

A. Yes, I would. I would take him in action.

Bisson's trouble in our company was that he was an old soldier and the others were all new men doing elementary training.

Q. Do you think good handling would make him a dependable soldier?

A. I don't know. I don't know him well enough. We did give him a chance to get his stripe back but he went away.

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it.~~

Evidence of character, &c.

Lt. J. P. Morin is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B5, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes sir.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes sir.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused.

Accused declines to cross examine

Question to the accused.

Do you wish to address the Court? *Answer.* yes.

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused to undergo 180 days detention. *Sentence.*

[illegible] Major

ON ACTIVE SERVICE

CANADIAN LEGION

WAR SERVICES

B4
B. Osler
Nov 15 194

Sir

I admit that I ain't got a very ~~good~~ nice amount about but with good resolutions its never too late to take the weight way. I've been A.W.L. for a while for the protection of the girl that I love & know since two years. I did not like to come back before her Brother's leave was over. Her Brother has been in the army overseas for 3 years & with all the sicknesses he had overseas ~~now his nerves to pay it back~~ I believe he is going ~~crazy~~ and by the rapt her. Next letter from her she ask me to go there because her Brother had some funny ways. & there is no man at all in that home to take their part so I went there for three days & I found so. Before to leave I told her to keep her door always lock. Much after I had a letter in which she said he broke the lock because she refuse him to open her door. I went there again because he was there to I took her away with one of her married cousin. I know that her Brother's husband was not her Father. He didn't know that before about two weeks ago I told her. I had the permission from her Mother to get married with her But after that Brother was

Please use both sides

ON ACTIVE SERVICE

CANADIAN LEGION

WAR SERVICES

2

194

back she said no because her brother said he doesn't like Canadian. So her mother was frightened + she said no to us. And in that A.W.L. I've been looking for her real father I didn't find him yet But on Monday night I had a letter from her telling me that she found him + I am product that letter to the court if you wish so.

And I realise that as a Catholic it was my duty I believe that I was forbidding her honour + future life.

I thank you all for your good attention and I place myself in the mercy of the court.

Sam Sir

H. Delphis, Person

D 6.6.7 Lrs. Jes. Mont Royal

C.P.(O)

Please use both sides

A B.Ose major

Certificate in accordance with Army Act.Section 163 (1) (jj).

I certify that No. 7/6617 Rank Fus. Name BISSON. P.

Unit Queen's Royal was arrested at BRIGHTON

about 2000 hrs and that at the time of his arrest he was wearing military uniform.

Signature of Provost Marshal A.P.M., or other officer into whose custody the above named person was taken into arrest.

CHARGE

Army Form B
(See King's Regulations)

FUSILIER MONT ROYAL (2nd Div) Regiment

Battery / Squadron / Troop or Company

CHARGE against No. D/61617 Rank Fus.

Name BISSON, D.

Place Brighton. Date of Offence ?

OFFENCE O.A.S. Absenting himself without leave from.....until apprehended by an N.C.O. of the Military Police at Dinapore Street about 2000 hrs 17 Sept 43.

MILITARY POLICE LIAISON OFFICE
18 SEP 1943
BRIGHTON & HOVE

Names of Witnesses :—

L/Cpl. Davis. Brighton & Hove Military Police.

L/Cpl. Munn. " " " " "

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

Wt.W12472/969. 2,000,000. 5/42. K. & H., Ltd. G657/47.

P.T.O.

B [illegible] main.

Statement of **EVIDENCE** in the case of

D/61617 Fus Bisson. D.
Fusilier Mont Royal
2 Cdn Div.

Sir,

At Brighton on the 17 Sept, 43 abut 2000 hrs I proceeded to Dinapore Street in company with L/Cpl. Munn. On arrival at the address I saw the a/n soldier. I asked him to produce his pass, and he stated that he was an absentee.

He was placed under arrest and conducted to Preston Barracks and handed over to the Guard Commander to be detained.

[illegible] L/CPL.
Brighton & Hove Military Police.
Brighton
17.9.43.

Sir,

I have read over and corroborate the above statement.

H. Munn L/CPL.
Brighton & Hove Military Police.

Brighton
17.9.43.

REMARKS

B3

SUMMARY OF EVIDENCE

Major

In the case of D-61617 PTE DELPHIS BISSON, Les Fusiliers Mont-Royal C.A.O. a soldier of the Canadian Army Overseas.

The accused is informed of his rights.
The C.O. directs that the evidence be taken on oath.

FIRST WITNESS
For Prosecution

D-150065 Sgt. Marc Tanguay, Les Fusiliers Mont-Royal, C.A.O. having been duly sworn states:

" I am D-150065 Sgt. Marc Tanguay of Les Fusiliers Mont-Royal, C.A.O.
On the 30th Aug 43, I was on duty as Coy Ord. Sgt., I received a report from Cpl. Tailleur, that the accused was absent at the time that the Tattoo was taken. Being in my Platoon, I saw that the accused was gone on the morning of the 18th Sep 43, as I went through the hut.

The accused decline to cross examine the Witness

Tanguay Sgt.
(150065 Sgt. Tanguay M.)
Les Fus. M.R. C.A.O.

SECOND WITNESS
For Prosecution

Lt. Morin J.P., Les Fusiliers Mont-Royal C.A.O. having been duly sworn, states:

" I present certificate in accordance with Army Act Section 163 (1) (jj) Exibit "A"

I present Army Form B 252 and on the back of that form, within statements by L/Cpl E. Davis and L/Cpl. Munn Exibit "B"

J.P. Morin Lt.
(Lt. Morin J.P.)
Les Fus. M.R. C.A.O.

THIRD WITNESS
For Prosecution

D-63089 L/Sgt Tailleur Raoul, Les Fusiliers Mont-Royal, C.A.O. having been duly sworn states:

" On the evening of the 31st of Aug 43, I was on duty as hut Corporal. When I made my tattoo at 2230 hrs, I saw that Pte. Bisson D. was absent. I Related it in my tattoo report."

L/Sgt. Tailleur R.
(D-63089 L/Sgt. TailleurR.)
Les. Fus. M. R. C.A.O.

The accused decline to cross examine the Witness

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath ?
You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given as evidence.

After the above caution, the accused declines to make any statement.

I certified that the foregoing Summary of Evidence consisting of 1 page was taken down by me in the presence of the accused and that rules of Procedure, 4 (c) (d) (e) and (f) have been complied with

J.P. Morin Lt.

(J.P. Morin) Lt.,
Les. Fus. M.R. C.A.O.

In the Field
21 Sep 43

LIST OF WITNESSES

In the Case of D-61617 PTE Bisson Delphis. Les Fusiliers Mont-Royal, CAO., a soldier of the Canadian Army, Overseas.

PROSECUTION

D-150065 Sgt. Tanguay M.
D-63089 L/Sgt Tailleur R.

Lieut. Morin J.P.

DEFENCE

NIL

LIST OF EXIBITS

"A" & "B"

STATEMENT OF ACCUSED

I, D-61617, PTE BISSON DELPHIS, Les Fusiliers Mont-Royal, CAO do not desire to have an Officer to represent him at his trial, by Field General Court Martial.

I, certify that I have been given, free of charge, copy of the proceedings, documents, etc., relation to my trial by Field General Court Martial.

Pte D. Bisson
(D-61617 Pte. Bisson D.)
Les Fus. M.R. CAO

NOTE

The Adjudant of les Fus. M'R. CAO tried during the summary of evidence to contact two (2) Officers to defend Pte. Bisson D. Those two (2) Officers being not available, the accused clearly refused anybody else and told the Adjudant and Lt. Morin that he would defend himself.

Pte D. Bisson

No. B-81617 Name BISSON, D. Sqn., Battery, or Company 2 CDIRU Corps F.M.R. Date of enlistment 2-10-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F. B.122) 40/P & /8136 (

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Substituted for original lost 2-6-42

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
England	17-11-40	Pte		A.W.L. from 1900 hrs, 17 Nov 40		2 days C.B.			2 days'Pay
	20-11-40	"		A.W.L. (1 day 5 hrs.)					2 Days'Pay
	3-1-41	"		A.W.L. fr. 2359 hrs 3 Jan 41 to 1630 hrs 5 Jan 41(1 day 16 hrs 30 minutes)		7 days 'C.B.			2 Days'Pay
	27-1-41	"		A.A. Sec.40 Conduct to the prej.		5 days'Pay			
	31-3-41	"		A.A. Sec.40 Conduct to the prej.		28 days'Fd.P.			28 days'Pay
Field	19-6-41	"		A.A. Sec. 40 for offence		28 days'Fd P.			28 days'Pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	30-8-41	Pte		F.G.C.		9 months Det.			408 days'Pay
New Haven	25-5-42	Pte		A.W.L. fr 2015 hrs 25-5-42 to 2145 hrs 25-5-42 (1 Hr 30 min.)	Cpl Brouillette		26-5-42	Lt-Col Hervey H.C.A.	2 days'Pay
	3-5-42	Pte		A.W.L.fr. 0800 hrs 3-5-42 to 1645 3-5-42 (Absent 8 hrs 45 min)	Sgt Cirotenkov	5 days extra fatigue			1 day's Pay
Laurentide	20-6-42	Pte		A.W.L. 1200 hrs 20-6-42 to 1330 hrs AA Sec23-6-42 Abs 3 days 1hr 30 minutes.	(15-1)	10 days'Pay	24-6-42	Lt Col Redman FR&I	3 days'Pay
Witley	4-7-42	Pte		AWL 2300 hrs 4-7-42 to 1200 hrs 6-7-42 Ab 1 day 13 hrs ~~xxx~~ AA Sec 15(1)	L/Cpl O Charbonneau	10 days'Pay	7-7-42	Lt-Col Redman	2 days'Pay FR&I
Witley	17-7-42	Pte		A.A. Sec 40-Failed to come out for reveille roll call	Cpl Derepentigny	1 day's C.B.	17-7-42	Major Morin	
Witley	20-7-42	Pte		AWL 0700 hrs 20-7-42 until 1630 hrs 31-7-42 Abs.11 days,9hrs 30 m. AA Sec 15(1)	Written	28 days'FP 28 Days'Pay FR&I 142 (1)B	3-8-42	LtCol Redman	Aut Forf. FR&I 149(1) Cost of App. 9s

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	G.C. Badges	Service or Proficiency Pay	M.F.M. 6 (A.F. B.12 40/P & /S136 (2000))
D-61617	Bisson, D.	In the field	F.M.R.	2-10-39			

Date of last entry in Company Conduct Sheet	No. and date of last drunk	Period not reckoning towards freedom from extra fine	Sheet No. 2	Signature O.C. Company, etc.	Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	23Aug 42	PTE		A.A. Sec. 15(1) A.W.L. ff.0600 hrs 23 Aug 42 until about 2300 hrs 31 Aug. 42 Total 8 days 17 hrs	D-61049 Sgt Belanger D-63367 Cpl Lapointe L.	14 days'C.B.	1 Sep 42	Lt-Col. G. Gauvreau FRS I	0 days'Pay
Field	4Oct42	Pte		A.A. Sec 15 (1) A.W.L. W.O.A.S. ented himself without leave fr. 2300 hrs 4 Oct 42 until 1325 hrs 19 Oct 42 (14 days, 14 hrs 25m.	Abs- Cpl Lapointe	27 days'F.P.	0-Oct 42		

Certified true copy
[illegible] Capt-Adjt

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26Dec 42	Pte		A.A. Sec 15(1) A.W.D. fr 0300 hrs 26 Dec 42 until 1000 hrs 7 Jan 43. Total of absence: 11 days,11 hrs	D-62523 Cpl H.Hetu	28 days 'Pay 14 days'C.B.	8 Jan 43	G.Gauvreau Lt-Col	12 days'Pay FR&I
Int eh Fd	15 Jan 43	Pte		AWL fm 0300 hrs 15 Jan 43 to 1815 hrs 28 Jan 43.	Cpl Hetu,H	28 days'F.P.	29Jan43	J.G.Gauvreau Lt-col	
				Certified true copy 21 SEP 43					

B S
W. E. Bla[illegible]

(Substitute for A.F.B. 296)
or M.F.B. 355

S T A T E M E N T OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D-61617 Rank. Pte Name Bissen, Dalpois Unit Fortifications Mont-Regale

Age 22 Married or Single Single No of Dependants No

Date of Attestation 2 Oct 1939.

No. of Days spent in close Arrest (To date of trial)

Civil Nil Military 6 Hospital Nil Total 6

Dates of Promotions, Appointments and Confirmation of Rank, if any

Nil

A CERTIFIED T R U E COPY OF M. F. M. 6 MUST ACCOMPANY THIS FORM

(Offi[illegible] i/c Records)
A. Dutrozl Capt. Unit for M.R.

Dated at: IN THE FIELD

This 21st day of Sep 1943

To be dated and signed as for date of trial)

Correspondence to be PINNED here.

Army Form A.3.

Lieut Lambert Fusiliers
FC GM
AA-125

X

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-THIRD day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 6th Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~XXXX

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-61617 PTE DELPHIS BISSON Fus M R	FIRST CHARGE A.A. Sec 15(1) See charge sheet attached.	Guilty	Guilty Sentence: 6 months detention 24th March 1943 Paul L Ambrose Major	Confirmed J.G. Gauvreau Brig. 6 Cdn. Inf. Bde. 26 Mar 43.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (J.G. Gauvreau) Lt.-Col., *Commanding* A/Comd 6 Cdn Inf Bde — *Convening Officer* (e)

(Signed) Paul L Ambrose Major — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24th day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officer~~s~~ under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 24th day of March 19 43

Paul L Ambrose Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this~~ H. ~~day of~~ ~~19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this twenty-sixth day of March 1943.

J.G. Gauvreau
Confirming Officer.
Brig.
6 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of D61617 Pte Bisson D.

(a) (Dated) 26 Mar 43 (Signed) [illegible] Capt. - Adj.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(42752) Wt. 40215—895 300 m 1/43 P. St. G. 6m

B2

Rel Lambert
for F.G.C.M.

CHARGE SHEET

The accused, D61617 Private Delphis Bisson, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas, is charged with: -

FIRST CHARGE
A.A.Sec.15 (1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,
in that he,

In the Field, at about 2300 hrs on the 27th of February 1943 absented himself without leave until he reported himself to the unit at about 1330 hrs on the 20th of March 1943.

In the Field
This 23rd day of March 1943

(J.G.Gauvreau) Lt-col.
COMMANDING
Les Fusiliers Mont-Royal
Canadian Army Overseas.

To be tried by F.G.C.M.

In the field
23 Mar 43

(J.G. Gauvreau), Lt-Col.,
A/Comd. 6 Cdn Inf Bde.

MEDICAL INSPECTION

FUSILIERS MONT ROYAL, C.A.(O)

I hereby certify that I have examined Regt'l No. D. 61617 Rank. Pte

Name. Bisson D. this morning and That I found him

PHYSICALLY FIT to undergo trial by F.G.C.M.

Place In the field.

Date. 24 Mar 43.

HT.

Paul Lambert major

Medical Officer RCAM

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field-~~General~~ Court-Martial held ~~at~~ in the field on the 24th day of March 1943 by order of Lt-Col J. S. Gaumreau, A/Commanding 6 Cdn Inf Bde C.A.O. dated the 23rd day of March 1943

President.

Major Paul E. Lambert, Les Fus MR

Members.

Capt C. J. Doyle P.A. Vols att S Sask R

Lieut A. C. Lavanoch Cameron of C

Paul Lambert major, ~~Judge Advocate~~ pro FCGM

Trial of* D 61617 Pte Delphis BISSON Fus MR

The order convening the Court, the charge-sheet and the summary ~~of evidence~~ of evidence are laid before the Court. Paul Lambert major pro FCGM

~~The Court satisfy themselves that is not available to serve owing to~~ Paul Lambert major pro FCGM ~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,‡ Lieut Roger Laporte Fus MR

~~Counsel~~‡ or defending officer† Capt H. Lacroix Rdy Mont att to Fus MR Paul Lambert major

At 10.20 o'clock the Trial commences.

The order convening the Court is read, and is marked "X", signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W16839/7B. 35,000 sets. 6/40. K. & H., Ltd. G657/11. Forms A 9/55.

B

The President, members ~~and judge advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Lieut J. A. Lefebvre Fus M R

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read~~? *Question.*

Not Guilty *Answer.*

~~Are you guilty or not guilty of the third charge against you, which you have heard read~~? *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read~~? *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.~~]

The accused D 61617 Pte Delphis BISSON is found guilty of the charge

†The summary ~~(or abstract)~~ of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. ~~The accused in mitigation of punishment says~~ :— yes sir

~~for~~ hands in a written statement, which is read, marked "H", signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No Sir

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

H.

~~is Guilty~~

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it.~~

H. Lt L. Paquette, Res N L is duly sworn ~~is duly sworn.~~

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes sir, NFM6 and AFB 296

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "I" & "J", signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes sir.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes

~~Cross-examined by the accused.~~ Paul Larivière merely declines to Res F C G M

Not Cross examined by the accused

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* All I wish to say is that I would like to serve out my trade

The Court is closed for the consideration of the sentence.

"G"

Paul Law to twain

SUMMARY OF EVIDENCE

In the case of D61617 Pte Delphis Bisson, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.
The accused does not demand and the C.O. does not direct that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION: D62610 A/Cpl Turenne R, Les Fusiliers Mont-Royal, makes the following statement:

" On the 20th of March 1943, I was on duty as Coy Orderly Corporal, when, at about 1330 hrs, D62898 Cpl. Belanger A., reported to me that Pte Bisson reported himself to the Guard Room."

The accused declines to cross-examine

SECOND WITNESS FOR THE PROSECUTION: D62898 Cpl Belanger A., Les Fusiliers Mont-Royal, makes the following statement:

" On the 20th of March 1943, I was on duty as Corporal of the Guard when, at about 1325hrs, Pte Bisson reported to me."

The accused declines to cross-examine

THIRD WITNESS FOR THE PROSECUTION: D61006 CSM Lemay J.P., Les Fusiliers Mont-Royal, makes the following statement:

" On the 28th of February 1943, D61612 Sgt Guimet C., who is now on course, reported to me that Pte Bisson had been absent since 2300hrs, the 27th of February 1943 and was still absent."

The accused declines to cross-examine

The accused, having been duly cautioned in accordance with R.P. 4 (E), says :

"I have nothing to say"

Certified that R.P. 4(E) have been complied with.

In the Field

23 Mar 43.

C.O.R. Langleois Capt & Adjt.
Les Fusiliers Mont-Royal
Canadian Army Overseas.

"H"

STATEMENT IN MITIGATION OF SENTENCE

in the case of

D-61617 Pte Delphis Bisson (Tried By Fd. Gen. C.M.)

I wish not to justify but to explain why the accused has been led to act as he did. Since he had a hard time to adapt himself to the army life, he found himself many on occasion in the wrong and punished for it, but without really understanding the gravity of his offences and the punishments awarded then.

Furthermore the moral and mental background of the accused should not be underestimated:

A)- He had some money in Canada which has been spent without his permission while he was away in the Service; that no doubt affected him deeply. Here in England, he had forfeiture of pay for a period over 14 months which unable him to go on leave as no sufficient credit was shown on his pay book. Since 1941, he did not receive any letter or parcel from his relations in Canada.

B)- In England, he met a girl whom he loved and she was the only person to whom he could go and have a moral and financial support.

C)- He is a tailor by trade and had never been given a chance to exercice his trade in the army. He has been with the unit since its mobilization, carrying on with it to Iceland and England.

Undoubtly the above mentioned facts have impressed very much on his moral and his state of mind. As the previous ~~commutations~~ punishments do not seem to have changed him very much, I think we should try to understand his position. I suggest that if he was given an chance and able to live normally as other soldiers, he might become efficient.

Signed in the Field, the 24th of March 1943

Léandre Lacroix

(LACROIX L.) Capt., R. De Monty
Defending Officer

"J"

Encl Case to Trial

(Substitute for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D41617 Name Pte Bisson D Unit Les Fus M.R.

Age 21 Married or Single SINGLE NO.Of Dependents N/A

Date of Attestation 2 Oct 39

No. Of Days spent in close Arrest (To date of Trial)

Civil ____ Military 4 Hospital ____ Total 4

Dates of Promotions, Appointments and Confirmation of Rank, If any,

N/A

A CERTIFIED TRUE COPY OF M.F.M.6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)

Capt. Adjt. Unit

23 Mar 43

Dated at in the field

This 24th day of March 1943

(To be dated and signed as for date of trial)

No. D-61617 Name Bisson D. | Sqn., Battery, or Company "A" | Corps Les Fus M.R. C.A.(O) | Date of enlistment 20Oct 39 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Substitutes for original lost 2-Jun 42					
Eng.	17-Nov 40	Pte		A.W.L. From 19.00hrs 17 Nov 40		2 Days C.B.			2 Days Pay
	20-Nov 40	"		A.W.L. (1 Day 5 Hrs)					2 Days Pay
	3-Jan 41	"		A.W.L. From 23.59Hrs 3 Jan 41 to 16.30 Hrs 5 Jan 41 (1Day 16.30Hrs		7 Days C.B.			2 Days Pay
	27Jan 41	"		A.A.Sec.40 Conduct to the preju.		5 Days Pay			
	31 Mar 41	"		A.A.Sec 40 Conduct to the prejudice		28 Days F.P.			28 Days Pay
Field	19-Jun 41	"		A.A. Sec 40 For offence.		28 Days F.P.			28 Days Pay
Witley	30Aug 41	"		F.G.C.M.		9 Months Det.			408 Days Pa

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Newhaven	25 May 42	Pte		A.W.L. From 20.15 Hrs 25 May 42 to 21.45 Hrs 25 May 42(1.30Hrs)	Sgt Cirotenko				
Laurentide	20 Jun 42			A.W.L. 12.00 Hrs 20 Jun 42 to 1130 Hrs 23 Jun 42 Abs: 3 Days1.30Hrs	Cpl Perrault	10 Days Pay	24-6-42	Lt Col Redman	3 Days Pay For
Witley	4-7-42	Pte		A.W.L. 23.00Hrs 4-7-42 to 1200Hrs 6-7-42 Abs 1 Days 13.00 Hrs	Cpl Charbonneau	10 Days PaY	7-7-42	Lt Col Redman	
Witley	17-7- 42	Pte		A.A. Sec 40 Failed to come up for reveille roll call	Cpl Derepentigny	1 Day c.b.		Major Morin	
Witley	20-7-42	Pte		A.W.L. 0700hrs 20-7-42 to 16.30 hrs 31-7142 Abs: 11 Days 9 Hrs 30 M.	Written	28 F.P. 28 Days paY		Lt Col Redman	Cost of App.

y

No. D-61617 Name Bisson D | Sqn., Battery, or Company "A" Coy | Corps Les Fus M.R. C.A.(O) | Date of enlistment 2-10-39 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.F.B. 122) 5004M—8-39 (17933) H.Q. 1777-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23 Aug 42	Pte	-	A.A. Sec 15 (1) W.O.A.S. A.W.L. From 0600Hrs 23 Aug 42 until 2300 Hrs 31 Aug 42 Total: 8 Days 17 Hrs	Sgt Belanger A,	14 Days FCPS.	18 Sept 42	Lt Col Gauvreau G.	9 Days Pay Forfeit
Field	4 Oct 42	Pte		A.A. Sec 15 (1) W.O.A.S. A.W.L. From 23.00 Hrs 4 Oct 42 until 13.25 Hrs 19 Oct 42 Absence: 14 Days 14 Hrs 25 Min	Cpl Lapointe	27 Days F.P.	20 Oct 42	Lt Col Gauvreau G.	

Certified true copy

Capt - Adjt.

(P.T.O.)

73 E.

Army Form A.3.

Correspondence to be PINNED here.

Reviewing Officer's Report Received 1a/1/42

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this 20th day of October, 19 41.

Whereas it appears to me, the undersigned, an officer in Command of 6th Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to superior qualified officer~~.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[~~I hereby appoint~~:—

*(1. ~~Three officers to form the Court.~~)

*(2. ~~A Field Officer as President.~~)

~~for the following reasons, namely:—~~]

* Omit if not applicable.

In my opinion, military exigencies, namely the dispertion of units, and difficulties of communication, and other difficulties, render it inexpedient to observe the provisions of these rules inconsistent with appendix "A" to D.R.O. 472 in the trial of the person named in the annexed schedule

Lieut. S.G.Parent, C.M.H.Q., is hereby appointed Judge Advocate.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.T. Law	Cameron of C

Members.

Rank.	Name.	Regiment.
Capt.	(to be appointed by OLC. Regt. de Maisonneuve	
Lieut.	L.E. Clermont	Fus M R
~~Waiting Members~~		
Capt.	F.H. McDougall	S.Sask.R.
Capt.	W.E.Calor	Cameron of C

Capt R. Demblay.

*Signed Brig

Commanding 6 Cdn Inf Bde

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition be initialed by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	Confirmation (d)
D 61617 Pte. Bisson, Delphis, Fusiliers Mont Royal			Guilty of stealing only Possession Books & Sayings.	
	1st Charge A.A. Sec 41 Committing a civil offence, that is to say stealing (see charge sheet attached)	not guilty		
	2nd Charge A.A. Sec 41 Alternative Committing a civil offence, that is to say, receiving stolen goods (see charge sheet attached)	not guilty	not guilty	
	3rd Charge A.A. Sec 18(1) Producing disease (see charge sheet attached)	not guilty	Guilty	
	4th Charge A.A. Sec 18(2) Alternative Wilfully injuring himself with intent thereby to render himself unfit for service (see charge sheet attached)	not guilty	not guilty	Confirmed J. E. Roberts Brig.
	5th Charge A.A. Sec 40 2nd Alternative See charge sheet attached	guilty	not guilty	

He desired that the accused plead guilty to the 1st charge and sentence be 9 months Rehabilitation Centre dock of trial

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J. P. Macdougall — *Commanding*

(Signed) A. T. Law Major — *Convening Officer* (e)

H. H. Parent Lt. J.A. — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are suffic[illegible] of the Schedule to be initialled by him.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two col[illegible]

Les Fusiliers Mont Royal, CA(AF)
M.I.Room
24 Oct 41.

5

MEDICAL INSPECTION

I hereby certify that I have examined D.61617 Pte Bisson, D. this morning and that I found him mentally and physically fit to undergo trial by F.G.C.M.

(C. H. Alleyn) Capt., RCAMC
Medical Officer

Les Fusiliers Mont Royal., CA(AF)
M.I.Room
23rd Oct 41.

3

MEDICAL INSPECTION

I hereby certify that I have examined D.61617 Pte Bisson D. this morning and that I have found him mentally and physically FIT to undergo trial by F.G.C.M.

(C. H. Alleyn) Capt., RCAMC
Medical Officer

Les Fusiliers Mont Royal,.CA(AF)
M.I.Room

25th Oct 41.

MEDICAL INSPECTION

I hereby certify that I have examined 946417 Pte Brown D. this morning and that I have found him mentally and physically FIT to undergo trial by F.G.C.M.

CHA/HT

(C. H. Alleyn) Capt.,RCAMC
Medical Officer

Reissued
J.A.

CHARGE SHEET

D 61617 Pte. Bisson, Delphis, Fusiliers Mont Royal, a soldier of the Canadian Army (Overseas) is charged with:

1st Charge
A.A. Sec 41

"Committing a civil offence, that is to say stealing"

in that he at Crooksbury Common, Surrey, between the fifteenth and eighteenth of June, 1941, stole the following articles, the property of the Pinehaven Convalescent Home Limited: scientific books (medicine) six or seven syringers, some linen consisting of bed sheets, curtains, table cloths and other paraphernalia.

2nd Charge
A.A. Sec 41
Alternative

"Committing a civil offence, that is to say, receiving stolen goods"

in that he at the aforesaid place and at Cove, Hants, did receive the aforesaid goods, the property of the said Pinehaven Convalescent Home, between the 15th and 19th June, 1941, knowing same to have been stolen.

3rd Charge
A.A. Sec 18(1)

"Producing disease"

in that he, at Guillemont Barracks, on the 19th of June, 1941, with the intention of evading his duties as a soldier, injected himself with some toxic substance thereby causing cellulitis in his left leg.

4th Charge
A.A. Sec 18(2)
Alternative

"Wilfully injuring himself with intent thereby to render himself unfit for service"

in that he at the aforesaid place and date did the aforesaid act mentioned in the third charge herein.

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5th Charge
A.A. Sec 40
2nd Alternative

"Act to the prejudice of good order and military discipline"

in that he at the place and date aforesaid wrongfully and negligently injured himself in the left leg thereby rendering himself unfit to perform his duties as a soldier.

The accused were questioned if they were willing to be tried by the President and Members. It was found that objection was raised to Lieut. L.M.Clermont, Fus M R, becasue he was present at the taking of evidence on D 61293 Pte. Tremblay, Fus M R, and D 61617 Pte. Bisson, B., Fus M R. Waiting Member, Capt. F. H. McDougall, S Sask R, was replacement.

Case of D 61617 Pte. Bisson, D., Fus M R, tried by Field General Court Martial, 25 Oct 41.

PRESIDENT:	Major A.T.Law, Cameronns of C.
MEMBERS:	Capt. Y.H.McDougall, S Sask R. Capt. R. Tremblay, R de Mais.
JUDGE ADVOCATE:	Lieut. G.S.S.Parent, C.M.H.Q.
PROSECUTING OFFICER:	Capt. J.R.Painchaud, Fus M R.
DEFENDING OFFICER:	Lieut. Bieler, R de Mais.

1st Witness: Called by Prosecutor.

Capt. Stuart Douglas Gordon, RCAMC, having been called as a witness was sworn in and identified the accused.

Question: Can you tell the Court when Bisson was admitted to the hospital, when released, and the reason for being admitted?
Answer: Admitted 20 Jun 41, discharged 12 Aug 41. He suffered from marked Extensive Cellulitis of the left leg.

Question: Would you tell the Court if all the time he was detained in the hospital was due to what he was suffering from in his left leg?
Answer: Yes.

Question: Would you tell the Court if the Cellulitis you say he was suffering from would have permitted him to carry on his duties as a soldier?
Answer: He could not have done any duties.

Witness questioned by Defending Officer.

Question: Do you think that the accused with his knowledge or lack of knowledge of medicine could have foreseen the result of the act he is alleged to have done?
Answer: I am afraid I am not in a position to answer that question. I do not know the man as an individual, I am not in a position to judge whether he would know or not.

Question: Could you tell the Court if while he was in hospital the accused suffered a great deal from his injury?
Answer: He did.

Question: For a long period?
Answer: For the first 3 or 4 days considerable pain.

Question: There is another question which has come up in which I would like to ask your opinion. Would you consider a man who is desperate has full control of his senses?
Answer: I suppose that would vary with the amount of desperation.

2nd Witness: Called by Prosecutor.

Capt. P.R.Savoy, Adjutant, Fus M R, having been called as a witness was sworn in and identified the accused and handed over to the Court certified true copies of the Character and Particulars of the accused and N.P.M. 6 for the accused soldier.

3rd Witness: Called by Prosecutor.

Capt. J.E.Bundock, 18 Cdn Fd Amb, having been called as a witness was sworn in and identified the accused.

Question: Would you tell the Court if you remember having examined the accused when you were M.O. for the Fus M R?
Answer: Yes I have examined the accused.

Question: At about what date?
Answer: Around the 20th of June.

Question: Would you tell the Court what you found when you examined the accused?
Answer: I found acute Cellulitis of the leg.

Question: Could that infection or element that you have noticed when you examined the accused, could that have resulted from any other cause, are you in a position to give the Court some light on that?
Answer: It was a very peculiar infection as it was very rapid. Developed in 24 hours which was very fast.

Question: When you had examined the patient for his toe the day before, you had not noticed anything wrong with his leg?
Answer: I did not examine his leg as there was no complaint.

Question: Would you tell the Court if when the accused was suffering from this ailment he was in a position to carry out his duties as a soldier?
Answer: No, it was a serious thing.

Witness questioned by Defending Officer.

Question: Can you tell the Court if by the fact that the accused did not at once state the true facts to the doctor, did it prevent him from getting the right treatment and did it increase his suffering?
Answer: Not particularly, the treatment is practically the same for all such cases.

Question: The question of suffering, pain, etc., I am asking you that by not admitting the true facts of his case did the accused suffer more?
Answer: No.

Question: Are you in a position to tell us the present condition of the accused?
Answer: No sir, I have not seen him since the day after his injection.

Witness questioned by President of the Court.

Question: Would this injection, resulting in his presence in the hospital, would it have any effect on his future as a soldier?
Answer: There is a possibility that it will re-occur. Impossible to say to what extent.

4th Witness. Called by Prosecutor.

D 61418 Pte. Laurin, A., Pus M R, (Regimental Police) having been called as a witness was sworn in and identified the accused.

Question: Would you tell the Court if you remember having seen or met or having been with the accused on one occasion when he made or did something special?
Answer: It is about the linen?

Question: What do you mean by linen?
Answer: The linen we found in the cupboards, I do not know who put it there.

Question: Would you tell the Court if the accused has made any declaration before you?
Answer: No sir, he made a declaration in front of Capt. Painchaud about the injection.

Question: Would you tell the Court if you were present when this declaration was made?
Answer: The declaration of the injection? I was witness that the accused made in front of Capt. Painchaud in connection with the injection.

Question: Can you tell the Court if the signature on this document, 'A.Laurin', is your signature?
Answer: Yes sir.

Question: Would you tell the Court if the signature a little above yours, 'A. Bisson', was signed by the accused and if it was signed before you?
Answer: Yes sir.

Question: Can you tell the Court if before the accused made this declaration he was duly warned?
Answer: Yes sir.

Question: Would you tell the Court if after the accused has made this declaration he has read it over himself in your presence?
Answer: Yes sir.

Question: Will you produce this document before the Court as P I?
Answer: Yes sir.

Witness questioned by Defending Officer.

Question: You state that before the accused had made his declaration the accused had been duly warned?
Answer: Yes sir.

Question: What do you mean by duly warned?
Answer: Capt. Painchaud warned him that this declaration would be repeated at the Court.

Question: How did he come to do this declaration?
Answer: Capt. Painchaud asked him if he had a declaration to do and he accepted to make a statement.

Question: Do you remember how he asked him to do the declaration?
Answer: Capt. Painchaud asked Bisson if he wants to change his declaration and then he made this declaration.

Question: What do you mean by change his declaration, did he have one before?
Answer: I do not know if he did one before, he asked him if he had something new to say.

Question: Do you remember if the accused was warned if he wants to so he would not have to make a declaration?
Answer: Capt. Painchaud asked him if he wants to do a declaration and he accepts.

Witness questioned by Prosecutor.

Question: Would you tell the Court if the warning that you just referred to was made to the accused before he started to make his declaration or after he made it?
Answer: He was warned before doing his declaration.

Question: Could you tell the Court how this declaration was made by the accused, I mean this here, the document produced before the Court, this document reads, " I D 81617 Pte. Bisson, D., declare after having been duly warned that all I would say might serve as evidence against me at my trial and without expecting any clemency or favour for what I might say and without having received any promise or threat to myself I declare that which follows", now could you tell the Court if when this was taken down the accused had read or not mentioned of the following things, in other words was this taken down before the accused started to say anything in the following declaration?
Answer: As he said it, it was written down.

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5th Witness. Called by Prosecutor.

D 62057 Pte. Beaulieu, A., Rus M R, having been called as a Witness was sworn in and identified the accused.

Question: Will you tell the Court if the accused which you just identified was in your company and in the same platoon as you and for how long?
Answer: Yes sir, I think he was always in my platoon.

Question: Will you tell the Court if you remember if your regiment, the Rus M R, went away from its barracks during the month of July?
Answer: Yes sir.

Question: Why did the regiment leave the barracks?
Answer: Went on a scheme.

Question: Could you tell the Court if something particular happened during that scheme?
Answer: We went and got some blankets.

Question: Was that all that you went to get?
Answer: And we went to laboratory.

Question: Will you come and look at these things here and tell the Court if you recognize these things?
Answer: Yes sir.

Question: Where have you seen them before?
Answer: At the place where we had the scheme in the house nearby.

Question: When you said a moment ago that on that scheme you went to get some blankets would you tell the Court if these were the things you were referring to?
Answer: Yes sir.

Question: Can you tell the Court if when you went to get those blankets the accused was with you?
Answer: I do not remember.

Question: Who was there when you went to get those things?
Answer: Ptes. Tremblay, D'Allaird, Ledouceur, myself and Cpl. Langevin.

Question: Can you tell the Court if the accused was with you or not?
Answer: I do not remember.

Question: How did you come to go to that house, who told you that there was a house there?
Answer: The first time I went up and saw house and did not talk about it, I do not know what it had in it.

Question: Did the accused mention that house to you before you went there to take these things out?
Answer: Yes sir.

Question: How long was it before you went there?
Answer: I do not know.

Question: Was it two or three hours before, how long you talk of the house and blankets?
Answer: Yes, two or three hours. It was house we saw when we passed.

Question: Who was with you?
Answer: Pte. D'Allaird.

Question: Was the accused with you then?
Answer: No sir.

Question: When and where did the accused mention that house to you?
Answer: 2000 hrs at the scheme where we were.

Question: Where exactly?
Answer: Where I was when he said that to me?

Question: Yes?
Answer: I was with the company.

Question: Were you in the camp or outside the camp?
Answer: In the camp sir.

Question: Where were you?
Answer: With the company.

Question: Would you tell the Court for the last time whether you remember or not if the accused was present when these things were taken away from the house?
Answer: I do not remember.

Article 29 of the M.M.L. was read to the witness by the Judge Advocate.

Witness questioned by Judge Advocate.

Question: What do you know about the blanket situation?

Answer: I was in the line with the B Company. They asked me if I want to go and look with them and we went and we arrive at that house, we went in a small laboratory and we went in and we came back afterwards. I mean before we went down we took some stock before we left. I took a box with glasses in and I saw Bisson with medical books . It is so long ago that I do not remember well. I do remember that Bisson was present in the laboratory. And after that we went around the house and we saw the house and then we went down to have supper. We then went back and there were eleven of us all together. We went there for the blankets, I do not remember how many times we were there.

Question: Was Bisson there?
Answer: I cannot remember, I was walking in front and I do not see all who are in back of me. That is all I remember about this case.

Witness questioned by Prosecutor.

Question: You state that it was on a scheme on which the battalion had taken part in the month of June. Can you tell the Court if you remember at what date that scheme took place?
Answer: Around the 15th to 20th Jun 41.

6th Witness: Called by Prosecutor.

D 61599 Pte. D'Allaire, M., Fus M R, having been called as a witness was sworn in and identified the accused.

Question: What company and what platoon are you in?
Answer: "B" Coy, 18 Platoon, Fus M R.

Question: How long have you been in that platoon?
Answer: Around 12 months.

Question: Do you know how long the accused has been in that platoon?
Answer: About the same time.

Question: Can you tell the Court if you remember having been on a scheme with the battalion during the month of June?
Answer: Yes sir.

Question: What did you do during that scheme outside of the exercise?
Answer: What we did was about the clink.

Question: What do you mean by clink?
Answer: When we went ~~xxxxxxwalk~~, I Bisson and Dumarne.

Question: What happened?
Answer: We went for a walk, we saw house demolished.

Question: What do you mean by demolished?
Answer: House without windows, we went in the place, the door was a little bit open.

Question: Was the accused with you at that time?
Answer: Yes sir.

Question: What did you do?
Answer: We went in the room and Bisson stay at the door, we found maps on the floor, during that time Bisson went through a window, we stayed inside and looked at the maps. After that we went out, we did not see Bisson when we went out, we get along to find him and he appeared behind us showing us a book. He told us it was a medical book. After that we went back to camp. After that we went back, I cannot say how much we were. I saw Bisson inside with Tremblay and Beaulieu. Myself and Ledouceur were at the window. There I saw Bisson taking articles, I cannot say everything and put them on the table.

Question: Will you tell the Court all that you know about the accused for this case, Bisson, and those circumstances which you said you went in to some house there during that scheme.
Answer: I understand only a little of question. No sir.

Question: Will you tell the Court if you remember having seen these linens before?
Answer: Yes sir.

Question: Where have you seen these linens before?
Answer: I saw these things when they were put down at the bottom of the window.

Question: What window?
Answer: The window of the little house where that was.

Question: When that linen was put on the floor or on the ground near that window from where was it coming?
Answer: It was a little house and it was taken through the window.

Question: Who was there when it was taken from the window?
Answer: I saw Tremblay and another one and I cannot say who.

Question: Can you tell the Court if you have seen the accused that you said were there?
Answer: I saw Bisson but I am sure he was not inside.

Question: Where was the accused?
Answer: He arrived after me.

Question: Where was he?
Answer: I think I saw him behind the little house.

Question: I am asking you exactly where was the accused? Was he near that window or somewheres else, or was he near where the linen was put, where exactly was he?
Answer: I saw him a couple of seconds at the right of the window because we were a lot.

Question: Can you tell the Court who you were with when you went to the house?
Answer: No sir, It is too long and there were too many of us to remember.

Witness questioned by Defending Officer.

Question: You talk to us of house demolished, would you say to us how it was demolished?
Answer: The windows were broken and the doors were not locked.

Question: Around this house was there any gardens or fence in a good state?
Answer: The fence was down on the ground for a certain length.

Question: Where was it from the house where they took some medical books and the house where was the linen?
Answer: Around 500 yards, not so much, around 300 yards.

7th witness. Called by Prosecutor.

D 61601 Pte. Fraser, A., Pus M R, having been called as a witness was sworn in and identified the accused.

Question: How long have you been with Headquarters Company?
Answer: 2 weeks.

I was transferred to H.Q. Coy and was in 'B' Coy last June in No. 12 Platoon.

Question: Can you tell the Court if in the month of June last you went on a scheme with the battalion?
Answer: Yes sir.

Question: Could you tell the Court about what date that was?
Answer: It would be very hard for me to answer that question.

Question: Can you tell the Court if the battalion went on some other scheme in that month?
Answer: Just the one scheme.

Question: During that scheme there was something particular that took place outside of military exercises?
Answer: Yes sir.

Question: What happened?
Answer: We were all the same gang talking of someone found out a house. I was near the last they were talking they were find a house they were all going up to. I went up with them and looked around. There was nothing nice about it so we came down. Couple of guys took some stuff from there, blankets, etc. We only stayed up there about one hour, not one hour exactly and we came down to the camp and did not hear anything about it, after the scheme I went on a pass and when I come back from the pass the Major called me down and asked me if I saw any of the syringes and I told him I did not see any. I asked him why, he said or told me a couple of boys had infected themselves so asked me all kind of questions, what I saw up there, etc. and I told him I did not know anything about infections as I was on leave.

Question: You say you do not know anything about the injection?
Answer: Yes sir.

Question: Was the accused with the gang that went up to the house?
Answer: Yes sir he was with us.

Question: Have you seen these linens before?
Answer: Not all of them sir.

Question: Which pieces have you seen?
Answer: Just a couple of them, never seen the rest of them.

Question: Have you seen this one or this one?
Answer: Just saw a few.

Question: Where did you see them?
Answer: I think it was in the hut in Guillemont barracks.

Question: Who had them?
Answer: I could not be sure, I saw them on the floor.

Question: What hut?
Answer: H - 5.

Question: Was that the hut in which the accused was sleeping?
Answer: Yes sir.

Question: Have you seen any of these linens in the accused's kit bag or bed?
Answer: No sir.

Question: You said you went down to some house during scheme, have you seen any of these linens down there?
Answer: Yes sir.

Question: Where was it?
Answer: The last night we went up there.

Question: Where exactly have you seen it?
Answer: It was in their arms.

Question: Who had them in their arms?
Answer: Only saw their faces, do not know their names.

Question: Did the accused have some in his arms?
Answer: No, there was about ten of us and I did not have time to look around as I did not want to get mixed up in it.

Question: What were they doing with these things?
Answer: They were taking them back to where we were stationed on the scheme.

Question: Where did they take them from?
Answer: The small house.

Question: Was the accused near the house?
Answer: Yes sir, and so was I.

Question: Have you seen these articles or the ones you said you recognized as being taken out of the house?
Answer: Yes sir, I did.

Question: Was the accused present when those articles were taken out of the house?
Answer: No sir, I cannot answer that question as I do not know.

Question: Was the accused there or not?
Answer: No sir, I cannot say.

Question: Do you remember having seen anyone getting into that house before these articles were taken from the house?
Answer: Yes sir, I saw Tremblay in the house.

Question: Did you see the accused getting into that house?
Answer: No sir, I did not see him.

<u>Witness questioned by Defending Officer.</u>

Question: In that hut you were talking about in Guillemont barracks, where the accused slept and according to your statement you saw these things on the floor, how many men slept there?
Answer: About 30.

[illegible]th Witness. Called by Prosecutor.

D 62119 Pte. Ladoucer, Jean-Paul, Fus M R, having been called as a witness was sworn in and identified the accused.

Question: Would you tell the Court if you went on a scheme with the battalion in the month of June, 1941.
Answer: Yes sir.

Question: Was there anything in particular done except military exercises?
Answer: Yes sir.

Question: Will you tell the Court what took place?
Answer: In the laboratory I saw Bisson looking in the small boxes taking some books. We disperse ourselves we have gone to the house. Bisson took another way, that is all.

Question: You said that the accused had taken some books?
Answer: Yes sir.

Question: What did he do with those books?
Answer: I saw him with the books in his hand.

Question: Where did they come from?
Answer: From the laboratory.

Question: Have you seen these linens before?
Answer: I saw it outside of the hut.

Question: When you said hut what do you mean?
Answer: It is a small building that was there where was the linen.

Question: Did you see any of these linens being taken away from the house where it was?
Answer: That linen was taken out of the house by Tremblay. Tremblay took it outside from the building and I myself took some.

Question: Were you alone with Tremblay at that time?
Answer: No sir, there were many of us.

Question: Can you tell the Court who they were?
Answer: In the house there were Tremblay, Beaulieu and not sure of anyone else.

Question: Was the accused in or near that house at that time?
Answer: Bisson was outside in another direction.

Question: Can you tell the Court if at any time you have seen the accused near that house when the linens or some of these articles were taken from the building?
Answer: I did not see him afterwards and I did not see him when I was there.

Question: What happened to these linens after you saw it having been taken out of the house?
Answer: We each took a piece.

Question: Can you tell the Court if at that moment the accused was around?
Answer: No sir, there were many of us, he took another direction and we did not see him.

Question: At what time did he go in another direction?
Answer: Is it when he went you are asking?

Question: At what moment?
Answer: When we went out of the laboratory it was for the purpose of going to the linen hut.

Question: Do you mean to say that when you went out of the laboratory that the accused went in another direction and did not go to the building in which the linens was?
Answer: As I say I did not see him there, it is about ten times you have asked me the same question and I always answer the same thing.

Witness questioned by Defending Officer.

Question: We showed you what was in the case there, did you see the books that were inside there?
Answer: I saw the books that was in his hand but not the cover.

Witness questioned by Prosecutor.

Question: Can you tell the Court if you know what the accused has done with those books you said he took away from the laboratory?
Answer: At the time I say, I saw him with books in his hands.

Question: Do you know what he has done with these books?
Answer: I do not know.

9th witness. Called by Prosecutor.

D 61398 Sjt. Lefebvre, E., Provost Sjt, Fus M R, having been called as a witness was sworn in and identified the accused.

Question: Could you tell the Court if you have seen these articles before?
Answer: Yes sir.

Question: Where have you seen these articles before?
Answer: In a cupboard.

Question: Where?
Answer: In the lines of 'B' Coy.

Question: Where was that?
Answer: In one room of 'B' Coy.

Question: I mean what place?
Answer: Guillemont barracks, Cove, Hants.

Question: On what occasion have you seen those things.
Answer: Capt. Gauvreau send me to search the lines.

Question: Which lines?
Answer: The lines of 'B' Coy.

Question: What for?
Answer: To try and find something that had disappeared.

Translation of Appendix 'A' from French to English by Interpreter.

" After having been duly warned that all that I might say could serve as proof against me at my trial and without expecting any favour or having received any promises or menace I make the following declaration.

'In the month of June, 1941 I went to a scheme "Waterloo" with the regiment of Fus M R. We bivouacked outside two or three days during that time we were gone in groups in an abandoned hospital that was near about half a mile. We began to search in the huts, I took some science book and around seven or eight syringes, that is all that I took. I was condemned for 28 days field punishment at Guillemont barracks for some supposed words that an officer thoughtthat I had told him on the second day of the scheme. When I arrive at Guillemont barracks I parade in front of my case I plead not guilty and the O.C. condemn me for 28 days field punishment. When I saw that I was discouraged and had only one though to inject me with the instruments I had seen that I had them. I sent a guard to search in the Grenier kit bag who was in the same platoon as me, one syringe I told him to bring to me and some coal oil with it. He came back with the answer

the kit bag was locked and Grenier was on leave. I then say to the same guard to procure me a syringe that I knew that others in the platoon had some, that they took from me three during the scheme. The same guard came back by outside of the clink and gave me one syringe and coal oil in the syringe. I tried to inject myself but the needle was too long. I asked to the same guard to take back the syringe and to go and change the needle and to take a smaller one then I succeeded in pricking myself with this one. After I took the syringe and washed it because the same guard was supposed to go back. The guard came back around nine o'clock at night to get the syringe but I had no chance to give it back to him because the serjeant of the guard stayed with us all the time. Around 9.45 P.M. the same guard came back and I could not give it back to him because of the serjeant. As I had no chance to give back the syringe to the guard I slide it on a wood beam below the ceiling. Around 10.30 P.M. I cannot endure any more the pain. I went and see the stretcher bearer. I told them that one leg hurt me and I thought it was blood poisoning that was done when I prick myself on rusted barbed wire. They put some hot towels on it and I came back to the clink. The next morning as I did not give back the syringe I wanted to destroy it but when I tried to get up I could not stand up. I asked for the same guard but I did not have the chance to give him the syringe because of the serjeant. I told him to send another of my platoon to try and fool the serjeant but I did not have a chance. And I asked for the doctor all day, he came only at night around five o'clock or so. He sent me to the hospital immediately. I went in the hospital on the 20 Jun 41 and came out on the 13 Aug 41.'

I declare, having re-read this declaration here above in the presence of Pte. Laurin, A, from the Regimental Police, Fus M R, that it is all the truth and I signed. ".

The accused, Pte. Bisson, D., Fus M R, having been called as a witness for the Defence, was sworn in.

Question: Will you explain to the Court in what condition you signed that confession?
Answer: It is the third time I was asked for a statement.

Question: Who asked you for declaration before?
Answer: Capt. Gauvreau nearly compelled me to do one telling me because I did not want to talk that there is another place to go and he did not want to play with me all night then I thought I had to do one, in the same night the same thing happened with the Canadian Provost Corps Officer. After the others come and join him Major Forget asked me for one too and when I went out of the hospital he came to get me saying to me that Capt. Painchaud was waiting for my declaration. Capt. Painchaud said to me as it is written on the beginning of my declaration, but as he said to me the way he told me he did not tell me that if I want I did not have to do it, and what happened with the first three I thought that I was obliged to do one.

Question: How old are you?
Answer: Twenty years old.

Question: The house in which the linen was taken is it a new hut or an old hut?
Answer: It was a very old hut.

Question: When you came in did you think that there was people living in the house?
Answer: No sir.

Question: When you prick yourself what idea did you have?
Answer: To tell the truth I did not realize what I was doing, I did it with the intention to go to the hospital to try and forget what happened to me then.

Question: What happened to you?

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Answer: I saw myself paraded in front of my C.O. for something that in my mind I thought that I was not guilty and I plead not guilty. Then the officer send me to the O.C. telling him that I was a man from his platoon and that he could not condemn me himself. The next thing I was paraded to the 2 i/c on a charge that was not the same and the witness was not the same. I wanted to give explanation and they answered me saying that I did not do my duty in the right way on parade, they tell me that and it was two months I was gone from the regiment. When that thing happened it was only three days I was with the company, I arrive the first day of the scheme after two months and I come back to the regiment to 'C' Coy and Capt. Painchaud transferred me five days after to 'B' Coy and then I was in 'B' Coy when they parade me, they change the charge and they tell me I was doing foolish thing on parade.

Question: Show me your leg? Did you have any scar before the accident?
Answer: No sir.

Witness questioned by Prosecutor.

Question: You state that when you come back to the unit it was from the Holding Unit?
Answer: Yes sir.

Question: Posted to 'C' Coy?
Answer: Yes sir.

Question: You asked to be transferred to 'B' Coy because you had always been in 'B' Coy before?
Answer: Yes sir.

Question: How long were you with 'C' Coy before you were transferred to 'B' Coy?
Answer: Five days.

Question: When you left for the scheme you were with 'B' Coy?
Answer: Yes sir.

Question: Was it to your knowledge that at the time the scheme took place that Capt. Painchaud was away on leave?
Answer: I cannot remember.

Question: You mention that you were asked three times to make a declaration, the first time by Capt. Gauvreau. When did he ask you?
Answer: Four days after admitted to hospital.

Question: When Capt. Gauvreau asked you to make a declaration did you make one?
Answer: Yes sir, because he nearly forced me to do it.

Question: You said the Canadian Provost Corps officer asked you to make one?

Answer: Yes sir.

Question: Who asked you?
Answer: Lieut. Oliver, Canadian Provost Corps.

Question: Did he give you any warning?
Answer: They did no warning and I have witness for it.

Question: Did you give a statement to Capt. Gauvreau?
Answer: Yes sir.

Question: Did you give one to Lieut. Oliver?
Answer: Yes sir.

Question: You said that after a third time it was Major Norget?
Answer: Yes sir.

Question: Was he alone?
Answer: No sir.

Question: Did you know that it was a Court of Inquiry?
Answer: In a way yes and in a way no.

Question: Who was with Major Forget?
Answer: The R.S.M. and C.S.M. Martin.

Question: Did you know that they were acting as a Court of Inquiry?
Answer: They asked me only questions on the injection.

Question: You said that when you come out of the hospital that you were told that Capt. Painchaud was waiting for you to make a declaration?
Answer: Yes sir.

Question: Who told you that?
Answer: I think it was Laurin who come to get me.

Question: What time did you come out from the hospital?
Answer: 13 Aug 41.

Question: What time did you make that declaration before Capt. Painchaud which is produced here?
Answer: 10 Oct 41.

Question: Was Capt. Painchaud asked you or told to you about making a declaration any time before the 10 Oct 41 when you make this declaration?
Answer: No sir.

Question: On the 10 Oct 41 when you did make this declaration have you seen Capt. Painchaud alone?
Answer: When I did my declaration he was not alone.

Question: When you come to see Capt. Painchaud were you alone?
Answer: No sir.

Question: Did Capt. Painchaud ask you any questions about the facts mentioned in this confession before having told you that it would be written down what you say here, did Capt. Painchaud ask you or talk to you of any of the facts before he had told you that it could be used before you at your trial?
Answer: No sir.

Question: Did Capt. Painchaud tell you before taking down your declaration that you were not obliged to make one and that if you should make one it would be used against you as evidence at your trial?
Answer: You told me as it is written on that paper, that what I say would serve against me at my trial.

Question: Did not Capt. Painchaud tell you that you were not obliged to make one?
Answer: No sir.

Question: You still say that Capt. Painchaud did not tell you that you were not obliged to make a declaration?
Answer: He did not say it to me.

Question: From the moment you went from the hospital in the month of August till the day you made this declaration on the 10 Oct 41 have you been before Capt. Painchaud in connection with this case or in connection with the preparation of this case against you? If when you made this declaration on the 10 Oct 41, if that was the first time that you were with Capt. Painchaud in connection with the preparation of your case.
Answer: Since I was out of the hospital it was the first time I was asked in relation to that case.

Question: Could you tell the Court, in your declaration you say that you have taken some books of science, about 7 or 8 syringes from the laboratory while you were on "Waterloo" scheme, could you tell to the Court what you have done with those articles?

Answer: When I went to the hospital I did not see the colour of it.

Question: Where were they?

Answer: I do not know.

Question: Where did you put them the last time they were in your possession?

Answer: In the kit bag of one of my friends.

Question: Could you tell the Court if you were present during the scheme when these articles here were taken out from one of those houses that you have heard witnesses today refer to?

Answer: No sir.

Question: Would you tell the Court if you have any knowledge of these articles that were taken out of that building?

Answer: No sir.

Statement by Prosecutor.

The articles mentioned in the charge, medical books and syringes, the Prosecution is not in a position to produce them because they have disappeared or never came into possession of the Prosecution. The accused in his cross-examination does not know where they are because they have disappeared.

Statement of Defending Officer.

This case looked very strange to me. I knew nothing about this man or the case when I came here and I found a very strange mental attitude in the accused. He was under the impression that the whole world and the army in particular was against him. He thought they were trying to get him for this case and he had a few things which looked like good reasons to me and that is why I agreed to his plea of Not Guilty, but I feel that there is a time when he is entitled to a "French Cleaning", to go right to the bottom of things and see what is right and wrong. The disagreeable impression was that the whole platoon had been helping themselves in some abendened huts. He had taken some "books of science" and some medical instruments. The others had taken some practical things and were getting off scot free except one and he was being made the goat and felt that it was not right, so I felt it was only right for this man to tell his story in front of the Court, it would be better for all concerned. In connection with the stealing I think the Court could cancel that charge. He is accused of stealing a whole list of objects, to which there is practically no commercial value and I think the charge of stealing should be dropped, after all we have this man for a much more serious charge and on that there charge I can only make a plea for the clemency of the Court. You know what a desperate man is like you know what he can do. He has been bodily punished, you saw his leg, you had the admission of Doctor Gordon and I think that Bisson would not draw anything to the Court again. Again I feel that the first two articles, "producing disease", I am not even trying to evade guilt, his confession is there to support it. If you remember he has been 188 days in the hospital and jail, if any of the gentlemen had gone to the jail here you would know what it is like, it is a real jail

The Court does not deem it necessary for the Judge Advocate to sum up the case.

Abstract of Evidence in the case of D-61617 Pte Basson, D.

Page 1 P1. APPENDIX

Je, D-61617, Pte Basson, Delphia, soussigné, déclare après avoir été dûment mis en garde que tout ce que je pourrais dire pourra servir de preuve contre moi à mon procès et sans m'attendre à aucune clémence ou faveur pour ce que je pourrais dire et sans avoir reçu aucune gratification mercenaire et de ma propre volonté et désir, je déclare ce qui suit : Au cours du mois de juin 1941 je suis allé sur le scheme Waterloo avec le régiment, Fus M. R. Nous avons bivouqué dehors deux ou trois jours. Au cours de ce temps-là on a été en groupe dans un hôpital abandonné qui se trouvait dans les alentours à environ un demi-mille. On a commencé à fouiller dans les cabanes. Moi j'ai pris des livres de science, à peu près sept ou huit carnets; c'est tout ce que j'ai pris. J'ai été condamné à vingt-huit jours de Field Punishment en revenant à Guillemont Barracks pour des supposées paroles qu'un officier croyait que j'avais adressées à lui la deuxième journée du scheme. En arrivant au Barrages Guillemont j'ai parodié devant lui et il m'a amorgé devant le Commandant parce que j'ai fl a été sur

coupable et le Commandant m'a condamné à vingt huit jours de Field Punishment.

Quand j'ai vu ça je me suis découragé et j'ai eu seulement qu'une idée de me fiquer vite que j'avais les instruments nécessaires. J'ai envoyé une garde me chercher dans le kit-bag de Freuier, qui était du même peloton que moi, une seringue et je lui ai dit de m'emporter de l'huile à l'angle avec. Il est venu me donner la réponse que son kit-bag était barré et que Freuier était parti ce jour. J'ai alors dit à la même garde d'aller me procurer une seringue car je savais que d'autres dans le peloton en avaient parce que je m'en étais fait enlever trois sur le rabaut. La même garde est revenue sur en-dehors du clinique et m'a remis une seringue avec de l'huile à l'angle dedans. J'ai alors essayé de me fiquer mais l'aiguille était trop grande; j'ai alors demandé à la même garde, en lui remettant la seringue, d'aller changer l'aiguille et d'en prendre une plus petite; là j'ai réussi à me fiquer avec celle-là. Ensuite j'ai pris la seringue, je l'ai lancée parce que la même garde était offusquée revenir; la garde est revenue vers moi

heures du soir pour chercher la seringue, mais je n'ai pas eu de chance de la lui remettre parce que le Sgt de garde a resté avec nous autres tout le temps. Vers dix heures moins quart la même garde est revenu et je n'ai pas pu la lui remettre encore à cause du Sgt. Quand j'ai vu cela que je n'avais aucune chance de remettre la seringue au garde, je l'ai alors caché sur une poutre de bois qui dépassait au plafond. Vers dix heures et demi j'étais plus capable d'endurer les souffrances et je suis allé voir les ambulanciers, je leur ai dit que j'avais mal à une jambe et que je croyais à un enfoisement survenu à la suite d'une figure dans du fils barbelé rouillé. Ils m'ont ~~mis~~ des compresses d'eau chaude et je suis revenu dans la clinique. Le lendemain matin comme je n'avais pas pu remettre la seringue, je voulais la détruire mais quand je suis sorti pour me laver, je n'étais pas capable de rester debout. J'ai alors fait venir la même garde et je n'ai pas eu de chance de lui re-

NB 1.f

mettre la carriole à cause du Sgt, j'ai
alors dit à la jeunesse d'envoyer un autre
de mon peloton pour essayer de déjouer le
Sgt, mais je n'ai pas eu plus de chance.
Puis j'ai demandé le docteur toute la
journée et il est venu seulement le soir
à cinq heures et demi, et il m'a
envoyé à l'hopital immédiatement.
Je suis entré à l'hopital le 20 juin et
en suis sorti le 13 août 1941.

Je déclare avoir relu la déclaration ci-dessus
en presence du soldat Laurin. A. de la
police régimentaire et que c'est là toute
la vérité et j'ai signé.

Black Water
10 octobre 1941

J. Dionne

Témoin : A. Laurin

Rebadeau

A. Paquet Pr.
J.A.

47

P2

SERVICE OUTREMER

(1)

Identified by Miss M.E. Walters

1-P-1 - One pair of Kaki curtains - washing marks No 543 - Property of Sanatorium Sld

1-P-2 - One pair of blue curtains marked Brooksbury Sanatorium - Prof San Sld

1-P-3 - One pair of kaki curtains - washing No 543 - Prof San. Sld

1-P-4 One pair of kaki curtains - marked Cubicale Room 1913 - Prof. San Sld.

1-P-5 One single Kaki curtain - Marked Cubicale Room 1913 - Prof San Sld.

1-P-6 - One single blue curtain no identification marks - Prof San Sld.

P-7 - One single blue curtain - Washing Marks No 543 writ letters "S.B."

P-8 - One pair of blue curtain - NO identification marks - Prof of San Sld.

1-9 - One ~~pair~~ single blue curtain - Washing marks 543 and name Brooksbury Sanatorium - Prof San

10 One single blue curtain - Washing marks 543 - Prof. San Sld

11 One ~~linen~~ white linen bed sheet torn - NO identification

marks - looks like the one they had

1- P-12 long white curtain - Washing marks 543 - Prof of Sam

1- P-13 One long white linen table cloth - Marked Brookesbury Sanatorium and size identified by its length - Prof of Sam

1- P-14 One long white linen table cloth marked Brookesbury Sanatorium -

1- P-15 One long white linen table cloth marked Brookesbury Sanatorium

1- P-16 One long white linen table cloth marked Brookesbury Sanatorium

1- P-17 One medium white linen table cloth marked (faintly) Brookesbury Sanatorium besides washing marks 543.

1- P-18 Another medium white linen table cloth marked washing Mark 543

1- P-19 One medium white linen table cloth marked Brookesbury Sanatorium besides washing mark 543

1- P20 Piece of white linen table cloth 6' x 3', no identification marks

1- P21 Another piece of white linen table cloth 10' x 3', no identification marks

1- P-22 One small white linen table cloth with washing mark 543

1- P-23 One small white linen toilet cover with washing mark 543

1- P-24 One small toilet mat white linen with opened work - laundry mark 543 and initials "P.C.H."

1- P-25 One small toile mat white linen with blue embroidering with laundry mark 543 and initials "P.C.H."

1- P26 One blue curtain with laundry mark 543

1- P27 One small toilet mat white linen with opened work and laundry mark 543

1- P-28 One white woollen blanket with greenish blue stripes - Identification mark taken away.

- P-29 One small toilet mat white linen with embroidering - laundry mark 543 and initials "P.C.H."

P.

SERVICE OUTR[illegible]

1- P-30 One piece 10" x 4' white linen sent arm - no identification marks -

1- P-31 One shirt (navy) damp marked Dr Walters identified by Dr. Walters.

1- P-32 One nickle plated box containing surgical knives - identified by Dr Walters.

1- P-33 One nickle plated

Received

A. Parent, Sr.
J. A.

ABSTRACT OF EVIDENCE.

In the case of D61617 pte. Bisson, Delphis, FUS.M.R. charged as per charge sheet attached.

- - - - - - - - - -

1st witness: D61418 pte. Laurin, A., Regimental Police, F.M.R.
Witness states that accused made and signed a written statement before him, after having been duly warned; which statement is herewith attached as appendix "A".

2nd witness: D62057 pte. Beaulieu, Alexis, 'B' Coy., Fus.M.R.
Witness states that during the month of June 1941, he went on a scheme with the F.M.R. and bivouaced outside with his Company; While their company was there witness went with the accused and Pte. Maurice Dallaire and others to vacant houses that were in the neighborhood. Witness saw the accused enter through a window into a room of one of these houses and witness also entered inside the same room. Witness states that inside that room there were many books, bottles and other things. When they left the room and came out witness saw the accused taking a few of these books away with him; they went together to a small wood and witness states that the accused then produced some medical books which he had taken away from the house.

3rd Witness: D61599 pte. Maurice Dallaire, 'B' Coy., Fus.M.R.
Witness states that during the month of June 1941, he went on a scheme with the F.M.R. and bivouaced outside with his company for two or three days. While his company was there witness went with the accused, and Pte. Alexis Beaulieu, Pte Jean-Paul Ladouceur and others to vacant houses taht were in the neighborhood. Witness saw the accused enter through a window into a room of one of these houses and witness, looking by the window, saw the accused take some articles that were in the room, put them in his tunic and come out through the same window.

4th Witness: D62119 pte. Ladouceur, Jean-Paul, 'B' Coy. Fus.M.R.
Witness states that during the month of June 1941, he went on a scheme with the F.M.R. and bivouaced outside with his company for two or three days. That scheme was called 'Waterloo'. While their company was there, witness went with the accused and Pte. Maurice Dallaire, Pte. Alexis Beaulieu and others to vacant houses that were in the neighborhood. Witness states that he saw the accused inside a room of one of these houses and that he himself entered in the same room by the window; once inside witness saw the accused searching through drawers and putting things in his pockets.

5th witness: D61601 pte. Fraser, Arthur, 'B' Coy., Fus.M.R.
Witness states during the month of June 1941 he went on a scheme with the F.M.R. and bivouaced outside with his company for two or three days. While their company was there witness went with the accused, and Pte. Maurice Dallaire, Pte. Alexis Beaulieu and others, to vacant houses that were in the neighborhood. When they reached these houses witness saw the accused enter into one of the houses through the window with someone else and they start taking out bed sheets, curtains and other clothing through that window.

6th Witness: D61398 Sgt. Lefebvre, E. Regimental Police, F.M.R.
Witness states that during the month of June 1941, after the scheme

'Waterloo', he received instructions from Capt. G. Gauvreau, Asst.Adj. to search the lines of 'B' Coy. for stolen goods. Witness did so in the presence of one of his men D61418 pte. Laurin, A. and they found a bundle of clothes in cupboard in a vacant room in the said lines. These clothes consisted of table clothes, linen bed sheets, curtains, toilet naps and other linen most of which were being the name of an English institution and other identification marks.

7th Witness: D61418 pte. Laurin, A. Regimental Police, F.M.R.
Witness corroborates the evidence as given by the 6th witness.

8th Witness: Dr. Walters, "The Sands" Farnham, Surrey.
Witness states that he is a director of the Pinehaven Convalescent Home, Crooksbury Common, Surrey, near Elstead; that sometime during the month of June 1941, certain things have disappeared from the said sanatorium. Witness identifies certain articles(which will be produced as exhibits at the trial). as being the property of the said sanatorium and as having disappeared from the aforesaid premises.

9th witness: Miss M.E. Walters, "The Sands" Farnham, Surrey.
Witness states that she is a director of the Pinehaven Convalescent Home Limited, and identifies certain articles (which will be produced as exhibits.) as being the property of the said Sanatorium and as having disappeared from the said premises during the month of June 1941.

10th witness: Capt. G. Gauvreau, F.M.R.
Witness was acting as adjutant for the Fus.M.R. during the month of June 1941. On 15,16,17 of June the Bn went on an exercise called 'Waterloo' and the Bn. was bivouaced in Crooksbury Common, near Elstead. There was no other scheme in which the whole Bn. took part during the month of June 1941.

11th witness: Capt. J.B. Bundock, R.C.A.M.C.
Witness examined the accused's leg, sometime during the month of June 1941, and found that it was suffering from fast cellulitis, feaver and acceleration of the pulse. Accused told witness that he had scratched his leg on some wire during the scheme Waterloo.

12th Witness: Capt. Stuart Douglas Gordon, R.C.A.M.C.
Witness states that the accused was admitted to Bramshott Hospital on 20th June 1941 with a marked cellulitis involving full length of the inner half of his left leg and told witness he had scratched himself on barbed wire. On the 24th June 41 other patients were admitted with a similar lesion and the accused then admitted he had injected coal oil into his leg on the 19th June. Witness says such injection might have proved fatal at once or at a later date.

(J.R. Painchaud) Capt. FUS.M.R.
Farnborough Hants,
10 Oct. 41.

APPENDIX "A"

Je, D61617 pte. Bisson, Delphis, sousigne, declare apres avoir ete dument mis en garde que tout ce que je pourrai dire pourra servir de preuve contre moi a mon proces et sans m'attendre a aucune clemence en faveur pour ce que je pourrais dire et sans avoir recu aucune promesse ou xx menace, et de ma propre volonte et desir, je declare ce qui suit:" Au cours du mois de juin 1941 je suis alle sur le scheme 'Waterloo' avec le Regiment, Fus.M.R. Nous avons bivouaque dehors 2 ou 3 jours. Au cours de ce temps-la on a ete en groupe dans un hopital abandonne qui se trouvait dans les alentours a environ un demi-mille. On a commence a fouiller dand les cabanes. Moi j'ai pris des livres de science, a peu pres sept ou huit seringues, c'est tout ce que j'ai pris. J'ai ete condomne a vingt-huit jours de Field Punishment en revenant a Guillemont Bks pour des supposees paroles qu'un officier croyait que j'avais adressees a lui la deuxieme journee du scheme. En arrivant aux barraques Guillemont j'ai parade devant lui et il m'a envoye devant le Commandant parce que j'ai plaide non-coupable et le Commandant m'a condamne a vingt-huit jours de Field Punishment. Quand j'ai vu ca, je me suis decourage et j'ai eu seulement qu'une idee de me piquer vu que j'avais les instruments necessaires. J'ai envoye une garde me chercher dans le kit bag de Grenier, qui etait du meme peloton que moi, une seringue et je lui ai dit de m'emporter de l'huile a lampe avec. Il est venu me donner la reponse que son kit bag etait barre et que Grenier etait parti en passe. J'ai alors dit a la meme garde d'aller me procurer une seringue car je savais que d'autres dans le peloton en avaient parce que je m'en etais fait enlever trois sur le scheme. La meme garde est revenue par en-dehors du clinque et m'a remis une seringue avec de l'huile a lampe dedans. J'ai alors essaye de me piquer mais l'aiguille etait trop grande; j'ai alors demande a la meme garde, en lui remettant la seringue, d'aller changer l'aiguille et d'en prendre une plus petite, la j'ai reussi a me piquer avec celle-la. Ensuite j'ai pris la seringue, je l'ai lavee parce que la meme garde etait supposee revenir; la garde est revenue vers neuf heures du soir pour chercher la seringue, mais je n'ai pas eu de chance de la lui remettre parce que le Sgt. de garde a reste avec nous autres tout le temps. Vers dix heures moins quart la meme garde est revenue et je n'ai pas pu lui remettre encore a cause du Sgt. Quand j'ai vu cela que je n'avais aucune chance de remettre la seringue au garde, je l'ai alors cache sur une poutre de bois qui depassait xx au plafond. Vers dix heures et demie j'etais plus capable d'endurer les souffrances et je suis alle voir les ambulanciers; je leur ai dit que j'avais mal a une jambe et que je croyais a un empoisonnement survenue a la suite d'une piqure dans du fils barbele rouille. Ils m'ont mis des compresses d'eau chaude et je suis revenu dans le clinque. Le lendemain matin comme je n'avais pu remettre la seringue, je voulais la detruire mais quand je suis venu pour me lever, je n'etais pas capable de rester debout. J'ai alors fait venir la meme garde et je n'ai pas eu de chance de luir remettre la seringue a cause du Sgt.; j'ai alors dit a la garde d'envoyer un autre de mon peloton pour essayer de dejouer le Sgt., mais je n'ai pas eu plus de chance. Puis j'ai demande

le docteur toute la journee et il est venu seulement le soir a cinq heures et demie, et il m'a envoye a l'hopital immediatement. Je suis entre a l'hopital le 20 juin et en suis sorti le 13 aout 1941.

Je declare avoir relue la declaration ci-dessus en presence du soldat Laurin, A. de la police regimentaire et que c'est la toute la verite et j'ai signe.

(D. Bisson D61617)
Blackwater
10 Oct. 41.

Temoin: A. Laurin.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

D61617 pte. Bisson, D. of the Les Fusiliers Mont-Royal, C.A. (O).

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

	*Within last 12 months.	*Since Enlistment.
For AA 40	3 times	3 times.
For AA 15 (2)	1 times	1 times.
For	times	times.
For	times	times.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

Number of instances of gallantry or distinguished conduct,

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

A. Louis Mayer
Pensions.
A. A. Parent Jr.
J.A.

Wt. 43648/664 30,000 2/40 W. S. Ltd. 31—6004

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Army Form B296.

Statement as to Character and Particulars of Service of Accused.

D61617 pte. Bisson, D. of the Les Fusiliers Mont-Royal, C.A.(O).

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the reasons for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For AA 40	3 times	3 times.
For AA 15 (2)	1 times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

A/Lieut. Major
Essex
A.A. Grant Jr.
J.A.

Wt. 43648/664 34,000 2/40 W.S. Ltd. 31—6004

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for .....
..... beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges

for ..... days in Civil Custody,

and 136 days in Military Custody.

Total 136 days.

Of which 56 days were spent in hospital.

5. The present age of the accused according to his $\frac{\text{record of service}}{\text{attestation paper}}$ is .....

6. The date of his $\frac{\text{commission}}{\text{attestation}}$ specified in his $\frac{\text{record of service}}{\text{attestation paper}}$ is .....

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is .....

8. The accused is entitled to deferred pay or gratuity in respect of ..... years' service.

9. The accused is entitled to reckon ..... years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to

]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	, years,	.....
In the rank of	, years,	.....
In the rank of	, years,	.....

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name D61617 pte. Bisson, D. of the Lea Fusiliers Mont-Royal,C.A.(O).

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*)

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of October 1941.

[illegible] Capt

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of October 41, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. ~~The officers under instruction~~) Shorthand writer

were duly sworn.

* Omit if not applicable.

Signed this 25th day of October 1941.

A. L. Lawrence

President of the Court Martial.

A. Parent J.A.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to ~~prison or detention~~ barrack until further orders.) ~~yes~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 25th day of Nov 1941.

J. Ralston Brig:

Confirming Officer.

Promulgated and extracts taken in the case of D61617 Pte Bisson D.

(a) (Dated) 28 Nov 41 (Signed) P. R. Savoy Capt & Adjt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[B4] Wt. 28092/1316 70m 2/41 W. & Co., Ltd. Gp. 748/2

H.Q.C. 55-E-2057 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BERGERON, GEORGES D-612184 PTE.

CONFIDENTIAL
H.Q.C. 55-E-2057

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 20 1945					If purpose for which referred cannot be expressed on one line, add minute to file and write here "With Minute"		
		cancelled		JAG	NEW FILE		CR 15-10-45
				Admin	For Requisition C.R. OCT 24 1945		
				SE(AG)	1 pass W Tran	WOJ	29.10.45
				DM(R)			30.10.45
				French T			
				D.M.	With translation		2, 1945
NOV 6 - 1945	5.11.45		WOJ	Admin			5-11-45
NOV 10 1945	10.11.45			JAG	With Papers C.R. NOV 8 1945		
				C&R	For Requisition C.R. NOV 23 1945		
JAN 7 1946		cancelled		Admin 3	Recommendation		DEC 17 1945
MAR 7 1946	7.3.46			Admin	With Papers C.R. MAR 6 1946		
				C&R	With Papers C.R. MAR 11 1946		
MAR 13 1946 MAR 14 1946	13.3.46			Admin	To note & Commission file		13.3.46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for one or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

Our File No: A. (DIS)

M.1-B-11750	M.1-3615 (F.)	M.1-L-16711
M.1-B-6820	M.1-G-11000	M.1-L-13743
M.1-B-17709	M.1-G-6130	M.1-L-17193
M.1-C-15041	M.1-G-10120	M.1-L-16526
M.1-D-15523	M.1-H-4211	M.1-L-16281
M.1-D-5251	M.1-K-529	M.1-L-8803

DEPARTMENT OF NATIONAL DEFENCE
/ A R M Y /

Montreal, Que., 9th., March, 1946.

The Secretary,
Department of National Defence,
Ottawa, Ontario.

Attached hereto, form for remission with respect to the undermentionned soldiers duly completed.

HQC 55-B-2299	D-615230	Fus	BEAUREGARD, L.
~~HQC 55-B-2057~~	D-612184	Pte	BERGERON, G.
HQC 55-B-	D-654116	Pte	BONNET, G.
HQC 55-C-	D-651240	Pte	COMPTOIS, J.J.
HQC 55-D-1441	D-655126	Pte	D'AMOUR, R.
HQC 55-D-1477	D-636255	Pte	DUBOIS, H.F.
HQC 55-F-	D-625987	Pte	FOREST, L.
HQC 55-G-1348	D-148446	Pte	GAGNE, M.
HQC 55-G-	D-639066	Pte	GARAND, M.
HQC 55-G-1300	D-109485	Pte	GREGOIRE, J.B.
HQC 55-H-	D-644935	Pte	HASTY, R.
HQC 55-K-175	D-123219	Pte	KAVANAGH, G.
HQC 55-L-	D-148344	Pte	LACHANCE, A.
HQC 55-L-	D-648927	Pte	LACHAPELLE, R.
HQC 55-L-	D-649908	Pte	LAFRANCE, G.
HQC 55-L-1813	D-146737	Pte	LEDUC, C.E.
HQC 55-L-1805	D-649836	Pte	LEDUC, R.
HQC 55-L-1801	D-638778	Pte	LEGSARD, V.

CENTRAL REGISTRY Army
CONF. SEC
11185
MAR 11 1946
File: 55-B-
Chgd. to
Referred to

(E.J.RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCLOSURE

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5-5
District File No. M.1-B-6820 (A Dis)

PART I

No. D.612184 Rank Pte Name BERGERON Georges
Unit Longue Pointe Ordnance Depot

PART II

Date of Trial 21st September, 1945
Charge (s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence 1 year detention
Date of Sentence 21st September, 1945
Confirmation -- (a) Authority:
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention as of 5 Mar 46

Signed at Montreal 27 Feb 46 1945.

(E.J. RENAUD), Major-General
D.O.C. M.D. No. 4

PART I V
PROMULGATION

Remission (~~XXXXXXXXXXX~~)(~~XXXXXXXXXXX~~) promulgated and extracts taken at Montreal South, Que. this day 5th of March, 194.6...

(1)

Ass-Officer i/c Documents. (J.A. BROOKS) Lieut., R.C.Armd.C., C.A., att'd to No.4 District Depot C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-612184 Rank Pte. Name BERGERON, G.
The sentence of 1year detention awarded by ~~XXXXXXX~~ Standing Court-Martial on the 21st September, 194.5 has been ~~remitted~~ on the 5th March, 1946 by D.O.C.
UNIT. Military District No.4, Montreal, Que.
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No. 55 Place Jacques Cartier Rks., Date 5th March, 1946.
Montreal South, Que.

Adjutant

(R.de G. STEWART) Capt-Adjt.,
General List, C.A., att'd to
No.4 District Depot, C.A.

FILE NO. H. 1- B-6820A/DIS

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Montreal, 5 Mar 46

CENTRAL REGISTRY Army
CONF. SEC.
MAR 6 10645
File
Chgd. to
Referred to admin

The Secretary,
Department of National Defence,
Ottawa, Ontario.

REVIEW OF SENTENCES CM CARO 5913 (HQC 55-B-2057)
D.612184 Pte BERGERON, G

Ref HQC 9039-1, adm 3 (b) 3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Att hereto MFM 288 duly completed with respect to the m/n soldier, submitted to NDHQ in accordance with instrs contained in Para 4 of the above mentioned letter.

(E.J. RENAUD) Major-General,
DOC MD No. 4.

Encl.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-612184 (Number) Private (Rank) BERGERON, Georges (Name in full)

Longue Pointe Ordnance Depot(CA) (Unit) (Attachment (if any))

Sentenced to One(1) year's det'n; Stop of pay $14.71

on 21st September, 1945 at Montreal, Que.

being served at No. 88 Mil Det Barracks, M.D. No. 4 (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 24 years 5 mos; 9 Apr 42

Medical grade or category 17 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offence see Part VII.

I have directed that the above-named be ~~XXX~~ committed to undergo his sentence, which I recommend should (~~not~~ be ~~XXXXXXX~~) (put into execution) (~~XXXXXXXX~~) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 2nd November 1945.

(Confirming Authority) (E.J. RENAUD) Major General, D.O.C., M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

(Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

(Confirming Authority)

M.F.M. 283
(Army Form A-3104)
25M—9-43 (1836)
H.Q. 1772-29-2313

Part V

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) with the previous sentence of ..... (and) be reviewed on .....

Place .....

Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
11 Nov 45	No suspension No remission Start to run 21 March 46	[illegible] Capt DOC MD 4	
27 Feb 46	Sentence remitted wef 5 Mar 46	(E.J. RENAUD) Maj-Gen DOC MD 4	
4 March 46	"RELEASED" wef 5th March 1946	(C. Potter) Major Commandant #65 Mil Det Bks	Marks earned 1328

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA Sec.12(1)(a) "When on Active Service, Deserting etc.	20Feb45	21Sep 45
AA Sec.24(2) "Losing by Neglect his Clothing etc. Stop of pay in the amount of $14.71	20Feb45	21Sep 45

(M. [illegible]) Major
Administrative Officer,
Longue Pointe Ord.Depot(CA)

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26 Oct 45	I concur in the Findings and Sentence of this Standing Court Martial.	(A.E. Duncanson) Brigadier OC Longue Pointe Ord.Depot

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
2 Nov 45	Sentence is considered fair and reasonable 1st review on 11 Nov 45	(E.J. RENAUD) Major General, D.O.C. M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Dadw

ROYAL CANADIAN SIGNALS
Wlesh Bldg.
OTTAWA
JAN 8 1946
Phone
L
Army Signal Office

THIS IS AN ACTION COPY
IF INCORRECTLY DELIVERED, COMPLETE
BELOW AND RETURN TO A.S.O. WOODS

BRANCH	TIME	SIGNATURE

JAN 9 1946
M.I.N.
3A3

VER V CIM NR 81

FROM COMMANDING FOUR MONTREAL PQ 081730R

TO SEC D N D OTTAWA ONT

GR 38 BT

ADIS 97 UNCLASS RELET HQC 55-B-2057 ADM 3(A)3 DATED 4 JAN 46
REFERRING D SIX ONE TWO ONE EIGHT FOUR PTE BERGERON G STOP ACKNOWLEDGED

BT 081822R SA B

081845R

file to file

56055

ARMY MESSAGE
ADDRESS QUERIES LOCAL ARMY SIGNAL OFFICE
ARMY MESSAGE

HQC 55-B-2057
AGm 3(a)3

DEPARTMENT OF NATIONAL DEFENCE
ARMY

AIR MAIL

CONFIDENTIAL

OTTAWA, Ontario, 4 Jan 46.

District Officer Commanding,
Military District No. 4,
MONTREAL, P.Q.

D.612184 Pte BERGERON G
GM Board of Review
65 MDB

Ref telegram AG 0267 d/18 Oct 45 Review.

2. The GM Board of Review has in the case of the m/n soldier made the following recommendation:

"Release on 20 Mar 1946".

3. You will note that the recommendation of the Board deals with the remission at a future date. In considering this case your attention is directed to paras 3 and 4 of the telegram above referred to. It is pointed out that the action to be taken by you as a Superior Military Authority is not immediate and therefore this soldier's conduct and other circumstances up to the date of the recommendod remission should be taken into consideration by you prior to your acting upon the recommendation of the Board. It is therefore suggested that you should not sign the appropriate entry until the recommended date approaches.

4. If in your opinion recent misconduct exists it is requested that this HQ be advised at once in accordance with paras 3 and 4 of the AG telegram above mentioned.

5. May this HQ be infm of action taken.

6. ~~XXXX

NQC 55-D-2057 (CMBR 4)/ EMA

Case No. 1560

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

26 Nov 45

1. No, Rank and Name: D.612184 Pte. BERGERON, G.

2. Unit at date of offence: Longue Pointe Ordnance Depot, RCOC CA, Longue Pointe, Que.

3. Charge: (1) AA 12(1)(a): DESERTION:
(After having been warned that he was to proceed on special duty, absented himself from 20 Feb 45 until he surrendered on 7 Sep 45. - 6 and 2/3 mos.)

(2) AA 24(2): Losing by Neglect his clothing, equipment and regimental necessaries.

Plea: Guilty of Both charges

4. Place and Date of Trial: Longue Pointe Ord Depot, RCOC CA 17 Sep 45.
~~(FCCM)~~ ~~(DCM)~~ (SCM)

5. Finding: Guilty on both charges.

6. (a) Sentence: 1 year detention.

(B) Date of Sentence: 21 Sep 45.

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at 65 M.D.B. in M4.....

(N.B.- Discharged under RO 1029( ) for
wef)

CONDUCT

Case No.---------

11. (a) Prior to conviction — Offence — Date — Sentence

1) Civil Convictions: Nil

2) Courts-Martial: Nil

3) Summary Convictions: 1 Minor AWL.

In approximately 2 years and 10 months service prior to commission of present offence

(b) After Conviction: Good - 21 Mar 45 (Expected date of release)

(c) Date of enrolment ~~XXXXXXXXXX~~ 9 Apr 42 Age: 28

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show any mitigating circumstances)

STATEMENT BY ACCUSED IN MITIGATION:

His sister's grocery store was destroyed by fire and his brother-in-law hospitalized and he requested leave. This leave was refused and he was kept on draft.

DEFENDING OFFICER:

The accused has bad kidneys and seems to be mentally retarded. The accused should be examined by a psychiatrist.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc.)

REVIEWING OFFICER:

(1) This soldier is one of the 16000 NRMA recruits.

(2) If he earns full remission for good conduct he will serve only 8 months detention. No remission is recommended.

Reviewed by.....

(A.B. Gold) Lieut.

14. Recommendation of the Board: Release on. 20 ~~March~~ 46

Date DEC 17 1945

Secretary
Courts-Martial Board of Review

HQC 55-B-2-57 (JAG/D-6)

10 Nov 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
D.612184 Pte G Bergeron
I.P.O.D., RCDC, CA
Court-Martial

M. 1-B-6820 (J)

Receipt is acknowledged of your dated 7th November 5 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

(R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

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IN REPLY PLEASE QUOTE No. M. 1-B-6820 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
November 7th, 1945.

REGISTERED

CENTRAL REGISTRY ARMY
NOV 8 1945
File 655-B-2057
Chg. to
Referred to JAG

The Secretary
Department of National Defence
O T T A W A, Ontario.

STANDING COURT MARTIAL
D-612184, Pte. Georges BERGERON,
L.P.O.D., R.C.O.C., C.A.

Reference your H.Q.C. 55-B-2057 (JAG/D-4), dated 19th October, 1945, enclosing the proceedings of the marginally-noted Standing Court Martial.

2. Same are returned, herewith, for custody, as requested in paragraph 2 of your above quoted letter.

J. A. Simonsau Capt.
for (E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

31

NAT. DEF. B. 44
2500M-4-44 (4321)
H.Q. 1072-39-787

MEDICAL OFFICER'S REPORT

I certify that No. D-612184 Pte. Bergeron, G.
of LPOD.RCOC.CA. is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer
(Y. Leduc) Capt.
(No.4 District Coy., R.C.A.M.C.)
Att'd L.P.O.D., R.C.O.C., C.A.

Station Longue Pointe, Montreal, Que.

Date 21st September 1945.

M. F. B. 246

28M—2-43 (8535)
H.Q. 1772-39-480

30

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Longue Pointe Ordnance Depot, R.C.O.C.,C.A.,Longue Pointe,P.Q.

le 17ième jour de septembre 19 45 à 10.25 heures,

pour le procès de D-612184 Matricule Pte. Grade Georges BERGERON Nom et prénoms

Longue Pointe Ordnance Depot, R.C.O.C.,C.A. Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. Belleau, Quartiers Généraux, District Militaire No.4.

PROCUREUR: Capitaine Grade J.E.R. Labelle Nom et prénoms

Quartiers Généraux, District Militaire No. 4. Unité Détachement, le cas échéant

~~OFFICIER DÉFENSEUR~~ ~~OU AVOCAT~~ Grade Nom et prénoms

Unité Détachement, le cas échéant

PAR LE PROCUREUR.

Je suis informé que Mtre Germain Bock doit défendre l'accusé, et Mtre Bock m'a demandé si la cour pouvait ajourner au 21 septembre 1945 à 1400 heures afin de lui donner le temps de préparer sa défense.

A 10.30 heures le 17ième jour de septembre 1945, la cour ajourne le procès de l'accusé à 1400 heures le 21ième jour de septembre 1945.

~~SENTENCE~~

Extracts entered as No. in the Record of Courts-Martial kept in the office of the Judge Advocate-General this day of 19

Signé à Longue Pointe,P.Q. ce 17ième jour de septembre 1945

L.J.E. Belleau
Président d'une cour martiale permanente

M.F.R. 1486A
10M-1-45 (8449)
H.Q. 1772-39-2296
K.P. 26109

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Longue Pointe Ordnance Depot, R.C.O.C.,C.A.

le 21ième jour de septembre 1945 à 15.30 heures,

pour le procès de D-612184 (Matricule) Private (Grade) Georges BERGERON (Nom et prénoms)

Longue Pointe Ordnance Depot, R.C.O.C.,C.A. (Unité) (Détachement, le cas échéant)

PRÉSIDENT: Major L.J.E. Belleau, Quartiers Généraux, District Militaire No.4

PROCUREUR: Lieutenant (Grade) R.O. Craig (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité) (Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Capitaine (Grade) G. Denault (Nom et prénoms)

Longue Pointe Ordnance Depot, R.C.O.C.,C.A. (Unité) (Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-612184 Private Georges BERGERON, Longue Pointe Ordnance Depot, R.C.O.C.,C.A., coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La cour condamne l'accusé, D-612184 Private Georges BERGERON, Longue Pointe Ordnance Depot, R.C.O.C.,C.A., à la détention pendant un an et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $14.71, coût des articles perdus.

Extracts entered as No. 40363 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 16 day of Oct 1945

Signé à Longue Pointe,P.Q. ce 21ième jour de septembre 1945

L.J.E. Belleau

Président de la cour martiale permanente.

(L.J.E. Belleau)Major

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé.~~ ~~Vous opposez-vous à~~ comme interprète ?

~~Réponse:~~

Question à l'accusé. Vous opposez-vous à D-625377 Cpl.H.Turcot,No.4 Det.C.M.S.C., C.A. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est dûment assermentés.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le s deux chef s d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

L. E. Belleau Maj. Insp. CMP

"B2"

CHARGE SHEET

The accused, No. D-612184 Pte. Georges BERGERON, Longue Pointe Ordnance Depot, R.C.O.C., C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE: Section 12(1)(a) Army Act.

"WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE"

in that he,

at Longue Pointe, Montreal, Quebec, after having been warned that he would proceed on Special Duty, with intent to avoid so proceeding, absented himself without leave from 0830 hours on the 20th day of February 1945 from the Longue Pointe Ordnance Depot, RCOC.CA., until he surrendered himself to the military authorities at Montreal, Quebec, at 1030 hours on the 7th day of September 1945, dressed in military uniform.

SECOND CHARGE: Section 24(2) Army Act.

"LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES"

in that he,

at Longue Pointe Ordnance Depot, R.C.O.C., C.A., Longue Pointe, Montreal, Quebec, on the 8th day of September 1945, was deficient of the following articles of his clothing, equipment and regimental necessaries:

ARTICLES	ARTICLES DEFICIENT	TOTAL AMOUNT ARTICLE	AMOUNT CHARGED 75%
Catalogue Section "A"			
Anklets, Web prs.	1	$ .74	$ .56
Mitts, Pullover Leather prs.	1	.93	.70
Overalls, Combination	1	2.52	1.89
Catalogue Section "B"			
Boots, Ankle, prs.	1	5.82	4.36
Drawers, Cellular Cotton Short, prs.	2	.84	.62
Drawers, Woollen prs.	2	2.80	2.10
Shirts, Undercotton	2	.86	.65
Vests, Woollen	2	2.40	1.80
Socks, prs.	2	.92	.71
Catalogue Section "C"			
Brush, Hair	1	.39	.29
Knife, Clasp & Lanyard	1	1.01	.75
Pins, Collar Safety	1	.06	.05
Towels, Hand	1	.31	.23
TOTALS		$ 19.60	$ 14.71

A/Brig

(A.E. Duncanson) Col. (A/Brig) R.C.O.C., C.A.
Commanding,
Longue Pointe Ordnance Depot, R.C.O.C., C.A.

Longue Pointe,
this 12th day of September 1945.

26

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au premier et au deuxième chef d'accusation, il est déclaré coupable ~~de ladite accusation~~ des dites accusations.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement ~~à l'accusation~~ aux accusations dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

CC-3

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

J'avais une de mes soeurs qui avait passé au feu. J'avais demandé un congé de six mois durant ce temps-là. Ils m'ont laissé sur la "draft". Je voulais aller aider à ma soeur, son mari avait passé au feu. Il avait les épaules brûlées, il etait à l'hôpital. J'ai fait une demande de congé, ils m'ont toujours remis d'une semaine à l'autre jusqu'à temps que mon nom soit sur la "draft". J'avais tout signé les derniers papiers. La demande n'a pas été accordée. Avant d'entrer dans l'armée je travaillais à la campagne sur les terres. J'ai été élevé à la campagne, je travaillais pour les autres. Mon père est cultivateur.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: J'ai entré dans l'armée au mois d'avril 1942.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

(voir page E-3)

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

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E-3

EXPOSE DE L'OFFICIER DEFENSEUR AU NOM DE L'ACCUSE.

Le soldat Bergeron sur sa feuille de conduite, monsieur le Président, a été absent une journée, trois heures. Le soldat Bergeron a été, je pourrais dire irresponsable, lorsqu'il est parti A.W.L. Dans le temps, sa soeur, son beau-frère a passé au feu. Son beau-frère était à l'hôpital avec les épaules brûlées. Durant son absence, sa belle-soeur se trouvait dans le chemin. Le soldat Bergeron dans le temps a demandé un congé d'un mois pour aller aider à construire et retirer les débris, tout ce qui restait qu'il pouvait sauver et pourrait être utilisé. Avant le 20 février, le soldat Bergeron avait demandé un congé de six mois pour aller travailler à reconstruire son beau-frère et aussi aller faire les semences sur la terre de son père qui dans le temps, lorsqu'il s'est enrôlé, avait sept fils et quatre filles. La terre de son père est à Ste-Julie, cinq arpents par un mille de largeur, trente bêtes à cornes. La demande est restée dans le temps sans réponse sans qu'on lui dise si çà été refusé ou accepté. Aussi, le soldat Bergeron souffrait de mal de reins. On lui disait qu'il avait rien, on l'a envoyé chez un médecin. C'est entendu à chaque fois que le soldat Bergeron prenait le froid il souffrait de rhumatismes. Et puis évidemment ce que le soldat Bergeron dans le temps... il est un peu arriéré mental... s'il avait pu discerner la gravité de son cas ou se faire conseiller, soit son beau-frère ou sa soeur, il l'aurait pas fait. C'est pour çà, monsieur le Président, que je demanderais à la cour de son côté de le faire passer à un psychiâtre. Je crois qu'actuellement le soldat Bergeron aurait plus besoin...et il est pas entièrement responsable du fait de son arriéré mental pour la charge qui a été faite sur son compte. Le soldat Bergeron actuellement est en amour, il aimerait à se marier et retourner aider à son père qui a soixante-six ans, et qui reste actuellement seul avec un de ses garçons. Plusieurs lui ont conseillé de pas se rapporter qu'il y aurait un pardon général. Il a préféré venir se donner lui-même pour tout laver sa faute.

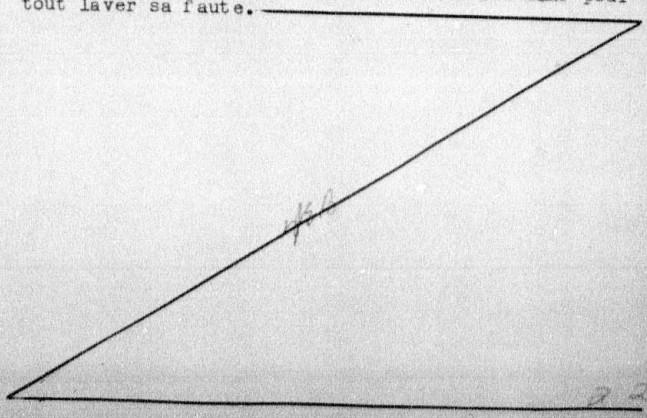

Exhibit 7

DAILY ORDERS PART II

BY

BRIGADIER L. PATRICK
COMMANDING
LONGUE POINTE ORDNANCE DEPOT

Order No. 48
24 +Feb 45
Montreal, Que.

(Last Order Issued No. 47 d/23 Feb 45)

12. ABSENT WITOUT LEAVE
(c) A.W.L. from 0830 hrs. 20 Feb 45
D-612184 Pte. BERGERON, G.,

(Sgd) A.H. Frame Major,
for (L. Patrick) Brigadier,
Officer Commanding,
Longue Pointe Ordnance Depot.

----------CERTIFIED TRUE EXTRACT ----------

W.R. Murray Capt.
(W.R. Murray) Capt. & Adjt.,
Longue Pointe Ordnance +Depot.,
R.C.O.C., C.A.

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Exhibit B

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Col. (A/Brig) A.E. Duncanson, O.C., LPOD, RCOC, C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that D-612184 Pte. Georges BERGERON
(Number) (Rank) (Name in full)

of the Longue Pointe Ordnance Depot, RCOC, C.A.,
(Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXXXX~~ (surrendered to) D-129114 Cpl.
(Number) (Rank)

JETTE, L., L.P.O.D., R.C.O.C., C.A.
(Name) (Unit or appointment)

at Montreal, Que. at 1030 hrs.
(Place) (Hour)

on the 7th day of September 1945

Strike out words not applicable } as a deserter ~~XXXXXXXXXXXXXXXXXX~~ and that at the time of his ~~XXXXX~~ surrender he was wearing military ~~XXXXXX~~ uniform ~~XXXXXXXXXXXXXXX~~

Dated at Longue Pointe, Montreal, Que 7 day of September 1945

A.E. Duncanson A/Brig
(Signature, Number, Rank, Unit or appointment)
(A.E. Duncanson) Col. (A/Brig.)
Officer Commanding, LPOD, RCOC, C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6900)
H.Q. 1772-39-1936

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Exhibit E

LONGUE POINTE ORDNANCE DEPOT, R.C.O.C.(C.A.)

Location MONTREAL, Que.

DATE FEB 13 1945

WARNING ORDER

I, THE UNDERSIGNED, HEREBY ACKNOWLEDGE THAT I HAVE BEEN WARNED THIS _____ DAY OF FEBRUARY 19 45, THAT I WILL PROCEED ON SPECIAL DUTY ANY DATE AFTER 0830 HOURS ON THE _____ DAY OF FEBRUARY 19 45. I FURTHER ACKNOWLEDGE THAT I HAVE BEEN ORDERED TO REPORT UPON THE EXPIRATION OF MY LEAVE TO O.C. NO. 4 DISTRICT DEPOT, MONTREAL SOUTH MONTREAL, Que. BY 1000 HOURS, 19TH FEBRUARY 1945 AND I AM AWARE THAT IF I ABSENT MYSELF WITHOUT LEAVE OR IF I OVER STAY MY PASS OR FURLOUGH FOR ANY TIME OR IF I FAIL TO REPORT AS ORDERED, I SHALL BE LIABLE TO BE CHARGED WITH DESERTION UNDER A.A. SECTION 12.

REGT'L NO.	RANK	NAME	SIGNATURE	ADDRESS ON LEAVE

.....

ORDRE D'AVERTISSEMENT

JE, SOUSSIGNE? RECONNAIS PAR LES PRESENTES QUE J'AI ETE AVERTI CE FEB 13 1945 JOUR DE FEVRIER 1945 QUE JE DOIS PARTIR EN MISSION SPECIALE EN AUCUN TEMPS APRES 0830 HEURES LE FEB 13 1945 JOUR DE FEVRIER 1945, DE PLUS JE RECONNAIS QUE J'AI RECU L'ORDRE DE ME RAPPORTER A LA FIN DE MON CONGE A O.C. NO. 4 DISTRICT DEPOT, MONTREAL, SOUTH, MONTREAL, P.Q. A 1000 HEURES 19 FEVRIER 1945, ET SI JE M'ABSENTE SANS PERMISSION OU SI JE PROLONGE MA PERMISSION OU MON CONGE POUR QUELQUE PERIODE DE TEMPS QUE CE SOIT OU SI JE NE ME RAPPORTE PAS SUIVANT L'ORDRE QUE J'AI RECU, JE COMPRENDS QUE JE SUIS PASSIBLE D'ETRE ACCUSE DE DESERTION AU SENS DE L'ARTICLE 12 DE L' "ARMY ACT".

MATRICULE	RANG	NOM	SIGNATURE	ADDRESSE
D 612184	Pte	Bergeron G.B.	Georges Bergeron	3387 Rouville Montréal

SIGNED BEFORE ME Arthur Cayer

SIGNE DEVANT MOI

19

ARTICLE	QUANTITY
Badges, arm, drab, Royal Arms	
Badges, arm, drab, Royal Arms in Wreath	
Bags, kit, universal	1
Braces	1
Brass, cleaning	1
Brush, button, brass	1
Brush, clothes	1
Brush, hair	1
Brush, shaving	1
Brush, shoe, blacking	
Brush, shoe, polishing	1
Brush, tooth	1
Cap, comforter	1
Chevrons	
Initials of Soldier	
Initials of QM or Rep.	

ARTICLE	QUANTITY
Rifle No. 582 9178 (Regt'd No.)	
Bayonet No. ..... w/scabbard	
Bottles, oil	
Pullthroughs, single	
Rods, cleaning, pistol (Regt'd No.)	
Carbine, Mach. (.....)	
Magazines, Carbine	
Pistol Revolver (Regt'd No.) No. ..... (.....)	
Ctges, SA, revolver .380 in.	
Ctges, SA, .303 in Mk VII	
Initials of Soldier	
Initials of QM or Rep.	

ARTICLE	QUANTITY
Towels, hand	2 2
Unit or Corps titles, prs.	
Attachments, brace	
Bag, ration	1 1
Belts, waist	1 1
Bottles, water	1 1
Braces, WE (Right)	1 1
(Left)	1 1
Carriers, cartridge	
Carriers, waterbottle	1 1
Cases, binoculars	
Cases, pistol	
Covers, breech, rifle	1
Initials of Soldier	
Initials of QM or Rep.	

ARTICLE	QUANTITY
Cover, mess tin	
Frogs, web, bayonet	1
Haversack	1 1
Helmet, steel	1
Net camouflage helmet	1
Packs	1
Pockets Compass	
Pouches, amm, pistol	
Pouches, basic	2
Pouches, utility { Front / Rear	
Slings, rifle, web	
Straps, shoulder, haversack { left / right	2 2
Straps, web, supporting	
Tins, mess, TP	1
Initials of Soldier	
Initials of QM or Rep.	

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ARTICLE	QUANTITY					
Veil, face, camouflage						
Yoke						
Capes, A/G	1	1				
Respirators, A/G, Light complete with haversack		1				
Outfits, A/D		1				
Ointment, A/G		2				
Eyeshields, A/G, pk of 6		1				
Detectors, Stones individual prs		2				
Wallet, A/G						
Blanket						
Mug, drinking		1				
Sheet, ground	1	1				
Initials of Soldier	GB	GB				
Initials of QM or Rep.	GJ	GJ				

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ARTICLE	QUANTITY					
Combs, hair	1	1				
Discs, identity, sets, with cord						
Dressing, field	1	1				
Fork, NS Table	1	1				
Holdall	1	1				
Housewife, complete	1	1				
Knife, clasp		1				
Knife, table	1	1				
Lanyard, knife		1				
Razor, safety, with blade	1	1				
Patches, distinguishing, prs						
Shorts, gymnasium						
Spoons, NS dessert	1	1				
Vest, cotton, gym						
Initials of Soldier	GB	GB				
Initials of QM or Rep.	GJ	GJ				

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ADDITIONAL ISSUES — CANADA ONLY

ARTICLE	QUANTITY					
Belts, waist, leather, brown or web 1½"	1	1				
Boots ankle, felt, prs						
Boots, insoles, prs						
Boots, lumberman's rubber prs						
Buttons, G.S., large	9					
Buttons, G.S., small	8					
Cap, winter, melton cloth	1	1				
Coat waterproof ARMY	1					
BUCKLE BRASS	1					
Helmet, sun						
Jackets, Khaki drill	2					
Jackets, serge, drab, O.C.	1					
Initials of Soldier	GB	GB				
Initials of QM or Rep.	GJ	GJ				

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ARTICLE	QUANTITY					
~~Jacket, sweater~~, or jersey pullover	1					
Overalls, combination	1					
Overalls, blouses, denim						
Overalls, trousers, denim						
Shirts, A~~ngola, drab~~ or flannel khaki	2					
Shoes, canvas, prs	1					
Socks, prs	4					
Trousers, battle-dress, prs	3					
Vests, woollen	3					
Badges, cap	1					
Badges, arm, drab, crowns						
Badges, arm, drab, crown in wreath						
Badges, arm, Tank Bn						
Badges, shoulder, "CANADA", prs						
Initials of Soldier	GB					
Initials of QM or Rep.	GJ					

INSTRUCTIONS TO SOLDIER
(OVERSEAS ONLY)

1. You will always carry this book on your person and are responsible for its safe custody. (Officers need not carry this book on their person but will be responsible for its safe custody).

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS ONLY)

1. Unit equipment (e.g. compasses, binoculars, special clothing for cooks, m/cyclists, etc.) will not be recorded on this statement.

INSTRUCTIONS TO QUARTERMASTERS
(OVERSEAS AND CANADA)

1. This statement will be used to record articles of personal clothing and equipment issued to each soldier.

2. All entries will be made in ink. Blank spaces in columns will be ruled through. All columns used will be initialled in the space provided by soldier and by the QM, or his representative.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AT EACH KIT INSPECTION

Certified that the record detailed in this statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE	DATE	SIGNATURE	DATE
[illegible]	[illegible]		

2

ARTICLE	QUANTITY				
Anklets, web, prs.	2	1			
Blouses, Battle-dress	2	2			
Bonnet, tam-o'shanter					
Boots, ankle, prs.	2	2			
Boots, rubber, high, prs.					
Boots, leather, high, prs.					
Bonnet, drab, Irish					
Cap, field service	2	2			
Cap, mechanic					
Cap, tank battalion					
Drawers, Cellular (cotton) short, prs.		2			
Drawers, Woollen, prs.	2	2			
Gloves, knitted, drab, prs.	1	1			
Greatcoat, drab	1	1			
Initials of Soldier	[illegible]	[illegible]			
Initials of QM or Rep.	[illegible]	[illegible]			

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ARTICLE	QUANTITY				
Mitts, pullover, leather, prs.	1	1			
Muffler, khaki	1	1			
Necktie, black	1	1			
Pin, collar, safety	1	1			
Puttees, prs.	1				
Rubbers, prs.	1				
Shirts, khaki, cotton	2	3			
Shirts, undercotton	2	2			
Shoes, leather, black, prs.	1				
Socks, black, prs.	1				
Trousers, khaki drill, prs.	2				
Trousers, khaki drill, short, prs.	2	1			
Trousers, serge, drab, N.P. prs.					
Initials of Soldier	[illegible]	[illegible]			
Initials of QM or Rep.	[illegible]	[illegible]			

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CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	
Battle Dress, trousers	
Cap or bonnet	
Boots, ankle	
Gloves	
Facepiece, respirator	
Greatcoat	
Helmet steel, lining	
Overalls, combination	
Jersey, pullover	
Shirts, Angola, drab	
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

CERTIFIED TRUE COPY:

(G. LITISADALE) MAJOR
QUARTERMASTER
LONGUE POINTE ORDNANCE DEPOT.

8-9-45

D 612 184

BERGERON G

OVERSEAS—Minister of National Defence
40/P & S/1804 (2570)
CANADA —M.F.C. 800
750M 11-43 (2570)
H.Q. 1772-39-1643
P.P. 93282

CANADIAN ARMY

CLOTHING AND EQUIPMENT STATEMENT

Regt'l. No. D 612 184

Rank Pte

Name Bergeron G.

Date of Attestation 9-4-42

Original Unit ..... Station .....

Home Address (Reserve Unit Personnel Only) .....

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ARTICLE	QUANTITY
Badges, shoulder, Canada, drill, prs.	
Blacking, tins	1
Boot dressing, tins	1
Bootlaces, prs.	2
Overshoes, prs.	1
Protectors, ear	
Sponge, pipeclay	
Lanyard, pistol	
Initials of Soldier	
Initials of QM or Rep.	

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1

3. Items withdrawn from soldier will be marked off by an "X" in ink, over the entry and initialled by the QM or his representative.

4. New issues will be recorded in the next open column. The remaining entries in old column on page affected will be carried forward into new column. Old column will be ruled out in ink.

5. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

6. See instructions re kit inspections on inside of back cover.

INSTRUCTIONS TO QUARTERMASTERS (CANADA ONLY)

1. This statement must be retained by the Quartermaster and will accompany the regimental documents of an officer or soldier whether he is transferred or struck off strength for any reason whatsoever.

2. Arms, oil bottles and pullthroughs will not be transferred with the soldier unless authorized by N.D.H.Q. or by the D.O.C.

3. When stores other than regular overseas issues are withdrawn from an individual prior to his proceeding overseas, the section of the booklet and instructions applying to Canada only, will be ruled out in ink, by a line extending from the top left hand corner to the bottom right hand corner.

J. E. Bellaco, Major, Pers. Cont.

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M.F.B. 355
75M—5-43 (145)
H.Q. 1772-59-630
A.F.B. 296

"Y"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-612184	Pte.	Bergeron, G.	LPOD.RCOC.CA.

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct Books~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	A.W.L. One (1)	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~ ~~There are no entries in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~ ~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time. ~~or~~ ~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 14 days in military custody, making a total of 14 days in custody, of which NIL days were spent in hospital. ~~Air Force~~

5. The present age of the accused according to his ~~record of service~~ ~~attestation~~ enrollment paper is 27 years 11 months

6. The date of his ~~commission~~ ~~attestation~~ enrollment specified in his ~~record of service~~ ~~attestation~~ enrollment paper is 9 April 1942

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pay, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer held Air Force the regimental rank of .....~~

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11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of Sept. 1945. W.R. Murray Capt. (W.R. Murray) Captain, Adjutant, LPOD.RCOC.CA.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.M. 6

LONGUE POINTE ORDNANCE DEPOT MONTREAL QUE

Date of Birth 17 Sept 1917

Reg. No. D-612184 Name BERGERON G. Corps RCOC CA. Date of enlistment or enrolment 28 Aug.1941

Signature O.C. Company, etc. A.L. Brassard Major

Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 14-6-43					2 days pay FR &I
Arvida Que	28-12-43			A.A. Sec. 15 (1)	1/Sgt. L. Levesque	Admonished		Major A.L.	149 (1) (a)
				AWL fr 0800 hrs. 28-12-43 to 1100hrs	1/Bdr. L. Villeneuve			Brassard	
				29-12-43 (1 day 3 hrs)				A.L. Brassard Major	
Arvida Que	29-3-44								
				...CERTIFIED TRUE COPY... (W.R. Murray) Capt., & Adjut., Longue Pointe Ordnance Depot.					

(P.T.O.)

M.F.M. 6—500M—8-44 (5356)
H.O. 1772-39-1652

-41-

HDC/LP

Q.G.C.55-B-2057 Adm 3(b)2

RECEIVED IN THE OFFICE OF THE DEPUTY MINISTER NOV 2 1945

le 2 novembre 1945.

Monsieur,

Je vous accuse réception de votre lettre du 17 octobre 1945 relativement au soldat G. Bergeron, matricule D-612184.

Les autorités militaires m'informent que le soldat Bergeron a été traduit devant une cour martiale permanente le 21 septembre 1945 pour répondre à une accusation de désertion, étant donné qu'il s'était absenté sans permission à compter du 20 février 1945 jusqu'au 7 septembre 1945, alors qu'il a été arrêté. Il a été trouvé coupable et condamné à un an de détention.

Comme vous le savez, la sentence qui lui a été imposée sera revisée de temps à autre, en vue d'une remise de peine quand la conduite de l'intéressé la motivera. La première revision aura lieu quarante-cinq jours après la date à laquelle la sentence a été infligée. Toutefois, vu la nature de l'infraction et son absence relativement longue, il est peu probable qu'une remise de peine lui sera accordée à ce moment-là.

Votre bien dévoué,

for Deputy Minister

M. Benoit Godbout,
Secrétaire particulier
du solliciteur général,
OTTAWA, Ontario.

14

QUOTE No. HQC 55-B-2057
Adm 3(b)2

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

OTTAWA, CANADA.

29 Oct 45

Dear Sir:

This will acknowledge your letter of the 17th October, 1945 with reference to D.612184 Pte G. Bergeron.

I am informed by the Military Authorities that this soldier was tried by Standing Court-Martial on the 21st September, 1945 on a charge of desertion, having absented himself without leave from the 20th February, 1945 until he was arrested on the 7th September, 1945. He was found guilty and was sentenced to undergo detention for a period of one year.

As you know, the sentence awarded will be reviewed from time to time with a view to remission when the conduct of the soldier warrants. The first review will be made forty-five days after the award. In view, however, of the offence and his comparatively long absence, it is improbable that there will be any remission at that time.

Yours truly,

BUREAU FOR TRANSLATION
Received OCT 31 1945
Ref'd.
NOV 2 1945
NATIONAL DEFENCE

Benoit Godbout, Esq.,
Private Secretary,
Solicitor General,
OTTAWA, Ontario

Deputy Minister,
(Army)

WCP:da

TO: TRANS

For translation, pls.

R. Beaulieu Major
For (H M Cathcart) Colonel, D Adm

13

NAT. DEF. A-168-A
2 000M-11-43 (3777)
H.Q. 1772-38-174

MEMORANDUM

TO: D.M.(R)

Department of National Defence
(Army)

HQC 55-B-2057 Adm 3(b)2

OTTAWA, Ontario 29 Oct 45

S.E. 6975B d/22 Oct 45

D.612184 Pte BERGERON, G

The attached letter has been prepared for your signature, if your approve, pls.

DW.

(A E Walford)
Major-General
Adjutant-General

WOP:da

FINAL

12

C-55-B-2057

U R G E N T
SPECIAL ENQUIRY

DATE: OCT 22 1945

To: D: Admin

No: 6975B

D.M(B) Draft reply addressed to B. Godbout for signature of will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND, AT THE EARLIEST possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an interim reply or other advice will be forwarded to the Special Enquiry Section, (Room 507 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

A.G. Control & Co-ordination
(S.E. Section)

13 14 15 16 17

OFFICE OF THE DEPUTY MINISTER OF NATIONAL DEFENCE

MEMORANDUM:

October 19th, 1945.

A. G. - Co-ord. 3

Re: D.612184, Pte. Georges Bergeron

Herewith letter dated October 17th from Mr. Benoit Godbout, Private Secretary to the Solicitor General, and enclosure, for your consideration and appropriate draft reply.

A. Ross

(A. Ross),
Deputy Minister.

RECEIVED
OCT 22 1945
ADMIN.
302

10

TRANSLATION
MB/CGa
18/10/45

SOLICITOR GENERAL
CANADA

Ottawa, October 17th, 1945.

Mr. A. Ross,
Deputy Minister of National Defence,
OTTAWA.

Dear Mr. Ross:

I am sending you herewith copy of a letter which the Minister has received from Mr. Edmond Courchesne of Montreal regarding D-612184, Pte. Georges Bergeron who was sentenced to one year of detention at the end of September 1945.

Yours truly,

(SGD) Benoit Godbout
Private Secretary.

INC.

9

TRANSLATION
MB/CGa
18/10/45

SOLICITOR GENERAL
CANADA

Ottawa, October 17th, 1945.

Mr. A. Ross,
Deputy Minister of National Defence,
OTTAWA.

Dear Mr. Ross:

I am sending you herewith copy of a letter which the Minister has received from Mr. Edmond Courchesne of Montreal regarding D-612184, Pte. Georges Bergeron who was sentenced to one year of detention at the end of September 1945.

Yours truly,

(SGD) Benoit Godbout
Private Secretary.

INC.

8

SOLICITEUR GÉNÉRAL
CANADA

RECEIVED IN THE OFFICE OF THE DEPUTY MINISTER
OCT 17 19

O t t a w a,
le 17 octobre 1 9 4 5.

DEPT. FOR TRANSLATION
OCT 18 1945
OCT 19 1945

Monsieur A. Ross,
Sous-Ministre de la
Défense Nationale,
O t t a w a.

Cher monsieur Ross,

Veuillez trouver, avec la présente, copie d'une lettre que le Ministre a reçue de monsieur Edmond Courchesne, de Montréal, au sujet du soldat Georges Bergeron, D-612184, condamné en fin de septembre 1945 à un an de détention.

Bien à vous,

Bernard Goodbout
Secrétaire particulier.

Pièce jointe.

For translation
return to R 329
Urgent DTM/Buro

7

TRANSLATION
MB/CGa
18/10/45.

EDMOND COURCHESNE
BARRISTER
10 ST.JAMES WEST

Montreal, October 15th, 1945.

Honourable Joseph Jean,
Solicitor General,
OTTAWA.

Re: D-612184, Pte. Georges BERGERON

Mr. Minister:

The family of the above named has asked me to appeal to you to obtain a remission of sentence if possible.

Here is the case: He enlisted on April 9th, 1942; was absent without leave from February 20th, 1945 to September 7th, 1945; was placed in detention at Longue-Pointe Ordnance Depot on September 7th, 1945; was tried by the Standing Court Martial on September 21st, 1945 and sentenced to one year of detention.

In December last, he applied for 6 months' leave to help his sister, his brother-in-law's grocery store having been destroyed by fire and the latter being hospitalized. This application was rejected.

During his absence, he worked on the farm of his father who is 66 years of age, owns a rather large farm at Ste.Julie and has but one son left to help him.

Pte. Bergeron deemed it his duty to report of his own accord to military authorities without waiting for a pardon which he could have hoped to obtain in an indefinite future.

Although his physical condition is normal, he has had a curvature of the spine from birth which affects him at times. His mental stability seems to be below the normal.

I do not know exactly to whom I should apply and relying on your usual kindness towards me, I have thought that as Solicitor General, you could write to the appropriate authorities to help this person.

I beg to remain, Mr. Minister,

Yours very truly,

Edmond Courchesne.

6

TRANSLATION
MB/CGa
18/10/45

EDMOND COURCHESNE
BARRISTER
10 ST.JAMES WEST

Montreal, October 15th, 1945.

Honourable Joseph Jean,
Solicitor General,
OTTAWA.

Re: D-612164, Pte. Georges BERGERON

Mr. Minister:

The family of the above named has asked me to appeal to you to obtain a remission of sentence if possible.

Here is the case: He enlisted on April 9th, 1942; was absent without leave from February 20th, 1945 to September 7th, 1945; was placed in detention at Longue-Pointe Ordnance Depot on September 7th, 1945; was tried by a Summary Court Martial on September 21st, 1945 and sentenced to one year of detention.

In December last, he applied for 6 months' leave to help his sister, his brother-in-law's grocery store having been destroyed by fire and the latter being hospitalized. This application was rejected.

During his absence, he worked on the farm of his father who is 66 years of age, owns a rather large farm at Ste.Julie and has but one son left to help him.

Pte. Bergeron deemed it his duty to report of his own accord to military authorities without waiting for a pardon which he could have hoped to obtain in an indefinite future.

Although his physical condition is normal, he has had a curvature of the spine from birth which affects him at times. His mental stability seems to be below the normal.

I do not know exactly to whom I should apply and relying on your usual kindness towards me, I have thought that as Solicitor General, you could write to the appropriate authorities to help this person.

I beg to remain, Mr. Minister,

Yours very truly,

Edmond Courchesne.

EDMOND COURCHESNE - AVOCAT

10 ouest, St-Jacques

Montréal, 15 oct. 1945.

Honorable Joseph Jean,
Solliciteur Général,
O t t a w a.

Monsieur le Ministre,

Re: D-612184 PTE BERGERON GEORGES

La famille du soldat Bergeron, ci-haut mentionné, me demande de m'adresser à vous pour obtenir si possible, une remise de peine.

Voici son cas: Enrôlé le 9 avril 1942; absent sans permission du 20 février 1945 au 7 septembre 1945; détention à Longue-Pointe, Ordnance Depot, le 7 septembre 1945; Standing Court Martial le 21 septembre 1945 et condamné à un an de détention.

En décembre dernier, il demanda un congé de sic mois pour aider à sa soeur, l'épicerie de son beau-frère ayant été incendiée et ce dernier étant hospitalisé. Cette demande de congé fut refusée.

Durant son absence, il travailla sur la ferme de son père, lequel âgé de 66 ans, possède une ferme assez considérable à Ste-Julie, et il ne lui reste qu'un fils pour lui aider.

Le soldat Bergeron a cru de son devoir de se rapporter de lui-même aux autorités militaires, sans attendre un pardon qu'il aurait pu espérer obtenir dans un avenir indéfini.

Bien que son état physique soit normal, il souffre d'une déviation de l'épine dorsale depuis sa naissance, ce qui l'affecte périodiquement. Son équilibre mental semble au-dessous de la normale.

....

4

H.Q.C.55-B-2057 (JAG/D-4)
Your M. 1-B-6820

19 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 612184 Pte. Georges Bergeron,
LPOD.,RCOC.,CA.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

JOGR/MM

SM-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2057
M.D. M. 1-B-6820

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-612184 Name BERGERON, Georges

Rank Pte Unit LPOD RCOC CA

Charge (1) AA 12(1)(a) WOAS, Desertion

(2) AA 24(2) Losing by neglect...

Date of Crime (1) 20-2-45; (2) 8-9-45.

Date of Arrest (1) 7-9-45. Charge Signed 12-9-45.

Orders for D.C.M.

Place and Date of Trial LPOD RCOC, CA, Longue Pointe, 21-9-45.

Sentence Det 1 yr; stoppages $14.71

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40363

Date 16-10-45.

MEMO Balance of sentence remitted by Conf. Auth. 3-3-46

MD 4 - LPOD RCOC CA

Absent 6 2/3 mths - Sentence 1 yr

2

for Judge Advocate-General

10M-8-45(M-169)

IN REPLY PLEASE QUOTE No. M. 1-B-6820

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 10th October 1945.

CONFIDENTIAL.

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

S. 56-B-2057

STANDING COURT MARTIAL
D-612184 Pte. Georges BERGERON,
Longue Pointe Ordnance Depot, R.C.O.C., C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/21st September 1945.

2. Submitted for your information, consideration and approval, please.

L. J. E. Belleau

(L.J.E.Belleau) Major
Headquarters, Military District No.4
President of Standing Court-Martial

40363

1

NAT. DEF. B. 440
200694-4-44 (K21)
H.Q. 1172-39-767

H.Q.C. 55-B-2058 CONFIDENTIAL

M.F.R. 307
25M—2-45 (
H.Q. 300-14

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BELL, JAMES D-655499 TPR.

CONFIDENTIAL
H.Q.C. 55-B-2058

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		Cancelled			Purpose for which referred cannot be expressed on one line, add minute to file and attach to this letter with Minute		
OCT 20 1945	19			JAG	NEW FILE	CR	15-10-45
NOV 15 1945	15-11-45	CA		JAG	With Papers C.R. NOV 13 1945		
				CMBR	Per Requisition C.R. NOV 23 1945		
DEC 24 1945	24/12/45	PA		Admin 3	Recommendation		DEC 17 1945
DEC 28 1945	28/12/45	PA		Admin	Per Requisition C.R. DEC 27 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

M.8-1-20 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
21st December, 1945.

The Secretary,
Department of National Defence,
Ottawa, Ontario.

16740
DEC 22 1945
File CSS B. 205 8
Class.
Reference bmbR

SOLDIERS UNDER SENTENCE

Attached hereto, forms for remission in respect to the undermentioned soldiers:-

D-655499 BELL, J.
D-650743 BELLEMARE, J.L.
D-504991 BRUNET, J.P.
D-649942 CECYRE, A.
D-652076 CHABOT, J.
E-628099 COTE, H.
D-655757 CUERRIER, G.
D-615871 DAOUST, J.
D-647202 DAUDELIN, F.
D-615087 DAVID, J.R.
D-656369 DEMERS, P.E.
D-650081 DEMERS, R.
G-422624 DUGUAY, L.
D-527112 DUPLANTIE, L.
D-638314 DUROCHER, G.
D-700108 GARCEAU, R.
D-649994 GRENIER, R.
D-658308 HEBERT, M.
D-655113 LAFORTUNE, B.
D-650637 LANDREVILLE, L.
D-136679 LANGEVIN, R.
D-650451 LANGUEDOC, R.
D-645223 LAVERDURE, H.
D-143752 LEGER, R.
D-643628 LEVASSEUR, P.E.
D-146006 MARTIN, J.P.
C- 33944 MEILLEUR, A.
D-647659 MEILLEUR, E.
D-655077 MELFI, J.
D-610667 MELILLO, A.
D-506333 MESSIER, G.
D-700313 PAILLE, M.
D-472519 REID, R.
D-653586 ROZON, R.
D-645019 SAVOIE, L.
D-641816 ST. AUBIN, M.
D-601611 TOMLINSON, G.

ADM 3

p. (E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCL.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5-
District File No. M.1-4-

PART I

No. D-655499 Rank. PTE Name BELL J.
Unit. No. 4 District Depot CA

PART II

Date of Trial 25th September 1945
Charge (s) ABSENT WITHOUT LEAVE
Sentence 6½ Months Detention
Date of sentence 25th September 1945
Confirmation -- (a) Authority:
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 18th December, 1945.

Signed at Montreal this 14 DEC day of 1945.
(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.
To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission taken at Montreal South Que. this 18th day of December 1945 (1) promulgated and extracts

(1)

Ass-Officer i/c Documents. (L.R. HAMELIN) Lieut.
(1) Unit, attachment and appointment to be stated. C.I.C.? C.A., att'd to No. 4 District Depot C.A.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D-655499 Rank Trooper Name BELL James Standing
The sentence of six months detention awarded by Court Martial on the 25th September 194.5 has been remitted on the 18th December 194.5 by D.O.C.
UNIT. Military District No. 4 Montreal Que.
Certified true Extract of Daily Orders Part II of District Depot No. 4 C.A.
No. 303 Place Jacques Cartier Barracks Date 18th December, 1945.
Montreal South Que.
Adjutant

(J.R. CHAMBOIS) Capt-Adj.
Gen. List. C.A. att'd to
No. 4 District Depot, C.A.

N Strike out and initial words not applicable.

M.8-1-20 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
20th December, 1945.

16830

DEC 22 1945

The Secretary,
Department of National Defence,
Ottawa, Ontario.

REVIEW OF SENTENCES CM CARO 5913

Reference HQC 9039-1, Adm 3 (b), 3 dated 8th September, 1945.

2. Attached hereto, MFsM 288 duly completed with respect to the undermentioned soldiers, submitted to NDHQ. in accordance with instructions contained in Para 4 of the above mentioned letter:-

D-636944 BEAUVAIS, Emile
D-655499 BELL, James
D-653352 CARDINAL, P.E.
D-616519 CHARBONNEAU, S.
D-710350 CORBEIL, B.
D-648846 COUTU, J.
D-655757 GUERRIER, G.
D-647202 DAUDELIN, F.
D-651369 DEMERS, P.E.
D-700108 GARCEAU, R.
D-156714 GINGRAS, J.B.
D-138859 GUITARD, J.O.F.
D-648658 HUOT, P.
D-650451 LANGUEDOC, R.
B-633707 LASALLE, A.
D-140022 LEDUC, J.J.J.
D-654036 LEGROS, P.A.
D-656047 LEMIRE, N.
D-647659 MEILLEUR, E.
D-653856 ROZON, R.
D-647802 RUSSCITTO, J.
D-156395 SANSOUCY, M.
B-827377 SARNOVSKY, J.
D- 94127 VALLEE, A.

ADM 3

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCL.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-655499 (Number) Trooper (Rank) BELL, James, (Name in full)

C.A.C.,C.A.,attached to No.4 District Depot,C.A. (Unit) (Attachment (if any))

Sentenced to six months detention

on 25th September, 1945. at Montreal South,Que.

being served at No.88 Military Detention Barracks,St.Helen's Island,Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19years and 2months - 22Sept 1944

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To ADJUTANT GENERAL NDHQ (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place MONTREAL QUE

Date 6 Nov 45

(E.J.Renaud) Major General (Confirming Authority)
DOC "D" "4

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-2104)
20M—9-45 (2859)
H.Q. 1772-B-2013

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

..... (and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
16 Nov 45	No remission No remission Not at 1/2 and 25 Dec 45	D Stalker capt for DOCMD 4	
4 DEC 45	Sentence remitted wef 18 DEC 45	E.J. Renaud (E.J. RENAUD) Major-General, D.O.C., M.D. 4.	
18 Dec 45.	RELEASED 664 MARKS.		E. Belle (E. Belle) Capt. O.C. NO. 88 Mil. Det. Bks.

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE: Sec.15(1) Army Act.	ABSENTING HIMSELF WITHOUT LEAVE, in that he at Newmarket, Ont. at 0730 hrs on 15 Oct 44, absented himself without leave from his unit No.23 C.A.C.(Basic) Trainig Centre, C.A., until he was apprehended by the Military Authorities at Montreal, Que. at 1000 hrs. On 1st September, 1945.	15 Oct 44	25 Sep 45

E. Auerback
Signature of Officer making entry

(E.I.AUERBACK) Capt.,
General List, C.A., att'd
to No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
26 Oct 45	I do not recommend any remission of sentence in this soldier's case.	(S.ECHENBERG) Colonel, Commanding No.4 District Depot

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 Nov 45	Sentence is considered fair and reasonable. 1st review 10 Nov 45	E.J. Renaud (E.J.Renaud) Major General DOC MD 4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

CIPHER

ARMY MESSAGE

(OUTGOING)

FILE: HQC 55-B-20[illegible] Adm 3(a)

PLACE

DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 4
MONTREAL P Q

OTTAWA ONTARIO 19 DEC 45

RANES 1524 RESTD

REVIEW REF AG 0267 D/18 OCT 45 REFERS D 655499 TTR BELL J (.)

CMHR RECOMMENDS IMMEDIATE RELEASE (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: CMHR

JAG

GDB/M

GDBut Capt

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER

Major-General
Adjutant-General

SIGNED

IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.

DEGREE OF PRIORITY: IMMEDIATE

TIME OF ORIGIN: 1525

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

Admin

ROYAL CANADIAN SIGNALS
Woods Bldg.
OTTAWA
DEC 20 1945
Phone
L
Army Signal Office

VER V CIM NR 31

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TO SEC D N D OTTAWA ONT

GR 39 BT

ADIS 977 UNCLASS RETEL RANKS 1524 DATED 19 DEC 45 RE

D SIX FIVE FIVE FOUR NINE NINE PTE BELL J STOP SENTENCE OF SOLDIER

REMITTED WEF 18 DEC 45

THIS IS AN ACTION COPY
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3A

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B-2058 4 EMA

Case No. 1532

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: D.655499 Pte. BELL, J

2. Unit at date of offence: 23 CAC Basic TC Newmarket, Ont.

3. Charge: AA 15(1) AWL:
(Absent from 15 Oct 44 until apprehended on 1 Sep 45 - 10½ mos)

Plea: Guilty

4. Place and Date of Trial: 4 D.D. 25 Sep 45
~~DSCM~~) ~~DCCM~~ (SCM)

5. Finding: Guilty

6. (a) Sentence: 6 mos detention

(B) Date of Sentence: 25 Sep 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 88 N.D.B. ~~1st~~ MD...4.....
1524

(N.B. Discharged under RO 1029( ) for
wef

CONDUCT

Case No.

11. (a) Prior to conviction. Offence Date Sentence

1) Civil Convictions: Nil

2) Courts-Martial: Nil

3) Summary Convictions: Nil

In 22 days of service prior to commission of present offence.

(b) After Conviction: Good - 25 Dec 45.

(c) Date of enrolment ~~xxxxxxxxxx~~ 22 Sep 44 Age: 20

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show any mitigating circumstances)

STATEMENT BY ACCUSED IN MITIGATION:

Went home because his father needs him at home; father is ill and almost unable to work.

Mother of accused on oath, corroborates his statement.

MFM 288 or AFA 3104 have been requested NOV 26 1945

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Offr, etc.)

REVIEWING OFFICER:
Release at approximately half sentence - viz 22 Dec 45.

Reviewed by.....
(A.B. Gold) Lieut.

14. Recommendation of the Board:

Immediate Release

Date DEC 17 1945

W. a. Stilwell maj

Secretary CMRR

HQC 55-B-2058 (JAG/D-6)

14 Nov 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
D.655499 Pte J BELL
CAC CA att No. 4 DD CA.
.....Court-Martial

12th November 5 M.1-B-17515 (J)

Receipt is acknowledged Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

(R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

IN REPLY PLEASE QUOTE No. M.1-B-17515(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
12th November, 1945.

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

GENERAL REGISTRY Army
8859
NOV 13 1945
File 655-B-2058
Chgd. to
Referred to JAG

STANDING COURT MARTIAL
D-655499 Pte. J. BELL,
CAC,CA, attached to No. 4 DD,CA.

Reference your HQC.55-B-2058 (JAG/D-4) dated 19 Oct 45.

2. Herewith proceedings of the marginally-noted Standing Court-Martial which are returned to you for custody, please.

Enc.

(E.J.Renaud),Major-General,
for DOC, M.D. No.4.

NAT. DEF. M. 440
2500M-2-44 (4321)
H.Q. 1279-28-787

C1

MEDICAL OFFICER'S REPORT

C.I.C. C.A., I certify that No. D-655499 Pte. BELL V.
of Att'd No. 4 DD is in a good state of health,
and fit to undergo Trial by Court martial.

(W.Fisher) Capt. W. Fisher Capt
Medical Officer
No. 4 Dist. Coy. R.C.A.M.C.
Att'd No. 4 District Depot C.A.

Station J.C. Bks. Montreal South, Que.

Date Sep. 25th 1945.

M. F. B. 246
50M—5-43 (254)
H Q. 1772-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à No.4District Depot,C.A.,Montréal-Sud,P.Q.

le 25ième jour de septembre 19 45 à 10.05 heures,

pour le procès de D-655499 (Matricule) Trooper (Grade) James BELL (Nom et prénoms)

C.A.C.,C.A., attached to No.4 District Depot, C.A. (Unité / Détachement, le cas échéant)

PRÉSIDENT: Major L.J.E. Belleau, Quartiers Généraux, District Militaire No.4

PROCUREUR: Lieutenant (Grade) R.O. Craig (Nom et prénoms)

Quartiers Généraux, District Militaire No. 4. (Unité / Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieutenant (Grade) P. Girard (Nom et prénoms)

~~XXXAVOCATXX~~

Les Fusiliers Mont-Royal,C.A.,attached to No.4 District Depot,CA. (Unité / Détachement, le cas échéant)

VERDICT: La cour déclare l'accusé, D-655499 Trooper James BELL, C.A.C.,C.A., attached to No.4 District Depot,C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La cour condamne l'accusé, D-655499 Trooper James BELL, C.A.C.,C.A., attached to No.4 District Depot, C.A., à la détention pendant six mois.

16

Extracts entered as No. 4036 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 16 day of Oct 19 45

Signé à Montréal-Sud,P.Q. ce 25ième jour de septembre 194 5

L.J.E. Belleau

Président de la cour martiale permanente.

(L.J.E.Belleau)Major

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 36109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé. Vous opposez-vous à~~ ~~contre interprète~~

~~Réponse~~

Question à l'accusé. Vous opposez-vous à D-625377 Cpl.H.Turcot,No.4 Det. C.M.S.C.,C.A. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est ~~sont~~ dûment assermentés.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ---------- chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. E. Belleau Major, Pres. CM

-5-

"B2"

CHARGE SHEET

The Accused, D-655499, Trooper James Bell, C. A. C., C. A., attached to No. 4 District Depot, C. A., an N. R. M. A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Newmarket, Ontario, at 0730 hours on 15th of October 1944, absented himself without leave from his unit, No. 23 C. A. C. (Basic) Training Centre, C. A., until he was apprehended by the Military Authorities at Montreal, Quebec, at 1000 hours on 1st of September 1945.

Signed at
Montreal South, Quebec,
19th of September 1945.

J. Bibeau

(J. Bibeau) Lieutenant Colonel
Acting Officer Commanding No. 4 District Depot, C. A.

14

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur (voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Oui, monsieur, un témoin. (voir page CC-5 et seq.)

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE.

Je me suis sauvé de l'armée parce que mon père avait besoin à la maison et j'ai des preuves. Les documents sont partis avec le rapport d' "income tax" que mon père a envoyé. Mon père a bien mal aux jambes, il peut presque pas travailler. Il travaille une journée par semaine, des fois "pantoute". Il travaille pour la Canadian Car and Foundry. Il a quarante-trois ans. Cà fait huit ans qu'il travaille là. J'ai vingt ans. Avant de m'enrôler je travaillais dans la construction.

12

CC-5

TEMOIN A L'APPUI DE LA REPUTATION.

Madame James Bell, 5604 rue Hadley, Côte-Saint-Paul, Montréal, P.Q., étant dûment assermentée est interrogée par l'officier défenseur:

Q. Etes-vous la mère de l'accusé ici présent?

R. Oui, monsieur.

Q. A la suite de çà avez-vous plusieurs garçons dans votre famille?

R. Non, j'ai seulement celui-là.

Q. Est-ce que son père est en état de travailler?

R. Il travaille mais il travaille malade parce que moi-même je suis obligée de travailler plus souvent qu'autrement.

Q. Pour quelle raison votre mari ne travaille-t-il pas?

R. Il a été opéré premièrement pour les intestins à Général hôpital rue Dorchester, et puis depuis ce temps-là il file pas, du sang il perd du sang continuellement par en bas.

Q. Dernièrement, pour quelle raison...?

R. Aujourd'hui c'est ses jambes.

Q. Qu'est-ce qu'elles ont ses jambes?

R. Les docteurs disent que c'est de la faiblesse générale. Il a mal au dos, aux reins, çà lui prendrait un repos complet. Il est pas capable de travailler, pas rien que lui moi-même j'ai lâché ma "job" il y a deux semaines parce que je travaillais trop fort.

Q. Pourriez-vous produire des documents, des certificats de docteur?

R. Je peux avoir des certificats du docteur. Dans le moment je les ai pas parce qu'on les a envoyés à l'impôt sur le revenu. Comme les comptes d'hôpital c'est tout parti avec l'impôt sur le revenu.

Q. Si on vous demandait de produire ces documents-là pourriez-vous les produire?

R. Peut-être... oui, en repayant le médecin nous les redonnerait. Parce que les docteurs nous donnent pas les lettres pour rien, vous savez çà comme moi.

TRANSQUESTIONNEE PAR LE PROCUREUR:

Q. Est-ce que vous avez d'autres sources de revenus, madame?

R. Non, monsieur, du tout.

Q. Est-ce qu'il y a d'autres enfants qui travaillent?

R. J'ai seulement une fille. Elle a travaillé durant les vacances, là elle va à l'école.

L'OFFICIER DEFENSEUR NE DESIRE PAS RE-EXAMINER LE TEMOIN.

INTERROGEE PAR LA COUR:

Q. Vous avez parlé de rapport d'impôt sur le revenu, madame, quel est le montant dont votre mari a fait rapport?

R. Ah çà réellement je peux pas dire parce qu'il fait pas des payes "steady" assez.

Q. Vous dites que vous avez envoyé les comptes de médecin pour avoir un crédit?

R. Cà les prend çà.

Q. C'est parce que vous aviez un revenu taxable?

R. C'est toute personne vous savez, vous comme moi, je travaille, le Gouvernement m'enlève tant sur le revenu. Après çà si vous êtes malade vous envoyez ces comptes-là pour pas payer la taxe.

Q. Je vous demande quel était à peu près le revenu de votre famille l'an dernier, soit par vous, votre fille ou votre mari, l'an dernier?

R. J' "averageais" dans les $30.00 ou $32.00 par semaine en "toute". Mon mari çà fait six semaines qu'il gagne pas de salaire.

Q. Il gagnait combien par semaine?

R. Il gagnait pas énormément. Je sais pas si c'est pas 70 cents de l'heure, il a fait sept heures ou sept heures et demie par jour. Cà fait à peu près $30.00 ou $32.00, quelque chose comme çà, son salaire.

Q. Vous, vous en faisiez autant?

R. Ah mon Dieu, ambitionnez pas, vous savez bien que je gagnais pas çà.

Q. Je ne le sais pas, je vous le demande, combien gagniez-vous par semaine?

R. Je gagnais dix dollars.

10

LE TEMOIN SE RETIRE.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon officier défenseur.

PAR L'OFFICIER DEFENSEUR:

Je veux juste faire remarquer à la cour que le M.F.M. 6 de l'accusé est en blanc, monsieur.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

DAILY ORDERS PART II

No. 265

BY

Place Newmarket, Ont.

LIEUT.-COLONEL N.M. YOUNG, V.D.,

Commanding

Date 4 Nov 44

NO. 23 C.A.C. (BASIC) TRAINING CENTRE

(Last Order Issued No. 264 d/ 3 NOV 44)

HOLDING ESTABLISHMENT

"B" - OTHER RANKS

RECEIVED
SEP 14 1945
CENTRAL REGISTRY
No. 1 DISTRICT DEPOT

ABSENT WITHOUT LEAVE

12. The u/m is absent without leave.

D.655499 Tpr. BELL, James "B" 2359 hrs 14 OCT 44
(21 day posting)

(SIGNED) H.T. Peevers,
(H.T. Peevers) Capt. & Adjt.

8

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of
Regimental PART II ORDERS
kept by the Officer i/c.
Records N.D.H.Q.
DATE SEP 11 1945

Prepared by: MC
and
Checked by: MC

DAILY ORDERS PART II

No. 273

BY

Place Newmarket, Ont.

LIEUT.-COLONEL N.M. YOUNG, V.D.,

Commanding

Date 14 Nov 44

NO. 23 C.A.C. (BASIC) TRAINING CENTRE

(Last Order Issued No. 272 d/13 Nov 44)

HOLDING ESTABLISHMENT

"B" OTHER RANKS

AMENDMENT

29. Para. 28 of D.O. 248 d/16 OCT 44; para. 19 of D.O. 254 d/23 OCT 44; and para. 12 of D.O. 265 d/4 NOV 44, insofar as they concern D.655499 Tpr. BELL, James, are amended to read "...0730 hrs. 15 OCT 44..."

(Signed) W.A. Lindsay, Lt.,
for (H.T. Peevers) Capt. & Adjt.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records, N.D.H.Q.
DATE SEP 11 1945

Prepared by: mc
and
Checked by: MC

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W.POULIOTTE, O.C. Composite Provost Companies, M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-655499 Trooper BELL, James
(Number) (Rank) (Name in full)

of the C.A.C., C.A., att'd to #23 C.A.C.(B).T.C. Newmarket, Ont.,
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~(surrendered to)~~ C-52997 Lance Corporal
(Number) (Rank)

SAUVE, J.M. Composite Provost Companies, M.D. 4
(Name) (Unit or appointment)

at Montreal, Que., at 1000
(Place) (Hour)

on the 1st. day of September 19 45

Strike out words not applicable } as a ~~deserter or~~ absentee without leave), and that at the time of his arrest he was wearing military (~~civilian~~) uniform ~~(dressed in civilian clothes)~~.

Dated at Montreal, Que., this 1st. day of September 19 45

MB.

(R.W.POULIOTTE) Major
(Signature, Number, Rank, Unit or appointment)
O.C. Composite Provost Companies, M.D. 4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

An "R" Recruit called under N.R.M.A.

W. E. Bellman. Major.
Pres. Cm.

-23-

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-20-630
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment (or unit)

D-655199, Trooper James Bell, C. A. C., C. A., attached to No. 4 District Depot, C. A.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets or Ordnance~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Regimental and Squadron, Battery~~ ~~Service and General~~ ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
~~Number of instances of gallantry or distinguished conduct~~		

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence to ..... beginning on the ..... days.~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 24 days in military ~~Air Force~~ custody, making a total of 24 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~recent service is attested paper~~ enrolment 20 years 2 months (17th of July 1925)

6. The date of his ~~commission~~ enrolment specified in his ~~recent service is attested paper~~ enrolment ~~attestation~~ 22nd of September 1944

7. ~~The service which the accused is entitled to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of.....~~

5

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 Sep 45 ~~day of~~

L. R. Hamelin, Lieut.,
C. I. C., C. A., attached
to No. 4 District Depot,
Asst. Officer i/C Records
No. 4 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

-25-

Date of Birth 17th of July 1929.

Reg. No. D-655490 Name James Bell Corps C. A. C., C. A. Date of enlistment or enrolment 2nd of September 1944.

Signature O.C. Company, etc. Gaudette, Lieut. Sheet No. one of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Certified True Copy (L.R. Hamelin) Lieut., C. I. C., C. A., attached to No. 4 District Depot, C. A. Ass't Officer I/C Records, No. 4 District Depot, C. A.					

(P.T.O.)

M.F.M. 6—500M—8-44 (5386)
H.Q. 1772-39-1052

H.Q.C.55-B-2058 (JAG/D-4)
Your M.1-B-17515

19 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D.655499 Tpr. James Bell,
C.A.C.,C.A.,att.No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

JOGR/MM

8M-7-45(M-188)

THIS COPY FOR: H.Q. C.55-B-2058
W.D. M. 1-B-17515

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-655499 Name BELL, James

Rank Tpr. Unit CAC, CA, att No. 4 DD CA

Charge AA 15(1) AWL

Date of Crime 15-10-44

Date of Arrest 1-9-45. Charge Signed 19-9-45

Orders for D.C.M.

Place and Date of Trial No 4 DD CA; 25-9-45

Sentence Det 6 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40361

Date 16-10-45.

MEMO

MD 4 - att No 4 DD CA

Absent	Sentence
10½ mos;	det 6 mos.

10M-8-45(M-189)

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. M. 1-B-17515

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que., 10th October 1945.

CONFIDENTIAL.

C. 55-B-2058

Judge Advocate-General,
National Defence Headquarters,
Ottawa, Ont.

STANDING COURT MARTIAL.
D-655499 Trooper James BELL,
C.A.C., C.A., attached to
No.4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

(a) Proceedings of the court
(b) Medical officer's report d/25th September 1945.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. Belleau) Major
Headquarters, Military District No. 4
President of Standing Court-Martial

40361

NAT. DEF. B. 440
250M-4-45 (5221)
H.Q. (772-29-767)

CORRECTION

This document has been rephotographed to assure legibility

H.Q.C. 55-B-2060 CONFIDENTIAL

M.F.R. 2078
HSM—2-45 (5000)
H.Q. 201-1-45

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BRODEUR, WILFRED ALFRED LIONEL

D-140589 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2060

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enclose one copy with minute.)		
					ADMIN NEW FILE	CR	15-10-45
OCT 25 1945	25 10 45	PA	ell	gay	To note pb	wd	23-10-45
				CMBR	For Requisition C.R. NOV - 5 1945		
DEC 20 1945	7-2-46			Adm. 3	Recommendation	gas	DEC 15 1945
				D. Adm.	Withdrawn C.R. DEC 29 1945		
JAN 10 1946	10-1-46	La					
JAN 11 1946	11-1-46	La		Admin	Memo	CR	10-1-46
JAN 28 1946	28-1-46	La		Admin	With Papers C.R. JAN 28 1946		
FEB 7 - 1946	6-2-46	La		D. Adm.	PER B.F. FEB 7 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This secures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All correspondence letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: M. 1-B-14103 A(DIG)

DEPARTMENT OF NATIONAL DEFENCE
/ A R M Y /

MONTREAL, Que.,
25 January, 1946.

4128
JAN 23 1946
6-55-B-2060

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM CARO 5913.
D-140589, Pte. BRODEUR, W.A.L.

Reference HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Attached hereto WFM ~~xxx~~ 3104 duly completed with respect to the m/n soldier, submitted to NDHQ, in accordance with instructions containe in Para 4 of the above mentioned letter.

3. Also appended is Form of Remission.

(S. Echenberg), Colonel,
~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~
A/ DOC MD No. 4.

Encl.

enclosed
SAC

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. D140589 Pte BRODEUR, W.A.L. Unit R de Mais

Sentenced to To be imprisoned without hard labour for two years on 26 Jun 45

Age on, and date of, enlistment 17 years 22-5-43 Term of service 2 years

FIRST TRIAL.

For details of offences, see paragraph VII.

For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.

For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to .....

and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(*26503) Wt.49340/415 38,000 1/44 A.& E.W.Ltd. Gp.498 Forms/A.3104/12

11

VI.—**Action on Review.**

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	NO REMISSION-RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 8 AUG 1945	
17 Jan 46	Sentence remitted wef 21 Jan 46	(E.J.Renaud) Maj-Gen DOC, MD4	Released from det on 21 Jan 46. (S.ECHENBERG) Colonel. Commanding No.4D.D.CA

(Continued on page 4.)

If further space required, an additional slip should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA SEC 9(2) WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER in that he in the field, on the 2 Mar 45 at about 1000hrs when ordered by Lt PA. Brien R de Mais to report to his coy did not do so. Signature of Officer making entry. (G.Leclerc) Capt & Adjt Le Regt de Maisonneuve	2 Mar 45	26 Jun 45
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
29 June 45	I recommend that full sentence be served.	(G.L.Lalonde) Lt-Col. COMMANDING OFFICER LE REGIMENT DE MAISONNEUVE CA(O)

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
2 Jul 45	I recommend that sentence be remitted in full	Lieut. Colonel 5 Cdn Inf Bde.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5-5
District File No. M.1- B-14103 A.Dis

PART I

No. D.140589 Rank Pte Name BRODEUR, WAL
Unit 4 DD

PART II

Date of Trial 26th June 1945
Charge (s) WOAS DISOBEYING A LAWFUL COMMAND GIVEN BY A SUPERIOR OFFICER.
Sentence 2years impr with H.L.
Date of Sentence 26th June, 1945
Confirmation -- (a) Authority:
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 21 Jan 46

Signed at Montreal, 17 Jan 46 xxx.

(H.J. RENAUD), Major-General
D.O.C. M.D. No. 4

PART I V
PROMULGATION

Remission (xxxxxxxxxx)(xxxxxxxxxx) promulgated and extracts taken at Montreal South, Que. this day 21st of Janaury, 1946.

(1)

Ass-officer i/c Documents. (L.R. HAMELIN) Lieut., C.I.C., C.A., att'd to No.4 District Depot, CA.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-140589 Rank Pte. Name BRODEUR, W.A.L. Field.Gen.
The sentence of 2years.impr.with.H.L. awarded by xxxxxxx Court-Martial on the 26th.June 1945 has been.remitted on the 21st.Janaury 1946 by D.O.C.
UNIT Military.District.No.4, Montreal,Que.
Certified true Extract of Daily Orders Part II of No.4 District Depot,C.A.
No. 18 Place Jacques.Cartier.Bks., Date 21st.January,1946
Montreal.South,Que.

Adjutant

(R.de G. STEWART) Capt-A/A
General List,C.A., att'd
No.4 District Depot,C.A.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

~~XVXVXVXVXVXVXVXVX~~ HQC 55-B-2660
Adm 3(b)2

District Officer Commanding,
Military District No 4,
MONTREAL, Que.

9 Jan 46

D.140549 Pte. BRODEUR, W.A.L.
DOS - HMS Ancadia

1. Further this HQ letter HQS 8536-6 Vol 5 dated 28 Dec 45 and 7 Jan 46.

2. Herewith is AFA3104 and CMHQ letter.

3. It will be noted that CMHQ has recommended discharge under CARO 1029(8).

3. It will be noted that this ~~XVX VXXX

PAGE 1

USG 55- B-2060 (GMBR- 2)
8 Nov 45
Case No-----

[illegible]

[illegible]

[illegible] BOARD OF REVIEW

1. No. rank and Name: D.140580 Pte. BRONEUR, W.A.I.

2. Unit at time of offence: Regt de Maisonneuve.

3. Charge: A.A.9(2) WOAS Disobeying a lawful command to report to his company on 2 Nov 45.

4. (a) Plea: Guilty

(b) Date of Trial: In the field, 27 Jun 45
(c) (xxxx (xxx)

5. Finding: Guilty

6. (a) Sentence: Imprisonment with for 2 years.
(b) Date of Sentence: 27 Jun 45

7. Date of Confirmation: 27 Jun 45

8. Date of Promulgation: 27 Jun 45

9. Being served at: ? in M.D. ?

10. [illegible] Since [illegible] under [illegible] ( ) for
[illegible])

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions: Nil			
(ii) Courts-Martial: Nil			
(iii) Summary Convictions:	AWOL	9 Aug 43	14 days C.B.
	AWOL	25 Oct 43	7 days C.B.
	AWOL	14 Oct 44	28 days pay.

(b) After conviction: Good - Earliest date of remission - 26 Oct 46.

(c) Date of ~~enrolment~~ enlistment: 22 May 43 Present Age: 19

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

This soldier arrived U.K. June 1944. After one week in action, was wounded 12 Aug 44. He is a nervous type with Pulhems M2. This soldier refused to go into action at Calcar before Hochwald Forest action. He appears to have been with his rest in field for some time. He did not give evidence, call witnesses or make a statement.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

Reviewing Officer: In view of Youth of soldier and previous good record it is recommended that he be released on 26 Jun 46.

Reviewed by [signature]
(A.R.W. O'Connor) Major.

14. Recommendation of the Board: For remission on 27 Dec 45 or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date DEC 1 5 1945

noted [illegible]

[signature] Maj.
Secretary
Courts-Martial Board of Review.

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THIS COPY FOR:

H.Q.C. 55-B-2060
M.D. ~~10/Brodeur WAL/1~~

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

-GS

No. D-140589 Name BRODEUR, Wilfred Alfred Lionel

Rank Pte Unit Le Regt de Mais

Charge AA 9 (2) WOAS Disobeyinga lawful command....

Date of Crime 2-3-45

Date of Arrest Charge Signed 27-3-45

Orders for ~~DCCM~~ FGCM By Ord Lt. Col Comd 5 CIB

Place and Date of Trial In the field 27-6-45

Sentence Imp WHL 2 years

Date of Confirmation 27-6-45

Date of Promulgation 27-6-45

Entered in Records of J.A.G. as No. 4349

Date 24-10-45

MEMO

Reviewed at CMHQ

14

for Judge Advocate-General

10M-8-45(M-189)

Quote No. HQC.55-B-2060(JAG/D-6)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
24 Oct 45

Canadian Military Headquarters,
2 Cookspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial
D.140589 Pte. Brodeur, W.A.L.

1. Receipt is acknowledged of your 10/Brodeur, WAL/1 dated 5 Oct 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

E. L. M.

for (R.J. Orde), Brigadier
Judge Advocate-General.

ELM/rdr

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AIR MAIL Quote No. 10/Brodeur, W.A.L./

CANADIAN MILITARY HEADQUARTERS

BOMBER LONDON 5 Oct 45

CONFIDENTIAL

The Secretary,
Department of National Defence (Army),
Ottawa, Canada

C.55-B-2060

D 140589 Pte Brodeur, W.A.L.

1. The m/n soldier is now serving a sentence of 2 years imprisonment without hard labour awarded by FGCM 27 Jun 45 for disobeying a lawful command given by his superior officer, that is to say, when ordered to report to his Coy, did not do so (AA Sec 9(2)).

2. He has so far earned full remissions for good conduct while serving his sentence and accordingly the earliest date on which his sentence of imprisonment without hard labour should terminate, if he continues to do so, is 26 Oct 46.

3. This soldier enlisted 22 May 43 at Montreal, P.Q., and he is now 19 years of age. In addition to the offence mentioned in para 1 above, he has, since enlistment, been found guilty of 3 offences under AA Sec 15(1). He has had no previous FGCM.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. In view of the serious nature of the offence of which this soldier has been convicted and the necessity for exemplary punishment in such cases, it is considered that he should be required to serve his sentence of imprisonment without hard labour in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier deliberately misconducted himself in order to avoid the risks of battle and that he must have realized that such misconduct would invoke a severe penalty which would in all probability include his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of FGCM held 27 Jun 45 together with original AF A3104 in respect thereof, on which this direction has been endorsed.

for (E.G. Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters

Enc

Copy to:- O i/c,
Records

4359

1/39B (CMHQ 1000-77)
40 T & E/3310 (8147)

RECORDED AT CMHQ IN AB 160 5N-11.

CFA96 (In lieu of AFA3) 40/P & S/1698 (40/01) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col R. L. Ellis Comd 5 Can Inf Bde dated 22 Jun 45.

11 JUL 1945 JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed joint and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D140589	Pte		Wilfred Alfred Lionel	Brodeur	R de Mais

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Varel, Germany on (date(s)) 7 Jun 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95. for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E. S. Duffield	RHC
Member	Capt	J. E. Martin	HQ 5 Can Inf Bde.
Member	Lieut	P. Matisy	RCCS att RHC
Judge-Advocate	Capt	K. Y. Dick	Can Sec 1 Cdn HQ 21 A Gp.
Prosecutor	Capt	C. E. Lawrenceller	R de Mais
Defending Offr	Lieut	C. J. O'Con	R de Mais

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D140589 Pte Brodeur W.A.L. before arraignment make(s) (no) ✓ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol I, page 117

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No. (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL CERTIFICATE (K.R. (Can) 557)

I certify that I have this morning examined No. D-140589 Pte

Brodeur L. of Regt. de Maisonneuve and in my opinion

he is fit to undergo trial by Court Martial.

~~unfit~~

Station: Varel Germany

Date : 26 June 1945.

Stobwin Capt

Medical Officer

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*h*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML p* 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

8

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-140589	Pte		Wilfred Alfred Lionel	BRODEUR	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 23 Jun 45 endorsed by me, ~~(or by an officer of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.S. Duffield	R.H.C.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	F.E. Martin	HQ 5 CIB
Lt	P. Matisz	R.H.C.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	J. Stout	Calg Highrs

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	K.Y. Dick	Cdn Sec 1 Ech HQ 21 Army Gp

On Active Service in the Fd

in GERMANY (Country.)

Lt-Col (Rank.)

(Signed personally. RP 105 fn 2.)

(R.L. Ellis)

Date 22 Jun 45

Commanding 5 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4031)

(See overleaf for oaths and notes for use on trial.)

C H A R G E S H E E T

The accused D.140589 Pte Brodeur Wilfrid Alfred Lionel "Le Regiment de Maisonneuve" a soldier of the Cdn Army (O) is charged with:

FIRST CHARGE
SECTION 9 (2)
ARMY ACT

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

in the Field, on the 2 Mar 45 at about 1000 hrs, when ordered by Lt. P.A. Brien, R de Mais to report to his Coy did not do so.

In the field
27 Mar 45

A/ Leander Lamoise Major
Commanding Officer
R de Mais C.A. (O)

To be tried by D. G. C.M.
23 June 45.

Maj. Lieut Col
A Comd 5 Cdn Inf Bde

Mr. President. Members of the Court.

This man has been in the army since May 25, 1943. He landed on the U.K. early in June 44. After a week in action he was wounded on Aug 13. 44. This man is of the nervous type. His Pulhems shows M2. I therefore request the Court to be lenient in passing sentence. He is willing to sign for the Far East.

E J Teon Lt

Case of: D-140589 Pte Brideau W.

6

SECOND WITNESS
FOR THE
PROSECUTION

D-56291 Sgt Gaudreau, J. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On 2 Mar 45 I was beside Lt P.A. Brien when he gave the order to the accused to return to his company which I was going back to by transport, and wanted to bring him along with me. The accused refused to go back and did not go back to his company. He was then put under arrest.

.....
(D56291) Sgt. Gaudreau, J.
Regt de Mais, Cdn Army (O)

SUMMARY OF EVIDENCE
IN THE CASE OF

A.

D-140588 Pte. Brodeur Wilfrid Lionel Alfred "Le Regiment de Maisonneuve" a soldier of the Cdn Army (O) while on active service, is charged with:

Short Statement of the Charge:

A.A. Sec 9 (2) DISOBEYING A LAWFUL COMMAND GIVEN BY A SUPERIOR OFFICER.

The Commanding Officer has directed that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lt. P.A. Brien "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On 2 Mar 45 around Calcar, Germany, I was at Battalion Rac headquarters when the Adjutant told me to see the accused and give him an order to report to his company, which I did, and the accused refused my order by saying that he would not go back in the front line. I explained the gravity of his case if he did not return. I gave him the order again to return to his company and he refused to do so and did not go. I then put him under arrest.

.....Lt
(P.A. Brien) Regt de Mais
Cdn Army (O)

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

SECOND WITNESS FOR THE PROSECUTION

D-502991 Sgt Gaudreau, J. "Le Regiment de Maisonneuve" Cdn Army (O) having been sworn, states:

On 2 Mar 45 I was beside Lt P.A. Brien when he gave the order to the accused to return to his company which was in the front line, and the accused refused to go back and did not go to his company. He was then put under arrest.

.....Sgt.
(D-502991 Sgt. Gaudreau, J.)
Regt de Mais Cdn Army (O)

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

Q.1 Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make a statement.

.....
(D-140588 Pte Brodeur, L.)
Regt de Mais, Cdn Army (O)

THE ACCUSED DOES NOT CALL ANY WITNESSES

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (c) (d) (e) (f) have been complied with:

.....Capt.
(N.D. Bourcier) Officer detailed to take the summary.

Dated in the field
27 Mar 45

5

STATEMENT OF THE ACCUSED

I DESIRE THAT MY COMMANDING OFFICER APPOINTS ME A DEFENDING OFFICER FOR MY TRIAL BY FIELD GENERAL COURT MARTIAL.

L Brodeur
.....
(D-140589 Pte Brodeur, W.A.L.)
Regt de Mais, Can Army (O)

Dated in the field,
27 Mar 45

4

B.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-140583	Pte	Brodeur Wilfrid Alfred Lionel	Le Regiment de Maisonneuve

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. 3 times.

For ~~Drunkenness~~ 2 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 9 August 1943

Date of last entry in Field Conduct Sheet 14 October 1944

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for ~~1 month 14 days~~ 28 days in military custody, *i.e.*, ... days in open arrest, ~~1 month~~ 14 days in close arrest; of which ..... days were spent in hospital.

5. The present age of the accused is 19 years

6. The date of his attestation / calling up for military service is 22-5-43

7. The service which the accused is allowed to reckon is 1 year 11 month

†State the military decorations (if any) held by accused.

8. The accused is in possession of† .....

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	n/a	
In the war substantive rank of	n/a	
In the acting rank of	n/a	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this Twenty-sixth day of June 1945

G. Leclerc Capt. + Adj

No D14058 Name BRODEUR Wilfrid Alfred Sqn, Battery, or Company Corpale Regt de HULL Date of enlistment 22-5-43 GC Badges C Service or Proficiency Pay

MFM 6 (AFB 122) 40/F&R/138 (3428)

Date of last entry in Company Conduct Sheet Lion 1 No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Farnham, Que.	22 - 11- 43			SHEET NO 1 DESTROYED AFTER SIX MONTHS SERVICE. FOLLOWING REGT. ENTRIES BROUGHT FORWARD					
Sherbrooke Que	9-8 43	Pte		AWL from 0600hrs, 09Aug 43, until 1830hrs 10 Aug 43, Abs. 1 day, 12hrs, 30 mins, AA Sec 15(1)	Documentary	14 days C.B.	11-8-43	Lieut.Col. E.J. Nantel	Auto forf 2 days' pay PR#149 (a)
Rafino, B.C.				Granted furlough from 13 Jan 44 until 27 Jan 44 T.W. No. A-548590					
Farnham Que	25-10 43	Pte		AWL 0100hrs 25 Oct 43 to 1.45 hrs 27 Oct 43 Abs. 2 days, 1 hrs 45 mins. Sec 15 (1) A.A.	Documentary	7 days C.B.	28 Oct	documentary	Forf 3 days' pay PR#1 14(1)(a)

(PTO)

Name	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pr.C.B. Le R de Mull				11 May 44 Part II # 4					
In the field	14 Oct 44	Pte		AA Sec 15(1) AWL from 0700hrs 14 Oct 44 till 1000hrs 24 Oct 44 (Absent 10 dys 2 hrs)	CSM Sopp, W.	28 days pay	6 Nov 44	Lt Col J.Ribeau	11 days pay KRAI 14.(1)(a)

Certified true copy of the original books held in my custody.

(G. Leclerc) Capt.
Officer i/c Records,
Le Regiment de Maisonneuve CA (O)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2373. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Minutes entered as No. 4349 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 25 day of Oct 19 45

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 140589 Pte Pte Brodeur W.A.L. R de Mars

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 9(2)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on ~~(date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 114 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned without hard labour for two years.

(Sgd) K. G. Dick Capt. — Judge-Advocate, if any. 27 Jun 45 — Date awarded. (Sgd) C. Duffield Maj. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pb 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

Date 27 June 45 — (Sgd) Lord Strathcona — Commanding 5 Cdn Inf Bde. — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused D 140589 Pte Brodeur WAL — Date. 27 June 45 — Signature of Offr. G. Fellows Capt. Adjt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Extracts entered as No. 7349 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 25 day of Oct 19 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 140589 Pte Pte Brodeur W.A.L. R de Mars

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 9(2)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on ~~(date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 114 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned without hard labour for two years.

(Sgd) K. G. Dick, Capt. — Judge-Advocate, if any. 27 June 45 — Date awarded. (Sgd) [illegible] Maj. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

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~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

Date 27 June 45 (Sgd) [illegible] Commanding 5 Cdn Dep Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused D 140589 Pte Brodeur W.A.L. Date 27 June 45 Signature of Offr. [illegible] Capt. adj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

COUNTER NUMBER 79012

HOUR 1200

OPERATOR'S INITIALS ade

RELIEVING OPERATOR GV

H.Q.C. 55-B-2061 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BROSSOIT, J.R. D-137105 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2061

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "with Minutes")		
					ADMIN NEW FILE	CR	15-10-45
OCT 25 1945	25-10-45	PA	ed	Jag	To note pts.	wd	23-10-45
				CMBR	NOV - 5 1945		
NOV 16 1945	15-11-45			Adm 3	Recommendation		NOV 8 1945
JAN 11 1946	11-1-46	PA		D. Adm.	DEC 29 1945		
					PBR B.F. JAN 15 1946		
JAN 15 1946	15/1/46	PA B		Admin			
FEB 22 1946	21-2-46	PA		Admin	With Papers C.R. FEB 21 1946		
JUL 15 1946	13-7-46			DRB	JUL 3 1946		
AUG 1 1946	14/8/46	PA	wd	DRB.	JUL 29 1946		
AUG 14 1946							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

FILE NO: H. 1- B-10127 A/DIS

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

MONTREAL, 20 Feb 46

GENERAL REGISTRY
CONF. SEC.
8597
FEB 21 1946
File 6.55-B-2061
admin

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM CARO 5913 (R&C

D-137105 Pte. BROSSOIT, Jean

Ref R&C 9039-1, Adm 3 (b). 3, dated 8 Sep 45, pertaining to the m/n soldier.

2. Att hereto ~~XXXXXXX~~ AFA 3104 duly completed with respect to the m/n soldier, submitted to MDHQ in accordance with instrs contained in Para 4 of the above mentioned letter.

3. Also appended is Form of Remission.

(E.J. RENAUD) Major-General,
DOC MD No. 4.

Encl.

noted
JCR

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. D137105 JEAN R BROSSOIT Unit REGT DE MAIS CA(O)

Sentenced to SUFFER PENAL SERVITUDE FOR THE TERM OF THREE(3) YEARS on 3 March 45

Age on, and date of enlistment 20 years 17 sept 42 Term of service

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place

Date

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on (3).

Place

Date

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To

Superior Military Authority.

This man was again convicted on and sentenced to and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to) (of which I remit) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of and be reviewed on (3).

Place

Date

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence *must* be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(13712) Wt.24568/175 7,000 8/40 A.& E.W.Ltd. Gp.698
(16818) Wt.35615/20 7,000 12/40 " " Forms/A.3104/11

13

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks
	NO REMISSION RETURN TO CANADA IN CUSTODY UNDER SENTENCE	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 16 JUN 1946	
13 Feb 46	Sentence remitted wef 15 Feb 46	(E.J. RENAUD) Maj-Gen DOC MD 4	Released from detention on 15th February, 1946 (S. ECHENBERG) Col Commanding No. 4 M.D., C.A.

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. SEC 12 (1) ARMY ACT WHILE ON ACTIVE SERVICE "DESERTING HIS MAJESTY'S SERVICE" in that he, in the field, after being warned that he was to take part in an attack absented himself without leave from 0600hrs 8 Feb 45 with intent to avoid taking part in said attack till he surrendered himself at about 1045hrs on 8 Feb 45 . (absent 4 hrs 45 mins) Signature of Officer making entry.	8 Feb 45	3 Mar 45
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
5 May 45	I recommend that full sentence be served	(G.L. Lalonde) Lt.-Col, Commanding Officer Le Regiment de Maisonneuve CA(O)

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
6 May 45	I recommend that the sentence be served in full.	[illegible] Lt. H/OC 5 C.I.B.

If further space required, an additional slip should be pasted here.

12

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5-5
District File No. M.1-B-10127 (A Dis)

PART I

No. D.137105 Rank Pte Name BROSSOIT J.J.R.
Unit 4 D.D.

PART II

Date of Trial 3rd March 1945
Charge (s) [illegible] REGULATING THE PROVOST CORPS (CR. REG. 11(1))
Sentence Three years penal servitude
Date of Sentence 3rd March 1945
Confirmation -- (a) Authority:
(b) Date :

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention as of 15 Feb 46

Signed at Montreal, ~~16~~ 16 Feb 46 1945.

(E.J. RENAUD), Major-General
D.O.C. M.D. No. 4

PART I V
PROMULGATION

Remission (commutation) (mitigation) promulgated and extracts taken at Montreal South, P.Q. this day 15th of February 1946 (1)

J.A. Brooks Lieut.
Ass-officer i/c Documents. (J.A. BROOKS) Lieut. R.C.A rm'd C., C.A., att'd No.4 D.D., C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D137105 Rank Pte Name Tech. BROSSOIT R.C.
The sentence of (3) years penal servitude awarded by District Court-Martial on the 3rd March 1945 has been remitted on the 15th February 1946 by D.O.C.
UNIT Military District No.4 Provost Corps
Certified true Extract of Daily Orders Part II of No.4 District Depot, C.A.
No. 4.0 Place Montreal South, Que. Date 15th February 1946

Adjutant

(R. DE G. STEWART) Capt-Adjt.
Gen. List., C.A., att'd to
No.4 District Depot, C.A.

COPY

VER V CIA NRS 32 33 & 34

FROM COMMANDING THREE KINGSTON ONT JAN 261115R

TO DOC MD FOUR MONTREAL

TO OC NO 4 DD MONTREAL

TO SECRETARY OTTAWA

GR 249 BT

KD 50 RESTD

RELETS KS 674(A) DATED 14 AND 25 JAN 46 STOP FOLLOWING SUS PRESENTLY HELD 89 MDB FORT HENRY BARRIEFIELD ONT WILL CEASE ATTACHMENT THAT UNIT AND SOS 3 DD TO 4 DD WEF 29 JAN 46 STOP

D.137105 PTE BROSSOIT J R	CMBR RELEASE 3 FEB 46
D.62732 PTE FAVREAU G	CMBR RELEASE 31 JAN 46
D.140900 PTE JACKSON J M	CMBR RELEASE 1 FEB 46
D.157838 PTE LEVESQUE R	CMBR RELEASE 26 JAN 46
D.106624 PTE TURVEY A	CMBR RELEASE 28 JAN 46
D.143509 PTE GAUTHIER R F	CMBR RELEASE IMMEDIATE RANKS 1607 D/23 JAN 46

STOP THESE SUS WILL BE DESPATCHED UNDER ESCORT AND ARRIVE MONTREAL CENTRAL STATION 1745 HOURS SAME DATE STOP REQUEST CMDG FOUR HAVE ESCORTS DETAILED TO MEET THIS TRAIN ON ARRIVAL AT TRAINSIDE AS ESCORTS PROCEEDING EASTWARD STOP REGIMENTAL DOCUMENTS OF EACH SUS WILL BE HANDED OVER TO NCO I/C ESCORT PARTY MEETING THIS DRAFT ON ARRIVAL STOP AFA 3104 IN EACH CASE WILL BE FORWARDED UNDER SEPARATE COVER DIRECT CMDG FOUR STOP ADDSD CMDG FOUR RPTD 4 DD AND DEFENSOR

BT JC 261345R B

C-- IN THIRD LAST LINE WA I/C ESCORT PARTY ETC

GR(C) PA on file

C 55- B-2061

(Adm 3(b)2

/AF

File: D.137105-C(A)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 23 Jan 46.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

SUB - NUK "HMS KHEDIVE"
D.137105, Pte. BROSSOIT, J.R.

Reference Radiogram Ranks 6805 Restricted dated 21st January, 1946 from National Defence Headquarters, Ottawa, Ontario.

2. Receipt is hereby acknowledged of the following documents in the case of the m/n soldier.

CMHQ Letter 10/Brossiot JR/1, dated 5 Oct 45.

NDHQ Letter HQC 55-B-2061 Adm 3(b)2 dated 10 Jan 46.

CMBR Recommendations 3 Feb 46.

Ta on file
24-1-46

Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

DEPARTMENT OF NATIONAL DEFENCE

-ARMY-

OTTAWA, Ontario

HQS 8536-6 Vol 5
~~xxxx

H13 55-B-2661 CMBR-6
6 Nov 45 JME
Case No. 0735

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: D-137105 Pte BROSSOIT J R

2. Unit at date of offence: Le Regt de Mais

3. Charge: AA 12(1)(a) DESERTION
In the field after being warned that he was to take part in an attack absented himself from 0600 hrs 8 Feb 45 with intent to avoid taking part in such an attack until he surrendered himself at 1045 hrs 8 Feb 45. Absent 4 hrs 45 mins.

Plea: Guilty

4. Place and Date of Trial: Germany - 23 Mar 45
(FGCM) ///// /////

5. Finding: Guilty

6. (a) Sentence: 3 year P.S.

(b) Date of sentence: 3 Mar 45

7. Date of Confirmation: 17 Apr 45

8. Date of Promulgation: 3 May 45

9. Being served at: To be ascertained in M.D._____

(N.B. - Discharged under RO 1029 ( ) for
wef)

18

PAGE 5

CONDUCT

11. (a) Prior to conviction

	Offence	Date	Sentence
(i) Civil Convictions: Nil			
(ii) Courts-Martial: Nil			
(iii) Summary Convictions:	1 AWL (3 hrs) 2 other offences of AWL	19 Sep 44	2 days pay.

(b) After conviction: Good. Expected date of release: 2 Mar 47

(c) Date of ~~enrolment~~/enlistment: 17 Sep 42 Present Age: 23

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

(a) Item 10 has been omitted

(b) Arrived in France with 2nd Division was wounded at St Andre returned to Unit and fought up until time of offence. Apparently prisoners Company Commander was satisfied with this soldiers previous service in the Line.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

REV OFFR: Recommend release 3 Mar 46 at which time 1 year of sentence awarded will have been served.

Reviewed by W.A. MOSS Maj.

14. Recommendation of the Board:
For remiss on on 3 Feb 46
or as soon as may be after the return of the SUJ to Canada, whichever is the later.

Date NOV 8 1945

noted GCS

Secretary
Courts-Martial Board of

PAGE

CONDUCT

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(ii) Courts-Martial: Nil

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W.A. Moss

Reviewed by W.A. MOSS Maj.

---

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For remiss on on 3 Feb 46
or as soon as may be after the return of the SUS to Canada, whichever is the later.

Date NOV 8 1945

W.A. Stilwell Maj.
Secretary
Courts-Martial Board of Review.

noted
gas

17

THIS COPY FOR:

H.Q.C. 55-B-2061
M.D. 10/Brossoit JR/1

FIELD GENERAL
MEMORANDUM - ~~DISTRICT~~ COURT-MARTIAL

GS

No. D-137105 Name BROSSOIT, J.R.

Rank Pte Unit Le Regt de Mais

Charge AA 12 (1) WOAS Deserting....

Date of Crime 8-2-45

Date of Arrest 8-2-45 Charge Signed 15-2-45

Orders for ~~DCCM~~ FGCM By Ord Brig Comd 5 CIB

Place and Date of Trial Inthe field 3-3-45

Sentence Penal Servitude 3 years

Date of Confirmation 17-4-45

Date of Promulgation 3-5-45

Entered in Records of J.A.G. as No. 4350

Date 24-10-45

MEMO

Reviewed at CMHQ

16

for Judge Advocate-General

10M-8-45(M-189)

Quote No. HQC.55-B-2061(JAG/D-6)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada
24 Oct 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial

D.137105 Pte. Brossoit, J.R.

1. Receipt is acknowledged of your 10/Brossiot JR/1 dated 5 Oct 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

E. L. M.

for (R.J. Orde), Brigadier
Judge Advocate-General.

ELM/fdf

15

AIR MAIL

Quote No. 10/Brossoit Jr/1

CANADIAN MILITARY HEADQUARTERS

LONDON

BOMBER

5 Oct 45

CONFIDENTIAL

C.55-B-2061

The Secretary,
Department of National Defence (Army),
Ottawa, Canada.

D 137105 Pte Brossoit, J.R.

1. The m/n soldier is now serving a sentence of 3 years penal servitude awarded by FGCM 3 Mar 45 for deserting His Majesty's Service, that is to say, after being warned that he was to take part in an attack, absented himself with intent to avoid taking part in said attack (AA Sec 12(1)(a)).

2. The earliest date on which his sentence of penal servitude should terminate, if he earns full remissions for good conduct while serving his sentence, is 2 Mar 47.

3. This soldier enlisted 17 Sep 42 at Montreal, P.Q., and he is now 23 years of age. In addition to the offence mentioned in para 1 above, he has, since enlistment, been found guilty of 3 offences under AA Sec 15(1). He has had no previous FGCM.

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. In view of the serious nature of the offence of which this soldier has been convicted and the necessity for exemplary punishment in such cases, it is considered, despite his previous good record and service in action, that he should be required to serve his sentence of penal servitude in full and be discharged for misconduct under the provisions of para 8 of Appx to CARO 1029. It is therefore so recommended. It is considered that this soldier deliberately misconducted himself in order to avoid battle, and that he must have realized that the serious nature of such an offence would result in a severe penalty, which would in all probability include his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of FGCM held 3 Mar 45 together with original AF A3104 in respect thereof, on which this direction has been endorsed.

for (E.G. Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters

Enc

Copy to:- O i/c,
Records

14

1/39B CMHQ 1000-VI 40 P & S/3310 (8141)

RECORDED AT CMHQ IN AB 160 51-8.

CFA96 (In lieu of AFA21) 40/P de S/1698 (6910)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig. W. J. Megill Comd 5 C.I.B. dated 1 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 137105	Pte.		John R.	Bromit	Rdn

PROCEEDINGS REVIEWED

23 May 45 A. J. Brody Capt.

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED

Maj. Judge Adv. D.J.A.

Cdn Sec 1 Ech, HQ 21 Army Gp 18 May 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 3 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/132.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1140 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ JJM

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans ..... JJM

~~The Interpreter is sworn.(1) Do you object to~~ ..... as shorthand writer? Ans ..... JJM

~~The shorthand writer is sworn.(1)~~ JJM

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	B. McKenzie	Calg. Hgrs
Member	Capt.	RW Lockwood	HQ 5 C.I.B.
Member	Capt.	J J Kearney	HQ 5 CIB
Judge-Advocate	Capt.	E Mc Donald	HQ 1 Cdn Inf Div
Prosecutor	Capt	CE Lamoreille	R de Maur
Defending Offr	Lt.	A. Vezina	R de Maur

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D137105 Pte. Bromit, J. before arraignment make(s) (no) (a) plea JJM (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. JJM

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B/E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (4)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans..... Do you intend to call witnesses on your behalf?

Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. Y and Ex. Z respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. By my Def M.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 309, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4310 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 25 day of Apr 19 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D137105 Pte. Brossit, J.R. Rde Main

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 12(1)(a)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

SMM ~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to suffer Penal Servitude for the term of three (3) years.

(Sgd) Enid McDougall (Judge-Advocate, if any. DJAG) 3 MAR 45 (Date awarded.) (Sgd) [illegible] (President.) (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 5 Mar 45 (Sgd) [illegible] Brig Commanding 5 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) NUF

(1. AA 57A. Delete if not used.)

Date 19 Apr 45 (Sgd) [illegible] (H D G Crerar) General Commanding GOC in C First Cdn Army Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D137105 Pte Brossit J.R.	3 May 45	[illegible]

3 Apr 45

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings. [illegible] Lt Col DJAG Cdn Sec HQ 1 Echelon

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused D-13710b Pte Brossoit, Jean R. "Le Regiment de Maisonneuve" a soldier of the Cdn Army (O) is charged with:

Sec 12 (1) Army Act.

WHILE ON ACTIVE SERVICE "DESERTING HIS MAJESTY'S SERVICE"

In that he,

In the field, after being warned that he was to take part in an attack absented himself without leave from 0600 hrs 6 Feb 45 with intent to avoid taking part in said attack till he surrendered himself at about 1045 hrs on 6 Feb 45.

Time absent: 4 hours 45 minutes.

J. Bibeau

.....Lt-Col.
(J.J. Bibeau) Commanding Officer
Le Regiment de Maisonneuve
Cdn Army (O).

To be tried by F.G.C.M.
Witnesses in the field.
15 Feb 45.
Comd 5 Cdn Inf Bde
1 Mar 45

10

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-137105	Pte		Jean, R.	BROSSOIT	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above, as the accused, being subject to military law, has ([illegible]) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 Mar 45 endorsed by me, [illegible] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	B. McKenzie	Calg Highrs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	L.A. Hudon	R de Mais
Capt	R.W. Lockwood	HQ 5 Cdn Inf Bde

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	J.J. Kennedy	HQ 5 Cdn Inf Bde

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E.K. McDougall	HQ 2 Cdn Inf Div

On Active Service in the Fd

in GERMANY (Country.)

Date 1 Mar 45

(Signed personally. RP 105 fn 2.)

Commanding 5 Cdn Inf Bde (Rank.) Convening Officer.

9

CONVENING OFFR WILL INITIAL ALL DETELIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA33 (In lieu of AFA3) 40/P & S/1607 (4031)

MEDICAL OFFICER'S CERTIFICATE
K.R. (Can) Para 521

B/11 Ck

I certify that I have this morning examined No D137105
Pte Crossweller of Le Regiment de Maisonneuve and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

Station In the Field

Date 3rd March

Medical Officer Capt Rowe

8

As Capt. L. A. Hudson is from the same Unit as the accused he is replaced on the Court by Capt. J J Kennedy.

D.A.McK.

1

Mitigation

Before you in Ac., a man who has fought thru the whole campaign. Has been wounded in the fierce battle of St. André. Sent back to the unit while at Bergen-op-Zoom his Coy Comdr. has proved to me that he is satisfied with this soldiers services. This offence was regarded at start by his Coy Comdr as AWL. It went to desertion from the P.O. He returned to the unit almost immediately.

Ask Ct. to be lenient in this case.

6

SUMMARY OF EVIDENCE

IN THE CASE OF:

D-137105 Pte Brossoit, Jean R. "Le Regiment de Maisonneuve" of soldier of the Cdn Army (O) while on active Service is charged with:

Short Statement of the charge:

DESERTING HIS MAJESTY'S SERVICE (A.A. Sec 12 (1).

The Commanding Officer has directed that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION:

D-140930 L/Cpl. Belanger, J.A. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On the 7 Feb 45 the Coy was brieffed by our Coy Comdr, on an attack we had to do the next day, and the accused was present at the brieffing and like all of us he has been warned of what we will have to do on the said attack. On the 8 Feb 45 at about 0600 hrs while we where on a concentration area I checked my section and the accused could not be found. I reported the fact to my Platoon Sergeant and again we checked the area but the accused could not be found. and I didnt see him till he reported to the Coy at approximately 1200 hrs.

J.A. Belanger
.....
(D-140930 L/Cpl. Belanger, J.A.)
Le Regiment de Maisonneuve C.A. (O)

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

SECOND WITNESS FOR THE PROSECUTION:

E-19347 L/Sgt. Beaulieu, R. "Le Regiment de Maisonneuve" Cdn Army (O) having been duly sworn, states:

On the 7 Feb 45, at about 0600 hrs L/Cpl. Belanger, J.A. reported to me that the accused was absent. I checked the coy area with L/Cpl. Belanger, J.A. and we could not find him. The day before the accused like all the men in the Coy was brieffed by our Coy Commander of an attack we will have to do on the next day, that is to say the day he went absent without leave. The next time I saw the accused was at about 1200 hrs on 8 Feb 45.

R. Beaulieu
.....
E-19347 L/Sgt. Beaulieu, R.
Regt de Mais. C.A. (O).

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

THIRD WITNESS FOR THE PROSECUTION:

D-56063 C.S.M. Daigle, R. "Le Regiment de Maisonneuve" Cdn Army (O). having been duly sworn, states:

On the 8 Feb 45 at about 1045 hrs the accused reported to me at our "A" echelon, saying that he was absented without leave from the Coy who at the time was going on an attack. I reported him to this Coy echelon and then he was send to his Coy.

R. Daigle
.....
(D-56063 C.S.M. Daigle, R.)
Regt de Mais. C.A. (O).

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS.

5

THE ACCUSED WAS CAUTIONED AS FOLLOW:

Q.1 Do you wish to make any statement or to give evidence on oath? Your are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I do not wish to make a statement.

J.R. Brossoit
.....
(B-13/105 Pte. Brossoit, J.R)
Regt de Mais. C.A. (O).

THE ACCUSED DOES NOT CALL ANY WITNESSES.

I Certify that the foregoing Summary of evidence, consisting of two (2) pages was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) have been complied with:

C.E. Laurencelle
.....Capt.
C.E. Laurencelle) Regt de Mais.
Officer detailed to take the Summary.

Dated in the Field,
15 Feb 45.

4

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
D-137105	Pte.	Broisoit, J.R.	"Regt de Mais.".

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A 15 (1) 1 times.
For .... times.
For .... times.
For .... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet 1 Sept 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for nil beginning on the n-a day of .....

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 22 days in military custody, *i.e.*, ... days in open arrest, 22 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 23

6. The date of his ~~XXXXXXXXXXXXXXXXXX~~ attestation is 17 Sept 42

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of† C. V.S.M. & Cl.

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or* N.C.O.). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	n-a	
In the war substantive rank of	"	
In the acting rank of	"	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

3

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~15 Feb 45~~ 3 day of Mar 45

(G. Leclerc) Capt.
O i/c Records Regt de Mais.

No D-137105 Name Brossoit, J.R. Sqn, Battery, or Company | Corps C.I.C | Date of enlistment 17 Sept 42 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Temporary Sheet Original not available 18 Sept 44.					
Field	19-9-44	Pte		AA. 15 (1) AWL from 1750 hrs to 2100 hrs 19-9-44. Abst: 3 hrs 10 mins	Sgt.Beaudoin Cpl. Fourcaudot	2 days pay	22Sept 44	Lt.Col. Clingan.	For F.R&I 14(2)
				CERT Fied true copy of the original book held in my custody. G. Lechero .....Capt. (G. Lechero) O i/c Records. Regt de Mais. C.A.(O)					

(PTO)

M.F.H. 3478
20M—2-45 (6665)
H.Q. 201-4-48

CONFIDENTIAL

H.Q.C. 55-B-2062

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BROUSSEAU, RENE E-104153 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2062

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If space for where it is referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
OCT 13 1945					NEW FILE	CR	15-10-45
OCT 30 1945	29.11.45				With Papers C.R. OCT 29 1945		
JAN 7 1946	2-2-46				With Papers C.R. DEC 31 1945		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to see same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. Q:-39-B-8160 (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE 28 DEC 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

DEPUTY SECRETARY Army
17843 C.
DEC 30 1945
File
Checked to
Referred to

REMISSION OF SENTENCE

E 104153 Pte BROUSSEAU Rene
R 22e R (Att No 5 DD)

1. Ref HQC. 55-B-2062 (JAG/D-6) 29 OCT 45.

2. A remission of sentence in this case has been granted w.e.f. 22 DEC 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
250000-44 (432)
H.Q. 1772-19-167

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. 55-B-2062, (JAG/D-6)
District File No. Q.39-B-8160 (DA)

PART I

No. E.104153 Rank Pte Name BROUSSEAU René

Unit R.22e R. (Att No 5 DD)

PART II

Date of trial 5 OCT 45.

Charges Sec. 12(1)(a) AA Sec. 24(2) AA

Sentence 175 days of detention & stoppages of pay for $12.34.

Date of Sentence 5 OCT 45.

Confirmation - (a) Authority SCM

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E.104153 Pte BROUSSEAU René R.22e R. (Att No 5 DD) 22 DEC 45.

Signed at QUEBEC, P.Q., this 21st day of DEC 45.

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

CENTRAL REGISTRY
DEC 22 1945
No. 5 DISTRICT DEPOT
LAUZON, QUE.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon

this 24th day of December 194 5

(E. TASCHEREAU) Lieut.
R.22e R. att 5DD
Officer i/c Documents (1)

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-104153 Rank Pte Name BROUSSEAU R.

The sentence of 175 days detention and stopp 12.34

awarded by Court-Martial on the 5 Oct 194 5

has been remitted

on the 22 Dec 194 5 by Brig. EDMOND BLAIS CBE MC

D.O.C. MD 5

Unit No 5 District Depot

Certified true Extract of Daily Orders Part II of

No. 316 Place Lauzon Date 26 Dec 45.

(J.A. BROCHU) Lieut.
Gen List att 5DD
Adjutant.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-104153 (Number) Pte (Rank) Rene BROUSSEAU (Name in full)

R 22 R, C.A. (Unit) Att No. 5 DD CA (Attachment (if any))

Sentenced to 175 days det

on 5 Oct 45 at 1055 hrs

being served at Val Mil Det (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 yrs, 6 mths, 26 Oct 44

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (xx) committed to undergo his sentence, which I recommend should (xx) be xxxxxxxxxxxxxxxxxxxxxx (reviewed on 27 December 1945, (date)) for reasons given in paragraph X.

Place QUEBEC QUE

(Edmond BLAIS) - Brigadier, D.O.C., MD No.5. (Confirming Authority)

Date 26 Oct 45.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Superior Military Authority

Date

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Confirming Authority

Date

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-20-2013

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
28 DEC 45.	Remission of sentence granted effective 22 DEC 45.	Edmond Blais (EDMOND BLAIS) Brigadier District Officer Commanding Military District No 5	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA SEC 15 (1) AWL from 0700 hrs on 7 Mar 45 until 1900 hrs on 17 Sep 45	7/3/45	5/10/45
AA SEC 24 (2) Los by negl his equip cloth and regt'l nec for $28.12	25/9/45	5/10/45

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
22 Oct 45	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	(G.L.TASCHEREAU)Lt-Col, A/Commanding Officer.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2062 (JAG/D-6)

29 Oct 45

District Officer Commanding,
Military District No. 5,
Quebec, Que.

Standing
E.104153 Pte Rene BROUSSEAU
R 22 R CA Att No. 5 DD CA.
Court-Martial

Q. 39-B-8160 (JA)

26th October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

(R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

IN REPLY PLEASE QUOTE No. Q. 39-B-8160 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 26 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

CENTRAL REGISTRY Army
CONF. SEC.
5603
OCT 28 1945
File 55-B-2062
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL

E-104153 Pte Rene BROUSSEAU
R 22 R CA Att No.5 DD CA.

1. Ref HQC. 55-B-2062 (JAG/D-7) dated 17 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. B. 440
2500M 4-44 (4321)
H.Q. 1272-39-767

A.

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Dépôt Régional No. 5, A.C., Lauzon, P.Q.

le cinquième jour de octobre 1945 à 1055 heures,

pour le procès de E-104153 Soldat Rene BROUSSEAU
Matricule Grade Nom et prénoms

Royal 22ème Régiment, A.C., attaché au Dépôt Régional No. 5, A.C.,
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Quartiers-Généraux, R.M. No. 5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent, Quartiers-Généraux, Région Militaire No. 5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Capitaine J. GAGNON,
~~AVOCAT~~ Grade Nom et prénoms

Régiment de la Chaudière, attaché au Dépôt Régional No. 5.
Unité Détachement, le cas échéant

" LA COUR DECLARE LE PREVENU"

E-104153- Soldat Rene BROUSSEAU, Royal 22ème Régiment, A.C., attaché au Dépôt Régional No. 5, A.C., innocent de l'accusation de désertion mais coupable d'absence sans permission sous le premier chef d'accusation et coupable sous le deuxième chef d'accusation, sauf que la valeur des effets perdus est de $12.34 au lieu de $28.12".

SENTENCE: " LA COUR CONDAMNE LE PREVENU"

E-104153- Soldat Rene BROUSSEAU, Royal 22ème Régiment, A.C., attaché au Dépôt Régional No. 5, A.C., à subir une peine de cent soixante quinze (175) jours de détention et à une supression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, à savoir:-$12.34".

Signé à Dépôt Régional No. 5, A.C., ce cinquième jour de octobre 1945.

Major
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 40359 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 16 day of Oct 1945
L.J.R.

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.* Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à Mademoiselle HELENE LAVOIE comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté.

(POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir document marqué "P" ci-joint)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le chef d'accusation, ~~les prescriptions de la Règle de procédure 35 (B) sont observées.~~

"B-2"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

ACTE D'ACCUSATION

Le prevenu, E-104153 Soldat Rene BROUSSEAU, Royal 22e Regiment, A.C., attache au Depot Regional No.5, A.C., un soldat "G.S." de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE LE SERVICE DE SA MAJESTÉ,

en ce que,

a Valcartier, P.Q., a 0700 heures, le 7 mars 1945, il s'est absente sans permission du Royal 22e Regiment, A.C., jusqu'a ce qu'il se livre aux autorites militaires, a Lauzon, P.Q., a 1900 heures, le 17 septembre 1945, en uniforme militaire.

DEUXIEME CHEF
Art. 24(2)
Army Act

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES, SES EFFETS D'EQUIPEMENT, D'HABILLEMENT ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Lauzon, P.Q., le 25 septembre 1945, il etait deficient des articles suivants:

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "A"		
1 Gloves woollen pr	.66	.50
1 Greatcoat	15.54	11.66
1 Mitts leather	.93	.70
HABILLEMENT DIVISION "B"		
1 Boots ankle pr	5.82	4.37
2 Drawers woollen	2.80	2.10
1 Shoes canvas pr	2.29	1.72
2 Socks woollen prs	.92	.70
2 Shirts woollen	2.40	1.80
1 Shoes leather black	4.84	3.63
1 Braces pr	.28	.21
HABILLEMENT DIVISION "C"		
1 Comb hair	.04	.03
1 Fork table	.08	.06
1 Knife table	.18	.14
1 Spoon table	.08	.06
1 Towel hand	.28	.21
1 Necktie black	.20	.15
1 Pin collar	.06	.05
SECTION "A-1"		
1 Bag ration	.04	.03
TOTAL:	$ 37.54	$28.12

Lauzon, Que.
29 septembre 1945

(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent 5e District Militaire.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse:

Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins~~

~~Témoin pour l'accusé~~

~~dont dûment assermenté, est interrogé par le procureur~~

~~Question~~

" LE PROCUREUR REMET AU PRESIDENT

LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE"

1.- Une formule M.F.B. 375, en date du 30 mars, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2.- Une formule M.F.M. 216A, en date du 18 septembre, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier)

-o-o-o-o-o-o-o-o-o-o-o-o-

- LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS-

TEMOIN POUR LA POURSUITE:-

P-38788 C.Q.M.S. M. LEBLANC, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C.

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR:

Q.- Quelles sont vos fonctions?
R.- Quartier-maître au camp de Lauzon.

Q.- Est-ce que vous connaissez l'accusé?
R.- Oui, monsieur, le soldat Brousseau, R.

Q.- En votre qualité de quartier-maître avez-vous eu l'occasion de faire l'inspection de l'équipement de l'accusé?

R.- Le soldat Brousseau s'est présenté devant moi le 25 septembre 1945. Il rapportait des articles pour un montant de $20.15. D'après la formule 375 il lui manquait les articles suivants:-

1 Gloves woollen pr	.50
1 Greatcoat	11.66
1 Mitts leather	.70
1 Boots ankle pr	4.37
2 Drawers woollen	2.10
1 Shoes canvas pr	1.72
2 Socks woollen prs	.70
2 Shirts woollen	1.80
1 Shoes leather black	3.63
1 Braces pr	.21
1 Comb hair	.03
1 Fork table	.06
1 Knife table	.14
1 Spoon table	.06
1 Towel hand	.21
1 Necktie black	.15
1 Pin collar	.05
1 Bag ration	.03
montant déjà chargé à 75%:-	$28.12

Q.- Sur quoi vous êtes-vous basé pour faire vos constatations?

R.- Sur la formule 375.

INTERROGE CONTRADICTOIREMENT PAR L'OFFICIER DEFENSEUR:

Q.- Lorsque le soldat Brousseau est parti du camp il est parti en passe; pouvez-vous dire si son kit avait été envoyé au quartier-maître?

R.- Je connais le soldat Brousseau seulement depuis qu'il s'est rapporté à moi le 25 septembre 45 pour montrer les articles qu'il rapportait. Je me suis basé sur la formule 375, document signé par trois ou quatre officiers. Avant cela je ne connais rien.

Q.- Vous ne pouvez pas jurer que le kit n'a été rapporté au quartier-maître?

R.- Je ne peux pas jurer de rien, je suis pas au courant de rien.

LE PROCUREUR NE DESIRE PAS INTERROGER NOUVEAU

De l'avis de la Cour il n'est pas n[illegible] de se conformer à la Règle de Pr[illegible]

-LE TEMOIN SE RETIR[illegible]

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sous serment. (voir page D-3 et suivantes)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense ?

Réponse: Non, monsieur.

~~*Question à l'accusé.*~~ ~~Êtes-vous uniquement un témoin à l'appui de votre réputation?~~

~~*Réponse:*~~

TEMOIN POUR LA DEFENSE:-

L'accusé:- E-104153- Soldat Rene BROUSSEAU, Royal 22ème Régiment, A.C., attaché au Dépôt Régional No. 5, A.C.

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR:

Q.- Voulez-vous raconter à la Cour les circonstances dans lesquelles vous êtes parti du Dépôt de Lauzon le 7 mars 1945?

R.- Je suis parti en passe, j'étais supposé revenir après un 96 heures. Après cela j'ai été malade, je me suis fait soigner par le Doct de Jonquière pour de l'urticaire. J'ai ramené des certificats du docteur.

Q.- Est-ce que vous connaissez ce document?

R.- Oui, monsieur, c'est le certificat que j'ai eu du docteur Bergeron.

Q.- Voulez-vous le produire à la Cour?

R.- Oui, monsieur.

(Ce document est lu par la Cour, marqué "I", signé par le Président et versé au dossier.)

Q.- Continuez.

R.- J'étais supposé me rendre au camp la minute que j'étais mieux; je me suis fait soigner encore.

Q.- Lorsque vous avez laissé le camp pour partir en passe, où avez-vous envoyé le surplus de votre équipement?

R.- Je l'avais laissé sur mon lit, on avait fait mettre cela sur notre matelas.

Q.- C'est ce que vous faisiez d'habitude lorsque tout le monde partait en passe?

R.- Oui, monsieur.

Q.- Ce sont les ordres qu'on vous avait donnés?

R.- Oui, monsieur.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR

Q.- C'est de Valcartier que vous vous êtes absen

R.- Oui, monsieur.

Q.- On dit que vous avez été absent du 7 mars au 17 septembre 1945, est-ce exact?

R.- Oui, monsieur.

Q.- Quand vous êtes parti vous étiez en passe de combien de temps?

R.- 96 heures.

Q.- Où est-ce que vous demeurez?
R.- A Jonquière.

Q.- Depuis quand souffriez-vous d'urticaire?
R.- Je me sentais de ça ça faisait plusieurs semaines. La minute que je me chauffais le sang, je venais toute essoufflé. Ca m'a pris j'étais à St. Grégoire, je faisais des gales, j'ai été me faire soigner.

Q.- A Valcartier avez-vous été chez le médecin?
R.- J'ai été chez le médecin, on a dit que c'était seulement de la démangeaison.

Q.- Quand avez-vous vu le médecin civil pour la première fois?
R.- Je l'ai vu le 20 mars.

Q.- Combien de fois vous l'avez vu?
R.- J'ai été sous ses soins à partir du 20 mars.

Q.- Combien de fois?
R.- Il me donnait mes remèdes. Quand j'avais fini de prendre mes remèdes je retournais. J'y allais une fois par trois semaines.

Q.- Pouviez-vous revenir au camp?
R.- J'étais sous les soins du docteur, j'étais pas capable de me chauffer le sang.

Q.- Vous pouviez voyager?
R.- Oui, monsieur.

Q.- Est-ce que vous avez travaillé?
R.- Non, monsieur.

Q.- Quand vous êtes parti vous avez laissé votre équipement?
R.- Oui, sur mon lit.

Q.- Vous étiez habillé en militaire?
R.- Oui, monsieur.

Q.- Vous avez rapporté des articles?
R.- Oui, monsieur.

Q.- Vous en avez laissé chez-vous?
R.- J'ai laissé mon greatcoat.

Q.- Gants de laine?
R.- Je les ai apportés, perdus.

Q.- 1 paire de mitaines de cuir?
R.- Restées au camp.

Q.- 1 paire de bottines?
R.- Au camp.

Q.- Sous-vêtements de laine?
R.- Au camp.

Q.- 1 paire de souliers P.T.
R.- Au camp.

Q.- 2 bas de laine?
R.- Au camp.

Q.- 2 camisoles de laine?
R.- Au camp.

Q.- 1 paire de souliers noirs?
R.- Au camp.

Q.- 1 paire de bretelles?
R.- Au camp.

Q.- 1 peigne?
R.- Je l'avais sur moi.

Q.- 1 fourchette?
R.- Au camp.

Q.- 1 couteau?
R.- Resté au camp.

Q.- 1 cuiller?
R.- Au camp.

Q.- 1 serviette à mains?
R.- Restée au camp.

Q.- 1 cravate noire?
R.- Je l'avais sur moi.

Q.- Est-elle chez-vous?
R.- Oui, monsieur.

Q.- 1 épingle à collet?
R.- Restée au camp.

Q.- 1 sac à rations?
R.- Resté au camp.

Q.- Est-ce que c'était dans un kit bag? où c'était?
R.- Resté dans un kit bag, j'avais mis cela sur mon matelas avant de partir en passe.

Q.- Est-ce que votre nom était dessus?
R.- Oui, monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

- INTERROGE PAR LA COUR -

Q.- Quelles étaient les instructions que vous aviez reçues quant à la disposition de votre équipement quand vous êtes parti en passe?

R.- De laisser cela dans la hutte.

Q.- Qui vous avait donné ces instructions?

R.- Un caporal ou un sergent.

Q.- Depuis combien de temps étiez-vous à Valcartier?

R.- Ca faisait une couple de mois, depuis le mois de janvier.

Q.- Est-ce que c'était la première fois que vous partiez en congé?

R.- J'ai déjà parti en 48 heures.

Q.- Qu'est-ce que vous faisiez de votre équipement?

R.- On le laissait au camp.

Q.- Et votre passe finissait à 0700 heures le 7 mars 45?

R.- Oui, monsieur.

Q.- Vous êtes parti du Royal 22ème Régiment?

R.- Oui, monsieur.

Q.- Est-ce que vous étiez sous l'effectif du Centre d'Entraînement 54?

R.- Oui, monsieur.

Q.- Est-ce que c'est à Valcartier que vous deviez vous rapporter? au centre d'instruction 54?

R.- Oui, monsieur.

Q.- Là où était le peloton du 22ème Régiment?

R.- Oui, monsieur.

-o-o-o-o-o-o-o-

De l'avis de la Cour il n'est pas nécessaire de se conformer à la Règle de Procédure 83(b).

-o-o-o-o-o-o-o-

- LE TEMOIN REPREND SON SIEGE -

LE PROCUREUR ET L'OFFICIER DEFENSEUR SOUMETTENT LA CAUSE TELLE QUE PROUVEE.

-o-o-o-o-o-o-o-

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: (l'accusé par son Officier-Défenseur, dit:)

" M. le Président, vous venez d'entendre l'accusé faire lui-même l'historique de sa carrière militaire. Je m'attarderai pas à répéter les faits qui parlent par eux-mêmes. L'accusé dans le temps qu'il a été dans l'armée s'est plaint de troubles digestifs, il est parti pour aller chez-lui, il était en permission. Chez-lui il a été malade, il est resté tout le temps sans travailler et sous les soins du médecin. Aussitôt qu'il a pu revenir il l'a fait de lui-même. Je soumets donc respectueusement à la Cour de prendre en considération toutes les circonstances qui plaident en sa faveur et je demande le minimum de la peine".

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

"F"

" MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE "

" A 1057 heures, le cinquième jour d'octobre, 1945, la Cour s'est ajournée".

-o-o-o-o-o-o-o-o-

" A 1140 heures, le cinquième jour d'octobre, 1945, la Cour se rassemble".

-o-o-o-o-o-o-o-o-o-

- LE PROCES SE POURSUIT-

"G"

(PIERRE DECARY) MAJOR
PRESIDENT, C.M.A.,

RECORD of the Declaration of a Court of Inquiry assembled at No. 54 CIBTC, C.A., Valcartier, P.Q. on the 30th day of March, 1945., for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-104153, Pte. René BROUSSEAU R. 22e R., C.A., att. to No. 54 CIBTC, C.A. Valcartier, P.Q.

DECLARATION

The Court declare that No. E-104153 (Regt'l No.), Pte. (Rank), René BROUSSEAU (Full Name), R. 22e R., C.A., att. to No. 54 CIBTC, C.A. (Unit) illegally absented himself without leave from No. 54 CIBTC, C.A. at Valcartier, P.Q. (Place) at 0700 hours on the 7th day of March, 1945., that he is still so absent, and that on the 7th day of March, 1945. he was deficient, and that he is still deficient of the following articles:—

ARTICLES	Less 25%	VALUE	ARTICLES		VALUE
Anklets Web Pr.	1	56	Forward		44 08
Gloves Woollen	1	50	Brush Button	1	09
Great-Coat Drab	1	11 66	Brush Shaving	1	32
Mitts Leather	1	70	Brush Tooth	1	07
Blouses Battledress	1	4 88	Combs Hair	1	03
Boots Ankle Pr.	2	8 74	Forks Table	1	06
Beret Khaki	1	90	Holdalls	1	17
Drawers Woollen	2	2 10	Housewife	1	27
Jackets Sweater	1	1 03	Knife Table	1	14
Shoes Canvas	1	1 72	Razor Safety	1	32
Socks Pr.	2	70	Spoon Table	1	06
Trousers Battledress	1	4 92	Towels Hand	1	21
Shirts Woollen	2	1 80	Belt Waist Web	1	19
Shoes Leather Black	1	3 63	Neckties Black	1	15
Braces Pr.	1	21	Pins Collar	1	06
Brass Button	1	0 3	Badges Cap	1	05
			Bags Ration	1	07
			Haversacks	1	1 93
			Straps Web Supp. (Unit)	2	24
		$44.08			$48.27

President

(SD.):- G. MICHAUD, Lt.,
(Name) Gen. List, C.A. (Unit)
Att. to No. 54 CIBTC, C.A.
(Rank)

~~Member~~

Signed at Valcartier, P.Q.

this 30th day of March, 1945.

G.M.
(Name) (Rank) (Unit)

Member

Signature of Commanding Officer (Sd.):- Cortlandt A. FAGES, Lt.Col., V.D.,
(Name) Commandant (Rank) C.A.(B)T.C. No. 54. (Unit)

Certified true copy

(L.N. DAIGLE) Lt.,
Gen. List, C.A.,
Off. i/c Records,
No. 54 CIBTC, C.A.,
Valcartier, P.Q.

(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (5530)
H.Q. 1772-39-257

"H"

Pierre Decary

(PIERRE DECARY) MAJOR
PRESIDENT, B. C.M.C.

CERTIFICAT en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 1942, tel que publié dans le C.M.C. 1877 et dans l'ordre général 127 de 1942.

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné Colonel, PAUL MATHIEU O.C. NO 5 DD C.A.
(Matricule) (grade) (nom) (unité)

certifie par les présentes que E-104153 PTE.
(Matricule) (Grade)

BROUSSEAU Rene.
(Nom au complet)

de Att No 5 DD. C.A.
(Unité et détachement, s'il y a lieu)

Biffer les mots inutiles } XXXXXXXXXXXX s'est livré à) D610313 L/CPL.
(Matricule) (Grade)

LABONTE L.P.
(Nom) (Unité ou emploi) Att No 5 DD C.A.

à Lauzon, P.Q. (Lieu) à 1900 (Heure)

le 17e jour de Sep 19 45

Biffer les mots inutiles } comme déserteur XXXXXXXXXXXXXXXX et qu'au moment XXXXXXXXXXXX il portait l'uniforme de l'armée (XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX).

Donné à Lauzon, P.Q. ce 18e jour de sep 1945

Paul Mathieu
(Signature, Matricule, Grade, Unité ou emploi)
(PAUL MATHIEU) Colonel
Commanding No 5 DD. C.A.

NOTE—Si le militaire, qui a été arrêté ou s'est livré, est détenu par un détachement du Corps de Prévôté canadien, ce certificat doit porter la signature du commandant de cette unité ou de cette formation, et non celle d'un autre officier en son nom.

Si le militaire, qui a été arrêté ou s'est livré, est détenu par un détachement du Corps de Prévôté canadien, A.C., ce certificat doit porter la signature de l'officier, sous-officier breveté ou sous-officier en charge de ce détachement.

M.F.M. 216A.
Q.G. 1772-39-1936
10M-4-43 (9776)

"I"

Pierre Da

(PIERRE DECARY) M.
PRÉSIDENT, S.C.M.

Dr J.-Edm. Bergeron

Médecin-Chirurgien

Jonquière, Qué. 14 Sept.

A qui de droit!

Je, soussigné, certifie que j'a
sous mes soins du 20 mars 1942
qu'à date M. Réné Brousseau pa
troubles gastriques graves compli
ticaire chronique avec fréquentes p
aiguës.

J. Edm. Bergeron, M.D.

"Y"

Pierre Decary

(PIERRE DECARY) Major
PRÉSIDENT, S. C. M.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-104153	Private	BROUSSEAU Rene	CIC

1. The following is a fair and true summary of the entries in the field ~~Service, General, Regimental and Militia, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA Sec 15(1)	3 times		AA Sec 15(1)	3 times
For	times			times
For	times			times
For	times			times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, ~~Air Force Act~~ of summary awards under Section 47 of the ~~Army Act~~ and dispensations with trial under ~~AFRA 28~~ ~~AA 73~~ are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement ~~awaiting~~ trial on the present charges, for nil days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years, 4 months.

6. The date of his ~~completion~~ attestation specified in his ~~record of service~~ attestation paper is 26-10-44

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~other~~ military decoration, ~~or other military reward (or is in possession of or entitled to). State any other decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

"I"

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

Dr J.-Edm. Bergeron

Médecin-Chirurgien

Jonquière, Que. 14 Sept. 1945

A qui de droit!

Je, soussigné, certifie que j'ai eu sous mes soins du 20 mars 1945 jusqu'à date M. René Brousseau pour des troubles gastriques graves compliqués d'ulcère chronique avec fréquentes poussées aiguës.

J. Edm. Bergeron, M.D.

"Y"

Pierre Decary
M.F.B. 355
(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-104153	Private	BROUSSEAU Rene	CIC

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA Sec 15(1)	3 times		AA Sec 15(1)	3 times
For	times			times
For	times			times
For	times			times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~ Nil

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted Nil

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under~~ ~~A.A. 73 are set out in the Schedule annexed to this Statement.~~ ~~Air Force Act~~ ~~A.A. 48~~

3. The accused is not under sentence at the present time. Nil

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement ~~awaiting~~ trial on the present charges, for nil days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years, 4 months.

6. The date of his ~~commission~~ attestation specified in his ~~complete service~~ attestation paper is 26-10-44

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force~~ ~~military~~ reward ~~(or is in possession of or entitled to). State any air force military decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial has been extracted from the regimental books in my custody.

Signed this 5th day of OCTOBER 1945.

(J.W.G. LA ROCHE) Capt.,
Officer i/c Records,
No.5 D.D. Lauzon, Que.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. J-104183 Name BROUSSEAU Rene Sqn., Battery, or Company Corps CIC Date of enlistment 26-10-44 G.C. Badges Tradesmen's Rates of Pay

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

M.F.M. 6 (A.F.B. 122) 500M—11-41 (2459) H.Q. 1772-99-1602

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lauzon, P.Q.	13-11-44	Pte	nil	AA Sec 15(1) AWL from 0800hrs 13-11-44 until 0759hrs 15-11-44.	Documentary	Admonished	15-11-44	O.C.	Forf 2 days' pay.
St-Jerome, P.Q	3-1-45	Pte	nil	AA Sec 15(1) AWL from 0200hrs 3-1-45 until 1950hrs 8-1-45	Documentary	Admonished	9-1-45	O.C.	Forf 6 days' pay.
Valcartier, PQ	22-1-45	Pte	nil	AA Sec 15(1) AWL from 0700hrs 22-1-45 until 1335hrs 29-1-45.	Documentary	Admonished	29-1-45	O.C.	Forf 8 days' pay.

CERTIFIED TRUE COPY
(J.W.G. LA ROCHE) Capt.
Officer i/c Records,
No.5 D.D. Lauzon, Que.

PIERRE DECARY, MAJOR
PRESIDENT, S.C.M.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. E 104153 Tr2 Brennan R.
of D Det 5 is in a good state of health,
and fit to undergo Trial by Court martial.

Whitney, capt. RCAMC/CA
Medical Officer

Station Lauzon Guardroom

Date 5 Oct 45

M. F. B. 246
50M—5-43 (254)
H.Q. 1772-39-480

Medical Officer's Report Guardroom
5 OCT 5 1945
LAUZON, P.O.

RESUME DE LA PREUVE

Proces de E-104153 Soldat Rene BROUSSEAU, Royal 22e Regiment, A.C., attache au Depot Regional No.5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No. 48 d/ 8 mars 1945 a Valcartier, P.Q.

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 375

ORALE: P-38788 LCMS LEBLANC, M. Liste Generale, [illegible] attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1567 (9-8-45)

H.Q.C.55-B-2062 (JAG/B-7)
Your Q. 39-B-8160

17 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 104153 Pte. Rene Brousseau,
R 22e R., C.A.,att.No. 5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

LB J. Ordel Brigadier
Judge Advocate General.

LJR
~~[illegible]~~/MM

8M-7-45(M-188)

THIS COPY FOR: HQ55-B-2062
M.D.2:39-B-8160

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E-104153 Name BROUSSEAU, Rene

Rank Pte Unit R 22e R CA, att No 5 DD CA

Charge (1) AA 12(1)(a) WOAS, Desertion

(2) AA 24(2) Losing by neglect...

Date of Crime (1) 7-3-45; (2) 25-9-45.

Date of Arrest (1) 17-9-45. Charge Signed 29-9-45.

Orders for D.C.M.

Place and Date of Trial No 5 DD CA; 5-10-45.

Sentence Det 175 days; stoppages $12.34.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40359

Date 16-10-45.

MEMO (1) Guilty AWL

MD 5 - att No 5 DD CA

Balance of sentence remitted by Conf. Auth. 22-12-45

Absent	Sentence
6 1/3 mos;	det 175 days.

P.D. Ryan Lt

for Judge Advocate General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-B-8160

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Oct. 12th. 1945.

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

C.55-B-2062

STANDING COURT MARTIAL

E/104153, Pte. Rene BROUSSEAU.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

40359

NAT. DEF. B. 440
250000-4-44 (4321)
H.Q. 1772-39-797

H.Q.C. 55-B-2063 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

OVERSEAS COMBINED FILE

SUBJECT

FIELD GENERAL COURT-MARTIAL

BUNN, ELMER GERALD H-3584 PTE.

CONFIDENTIAL H.Q.C. 55-B-2063

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and		
				ADMIN NEW FILE		CR	15-10-45
OCT 25 1945	25/10/45	PA		Jag	To note pb		23.10.45
				CMBR			
NOV 19 1945	30-1-46			Adm 3	Recommendation		NOV 16 1945
FEB 1 1946	8.2.46	PA		Admin			
				PMA			
				S.E.(A&L)	With Minutes		30/8/46
SEP 14 1946	13/9/46			D Adm	Will BDF H3697		AUG 30 1946
OCT 3 1946	8/11/46	PA					
NOV 21 1946	20/11/46	PA		Jals	Pa note & Pa		18/11/46
				WSR			
				D.R.9.	for consideration		6-6-47
MAR 19 1948	19/3/48	PA		W.G.R.	Forward with HQ 405 & Docs		12/6/47
APR 28 1948	21/4/48	PA		WSR			

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

CERTIFICATE OF PROMULGATION

FGCM - 5 May 45 H-3584 Pte Elmer Gerald Bunn X-4 List RCOC att Cdn Sec HQ Brussels Garrison

Charges:	Finding:
(1) AA Sec 41	Guilty
(2) AA Sec 40	Guilty
(3) AA Sec 40	Guilty
(4) AA Sec 40	Guilty
(5) AA Sec 8(2)	Guilty
(6) AA Sec 15(1)	Guilty
(7) AA Sec 15(1)	Guilty
(8) AA Sec 15(1)	Guilty
(9) AA Sec 15(1)	Guilty

Sentence: To suffer penal servitude for a term of five (5) years and to be discharged with ignominy from His Majesty's Service.

Minute of confirmation: "I confirm the findings and sentence"

Date: 26 May 45. MGA, CMHQ.

Promulgated and Extracts Taken:

In the Field. Belgium
(Country)

A. J. Cummings ..... Signature

(A. J. CUMMINGS) Capt ..... Rank

Staff Capt. A. Cdn Sec HQ Brussels Grn ..... Appointment

..... Unit

1 June 45
(Date)

10/H.3584 (J)

12th November, 1946.

NOV 1

H.3584 Pte. BUNN, E.J.
#10 District Depot, C.A.

, together with MFM 288.

wrf

Army Form A 3104.c

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

I.—Case of No. H-3584 Pte BUNN E.G. Unit Y-4 List RCOC att Cdn Sec HQ Brussels Grn

Sentenced to Penal servitude for five(5) yrs and discharge with ignominy from H.M.S. on 5 May 45

Age on, and date, of enlistment ..... Term of service .....

FIRST TRIAL

For details of offence, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Confirming Authority.

Date .....

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI).

SECOND TRIAL

For details of offence, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Confirming Authority.

Date .....

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Superior Military Authority (4).

Date .....

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed *at least* once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

12,500 | 206 9/44 24 H.D.P.S.S.

38

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution).

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	REMIT TWO YEARS PENAL SERVITUDE - RETURN TO CANADA IN CUSTODY UNDER SENTENCE.	(Beverley Matthews), Brigadier, Deputy-Adjutant General, Canadian Military Headquarters 12 JUL 1945	
9 Sep 46	B.F. to 1 Nov. 46	(E.A.Fletcher) Major, A.J.A.G M.D.10	
4 Nov.46	Sentence to be remitted effective 7th November, 1946	(R.O.G.Morton) Brigadier, District Officer Commanding, Military District No. 10.	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

	Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.			
(1) SEC 41 AA	: Stealing.	29 Dec 44	5 May 45
(2) SEC 40 AA	: Conduct to the prejudice.	10 Dec 44	"
(3) SEC 40 AA	: " " " "	7 Mar 45	"
(4) SEC 40 AA	:	29 Dec 44	"
(5) SEC 8(2)	: Striking his Superior Offr.	7 Mar 45	"
(6) SEC 15(1)	: AWL.	9 Oct 44	"
(7) SEC 15(1)	: AWL.	8 Nov 44	"
(8) SEC 15(1)	: AWL.	23 Dec 44	"
(9) SEC 15(1)	: AWL.	7 Feb 45	"
	(A.J.CORMIER) Capt. Cdn Sec HQ Brussels Grn		
	Signature of Officer making entry.		

VIII.—Second Trial.

Signature of Officer making entry.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
2 Jun 45	I do not recommend any remission of sentence, except that which is earned by serving of sentence.	(L.P.Payan) Lt-Col Commanding Officer Cdn Sec HQ Brux Grn.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature

If further space required, an additional slip should be pasted here.

37

APPENDIX "C" TO C.M.R.O. No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CoM

MDHQ File No. HQC. 52-B-2003
District File No. 10/H.3304

PART I

No. H.3304 Rank Pte. Name Elmer G. BUNN

Unit No. 10 District Depot

PART II

Date of Trial 5 May 1945

Charge AA Spec.#1. AA Spec.#13. Spec.3. AA Spec.#12. AA Spec.#11 (4 chges)

Sentence 5 Yrs. Penal Servitude

Date of Sentence 5 May 1945

Confirmation (a) Authority

(b) Date

PART III

REMISSION

I, the undersigned, being the competent Military Authority under Section 57 (2) of the Army Act (superior Military Authority under Section 57A of the Army Act), do hereby remit the balance of the sentence of Five Years Penal Servitude, effective the 7th November, 1946.

Signed at Winnipeg, Man. this 4th day of November, 1946.

(R.G.R. Morton) Brigadier, D.O.C. M.D. 10.
(To be signed by the competent authority or Superior Military Authority personally)

PART IV

PROMULGATION

Remission promulgated and entered in the Unit at Winnipeg, Manitoba, this 7th day of November, 1946.

Capt.
Officer i/c Records
No. 10 District Depot

(a) Date, attach notice of appeal if to be attached.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDER PART II

No. H.3304 Rank Pte. Name Elmer G. BUNN

The sentence of Five years Penal Servitude awarded by (Standing) Court-Martial on the 5th May 1945 has been remitted effective the 7th day of November 1946 on the 4th day of NOV. 1946, by Brigadier R.O.G. Morton, D.O.C. M.D.10.

Unit No. 10 District Depot

Certified true Extract of Daily Order Part II No. 262 para 25 dated November 1946

Place

BDF-SE-AG 4369
HQC 55-B-2063 Adm 3(b)3

BDF 4369

OTTAWA, 13 Sep 46.

TO: PMA

R-3584 Pte BURN, E.G.

Further to my memo dated 7 Sep 46, the following report has now been received from the Reviewing Authority; it is self-explanatory:-

"At the request of the Chaplain of the Manitoba Penitentiary, the sentence was reviewed at this Headquarters on 8th July 1946, and it was ordered to be brought forward on the 25th day of October, 1946, with a view to remission on the 5th day of November, 1946.

Referring to paragraphs (d) and (e) of your aforesaid letter, he did not forfeit any time for good behavior when he entered the Penitentiary, and this Headquarters has been advised by the Cahplain of the Manitoba Penitentiary that the soldier's brother, 135 Melick Ave., Kenora, Ont., will give him a job or secure a job for him when he is released. The soldier has been advised that providing his conduct is satisfactory in the Penitentiary, the balance of his sentence will be remitted on the 5th November, 1946, and has expressed himself as satisfied."

(E.G. Weeks)
Major-General
Adjutant-General

PMA FINAL REPORT
GLC/PE/6203

IN REPLY PLEASE QUOTE No. 10/H.3584 (j)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Winnipeg, Manitoba,
September 9th, 1946.

AIR MAIL

Secretary,
Department of National Defence (Army),
OTTAWA, Ontario.

DEPARTMENT OF MILITIA AND DEFENCE
CORRESPONDENCE
SEP 11 1946
File 8E1H-30-5-46
Referred to

MINISTERIAL ENQUIRY
H.3584 Pte. BUNN, E.G.

1. Reference HQC 35-B-2083 BDF-SE-AG 4369 Adm 3(b)3 dated 7 Sep 46.

2. The m/n soldier was convicted of theft (AA Sec 41), three charges under (AA Sec 40) improperly in possession of 30 bags of meat, improperly using a WD vehicle, improper use of a WD vehicle, striking a superior officer (AA Sec. 8 (2)) and four absences without leave, and he was sentenced on the 5th day of May, 1945, to suffer penal servitude for five years and to be discharged with ignominy. On review of his sentence by the confirming authority it was directed that two years penal servitude be remitted.

3. At the request of the Chaplain of the Manitoba Penitentiary, the sentence was reviewed at this Headquarters on 8th July 1946, and it was ordered to be brought forward on the 25th day of ~~September~~ October, 1946, with a view to remission on the 5th day of November, 1946.

4. Referring to paragraphs (d) and (e) of your aforesaid letter, he did not forfeit any time for good behavior when he entered the Penitentiary, and this Headquarters has been advised by the Chaplain of the Manitoba Penitentiary that the soldier's brother, 135 Melick Ave., Kenora, Ont., will give him a job or secure a job for him when he is released. The soldier has been advised that providing his conduct is satisfactory in the Penitentiary, the balance of his sentence will be remitted on the 5th November, 1946, and has expressed himself as satisfied.

(R.O.G. Morton) Brigadier,
District Officer Commanding,
Military District No. 10.

EAF/MM

NAT. DEF. B. 440
3000M—12-43 (3243)
H.Q. 1772-39-767

HQC 55-B-2063
BDF-SE-AG 4369 Adm 3(b)3

7 Sep 46

SE 4369 d/30 Aug 46

TO: P.M.A.

H-3584 Pte. BUNN, Elmer, G.

The m/n soldier was awarded a sentence of 5 years penal servitude and discharge with ignominy by FGCM 5 May 45 for the following offences:- committing a civil offence, that is to say, theft (AA Sec 41), improper possession of approximately 30 bags of meat (AA Sec 40), improperly, without authority, using a WD vehicle (AA Sec 40), concerned in the improper use of a WD vehicle (AA Sec 40), striking his superior officer (AA Sec 8(2)), and 4 absences without leave from which he was apprehended after 13 days, 43 days, 20 days and 64 days respectively (AA Sec 15(1)). On review of his sentence, it was directed that 2 years penal servitude be remitted.

2. The earliest date on which his present sentence of 3 years penal servitude should terminate, if he earns full remissions for good conduct while serving his sentence, is 4 May 47.

3. CMHR reviewed this case on 15 Nov 45 and the decision reached was "No remission recommended".

4. An up-to-date report has been requested and copy of the representations attached to your memo of 28 Aug 46 forwarded to the DOC. You will be informed of any further development.

(E.G. Weeks) Major-General,
Adjutant-General.

INTERIM

GLC:6293:er

HQC 55-B-2063
BDF-SE-AG 4369 Adm 3(b)3

7 Sep 46

District Officer Commanding,
Military District No. 10,
WINNIPEG, Man.

H-3584 Pte. BUNN, E.G.

The following representations have been received at this HQ on behalf of the m/n SUS:

"This man claims :

a) THAT he is the main support for his father John Bunn, who is not able to work

b) THAT he has a wife and child in England

c) THAT two other men of similar charges were released in Kingston.

d) THAT when he was discharged from the army and sent to civil penitentiary, good behaviour time in the army cut off

e) THAT he can get a job guaranteed him if he can be released

2. Since this case is the subject of a Ministerial Enquiry, may an up-to-date report be received, please in accordance with our Ranks 1498 dated 30 Aug 46.

(E.G. Weeks) Major-General,
Adjutant-General.

GLC:cr

COPY

VER V CIA NRS 18 19 & 20

FROM CMDG 3 KINGSTON ONT 131520R

TO DOC MD NO 10 DD WINNIPEG MAN

RPTD OC NO 10 DD WINNIPEG MAN

RPTD THE SECTY DND OTTAWA ONT

GR 210 BT

KD 140 RESTD

RELETS KS 674(A) DATED 6 AND 7 MARCH 46 AND YOUR RADIOGRAMS 2000M UNCLASS AND 2097K UNCLASS DATED 1 AND 4 MARCH 46 STOP FOLLOWING SUS PRESENTLY HELD 89 MDB FORT HENRY BARRIEFIELD ONT WILL CEASE ATTACHMENT THAT UNIT SOS 3 DD TO 10 DD WEF 17 MAR 46 STOP

H.3584 PTE BUNN E G

H.100182 PTE HALCROW J

H.95342 PTE GALLANT A J

H.1315 PTE KOZAK A L

H.9309 PTE DRURY A D

RECEIVED AUG 31 1946 ADMIN.

STOP THESE SUSX WILL BE DESPATCHED UNDER ESCORT VIA CPR ARRIVING WINNIPEG MAN 0930 HRS 19 MAR 46 STOP REQUEST CMDG TEN HAVE ESCORTS DETAILED TO MEET THIS TRAIN ON ITS ARRIVAL AT TRAINSIDE AS ESCORTS PROCEEDING WESTWARD STOP REGIMENTAL DOCUMENTS IN EACH CASE WILL BE HANDED OVER TO NCO I/C ESCORT PARTY MEETING THIS TRAIN ON ARRIVAL STOP AFA 3104 WILL BE FORWARDED UNDER SEPARATE COVER DIRECT COMMANDING TEN STOP ADDSD CMDG TEN RPTD 10 DD AND DEFENSOR

BT 131628R IB B

CR(C) PA on file

C 55-8-2063

Adm 3(b)3

COPY

VER V CIA NR 4 & 5

FROM CMDG 3 KINGSTON ONT 021200R

TO DOC MD NO 10 WINNIPEG MAN

RPTD THE SECTY DND OTTAWA ONT

GR 116 BT

KB 593 UNCLASS REF HQS 8536-6 VOL 6 AIM 3(B)2 DATED 28 FEB 46 UNDER WHICH IT IS CONSIDERED H100182 PTE HALCROW J, H3584 PTE BUNN E G, AND H1315 PTE KOZAK A L BE DESPATCHED TO TEN ID UNDER ESCORT FOR DISCHARGE AND COMMITTAL TO CIVIL INSTITUTION STOP WILL YOU ARRANGE WITH WARDEN STONEY MOUNTAIN PENITENTIARY FOR ADMISSION OF HALCROW BUNN AND KOZAK AND ADVISE BY WIRE WHEN THEY MAY BE DESPATCHED TO TEN DD FOR DISCHARGE AND COMMITTAL TO STONEXY MOUNTAIN PENITENTIARY STOP ADDSD CMDG XXXXXXX

TEN RPTF DEFENSOR

BTIB 021305R IB B

CR(C) PA on file

C 55-6-2063

Adm 3(b)2

COPY

6 VEL MF 68

WINNIPEG 4 1000

SECTY DND OTTAWA

2000M UNCLASS RETEL KB 593 REF HQS 8536-6 VOL 6 ADM THREE (B) DATED 28 FEB 46 REFERS THREE SUS FROM OVERSEAS STOP ACCOMMODATION IN STONY MOUNTAIN PENITENTIARY HAS BEEN ARRANGED STOP SUGGEST DESPATCH OF THESE SUS IMMEDIATELY STOP ADVISE TIME AND DATE ARRIVAL AND AT WHICH STATION ADDSD CMDG THREE RPTD DEFENSOR

CMDG TEN

04 1135R RY

CR(C) PA on file

C 55-B-2063

Adm 3(b)2

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Ontario
28 Feb 46
HQS 8536-6 Vol 6
Adm 3(b)2

TO: District Officer Commanding,
Military District No. 5,
KINGSTON, Ont.

CJS - B-2063

SUS NUK HMS Arbiter

Ref our letter numbered as above dated 12 Feb 46.

2. At Appx A attached is nominal roll of some of the SUS recently committed to 89 MDB having been returned to Cda in custody under sentence on HMS Arbiter.

3. It will be noted that all these SUS have been found guilty by FGCsM of offences under AA 41 and have received sentences of penal servitude. Column (d) shows earliest date of release either by earning full remission for good conduct or by virtue of a CMER recommendation. Where earliest date is based upon a CMER recommendation our HQC 9039-1 FD 38 Adm 3 dated 18 Feb 46 applies. It is pointed out that NOT every SUS has had the benefit of having his sentence reviewed by CMER.

4. Consideration should be given by you to the despatch of these SUS to their respective home districts in custody for discharge and committal to civil institutions.

5. It is requested that in each case arrangements for transfer should be co-ordinated between DOC MD 5 and DOC of home district of SUS involved with infn to this H..

(E.C. Weeks)
Major-General
Adjutant-General

Copies:

COC in C., Pac Comd
All DOsC less DOC MD 5

APPENDIX A

NOMINAL ROLL

(a) NAME	(b) CHARGE	(c) SENTENCE	(d) EARLIEST DATE OF RELEASE	(e) DISTRICT
M.87592 Bachmeier P.	Rape	10 yrs P S	11 Sep 51	13
B.84524 Bennett H J	Robbery with violence	3 yrs P S	6 Jan 47	2
G.45008 Boudreau F I	Manslaughter	10 yrs P S	13 Aug 51	7
F.88940 Brown T.H.	Rape	5 yrs P S	28 Feb 48	6
H.3584 Bunn E.G.	Theft	5 yrs P S	4 May 47	10
B.28371 Foster E.J.	Manslaughter	5 yrs P S	4 Dec 46	2
H.95342 Gallant A.J.	5 offences of robbery with aggravation	5 yrs P S	25 Aug 48	10
F.97230 Gero A.L.	Rape	15 yrs P S	25 Jun 54	6
C.102592 Gibson W F	robbery with aggravation	3 yrs P S	23 Oct 46	3
H.100182 Halerow J	robbery with aggravation	5 yrs P S	22 Apr 47	10
B.16749 Johnson L O	Manslaughter	15 yrs P S	2 Jan 55	2
A.23406 Jones R C	Arson (larceny)	2 yrs IHL) 3 yrs PS) (concurrent)	29 Aug 47	1
B.15292 Jones S	Rape	10 yrs P S	13 May 50	2
M.45323 Kerr R J	Rape	5 yrs P S	19 Dec 46	13
K.66473 Kinna H F	Manslaughter	5 yrs P S	18 Oct 48	11
E.5408 Lacas E	3 civil offences of stealing	21 mos IHL) 42 mos PS) (concurrent)	3 Mar 47	5
B.148353 Lashkevich J.	Robbery with aggravation	4 yrs P S	25 Oct 46	2
B.43678 Lee H J	Rape	15 yrs P S	25 Jun 54	2
B.92543 McCarnan K R	5 charges of stealing	7 yrs P S	1 Feb 47	2
M.45321 McCarty A S	Rape	5 yrs P S	19 Dec 46	13
G.1264 Parker E C	Rape	5 yrs P S	4 Mar 48	7
G.47296 Rooney J E	Robbery with aggravation	5 yrs P S	9 Sep 46	7
B.45809 Russell L	Rape and robbery with aggravation	5 yrs P S	17 Aug 48	2
K.99185 Toneff J R	Stealing (2 offences)	5 yrs P S	27 Feb 47	11
M.45657 Vandermark W	Rape	5 yrs P S	19 Dec 46	13

(a) NAME	(b) CHARGE	(c) SENTENCE	(d) EARLIEST DATE OF RELEASE	(e) DISTRICT
K.58635 Butt D	Shooting with intent to murder	10 yrs P S	6 Feb 48	11
M.1315 Kozak A L	Rape, robbery with aggravation	5 yrs P S	17 Aug 48	10
B.11776 Johnson J W	Murder	12 yrs P S	8 Jan 53	2
M.66144 Ruptash W	Robbery with aggravation	5 yrs P S	9 Sep 46	13
M.7599 Kidd A C	Indecent assault	3 yrs P S	9 Jan 47	13

File: H.3584-C(A)

DEPARTMENT OF NATIONAL DEFENCE
- ARMY -

KINGSTON, Ontario, 26th Feb 46.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

H.3584 Pte. Bunn, E.G.

Ref HQC 55-B-2063 Adm 3(b)2 d/15 Feb 46.

2. Receipt is hereby acknowledged of the following documents in the case of the m/n soldier.

(a) CMHQ Letter 10/Bunn E/1 d/5 Oct 45.

(b) AFA 3104

(c) ~~xxxxxxxxxxxx~~

(d) CMBR Recommendations no remission.

Major,
for (G.A. McCarter) Brigadier,
District Officer Commanding,
Military District No.3.

Recorded
[illegible]

DEPARTMENT OF NATIONAL DEFENCE
- Army -

CONFIDENTIAL
OTTAWA, Ontario

HQC 5-1-B-2063

District Officer Commanding,
Military District No 3,
KINGSTON, Ontario.

15 Feb 46

H 3584 Pte BUNN E G
SUS - HMS Arbiter

1. Further this HQ letter HQS 8336-6 Vol 5 dated 2 Feb 46 and 12 Feb 46.

2. Herewith is AFA 3104 and CMHQ letter.

3. It will be noted that CMHQ ~~has recommended [illegible]~~

3. It will be noted that this SUS was sentenced to be discharged with ignominy under CRO 1029(9).

4. The sentence awarded has been reviewed by CMBR who have recommended **no remission**,

5. Ack.

(E.G. Weeks)
Major-General
Adjutant-General.

405-B-3578

List of correspondence in File of

H-3584 Pte. BUNN, E.

Forwarded to Cdn Sec 2 Ech HQ

-3-

Statement of EVIDENCE in the case of Bunn, E.
1 copy of MFM 6
13 CBR Bn letter /6-0/Bunn d/17 May 44 addsd to H.Q. 2 CBR Gp
Cocumentary evidence in the case of H-3584 Pte. Bunn, E. (RCOC)
Exhibit "A" and "B"
Expense Voucher--: H-3584 Pte. Bunn, E. (Exhibit "D"

Proceedings of a Court of Inquiry assembled at In the Field on the eighteenth day of May 1944 by order of Lt.Col. J.W. Stewart, Commanding 13 Bn, 2 CBR Gp.

Director of Records
A.G. Branch
FEB 8 - 1946
Nat. Defence HQ
Ottawa, Canada

List of correspondence in File of

H-3584 Pte. BUNN, E.

Forwarded to Cdn Sec 2 Ech HQ

-2-

No. 1 Canadian Ordnance Mechanical Engineers Reinforcement Unit letter REC/5-5-0 dated 16 Sep 44 together with att'd documents
Certificate of Apprehension
Statement of Accused
Documents Despatch Slip CFA 202 addsd to Records Officer 13 CBR Bn d/10 Oct 44 REC/1-3-1
Two copies Report - Prisoner escaping from Confinement dated 2 Dec 44 Field - signed 1036528 J. Sinclair, Cpl.
Extract X LIST Royal Canadian Ordnance Corps No. 18 25 May 44 Page 3

Form MFB 264 CHARGES against H-3584 Pte. BUNN, E. (11 Charges)

Letter from Officer Commanding 2 Cdn LofC Provost Coy file No. J-413 dated Field 13 Jan 45 to OC 31 Coy 13 Bn 2 CBRG with att'd Charge AFB 252 and Certificate in accordance with P.C. 2797 of 10 Apr 42.

Receipt by the N.C.O. i/c Guard of a soldier in arrest handed to him by the Military Police, dated 1 Dec 44 (Sgd) 6145981 WH Richards Cpl.

Letter from Officer Commandin 2 Cdn LofC Provost Coy to OC 13 Bn file No 191 dated Field 2 Dec 44 with Charge AFB 252 att'd.

Extract X List orders RCOC No. 22 d/22 Jun 44 (Page 2)

13 CBR Bn letter, 13 CBRB/5-4-2 d/27 Oct 44 addsd to C.M.P. H.Q. ANTWERP

Charge AFB 252 - Witness L/Cpl REYNOLDS, G. (C.M. Police)

Charge AFB 252 - Witness 1036528 Cpl. J. Sinclair 610 Company, C.M.P. (VP 7)

13 CBR Bn/5-4-3 letter d/4 Nov 44 with att'd DELAY REPORT (2 Copies)

Letter from 63 Coy, 13 Bn to OC 13 CBR Bn 2 CBR Gp, file ref, 63/6-0 Field d/20 Oct 44 (Attn Records Officer) CASUALTY RETURNS, ESCAPED PRISONERS.

File copy 13 CBRB/5-4 d/9 Nov 44 addsd to A.P.M. 7 Base Sub Area att'd APM 7 Base Sub Area letter PRO 4 d/5 Nov 44 - Subject Absentees

Copy CR #94 d/7 Nov 44

Proceedings of a Court of Inquiry assembled at Ghent, Belgium, on the 30 Oct 44 by order of Lt Col G.H. Logie, Comd 11 Bn 2 CBR Gp

Proceedings of a Court of Inquiry assembled at Ghent, Belgium, on 10 Nov 44 by order of Lt-col G.H. Logie, Comd 11 CBR Bn

File copy 13 CBRB/5-4-1 d/1 Jun 44 addsd to Comdr 2 CBR Gp

MFB 264 CHARGE (65 Coy 13 Bn, 2 CBRG) Guard Report 65 Coy, Letter from Admn Officer-D.P.M's Br C.M.H.Q. file ref No. 2950 d/London 12 May 44 addsd to OC 60th Coy 12th Bn. 2 CBR Gp Charge--- AFB 252 - Witness 1487799 Sgt J. Jack, 12th L.A.A. etc.

List of correspondence in File of

H-3584 Pte. BUNN, E.

forwarded to Cdn Sec 2 Ech HQ

27 Jun 45

Copy of letter from Miss P. Enticknap, 3 New Rd., Loxhill, Nr. Godalming, Surrey
Cdn Sec 1 Ech letter 506/Marry/1 (AG 4) d/15 Nov 44
File copy letter (reply) 13 CBR Bn/6-0/B d/21 Nov 44

Statement taken from H-3584 Pte. BUNN, E. 19 Jan 45 acknowledging paternity of a child.
Certified True Copy of above mentioned statement
Covering letter to H.Q. 2 CBRG 13 CBR Bn/6-0/B d/20 Jan 45

Cdn Sec 1 Ech letter 506/Marry/B (AG6/ d/4 Jan 45 addsd to HQ 2 CBRG and re-addsd to 13 CBR Bn re Application for Permission to Marry.

13 CBR Bn/6-0/B d/12 Jan 45 addsd to H.Q. 2 CBRG in ref to 1 Ech letter 506/Marry/B (AG6) d/4 Jan 45.

Copy of H.Q. 2 CBRG letter addsd to 1 Ech - 2 CBRG/6-0-3 d/19 Dec 44.
Copy of 13 CBR Bn/6-0/B d/20 Dec 44 ref above mentioned letter.

Cdn Sec 1 Ech letter 506/Marry/B/1 (AG6) d/23 Jan 45 addsd to HQ 2 CBRG and fwded to 13 Bn (ref Application for Perm to marry)
Minuted copy of 1 Ech letter 506/Marry/B/1 (AG7) d/13 Dec 44 addsed to 2 CBRG. Minuted copy addsd to 13 CBR Bn file ref, 2 CBRG/6-0-3/13 d/19 Dec 44.

Six copies of M.F.M. 6 for H-3584 Pte. BUNN, E.

13 CFRB/6-0-B letter d/9 Feb 45 addsed to D.A.P.M. HQ 2 CBRG to which was att'd to original copy photograph and description of accused.

Statement by R.L. Foston, Sgt (Pro-Sgt 13 Bn) to Adjt 13 Bn, d/8 Feb 45.

one copy of Regt'l Police 13 Bn report, -Description of Personnel in Custody- when placed in custody 1700 hrs ~~xx~~ 26 Oct 44 by Regt'l Police (11 Bn)

H.Q. 2 CBRG letter Confidential 2 CBRG/6-0/B d/16 Dec 44
13 CBR Bn letter 13 CBRB/5-4-3 d/18 Dec 44 addsd to Comdr 2 CBRG listing 12 charges.

List of charges numbering, 18

Copy of CR (No. top right hand corner torn off)
List in triplicate showing AWL's and dates, Strength Decrease, d/7 Nov 44.
Copy of 13 CBR Bn Daily Orders Part I No. 166, Dated Tues 10 Oct 44 For Wed 11 Oct 44.
Copy of X LIST Part II Orders RCOC No. 44 d/13 Oct 44
Certificate of surrender under Army Act Sect 163 (i) (j) d/22 Oct 44
Certificate in accordance with P.C. 2797 of 10 Apr 42
d/ Field 2 Dec 44

H.Q. 2 CBRG letter 5-4/CHARGES/3-33 d/10 Nov 44 with att'd C.M.P. charge (AFB 252).

PAGE 1.

HQC 55- B-2063 CMBR 5
RMA

6 Nov 45

Case No. 0830

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: H-2684 Pte. BUNN, F.C. (Alias H-105400 Sgmn. CARON, R.

2. Unit at date of offence: CAn Sec H.Q. Brussels Garrison.

3. Charge: (1) Sec 41 - Stealing 244 gelons of Petrol (2) Sec 40 - 7 charges of improper possession of meat and two MT Vehicles (3) Sec 15(1) AWL 9 Oct 44 till 22 Oct 44, length of Absence 13 days. (4) Sec 8(2) Striking his superior Officer (5) Sec 15(1) AWL 8 Nov 44 till apprehended on 22 Dec 44. Length of absence, 43 days. (6) Sec 15(1) When in arrest AWL from 23 Dec 44 until apprehended on 13 Jan 45. Length of absence: 20 days. (7) Sec 15(1) AWL from 7 Feb 45 till apprehended 13 Apr 45. Length of Absence: 64 days.

Plea: Guilty on all charges.

4. Place and Date of Trial: Belgium: 5 Nov 45
(FGCM) (~~GCM~~) (~~SCM~~)

5. Finding: Guilty on all charges.

6. (a) Sentence: 5 years Penal servitude, and discharge with Ignominy.

(b) Date of sentence: 5 Nov 45

7. Date of Confirmation: 26 Nov 45

8. Date of Promulgation: 1 Jun 45

43

9. Being served at: To be ascertained c/o/s in M.D. _____

(N.B. - Discharged under RO 1029 ( )for
wef)

CONDUCT

11. (a) Prior to conviction: Offence Date Sentence

(i) Civil Convictions: Nil

(ii) Courts-Martial: [illegible] 8 months detention by DCM to [illegible] 43 for [illegible] of 45 days.

(iii) Summary Convictions: 6 offences of [illegible]; [illegible] offences.

(b) After conviction: Good. Expected date of rate [illegible] 4 Nov 43. CMHQ remitted 2 months of sentence.

(c) Date of ~~enrolment~~/enlistment: 22 Sep 39 Present Age: 24

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12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Item 10 has been ~~xxx~~ omitted.

The accused called no witnesses and made no statement. He had previously given a statement to the Provost in which he outlined his activities and those of his associates. He was one of a gang of soldiers operating in the Bagotville area; their activities consisted mostly of stealing G.M.C. Vehicles and Patrol and disposing of the Patrol to civilians. Their crimes were committed in the area with which we could become after correct.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

CMHQ: Cause sentence to Cell and Dismissal be dispensed with. Immediate.

Reviewing Officer: Since the accused admitted his guilt and serious offences in a short space of time, it is recommended that he serve his sentence in Cell with a good conduct.

Reviewed by G M Stephenson (G. M. STEPHENSON) Major.

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14. Recommendation of the Board: 42

No Remission Recommened.

Date NOV 1 5 1945

N.A. Stilwell Maj.
Secretary
Courts-Martial Board of Review.

THIS COPY FOR: H.Q.C. 55-B-2063
M.D. ~~10/Bunn EG/1~~

MEMORANDUM - ~~DISTRICT~~ FIELD GENERAL COURT-MARTIAL

GS

No. H-3584 Name BUNN, Elmer Gerald

Rank Pte Unit X-4 List RCOC 2 CBRG

Charge (1) AA 41 WOAS Committing a evil offence....
(2) AA 40 WOAS Conduct to the prejudice.....
(3) AA 40 WOAS COnduct to the prejudice.....
(4) AA 40 WOAS Conduct to the prejudice....
(5) AA 8 (2) WOAS Striking hissuperior officer....
(6) AA 15 (1) WOAS AWL
(7) AA 15 (1) WOAS AWL
(8) AA 15 (1) WOAS AWL
(9) AA 15 (1) WOAS AWL

Date of Crime (1) 29-12-44 (2) 10-12-44 (3) 7-3-45 (4) 29-12-44
(5) 7-3-45 (6) 9-10-44 (7) 8-11-44 (8) 23-12-44 (9) 7-2-45

Date of Arrest (6) 22-10-44 (7) 22-12-44 Charge Signed 2-5-45
(8) 13-1-45 (9) 13-4-45

Orders for ~~Rem~~ FGCM By Ord Maj Gen Comd Cdn Sec 1 Ech

Place and Date of Trial Inthe field 5-5-45

Sentence Penal servitude 5 years Discharge with ignominy

Date of Confirmation 26-5-45

Date of Promulgation 1-6-45

Entered in Records of J.A.G. as No. 4351

Date 24-10-45

Balance of sentence remitted by Cont. Auth. 7-11-46

MEMO Remit 2 years penal servitude

Reviewed at CMHQ

H1

for Judge Advocate-General

10M-8-45(M-189)

Quote No. HQC. 55-B-2063(JAG/D-6)

DEPARTMENT OF NATIONAL DEFENCE
- Army -

OTTAWA, Canada

24 Oct 45

Canadian Military Headquarters,
2 Cockspur St.,
LONDON S.W.I, England.

Att'n. of Major-General i/c Admin.

Field General Court Martial

H.3584 Pte. Bunn E.G.

1. Receipt is acknowledged of your 10/Bunn E/1 dated 5 Oct 45 under cover of which you forwarded to this Headquarters the proceedings of the marginally noted Field General Court Martial, together with A.F. A3104 in respect thereof. Your recommendation in this case has been noted.

E.L.M

for (R.J. Orde), Brigadier
Judge Advocate-General.

ELM/fdr

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AIR MAIL

Quote No. 10/Bunn, E/1

CANADIAN MILITARY HEADQUARTERS

LONDON

BOMBER

5 Oct 45

CONFIDENTIAL

6.55-B-2063

The Secretary,
Department of National Defence (Army),
Ottawa, Canada

H 3584 Pte Bunn, E.G.

1. The m/n soldier was awarded a sentence of 5 years penal servitude and discharge with ignominy by FGCM 5 May 45 for the following offences:- committing a civil offence, that is to say, theft (AA Sec 41), improper possession of approximately 30 bags of meat (AA Sec 40), improperly, without authority, using a WD vehicle (AA Sec 40), concerned in the improper use of a WD vehicle (AA Sec 40), striking his superior officer (AA Sec 8(2)), and 4 absences without leave from which he was apprehended after 13 days, 43 days, 20 days and 64 days respectively (AA Sec 15(1)). On review of his sentence, it was directed that 2 years penal servitude be remitted.

2. The earliest date on which his present sentence of 3 years penal servitude should terminate, if he earns full remissions for good conduct while serving his sentence, is 4 May 47.

3. This soldier enlisted 23 Sep 39 at Winnipeg, Man., and he is now 24 years of age. In addition to the offences mentioned in para 1 above, he has, since enlistment, been found guilty of 7 offences under AA Sec 15(1), and of 3 offences under each of AA Secs 40 and 19. He has had one previous FGCM on 18 Dec 43 when he was awarded a sentence of 8 months detention for an absence without leave of 45 days (AA Sec 15(1)).

4. This soldier has been medically examined and certified as fit to undergo his sentence.

5. In view of the serious nature of the many offences in an operational theatre of which this soldier has been convicted, and his previous record which is far from exemplary, it is considered that his sentence, including discharge with ignominy, is appropriate and that he should be required to serve his present sentence of 3 years penal servitude in full and be discharged with ignominy under the provisions of para 9 of Appx to CARO 1029. It is considered that this soldier deliberately committed his many illegal absences in a theatre of operations in order to avoid rendering effective service to the army, and that he must have realized that such misconduct, coupled with his other activities, would result in a very severe penalty, which would in all probability include his discharge.

6. It has accordingly been directed, pursuant to PC 1304/44, that this soldier be returned to Canada in custody under sentence. Herewith original proceedings of FGCM held 5 May 45 together with original AF A3104 in respect thereof, on which this direction has been endorsed.

39

for (E.G. Weeks) Major-General
In Charge of Administration
Canadian Military Headquarters

Enc

1/39B CATEG 1008-77 40/F&S 3310 (6/47) Copy to:- OIC, Records

RECORDED AT CMHQ IN AB 160 5L-142.

FIELD GENERAL COURT-MARTIAL

CFA96 (Incl. of AFA33) 40/P & S/1098 (40/10) 4/38B

RECEIVED Corresponding Order of LT-M BURNS - Maj Gen. Comd Cdn Sec 1 Ech HQ 21 A Gp dated 4 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H. 3[illegible]	Capt	Capt	Elmer Gerald	BUNN	X-4 Trisp RCOC att Cdn Sec HQ Brussels Area
[illegible]			P.	CARON	

PROCEEDINGS REVIEWED: [illegible] 28 June 1945 REVIEWING OFFICER, JA BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in ~~(country)~~ BELGIUM on ~~(date(s))~~ 5 MAY 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95. for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1645 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT. COL.	D. L. REDMAN	Cdn Sec 1 Ech HQ 21 A Gp
Member	CAPT.	E. B. VANDINE	1 Cdn Disc Centre
Member	LT.	J. D. METRAKOS	10 Bn - 2 CBRG
~~Judge-Advocate~~	—	—	—
Prosecutor	LT.	J. J. H. CONNORS	Cdn Sec HQ Brussels Area
Defending Offr	CAPT.	W. B. SAWDON	4 Bn - 3 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(or)~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N.O - S.I.N. (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

Court rules and sentence under RP 37(B)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECO[illegible] FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans.....NO - SIR.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet~~(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier~~(s)~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B..... and Ex. C..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. By my Def. Offr - notes attached.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.(2)~~

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Extracts entered as No. 4351 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 25 day of Oct 19 44

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H. 3584 Pte Elmer Gerald Burns - X-4 Unit RLOC att Gen Sec HQ Burma 1 Corps

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	CHARGE (Space for use as required for further charges, accused charged jointly, special findings, etc.)	PLEA	FINDING
1st AA 41	GUILTY	GUILTY	1st AA 15(1)	GUILTY	GUILTY
2nd AA 40	GUILTY	GUILTY	2nd AA 15(1)	GUILTY	GUILTY
3rd AA 40	GUILTY	GUILTY	3rd AA 15(1)	GUILTY	GUILTY
4th AA 40	GUILTY	GUILTY			
5th AA 8(2)	GUILTY	GUILTY			
6th AA 15(1)	GUILTY	GUILTY			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which 8 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for a term of Five (5) years and to be discharged with ignominy from his Majesty's Service.

(Sgd) ..... Judge-Advocate, if any. 5 MAY 1945 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the findings and sentence for confirmation

11 May 45 (Sgd) E. Lee Burns Commanding Cdn Sec 1 Ech HQ 21 A Gp.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence.

~~I direct that the accused be not committed to prison or detention barracks until further order.(1)~~ (1. AA 57A. Delete if not ~~signed~~)

(Sgd) [illegible] Major-General (WEEKS) Major-General, Administration, Commander, Lines of Communication

Date ..... Commanding 26 MAY 1945 Confirming Officer.

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings.

[illegible] 19 May 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFICATE OF PROMULGATION

FGCM - 5 May 45 H-3584 Pte Elmer Gerald Bunn X-4 List RCOC att Cdn Sec HQ Brussels Garrison

Charges:	Finding:
(1) AA Sec 41	Guilty
(2) AA Sec 40	Guilty
(3) AA Sec 40	Guilty
(4) AA Sec 40	Guilty
(5) AA Sec 8(2)	Guilty
(6) AA Sec 15(1)	Guilty
(7) AA Sec 15(1)	Guilty
(8) AA Sec 15(1)	Guilty
(9) AA Sec 15(1)	Guilty

Sentence: To suffer penal servitude for a term of five (5) years and to be discharged with ignominy from His Majesty's Service.

Minute of confirmation: "I confirm the findings and sentence"

Date: 26 May 45. MGA, CMHQ.

Promulgated and Extracts Taken:

In the Field. Belgium
(Country)

1 June 45
(Date)

A. J. Cormier ..... Signature

(A. J. CORMIER) Capt. Rank

Staff Capt. A,
Cdn Sec. HQ. Brussels Gd. Appointment

..... Unit

MEDICAL OFFICER'S CERTIFICATE

I certify that No. H-3584, Pte. BUNN, E.
R.C.O.C. CDN ARMY OVERSEAS. Regiment
is FIT ~~UNFIT~~ to undergo trial by Court Martial.

R R Smith
Signature of Medical Officer
Capt
Medical Officer Cdn Sols
HQ BRUSSELS GARRISON

Field
5 May 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate auth AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 2 RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-3584	Pte		Elmer Gerald	BUNN	X-4 List RCOC 2 CBRG att Cdn Sec HQ Brussels Garrison
		alias			
D-125409	Sgmn		P	CARON	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Bd Offr as President, for the reasons I have attached herto.xxx~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate the next the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. Redman, V.D.	CIC att Cdn Sec 1 Ech HQ 21 Army Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	E.B. Van Dine	1 Cdn Disc Centre
Capt or Lieut	(To be detailed by Comd 2 CBRG)	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Date 4 May 45

(Signed personally. RP 105 fn 2.)
(ELM Burns) Maj-Gen
Commanding Cdn Sec 1 Ech HQ 21 Army Gp
Convening Officer.

Maj-Gen (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAS5 (In lieu of AFA3) 40/P & S/1507 (4031)

(See overleaf for oaths and notes for use on trial.)

Approved:
DJA

C H A R G E S H E E T

The Accused, No H.3584 Pte Elmer Gerald BUNN, alias D.125409 Sgmn CARON P, K-4 List RCOC, 2 CBRG, attached Cdn Sec HQ Brussels Garrison, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE
SEC 41
ARMY ACT

WOAS, committing a civil offence, that is to say, stealing

in that he

in the Field, on or about 29 Dec 44 did steal 744 gallons of petrol, being Public Property.

SECOND CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the Field, on or about 10 Dec 44 was in improper possession of approximately 30 bags of meat.

THIRD CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the Field, on or about 7 Mar 45 did improperly, without authority use WD vehicle L5403794 (Dodge 3 ton lorry).

FOURTH CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the Field, on or about 29 Dec 44 was concerned in the improper use of WD vehicle CL4273364 (Ford 3 ton lorry).

FIFTH CHARGE
SEC 8(2)
ARMY ACT

WOAS, striking his superior officer

in that he

in the Field, on 7 Mar 45 did strike 14344977 L/Cpl FLETCHER T with the shaft of a pick-axe.

SIXTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, did absent himself without leave from 1030 hrs 9 Oct 44 until apprehended at 2020 hrs 22 Oct 44.
(Absent 13 dys, 9 hrs, 50 min).

SEVENTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, did absent himself without leave from 2030 hrs 8 Nov 44 until apprehended at 1000 hrs 22 Dec 44.
(Absent 43 dys, 13 hrs, 30 min)

MY

EIGHTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, when under arrest did absent himself without leave from 2000 hrs 23 Dec 44 until apprehended at 0020 hrs 13 Jan 45.
(Absent 20 dys, 4 hrs, 20 min)

NINTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, did absent himself without leave from 2015 hrs 7 Feb 45 until apprehended at 1715 hrs 13 Apr 45.
(Absent 64 dys, 21 hrs)

Payan

(L.P. Payan) Lt Col
Commanding Officer
Cdn Sec HQ Brussels Grn

Brussels
2 May 45

Approved KR(Can) 540
DJA

To be tried by Field General Court Martial.

E. L. Burns

Major-General,
GO i/c Cdn. Sec. 1 Ech.
HQ. 21 Army Gp.

4 MAY 1945

1.

In re H-3584 Pte E. G. Bunn — X-4 Unit RCOC
att. Cdn Sec. HQ.
Brussels Sec.

4th Ch.

Additional Evidence taken by Court on Plea of Guilty — RP 37(B) to supplement sufficiency in the summary of evidence

H-19018. Cpl. Bernent G.H.V. — 2 Cdn H. of C. Pro. Coy having been duly sworn states:

① On ~~24 Dec~~ evening of 12/13 Jan 45 in response to a phone call to 153 Rue de Laeken, Brussels, I went to ~~THE~~ IM LEMBEKE Cafe in MOLENBEEK, Brussels and arrested Ptes Bunn, Schell, Woronuik on the street. I recognize the accused as Pte Bunn. Went to Coy Guard Rm. Returned to the district and arrested Ptes Toneff & Mackenzie in AU BON COIN Cafe. Parked in front of that Cafe was WD army CL 4273364 — GO Cont. ~~Ford~~ Ford. On it were 30-odd Cans of Petrol. ~~This veh was admitted to be used~~

No Cross-examination

RP 83(B) complied with.

E-3 Plea in Mitigation:

The accused enlisted in 1939 at age of 19. For some considerable time his conduct was very good and until he arrived on the Continent there were only 2 crimes of a serious nature. Shortly after his arrival in E.T.O. he started on a system of behaviour that brings him before this court today. Whether he was led on by bad friends or whether it was the spirit of misadventure he apparently had no regard for the seriousness of the offences committed. His statement says he surrendered himself. The evidence is that he was apprehended. He now realizes the seriousness of his acts. I feel that since he surrendered himself he should be shown leniency. Also that a light sentence will keep him out of trouble and away from evil friends.

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SUMMARY OF EVIDENCE

Summary of Evidence in the case of H-3584 Pte BUNN ELMER GEORGE, alias D-125409 Sgmn CARON P., X-4 List, RCOC, 2 CBRG, Att Cdn Sec HQ Brussels Garrison, a soldier of the Cdn Army Overseas

The Commanding Officer directs that the evidence shall be given on oath.

First Witness: L-13392, Pte WORONUIK M, Lake Superior Regt (motor).

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the U.K., not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "A".

(J.J.H.Connors) Lt RCAMC

I do not require the attendance of Pte WORONUIK for the purpose of cross-examination. C. Bunn

Second witness: K-99183, Pte TONEFF J.A., 10 BN 2 CBRG.

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the U.K., not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "B".

(J.J.H.Connors) Lt RCAMC

I do not require the attendance of Pte TONEFF for the purpose of cross-examination.

C. Bunn

Third witness: H-64724, Cfmn DAVIE E.G., RCEME, 2 CBRG.

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the U.K., not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "C".

(J.J.H.Connors) Lt RCAMC

I do not require the attendance of Cfmn DAVIE for the purpose of cross-examination.

C. Bunn

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Fourth witness: B-38216 Pte SCHELL B.A., 3 Rie Coy RCEME

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the U.K., not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "D".

(J.J.H.Connors) Lt RCAMC

I do not require the attendance of Pte SCHELL for the purpose of cross-examination.

E. Bunn

Fifth Witness: 7690482 L/Cpl GLYNN W, 244 HQ Pro Coy CMP

I certify that in may opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "E".

(J.J.H.Connors) Lt RCAMC

I do not require the attendance of L/Cpl GLYNN for the purpose of cross-examination.

E. Bunn

Sixth Witness: 14344977 L/Cpl FLETCHER T, 244 HQ Pro Coy CMP

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "E".

(J.J.H.Connors) Lt RCAMC

I do not require the attendance of L/Cpl FLETCHER T, for the purpose of cross-examination.

E. Bunn

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Seventh Witness: Capt. W.E. HOFFARD, RASC, OC 267 Petrol Depot.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "F".

(J.J.H.Connors) Lt RCAMC

I do not require the attendance of Capt W.E. HOFFARD for the purpose of cross-examination.

E. Bunn

Eighth Witness: Capt J.A WATSON, OC I73 Veh Park

I certify that in my opinion the attendance of this witness is, owing the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "G".

(J.J.H.Connors) Lt RCAMC

I do not require the attendance of Capt [redacted].WATSON for the purpose of cross-examination.

E. Bunn

Ninth Witness: Capt. C.J.ALLENDORF, DAPM Cdn Sec HQ BRUSSELS Grn

Having been duly sworn states:

"I was present when Pte BUNN whom I see here now and recognize, made this statement after being duly cautioned. This was on the 27 Apr 45."

The accused declines to cross-examine.

Capt.

The statement refered to in the Evidence of the above witness is attached hereto as Exhibit "H".

Tenth witness: I036528 Cpl S[redacted]E J., 120 Pro Coy CMP SINCLAIR

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily ~~xxxxxxxx~~ procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "J"

(J.J.H.Connors) Lt RCAMC

I do not require the attendance of Cpl ST.CLAIRE for the purpose of cross-examination.

E. Bunn

The following documents produced as documentary evidence were read over to the accused marked Exhibits as shown, signed by me and attached hereto:-

Part 11 Ord Ext Form d/29 Nov 44 (Exhibit "K")
Part 11 Ord Ext Form d/9 Dec 44 (Exhibit "L")
Certificate of Apprehension d/22 Dec 44 (Exhibit "M")
Part 11 Ord Ext Form d/26 Jan 45 (Exhibit "N")
Part 11 Ord Ext Form d/14 Feb 45 (Exhibit " P")
Certificat of Apprehension d/13 Apr 45 (Exhibit "Q")

(J.J.H.Connors) Lt RCAMC

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The ~~Rxxx~~accused was cautioned as follows:-

Q: " Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

A: " No, Sir, I have already told my story.

E. Bunn

The accused does not wish to call witnesses at this time.

I certify that the foregoing Summary of Evidence consisting of ~~five~~ pages was taken down by me in the presence of the accused and that RP4(c),(d),(e),(f) and (g) have been complied with.

(J.J.H.Connors) Lt RCAMC
Officer detailed to take the Summary

In the Field
2 May 45

REQUEST FOR DEFENDING OFFICER

EXA MY

I want the Convening Authority to appoint an Officer to defend me, please.

E. Bunn

In the Field
2 May 45

LIST OF WITNESSES FOR THE PROSECUTION

1. L-13392, Pte WORONUIK-M Lake Superior Regt (Motor)
2. K-99183 Pte TONEFF-J.A., 10 BN CBRG
3. H-64724 Cfmn DAVIE E.G., RCEME, 2 CBRG
4. B-38216 Pte SCHELL B.A., 3 RCE, Coy RCEME
5. 7690482 L/Cpl GLYNN W., 244 HQ Pro Coy CMP
6. I4344977 L/Cpl FLETCHER T., 244 HQ Pro Coy CMP
7. Capt W.E.HOFFARD, RASC, OC 267 Petrol Depot.
8. Capt J.A.WATSON, OC I73 Veh Park
9. Capt ALLENDORF, DAPM Cdn Sec HQ Brussels Grn
10. I036528 Cpl St.Claire J.I20 Pro Coy CMP

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibits "A" Evidence of Pte WORONUIK
Exhibit "B" Evidence of Pte TONEFF
Exhibit "C" Evidence of Cfmn DAVIE
Exhibit "D" Evidence of Pte ~~SHEL~~ SCHELL
Exhibit "E" Evidence of L/Cpl's GLYNN & FLETCHER
Exhibit "F" Evidence of Capt HOFFARD
Exhibit "G" Evidence of Capt J. WATSON
Exhibit "H" Statement of Pte BUNN
Exhibit "J" Evidence of Cpl ~~ST.CLAIRE~~ SINCLAIR
Exhibit "K" Part 11 Ord Ext Form d/ 29 Nov 44
Exhibit "L" Part 11 Ord Ext Form d/ 9 Dec 44
Exhibit "M" Certificate of Apprehension d/ 22 Dec 44
Exhibit "N" Part 11 Ord Ext Form d/26 Jan 45
Exhibit "P" Part 11 Ord Ext Form d/ I4 Feb 45
Exhibit "Q" Certificate of Apprehension d/I3 Apr 45

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(J.J.H.Connors) Lt RCAMC

In the Field
2 May 45

File 602/B-5

CDN SEC HQ BRUSSELS GARRISON

2 May 45

Defending Officer
in the case of
H-3584 Pte BUNN E.G.

H-19018 Cpl BEMENT G H V
2 Cdn L of C Pro Coy

1. Should it be necessary to do so, prosecution will call m/n NCO under RP 76 to give evidence at the FGCM of the a/m soldier.

2. This witness will state that he helped recover WD vehicle No OL 4273364 (Ford), and furthermore that it was recovered on 13 Jan 45.

(J.J.H. Connors) Lieut RCAMC
"A" Offr (Dis)
Cdn Sec HQ Brussels Garrison

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This is Exhibit "A" refered to in the Summary of Evidence, in the Case H-3584
Pte BUNN, E?G., taken before me this 2d day of May 45

(J.J.H. Connors) Lieut RCAMC

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:
L-13392 Pte WORONUIK M
Lake Superior Regt

I have been cautioned that I am not obliged to say anything unless I wish to do so and whatever I do say will be taken down in writing and may be given in evidence. To show that I understand this caution I sign my name.

Sgd/ M WORONUIK

"On 4 Dec 44 I was in ANTWERP. PAUL BUNN and GEORGE SCHELL came into a pub and said come with us to BRUSSELS; thers a lot of money up there. At that time I did not have any money. PAUL and GEORGE had one Bedford and one Dodge truck outside. We drove to BRUSSELS. I rode with PAUL in the Bedford and GEORGE SCHELL and DAVIE came into BRUSSELS on 5 Dec 44 with a Dodge truck and about 100 (one hundred) jerrycans of Petrol. PAUL gave me 1000 francs after they had sold the petrol. That night in a crap game I won all the money (about 9000/10000 francs) that DAVE had and quite a bit from GEORGE and PAUL. About 6 Dec 44 BUNN and I went to DIEST in the Bedford and brought about (75) seventy five jerrycans of petrol back. We sold some of the petrol at 200 frans a can and GEORGE, PAUL, DAVE and I went to ANTWERP in the Dodge truck. I visited my girl and on my return to the spot where I was supposed to meet the boys there was an argument about who would ride in the jeep. GEORGE and I rode back in the Dodge, the rest in the jeep. DAVE and PAUL were to come into BRUSSELS in the jeep. GEORGE and I arrived in BRUSSELS about 1900 hrs. I left GEORGE in a café drunk and went out and met MARY. I said if you stay with me I'll give you 1000 francs and did. We went to a show and she stayed with me in the hotel on Emile Jacqumain. The next morning I met JACKIE TONEFF and his girl friend LUCIENNE. I met GEORGE a couple of days later in LAEKEN at 54 Moorslade. He had a Bedford truck full of meat. He said come with me and we'll sell the meat. There is a civilian by the name of HARRY who is our fence. We sold 26000 francs worth of meat to HARRY. PAUL and DAVE were in the garage when we came back and said HARRY wants a beg of meat. DAVE took a bag of meat to HARRY's café and sold it and asked if we had any more. GEORGE said we had and sold the remainder to HARRY the next day. GEORGE gave me 6000 francs for unloading. GEORGE, PAUL, DAVIE and I went down town in two trucks and got into an argument in a café, we split and GEORGE and I went down the street a couple of blocks. GEORGE started an argument with a lady and when I tried to stop it he told me to "Fuck off and dont get near that truck or I'll smash you with the crank". GEORGE lost his truck that night (Dodge). I stayed with MARY that night. TONEFF asked me if I had found LAEKEN, and said that he was going with me. We went to LAEKEN and I introduced TONEFF to GEORGE, the boss. He told TONEFF he could come in if he had a truck. We went to BOOM and got a Dodge truck. We came back and put the truck in the garage at 54 Moorslade. This was about 20 Dec 44 both the Bedford

Continued on sheet No TWO.....

2nd copy

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and Dodge trucks went to DIEST. TONEFF and I in the Dodge. GEORGE and PAUL in the Bedford. We got about (50) fifty cans each loaded and returned. DAVE was in an American jeep and got caught. GEORGE and PAUL took ROSA and PAULA to LILLE in my Dodge. GEORGE paid TONEFF and I for (50) fifty cans of Petrol to take to LILLE. They came back about two days later saying the truck had been picked up by CMP. In the meantime TONEFF and I went to DIEST and got about (70) seventy cans of petrol in the Bedford, which we sold to our fence . About two days later we took a 31 tram to a Vehicle Park and TONEFF started a Ford 60 CWT and drove it out. A CMP waved us down at the Arch but we went on. He followed us and we ditched the truck. The next day TONEFF, PAUL, GEORGE and I returned to the Vehicle Park and got one used Dodge truck - PAUL and TONEFF got this one and GEORGE got a Ford with (4) four Harley Davidson motor cycles in it. We all went back to the garage. DAVE was at the garage with a truck too. We unloaded the motor cycles and each one claimed a motor cycle but GEORGE said were all his. We tried to sell the motor cycles but could'nt. We took two Trucks Dodge and Bedford and went to DIEST and got about (130) one hundred fifty tins of white petrol. We sold about(48000) forty eight thousand francs worth to the garage owners. The grey haired fellow bought this but could'nt pay for all of it. PAUL and GEORGE collected this money when we were picked up. TONEFF and I came back to spend the night with the girls. The next day TONEFF went to the garage to see GEORGE and PAUL, and came back with them and DAVE. We all got drunk, and stayed all night. The next day we all went back to LAEKEN and laid around. We got quite drunk and I stayed in the Hotel Bruckere on Emile Jacqumain all night. I was apprehended the next morning by Sgts MATHESON and POULIN - 22 Dec 44. I had about three (3) to fice thousand (5000) francs on me and was searched in front of the Sergeant Major, and sent into the small room. I and TONEFF and PAUL were all there. TONEFF said to Sgt POULIN "How would you like to give some money to my wife" POULIN agreed and TONEFF gave him about twelve thousand francs. I gave him about three or five thousand and PAUL gave him some francs and some English pound notes. We were escorted to Prince Albert Barracks, but they would not admit me because I was sick. I asked to go to the toilet and Sgt POULIN escorted me. While there I asked Sgt POULIN for some money to buy cigarettes. He gave me (500) five hundred francs and two hundred (200) francs to have when I booked in. I had the (500) five hundred later in the day when I was admitted to Prince Albert Barracks. About 1800 hrs I asked to be paraded to the M.O. and an escort was detailed to take me. On the way there I paid the escort (500) five hundred francs and promised him (5000) five thousand more if he would let me go. A tram came along and he said jump on it. I did. I did not pay him the other (5000) five thousand francs. I returned to LAEKEN. GEORGE and DAVE had gone to ANTWERP on motor cycles and were not coming back till Tuesday. They had left (1000) one thousand francs for me. They got paid for the balance of the petrol. I stayed at No 16 rue Ketels overnight. About one pm (1300 hrs) TONEFF came back 23 Dec 44. TONEFF got (2000) two thousand francs for PAUL at HARRY's and said PAUL would be back by night. About 2300 hrs 23 Dec 44 PAUL and McKENZIE came to Ray's café. We stayed low till Tuesday when DAVE came back. GEORGE had had an accident with the motor cycle and was in hospital.

Continued on sheet THREE.....

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PAUL and DAVIE went down to ROSA and POLA on the motor cycle. DAVE told me that they had ditched three trucks. The Dodge was in a private garage, the Ford and Bedford were driven out of town and ditched. JACKIE and I could not find the garage to get our truck. JACKIE and I and McKENZIE went to the Vehicle Park and drove back a Ford truck. PAUL and GEORGE went to the private garage and brought their Dodge back. Between Christmas and New-Years, McKENZIE, TONEFF and I went in one truck, PAUL , DAVE in the other one to DIEST and started loading four gallon tins. The patrol car came down. McKENZIE ran to the front truck and pulled away with PAUL and DAVE. JACKIE TONEFF started away with my truck I heard a shot fired and I jumped in the ditch. The patrol car followed and TONEFF ditched his truck and went back to BRUSSELS by tram. The other load had been sold and I did not get any split on it. A couple of days later 31 Dec 44 JACKIE and I went to DIEST and got (16000) sixteen thousand francs worth of petrol. In the garage was a 15 CWT that GEORGE brought back with him. A couple of days later we sold the petrol and split two ways. A couple of days later about 5 Jan 45 JACKIE and McKENZIE took the 15 CWT and got a load of Petrol. The next night JACKIE wanted to go to DIEST again but GEORGE would not let him use the truck. GEORGE and DAVIE went and on the way back the truck broke down. The following night, JACKIE , McKENZIE and I and GEORGE and PAUL went to DIEST again and got about 200 tins in each truck. We did not sell this whole load. There were about 38 cans on it when JACKIE was picked up. The truck was also taken by Provost. PAUL and GEORGE also loaded what was on the 15 CWT on their trucks. About 10 Jan 45., PAUL, GEORGE and DAVE went to DIEST and got a large load. They had trouble selling this load and it was still in the garage when we three were picked up on 13 Jan 45. Just before this I had won about 20000 twenty thousand francs from the other four fellows. I gave about 18000 eighteen thousand to MARY with whom I was staying. I was taken to CBRG and managed to escaped out of the Hospital and returned to BRUSSELS. JACKIE, LUCIENNE and MARY and I stayed at 16 rue Ketyls for about two days, then got a room in the garage. A couple of days later JACKIE and I went down to the Vehicle Park again and got a Dodge truck. The next day about 1600 hrs we got about 200 two hundred cans of petrol. We sold it and split two ways about 20000 twenty thousand each. McKENZIE returned about now. We went (McKENZIE, JACKIE and I) to DIEST again in a day or so and brought back about 235 cans. Sold it to HARRY and split three ways. JACKIE cleaned McKENZIE at cards and I cleaned JACKIE at crap. I had about 53000 fifty three thousand francs now. The next day I was quite drunk and JACKIE dared me to steal a truck from the Park. I did and it was a Dodge. I went to DIEST and got two large loads. Sold them. 'At this time I bought a complete suit of civilian clothes'. And went again for two more loads and sold that. JACKIE wanted to sell a truck for 50000 fifty thousand so JACKIE, McKENZIE and I went to the Vehicle Park and stole a Dodge. We did'nt sell it so gave it to Little JIMMIE

Continued on sheet FOUR.....

(McKENZIE). Mary said she was pregnant and I left her, took the Dodge and started out of town, I had an accident and damaged the radiator. I parked the truck by the Vehicle Park and stole a Ford 60 CWT with 4 Harley Davidson motor cycles. When I got back to the garage I found DAVE; JACKIE, DAVE, McKENZIE and three scotch fellows took two trucks and got two loads of Diesel fuel back with them. The following day DAVE took the truck and I have not seen it since. PAUL and DAVE took McKENZIE's truck and left the following day. An English fellow brought 4 jeep wheels into the garage for JACKIE and wanted 6000 six thousand francs for them. I paid half and McKENZIE half."

Sgd/ M WORONUIK

WITNESSED BY ME AT 2230 HRS 16 FEB 45.

(C. J. ALLENDORF) Capt.
D.A.P.M.
Cdn Sec HQ Brussels Garrison

Q. "What happened to the first 4 motor cycles?"

A. "George lost one in Antwerp, I lost one in Gare du Nord, Jackie sold one for about 6000 francs. I ditched one in town.

Q. "Where was petrol stored? in the garage?

A. "Through a door in the right hand wall."

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS

(J.J.H.Connors) Lieut.RCAMC

B/

This is Exhibit "B" refered to in the Summary of Evidence, in the case of H-3584 Pte BUNN, J.G., taken before me this 2d day of May 45

(J.J.H. Connors) Lieut RCAMC

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:
K-99153 Pte TONEFF J A
10 Bn CBRG 'CSR'

I have been cautioned that I am not obliged to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution I sign my name.

"On 16 Nov 44 I went absent from my unit (2CBRG) and came to BRUSSELS. I stayed in BRUSSELS for a couple of weeks, staying with a girl by the name of LUCIENNE. About 15 Dec I met JIMMIE WORONUIK who was staying with MARIE in HOTEL BRUCKERE Blvd Emil Jacqmain. He talked me into staying with the gang. I met PAUL BUNN, DAVIE DAVIS, GEORGE SCHELL and JIMMIE McKENZIE about 21 Dec 44. The boys all gave me some money to carry me over.

About 20 Dec 44 I went to BOOM and stole a Dodge truck from a vehicle park. The next day BUNN and SCHELL took the truck to LILLE with POLA and ROSA to bring back black market goods. They were away a couple of days. On their return to BRUSSELS they said the CMP's got the truck in LILLE. On 22 Dec 44 I was apprehended by Sgt MATHESON and Sgt POULIN. At 183 rue de Laeken I was searched and during this time I gave Sgt POULIN about 5000 fr to give to LUCIENNE. PAUL BUNN and WORONUIK also gave him money including three £ 1.0.0 notes. All together he received about 12000 frs. He never gave this money to the girls.

I was admitted to Prince Albert Barracks and escaped from there by going down blankets the following evening 23 Dec 44.

I went back to LAEKEN to 'Café au Bon Coin'. The next night, 24 Dec 44, at about 2200 hrs BUNN and McKENZIE arrived.

About 25 Dec 44, WORONUIK, SCHELL and BUNN went with me on the tram to 3 Park 17 RVP and stole two 60 cwt Fords. That night BUNN, DAVIS, WORONUIK and McKENZIE and I went to DIEST and started to load 4 gal tins of white petrol in the trucks. We were about half loaded when the guards arrived and chased us. I ditched my truck about 4 km this side of DIEST on No 250 highway. The other truck was ditched also. We all came back to BRUSSELS. About 27 Dec 44 WORONUIK and I went out to 17 RVP by tram and stole a 60 cwt Ford truck. That night we (WORONUIK and I) went to DIEST and loaded up about 75 jerry-cans of petrol, which we sold in BRUSSELS to two civilian fences. 1000 litres to one and 500 to another.

GEORGE SCHELL went to ANTWERP shortly afterwards and came back with a 15 cwt. This broke down a couple of days

Continued on Sheet 2 .....

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later on the road from DIEST loaded with Petrol. Just after New Years SCHELL and I made another trip to DIEST and returned with about 200 Jerry-cans of Petrol which we sold to the same three fences (civilians). We used two trucks this trip. WORONUIK travelled with me and PAUL BUNN was with SCHELL.

About 10 or 11 Jan 45, SCHELL and I made a trip to DIEST with two trucks and got about 100 cans of Petrol. On the morning of 13 Jan 45 SCHELL and I were at the 'Café au Bon Coin' when we were apprehended by Cpl BEMENT. Outside of the café my Ford 60 cwt was partially loaded with petrol.

I was sent to GHENT and bought my way out by paying one of the guards a wrist watch (German), Gold case, water-proof. He had one red service stripe and wore an infantry cap badge. This was Sunday afternoon. The guard gave me my paybook and possessions. We went to the hospital and WORONUIK ans I walked out.

WORONUIK and I came back to BRUSSELS by road and tram. WORONUIK and I went to 17 RVP about 17 Jan 45 and stole one Dodge 60 cwt. A couple of days later, WORONUIK and I went to DIEST and got about 100 cans of petrol. McKENZIE returned about 1 Feb 45. About this time WORONUIK stole a Dodge truck. We - WORONUIK, McKENZIE and myself - went to DIEST and got two full loads - about 350 cans of petrol.

About 3 or 4 Feb 45 I went to 17 RVP and stole a Dodge truck for McKENZIE. DAVE came back about this time and WORONUIK went out with his Dodge for a load. We came back with a Ford 60 cwt and 4 Harley Davidson motorcycles.

McKENZIE, DAVE and I and three English soldiers went to DIEST and got two loads of Diesel fuel. This was about 7 or 8 Feb 45. We used to park our trucks in No 54 rue Moorslade. The owners were under the impression we were legitimate. I never sold any petrol to them.

Pte TONEFF refuses to sign this statement at the present time.

Taken down by Capt C.J.ALLENDORF and witnessed by Sgt MATHESON this day of 16 Feb at 1200 hrs.

sgd/ C.J.ALLENDORF
(C.J.ALLENDORF) Capt
D A P M
Cdn Sec HQ Brussels Garrison.

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This statement has been signed by TONEFF - 19 Feb 45.

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS

(J.J.H.Connors) Lieut.RCAMC

C/

This is Exhibit "C" refered to in the Summary of Evidence, in the case of H-3584
Pte HUNN, E.G., taken before me this 2d day of May 45

(J.J.H. Connors) Lieut RCAMC

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:

H-67424 Cfn DAVIE E G

I have been cautioned that I am not obliged to say anything unless I wish to do so and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution I sign my name.

Sgd/ E G DAVIE

"After I broke out of my Unit guard-room Iwent to ANTWERP the same night. This was the 10th of October 1944 I think. I stayed around ANTWERP until just before Christmas when I met GEORGE. I don't know his other name. Then we came to BRUSSELS. While in ANTWERP I stayed in variousnEnglish camps, always telling them I was just passing through. I was making money by changing guilders for civilians. When GEORGE and I came to BRUSSELS we met two other fellows Big JIMMIE and PAUL. We did'nt have any money so BIG GEORGE had a truck so we all went out to DIEST to a petrol dump where we got a load of petrol. We sold the petrol to some connections which GEORGE had in BRUSSELS. We stayed in BRUSSELS drinking and playing around. Then one night the Provost raided where we were staying and picked up everyone but me, as I happened to be away at the time. However, the next day they came cruising along and caught me and put me in the guard-room in BRUSSELS, from there they sent me to GHENT. When the Provost were arresting me, I ran down the street and the two Provost cornered me in this big yard. I had a little automatic a .22 cal I think and I pulled it out. I hollared that I was coming through. The Sgt yanked out his pistol and hollared "Throw that gun down or I'll shoot" or something like that. When I jumped the Sgt and the other Provost took his pistol out and wacked me over the head. We had quite a battle there and I don't remember much about it. They hit me three or four times and put the cuffs on me. From GHENT I was taken to No 1 Disciplinary Centre and after a short whileI cut my way out with a pair of wire cutters I got hold of. After escaping I hitch hiked back to LAEKEN BRUSSELS. Here I met BIG JIMMIE, JACKIE, and LITTLE JIMMIE. That same night PAUL had busted out of jail, I think it was GHENT and the next day I met him. We decided the Provost knew the spot we were staying at so we thought we'd better get out of there. So me and PAUL decided to stay with a couple of girls that we knew. When we arrived at the girl's place we saw a Provost standing there with a Sten Gun. He managed to fire one shot in the air before I grabbed it. PAUL ran out the gate and then I did too. The Provost dropped the Sten gun and pulled out his pistol. I immediately started running across the Blvd, and I guess the Provost fired all his shots at us because he hit PAUL in the leg. I didn't know he was hit at the time because he was still running. We got over a fence in a railway yard and PAUL passed out. I applied a tourniquet and dugthe bullet out, it was only about 3/4" in. Then I carried him over to a shed near a factory. After a rest we both

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Continued on sheet TWO.....

walked out of the yard. PAUL was able to hobble along. We went to a house and said that there had been an accident. I cleaned his wound and bandaged it. We slept in another place all night. His leg was swollen pretty bad the next day so I took him to some friends of his where he could stay. I left him there and went back to ANTWERP. I stayed in ANTWERP until they caught me again. It was English M.P's and some Polish fellows that took me there. I was pretty drunk and don't remember very much about it. I was sitting inmy truck a Dodge when arrested. I stopped when I seen these M.P.'s come over, I jumped out and started to do battle with them. The next thing I knew I was in the clink. I gave the name of LAPOINTE when arrested this time. I was sent back to GHENT and from there to No 1 Fd Punishment. When I arrived back there the M.O.recognised me so I told them my real name and said I was the one who had escaped. They kept me there until I was brought here now.

3 Ch

Sgd/ E G DAVIE

TAKEN DOWN BEFORE ME AND WITNESSED BY ME THIS 22nd DAY OF MARCH 1945 at 1500 Hrs.

Sgd/ J TWEDDLE - Capt

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS

(J.J.H.Connors)Lieut.RCAMC

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D

This is Exhibit "D" referred to in the Summary of Evidence, in the case of H-3584 Pte BUNN, E.P.G., taken before me this 2d day of May 45

(J.J.H.Connors) Lieut RCAMC

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:
B-38216 Pte SCHELL B A
3 Recovery Coy, RCEME

I have been cautioned that I am not obliged to say anything unless I want to do so and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution I sign my name.

Sgd/ B A SCHELL

"Early in December I was in ANTWERP and met Jimmie and Paul. We had a few drinks and later in the day I met DAVE. I asked him if he would like to come to BRUSSELS as things were OK there. We stayed overnight and came to Brussels in a Dodge Truck that I had picked up in BOOM. We met JIMMIE and PAUL at 54 Moorslade. We needed some money so DAVE and I went to DIEST and got a small load of about (50) fifty tins of petrol and came back to BRUSSELS. HARRY (the tall one) helped us sell the petrol. About (2) two days later PAUL, JIMMIE, DAVE and I went to ANTWERP and returned the same evening. DAVE and PAUL came back in a jeep. JIMMIE and I went down town and I lost my truck. About three (3) days after this (Dec 10) I saw a Bedford truck in the garage and PAUL, DAVE and I went to ANTWERP stayed overnight and I got drunk and was left there when PAUL and DAVE returned to BRUSSELS. I looked around for a truck and saw one sitting on the street near the Ration Stores. The motor was running in this Bedford truck so I got in and drove it away. On arriving at BRUSSELS I drove it in the garage at 54 rue Moorslade. The next day I found about thirty (30) to forty (40) bags of meat in the back of the truck. I sold some of the meat through HARRY and had JIMMIE help me unload it. I parked the truck in the garage overnight and the following night I drove down town again and lost the truck with the remainder of the meat. Four of us made a trip to DIEST in the Bedford and Dodge trucks and got about fifty (50) cans of petrol in the Bedford. We were afraid the patrol was coming so left. This petrol was sold through HARRY also. About a week later JACKIE, JIMMIE, PAUL, and I went to 173 R.V.P. By tram and I drove away a Ford truck that had four (4) Harley motor cycles in the back. The bikes were unloaded in the garage and the four of us each had one. We left the Bedford truck on the streets as we didn't want it any more. This left us with two (2) Ford trucks. We made another trip to DIEST and got more petrol which we sold. About 23 Dec 44 DAVE and I went to ANTWERP by motor cycle and I was picked up by Provost on 25 Dec 44. I was taken to GHENT and back to my unit at TURNHOUT. About three (3) days later I took a 15 CWT Ford from 8 General Hospital and came back to BRUSSELS. I made a trip to DIEST about 2nd or 3rd of Jan 45 and the truck broke down. The next night PAUL, JACKIE, Big and Little JIMMIE'S and I went to DIEST with the two Ford trucks and loaded them up. On the way back I offloaded, the 15 CWT and brought that load in too. I had about two hundred (200) cans on my Ford. On 13 Jan 45 I was again apprehended."

Sgd/ B A SCHELL

TAKEN BY AND WITNESSED THIS 28TH FEBRUARY 45 at 1520 hrs.

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS

(J.J.H.Connors) Lieut RCAMC

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This is Exhibit "E" referred to in the Summary of Evidence, in the case of H-3584 Pte BUNN, E.G., taken before me this 2d day of May 45

(J.J.H.Connors) Lieut RCAMC

File for → BUNN

DAPM

DAVIE

STATEMENT OF EVIDENCE IN THE CASE OF

D/127524 PTE P LA POINTE
No 1 PLATOON
SOUTH SASKATCHEWAN REGT.

SIR,

At ANTWERP on the 7 March 1945 about 1845 hrs I was on duty in VEEMART in company with L/CPL FLETCHER C.M. POLICE when I saw WD 3 TON DODGE No L 5403794 parked in the square. Knowing this vehicle was reported stolen on the 4 March 1945 I approached it and saw the above named soldier sitting in the drivers seat, another soldier was also in the passengers seat.

As PTE LA POINTE was wearing a S.D.Cap I asked him what unit he belonged to, and he replied "Signals". I then asked him for his Pay Book, but this he could not produce, instead he handed me the AB 412 for the above vehicle and said "My Work Ticket is there". I examined this and found it was made out by No.5 RAILWAY TELEGRAPH COY. R.C.S. and the last two entries made out for the 5th and 6th March 1945 (this was after it had been stolen) were for journeys from KEPPELLEN BOSCH to ANTWERP; Column 7 of the AFG.3518 had the signature CAPT BUNN. He smelled strongly of alcohol and his speach was slurred, he was drunk so I arrested him, and ordered him and the passenger to get out of the vehicle. Pte LA POINTE immediately picked up a PICK AXE HEAD that was lying between his legs and struck me with it, I covered my head with my hands and these took the blow. I struggled with him and managed to wrench the PICK HEAD from him and pull him out of the vehicle.

I called on two POLISH SOLDIERS to assist me, they were 13671 Pte A.WARM and 2830 L/Cpl FAMROZ J. both of No 4 Coy 2nd ARMD REGT, POLISH FORCES. At this moment the other soldier in the vehicle moved into the drivers seat and struck at L/Cpl FLETCHER with a PICK SHAFT. L/Cpl FLETCHER caught hold of the PICK SHAFT. and took it away from the soldier who then quickly slammed the door of the truck and drove away. During this time I was struggling with Pte LAPOINTE and eventually managed to get him to the MILITARY POLICE JEEP, but he broke away, L/Cpl FLETCHER and Pte WARM immediately gave chase. They caught him up and he picked up a brick and attempted to throw it at L/Cpl FLETCHER but he was overpowered and eventually put in the Jeep.

I then convoyed him to the TOWN GUARD ROOM where he was handed over to the NCO i/c to be detained [redacted]. The soldier refused to give his number, rank or name so the above were taken from the Identity Discs he was wearing, he did verbally give me the above regimental particulars. The above mentioned AFB 412 and Work Ticket are attached to this statement. WD 3 Ton DODGE No L 5403794 was stolen from ST VINCENT STRAAT, ANTWERP on the 4 March 1945.

Field
8 March 1945.

(sgd) W.GLYNN L/Cpl 7690482
244 HQ Provost Company C.M.P.

SIR,

I have read over and corroborate the above statement. During my struggle with Pte LA POINTE he hit me on the knee with the PICK HEAD, the injury caused made it necessary for me to report this morning, Sick report attached to this statement.

(sgd) T. FLETCHER L/Cpl 14344977
244 HQ Provost Company C.M.P.

Field
8 March 1945.

Certified true copy.

(J.J.H.Connors) Lieut RCAMC.

17

F.

Report by O.C 267 Petrol Depot, RASC

Concerning the pilfering 29 December 1944

At about 1725 hours on 29 Dec 44 I was proceeding along the MONTAIGU-SICHEM rd in company with Lieut G.C.Whitelaw and N° S/7604155 S/Sgt wade, A.H., both of this Unit. The rd in question is a POL Sector operated by this Unit and has two sharp bends with approximately 200 yds between each.

On rounding the first of these bends two army trucks, without superstructures, were found to be blocking the road and facing the general direction of SICHEM. On approaching several men dressed in British battle-dress and hatless were seen to be loading petrol aboard the vehicles from nearby stack.

These men immediately dashed to their vehicles at our approach and made a quick get-away in the direction of MESSELBROECK. Shots were fired as a warning but the vehicles continues to MESSELBROECK turning off and doubling back to the main MONTAIGU-BILLAER rd, where they proceeded towards AERSCHOT. These vehicles were trailed with considerable difficulty, for they maintained a reckless speed and were driven with tail-lights only.

The centre of AERSCHOT was reached and I was on the point of passing both vehicles when the rear one suddenly swung off into a track bounded on one side by the river bank and on the other by the rear of private houses. This vehicle was on observation the whole time and was followed. we drew abreast with it simultaneously with it coming to a halt on the bank overhanging the water's edge.

Of the driver and one other man known to be with him there was no trace, and it was evident that the vehicle had been abandoned whilst in gear and with the engine running. It had therefore travelled some distance under its own power before stalling.

The area was searched but no trace could be found of these men who evidently escaped in the darkness.

The vehicle is Canadian Ford N°CL427330I and documents and A.B.4I2 is blank. The vehicle was placed in charge of a NCO of 81 Coy CMP(TC) who arranged recovery and removal to 2I8 P.w. Camp, AERSCHOT where it now lies with its laod. One Army great-coat with Canadian buttons was found in the cab together with torn letters, matches, cigarettes etc.

The load consisted of 140 4-Gall n/R tins of Pet Spirit, i.e.560 gallons. This load was below the side of the vehicle. The second truck, last seen proceeding towards ANTWERP, had what appeared to be a larger laod plainly seen stacked above the sides of the vehicle.

Inspection of the stack involved disclosed a shortage of 326 tins of Pet Spirit, i.e.I304 gallons.

It is considered that the men were familiar with the POL Sector concerned and its intersecting secondary rds. The initial gateway was very fast and the ensuing reckless driving and the ultimate rapid disappearance of the occupants of the captured vehicle indicate a blatant lawlessness. This does not seem compatible with the usual case of casual pilfering intended for bona-fide military consumption.

B.L.A.
30 Dec 44

Sgd/ M.E.HOWARD. Capt.
Officer Commanding 267 Petrol Depot
R.A.S.C.

Certified True Copy

(J.J.H.Connors) Lieut RCAMC

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This is Exhibit "F" referred to in the Summary of Evidence, in the case of H-3584, Pte BUNN, E.G., taken before me this 2d day of May 45

(J. J. H. Connors) Lieut RCAMC

BUNN

G

Subject: Vehicle stolen from 173 Veh Park Ref: 3VP/Tech/6/1364

To: H.Q. 17 Veh Coy

(a) We have been informed by D.A.P.M. CDN. SEC. H.Q. Brussels Garrison that the undermentioned vehicles and Motor Cycles have been recovered by them and disposed of as stated.

All the vehicles are on our charge.

Type	WD No.	
Lorry 3 ton 4x4 GS Ford	CL 4273015	1 Cdn Port W/shops
	286	Now in stock at 173 Veh Park
	364	1 Cdn Port W/shops
	301	In CMP Compound Brussels
Lorry 3 ton 4x2 GS Dodge	L 5408359	Location at Present Unknown

(b) It has also been reported by O i/c Motor Cycle Park that the undermentioned vehicles and Motor Cycles are missing. The Vehicle and Motor Cycles could not be found in the Park on the 9th February 1945, and were presumed to have been stolen.

Lorry 3 ton 4x4 GS Ford	CL 4273839	Loaded with Harley Davidson MCs
M/Cycle Hy 600/700 Harley Davidson	CC 4224944 +	
	929 +	
	665 +	
	4225077	

The Lorry has not been found by the Provost but three Motor Cycles marked with an asterisk have, and are, at present held in the CMP Compound.

(c) In addition O i/c Motor Cycle Park reports the loss of two Harley Davidson Motor Cycles WD Nos: 4225677 and 4225669. These were loaded in Lorry 3 ton 4x4 GS Ford (Cdn) WD No. CL 4273702, but the vehicle and two remaining machines were not stolen.

In view of the serious nature of these thefts may we have your comments and further instructions.

B.L.A.
18th February, 45.

(sgd)J.A.WATSEN, Capt.
O.C. 173 Vehicle Park.

Certified true copy

(J.J.H. Connors)Lieut RCAMC
A Offr 1
Cdn Sec HQ Brussels Grn

This is Exhibit "G" referred to in the Summary of Evidence, in the case of H-3584, Pte BUNN, E.G. taken before me this 2d day of May 45

(J.J.H. Connors)Lieut RCAMC

15 my

This is Exhibit "H" referred to in the Summary of Evidence, in the case of H-3584 Pte BUNN, E.G. Taken before me this 2d day of May 45

(J.J.H. Connors) Lieut RCAMC

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:

H-3584 PTE BUNN, E.G.
13 Bn 2 Canadian Base
Reinforcement Group

I have been cautioned that I am not obliged to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution, I sign my name.

Sgd/ E BUNN

" I am H-3584 Pte BUNN, Elmer Gerald. On 22 Apr 45., I went AWL from 13 Bn 2 CBRG and was absent about 18 days when I surrendered to Civil Police at St-Meryon, Cornwall. I was returned to 2 CBRG and escaped again about 17/19 May 44 and was absent until about 9 or 10 Sept 44 when I was apprehended. About the end of Sept 44., I was brought to France and ended up in GHENT. I escaped from 13 Bn about 10 Oct 44. I was picked up in MALINES about the end of October 44 and taken to ANTWERP where I escaped the following day and went to DIEPPE and surrendered to the CMP. I remained in custody at 13 Bn 2 CBRG and escaped again. Early in Dec 44., I escaped from GHENT with "GOULET" and hitch-hiked into BRUSSELS, then to ANTWERP and met SCHELL the next night. A few days later SCHELL and I went to BOOM and stole one Bedford truck filled with jerrycans from a vehicle park. We returned to ANTWERP and later came to BRUSSELS. I estimate there were about one hundred fifty (150) cans in the truck. We sold about ten (10) cans to a civilian. In a couple of days SCHELL and I took two girls ROSA and PAULA to LILLE where we sold about twenty (20) cans of petrol. A few days later SCHELL and I took a civilian named "HARRY" to PARIS in the truck and sold the remainder of our petrol (about one hundred '100' cans) there. The civilian bought a large amount of Silk, perfume etc for himself and about one hundred thousand 100.000 Francs worth for us. This was all brought back in the truck to BRUSSELS and unloaded it into a house on Rue Marie Christine. Schell and I made about three trips to DIEST and came back with petrol. About this time I was apprehended by Cdn Provost and placed in Prince Albert Barracks, and escaped the next day. At this time I was in possession of a pistol and a knife. SCHELL and I went to BOOM in the Bedford truck and stole a Dodge and proceeded to ANTWERP, picked up JIMMIE WORONUIK and returned to BRUSSELS. We returned to ANTWERP several days later and back to BRUSSELS. DAVE and I came back and SCHELL turned up with a Bedford truck full of meat. We sold the meat and I got about twenty thousand 20.000 Francs for my share. We ditched one Bedford truck. SCHELL and I made numerous trips to DIEST and stole petrol and sold it in BRUSSELS. We were chased out of the Dump about this time by the Guard and had to ditch our trucks. We went to 173 Vehicle Park on several occasions and drove trucks out of the lines. To my knowledge there were two trucks loaded with four Harley Davidson motor cycles each. I did not have anything to do with selling the motor cycles. On 22 Dec 44., I was apprehended by Cdn Provost and booked into the CMP Guard Room as D-125409 PTE CARON, P presenting a pay-book I had purchased from a Guard in GHENT.

...../2

STATEMENT BY:

H-3584 PTE BUNN, E.G. (Continued)

I escaped again on 23 Dec 44., We made several more trips to DIEST. I was picked up on 13 Jan 45 and sent to GHENT the following day. I escaped again on 7 Feb 45 and returned to BRUSSELS. DAVE and I borrowed JIMMIE's truck (Dodge) and went to AYRESHOT for petrol and sold it. There was about one hundred eighty 180 cans on this load. We had a brush with Provost again and I was wounded in the leg. The next day we went to ANTWERP. We got about three loads of petrol from AYRESHOT and sold it in ANTWERP. On 7 Mar 45 DAVE and I were checked by CMP's in ANTWERP and DAVIE was apprehended. I drove the truck away and it was picked up by US Military Police the same night. At the time we were checked we had a work ticket which I had signed as "Capt BUNN". On 13 Apr 45 I surrendered in GHENT."

Sgd/ E BUNN

TAKEN AND WITNESSED BY CAPTAIN C.J. ALLENDORF 'DAPM'
27 APRIL 45.

13

I have been cautioned that I am not obliged to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To show that I understand this caution, I sign my name.

E. Burn

I am H 3584 Pte Burn. Elmer Gerald.

On 22 Apl 44 I went AWL from 13 Btn 2CBRG and was absent about 18 days when I surrendered to Civil Police at St Meryon, Cornwall. I was returned to 2CBRG and escaped again about 17-19 May 44 and was absent until about 9 to 10 Sept when I was apprehended. About the end of Sept 44 I was brought to France and ended up in Ghent. I escaped from 13 Btn about 10 Oct 44. I was picked up in Malines about the end of October 44 and taken to Antwerp where I escaped the following day, and went to Duppe and surrendered to the CMP. I remained in custody at 13 Btn 2CBRG and escaped again

12

About the first of Dec 44 I escaped from Ghent with "Sergt" "Garnet" and one other chap and hitch-hiked into Brussels. I changed

MY

my friend ~~[illegible]~~ at the Cafe Brighty and Schee & I went to Lunain with two Americans in a jeep. Schee & I went to Antwerp the following day.

Early in Dec 44 I escaped from Ghent with Jouet and later looked out Brussels this to Antwerp and met Schee the next night. A few days later Schee & I went to Boom and stole 1 Bedford truck filled with jerycans from a vehicle park. We returned to Antwerp and later came to Brussels I estimate there were about 150 cans in the truck. We sold about 10 cans to a civilian In a couple of days Schee & I took two girls Rosa & Rosa to Lille where we sold about 70 cans of petrol. A few days later Schee & I took a civilian named "HARRY" to Paris in the truck and sold the remainder of our petrol (about 60) cans there. The civilian bought a large amount of silk, perfume etc for himself and about 10 cans of petrol worth for us. This was all brought back in the truck to Brussels and unloaded it into a house on Rue Max Colinatine. Schee & I made about 3 trips to Lunat and came back with petrol

About this time I was apprehended by Gen Pol. and placed in Petit Bois & escaped the next day. At this time I was in possession of a pistol & a knife. Schee & I went to Boom in the ~~Dodge~~ Bedford truck and stole a dodge & proceeded to Antwerp, picked up Jimmie Warnick and returned to Brussels. We returned to Antwerp several days later and back to Brussels. Dave & I came back & Schee turned up with a Bedford truck full of meat. He sold the meat and I got a hunt 20 cos 7 for my share. We detached one Bedford truck Schee & I made numerous trips to Lunat and stole petrol & sold it in Brussels. We were chased out of the dump about this time by the guard and had to detach our trucks. We went to 173 Vet park on several occasions and drove trucks out of the line. To my knowledge there were two trucks loaded with 4 HD w/c each. I did not have anything to do with selling the w/c.

On 22 Dec I was apprehended by Gen Pol. and charged with the Cont guard were

0125409 Pte Carson P. presenting a pay book I had purchased from a guard in Ghent. I escaped again on 23 Dec. We made several more trips to Ghent.

I was picked up on 13 Jany 45 and sent to Ghent the following day. I escaped again on 7 July 45 and returned to Brussels.

Dave & I borrowed Jimmie Kuck (Dodge) and went to Hynestot for petrol & sold it. There was about 180 cans on this load. We had a bust with Pro again & I was wounded in the leg. The next day we went to Antwerp. We got about 3 loads of Petrol from Hynstot & sold it in Antwerp. On 7 March Dave & I were checked by cops in Antwerp and Dave was apprehended. I drove the truck away and it was picked up by US mil police the same night. At the time we were checked we had a truck ticket which I had signed as "Capt Burn".

On 13th Apl 45 I surrendered in Ghent.

E. Burn

17th Lro 27 Apl 45
Jan Capt.

J

This is Exhibit "J" referred to in the Summary of Evidence
in the case of H-3584 taken before me this 2d day of May 45

.C.
20 Provost Coy No.....

(J.J.H. Connors) Lieut RCAMC

Report - Prisoner escaping from confinement

Sir,

I have to report that at BRUSSELS on the 23 DEC 44

I was N.C.O. i/c Guard at Prince Albert Barracks when

No. R/125409 Rank Pte Name CARON G.

Unit C B R C 46 Coy SIGNALS

escaped from confinement at about 20.00 hrs.

Field Date 23 DEC 44

1036528 J. Sinclair
N.C.O. i/c Guard

10

K

PART II ORDER EXTRACT FORM

TO: DISCIPLINE & PAY SECTION

99/20/ 2m

21 APR 19 45

EXTRACTS FROM: Unit X-4 List RCOC

Part II Order No. 73 dated 29 NOV 44

05. ABSENT WITHOUT LEAVE

(a) AWL from 1030 hrs 9 OCT 44 Ret from AWL 2020 hrs 22 OCT 44
(X-4 List 13 Bn)
H3584 Pte BUNN E

Certified to be a true extract from the regimental books and documents in my custody.

G E Mann Lt

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.
21 Apr 45

This is Exhibit "A" referred to in the Summary of Evidence, in the case of H- 3584, Pte Bunn E. taken before me this 20 day of May 45

J. H. Connors RCAMC

~~The extract is an exact copy of the original entry in the regimental books and documents in my custody.~~

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

M/9

PART II ORDER EXTRACT FORM

TO: DISCIPLINE & PAY SECTION

99/20/

21 APR 19 45

EXTRACTS FROM: Unit X-4 List 8002

Part II Order No. 79 dated 9 DEC 44.

6. ABSENT WITHOUT LEAVE

(a) AWL from 2030 hrs 8 NOV 44 (X-4 List 13 Bn)
H3584 Pte BUNN E

(b) AWL from 2030 hrs 8 NOV 44 Still absent 2030 hrs 16 NOV 44
(8th day) (X-4 List 13 Bn)
H3584 Pte BUNN E

(c) AWL from 2030 hrs 8 NOV 44 Still absent 2030 hrs 30 NOV 44
(22nd day) (X-4 List 13 Bn)
H3584 Pte BUNN E

This is Exhibit "L" referred to in the Summary of Evidence in the case of H-3584 Pte BUNN, taken before me this 2d day of May 45

(J.J.H. Conhors) Capt
DAMC

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

21 Apr 45

Originating Clerk's Initials

for

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY THAT No D-125409 Rank Sigmn. Name CARON P
Unit 13 Bn. 46 Coy. (Signals)
2 C.B.R.G.
was arrested at Brussels (Place)
at 1000 (hour) on 22Dec44 (date) and that at the time of his arrest he was wearing (military uniform) ~~XXXXXXXXXXXXXXXXXX~~ (civilian clothes).

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

Field
22 Dec 44

(J.Tweddle) A/Capt.
Officer.Commanding.
2 Cdn. Lord Pro.Coy.

This is Exhibit "M" referred to in the Summary of Evidence, in the case of H- 3584, Pte BUNN, taken before me this 2d day of May 45

(J.J.H.Connors) Lieut RCAMC

7

PART II ORDER EXTRACT FORM

99/20/ 2 Sn

TO: DISCIPLINE & PAY SECTION

21 APR 19 45

EXTRACTS FROM: Unit X-4 List R300

Part II Order No. 14 dated 26 JAN 45

2. STRENGTH INCREASE
(6) TOS X-4 List (13 Bn) on app from des wef 0020 hrs 13 JAN 45
H3584 Pte BUNN E

Certified to be a true extract from the regimental books and documents in my custody.

E.E. Marin Lt

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

21 Apr 45

The following documents are { attached. X Please acknowledge receipt on attached duplicate. / required. Please forward same.

This is Exhibit "N" referred to in the Summary of Evidence, in the case of H-3584, Pte BUNN, taken before this 2d day od May 45

(J.J.H. Connors) Lieut RCAMC for

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

Originating Clerk's Initials

ECH—6
40/P & S/1276 (4032)

6

R/

PART II ORDER EXTRACT FORM

DISCIPLINE & PAY SECTION

99/20/ Sen

21 APR 19 45

EXTRACTS FROM: Unit X-4 List R000

Part II Order No. 25 dated 14 FEB 45.

3. ABSENT WITHOUT LEAVE
(a) AWL from 2015 hrs 7 FEB 45 (X-4 List 13 Bn)
H3584 Pte BUNN E

Certified to be a true extract from the regimental books and documents in my custody.

H. Mann Lt

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

21 Apr 45

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

This is Exhibit "P" referred to in the Summary of Evidence, in the case of H-3584, Pte BUNN, taken before me this 2d day of May 45

(J.J.H. Connors) Lieut RCAMC

Originating Clerk's Initials .....

..... for

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (4032)

This is Exhibit "Q" referred to in the Summary of Evidence, in the Case of H-3584, Pte BUNN, takem before me this 2d day of May 45

(J.J.H. Connors) Lieut RCAMC

CERTIFICATE UNDER ARMY ACT. SECTION 53 (1) (J)

Certified that No. H.3584 Rank. Pte. Name. BUNN E.

of the 13 Bn. 2 C.B.R.G. Regt., ~~[illegible]~~ to No. F. 91430

Rank. Sgt. Name. ROBSON R.L. was apprehended by of the 28 Opy. 8 Bn.

3 C.B.R.G. at Ghent at 1715 hrs, on the 13th

day of April 1945 as an absentee without leave.

He was wearing Military Uniform at the time of his ~~[illegible]~~ arrest.
~~Civilian Clothes.~~

J.A. Thomson Lieut.
(J.A. Thomson) A/DAPM 2 C.B.R.G.
Canadian Provost Corps.

Place. Ghent
Date. 13 April 45

M 4

5 May 45

This is to state that the documents of H-3584 Pte.BUNN E. have been requested from 2 Ech. We received the MFM 6 only, and have no particulars of service. The accused has been held in close arrest since 13 Apr 45. Total time 22 days(5 dys spent in hospital).

(J.J.H.Connors)Lieut.RCAMC
Prosecutor

Ex B.

No. H358H Name BUNN ELMER

Date of last entry in Company Conduct Sheet

Sqn, Battery, or Company

No. and date of last drunk

Corps RCOC

Period not reckoning towards freedom from extra fine

Date of enlistment 23/9/39

GC Badges

Signature OC Company, etc

Sheet No

Service or Proficiency Pay

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
#1 COHU	2/11/41	Pte		AA15(1) AWL from 2359 hrs 2 Nov 41 to 1600 hrs 5 Nov 41		3 days pay FPR 1 14 A 1(b) 2 days pay FPR 1 14 A 1(b) Fined $10.00	6/11/41	#1 COHU DO. 78/Nov 41	
#29 LAD	19/1/42	Pte	2.	AA19. Drunkenness 3rd off (Previous cases not shown)		28 days F.P. 56 days pay	19/1/42	#29 LAD DO. 13/Feb 42	
"	4/7/43	Pte	3.	AA15(1) AWL from 2359 hrs 4 Jul 43 to 1530 hrs 27 Jul 43			2/8/42	#29 LAD DO 36/Aug 42	

(PTO)

2

Fine

No. H3584 Name BUNN ELMER | Sqn, Battery, or Company | Corps RCOC | Date of enlistment 23/9/39 | GC Badges | Service or Proficiency Pay | 7 PRTC 6 (AFB 122) 40/P&S/136 (5412)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
#1 COHU	2/11/41	Pte		AA15(1) AWL from 2359 hrs 2 Nov 41 to 1600 hrs 5 Nov 41		3 days pay FRE 1 HD 1 (Ld) 2 days pay FRT 1 HD 1 (Ld)	6/11/41	#1 COHU DO. 78/Nov 41	
#29 LAD	19/1/42	Pte	2	AA19. Drunkenness 3rd off (Previous case not shown)		Fined $10.00	19/1/42	#29 LAD DO. 13/Feb 42	Exc
"	4/7/43	Pte	3.	AA15(1) AWL from 2359 hrs 4 Jul 43 to 1830 hrs 27 Jul 43		28 days F.P. 56 days pay	2/8/42	#29 LAD DO 36/August 43	

(PTO)

8 Oct 45

J.A.G. Rev

Original proceedings despatched Bomber to DMD.

This H.Q. 10/Bomb.E/1

Dated 5 Oct 45

[illegible]
AG Rec

CERTIFIED TRUE COPY

5L-142

CFA96 (In lieu of AFA9) 40/P & S/1698 (6144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of BLM Burns Maj-Gen Comd Cdn Sec 1 Ech HQ 21 A Gp dated 4 May 45

ACCUSED.

(Rank, Name, Unit, and charge of the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.3584	Pte		Elmer Gerald	BUNN	X-4 List RCOC att Cdn Sec HQ Brussels Grn
alias: D.125409			P.	CARON	

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 5 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/70

A1. The President, Members, ~~waiting Members, JA if any and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95. for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1645 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily under Rule 23.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to the interpreter ? Ans ~~ as interpreter ? Ans ~~ ~~The Interpreter is sworn.(1) Do you object to the shorthand writer ? Ans ~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt.Col	D.L. Redman	Cdn Sec 1 Ech HQ 21 A Gp
Member	Capt	E.B. Van Dine	1 Cdn Disc Centre
Member	Lt	J.D. Letrakos	10 Bn - 2 CBRG
~~Judge Advocate~~	~~---~~	~~---~~	~~---~~
Prosecutor	Lt	J.J.H. Connors	Cdn Sec HQ Brussels Grn
Defending Offr	Capt	W.D. Sawdon	4 Bn - 3 CBRG

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~adjourned~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

Cand Rules & Ad evidence under RP 37(B) "DEF"

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans.....None.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (.) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.....B..... and Ex.....C..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....Defending Offr - notes attached.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : H.3564 Pte Elmer Gerald Bunn - X-4 List RCOC att Cdn Sec HQ Brussels Grp

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	Charge (Space for use as required for further charges, accused charged jointly, special findings, etc.)	Plea	Finding
1st AA 41	Guilty	Guilty	7th AA 15(1)	Guilty	Guilty
2nd AA 40	Guilty	Guilty	8th AA 15(1)	Guilty	Guilty
3rd AA 40	Guilty	Guilty	9th AA 15(1)	Guilty	Guilty
4th AA 40	Guilty	Guilty			
5th AA 8(2)	Guilty	Guilty			
6th AA 15(1)	Guilty	Guilty			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present undergoing sentence for ~~ ~~having committed the following civil offences~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which 5 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To suffer penal servitude for a term of five (5) years and to be discharged with ignominy from His Majesty's Service.

(Sgd) ..... Judge-Advocate, if any. 5 May 45 Date awarded. (Sgd) "DL Radman" Lt Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the findings and sentence for confirmation

Date 11 May 45 (Sgd) "ELM Burns" Commanding Cdn Sec 1 Ech HQ 21 A Gp

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the findings and sentence

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) E.G. Weeks Maj-Gen i/c Administration Canadian Military Headquarters

Date 26 May 45 ~~Commanding~~ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Date. Signature of Offr.

Accused.

I certify that there are no outstanding matters to justify withholding of the promulgation of these proceedings.
Date 10 May 45
(Sgd) DJG. Cdn. Sec. GHQ Ech - 21

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. H.3584 Pte Burn, E,

RCOC Cdn Army Overseas

is fit to undergo trial by Court Martial.

"DLR"

"R.Rn Smith"
Signature of Medical Officer

Field
5 Mar 45

Capt
Medical Officer Cdn Sec
HQ Brussels Garrison

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.3584	Pte		Elmer Gerald	BUNN	X-4 List RCOC 2 CBRG att Cdn Sec HQ Brussels Garrison
		alias			
D.125409	Sgm		P	CARON	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 4 May 45 endorsed by me, (~~[illegible]~~), " To be tried by Field General Court-Martial ". "E L M B"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[illegible]~~ "E L M B"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~) and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs from the Court, (b) a President, for the reasons [illegible] attached hereto.~~ "E L M B"

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate the Offr mentioned hereunder.~~ "E L M B"

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	DL Redman VD	CIC att Cdn Sec 1 Ech HQ 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	EB Van Dine	1 Cdn Disc Centre
Capt or Lieut	(To be detailed by Comd 2 CBRG)	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.) "E L M Burns" (Signed personally. RP 105 fn 2.) Maj-Gen (Rank.)

(ELM Burns) Maj-Gen

Date 4 May 45 Commanding Cdn Sec 1 Ech HQ 21 Army Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143) (See overleaf for oaths and notes for use on trial.) "DLR"

Approved:

"B.W. Howard" Maj DJA

EIGHTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, when under arrest did absent himself without leave from 2000 hrs 23 Dec 44 until apprehended at 0020 hrs 13 Jan 45.
(Absent 20 dys, 4 hrs, 20 min)

NINTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, did absent himself without leave from 2015 hrs 7 Feb 45 until apprehended at 1715 hrs 13 Apr 45.
(Absent 64 dys, 21 hrs)

Payan

(L.P. Payan) Lt Col
Commanding Officer
Cdn Sec HQ Brussels Grn

Brussels
2 May 45

To be tried by Field General Court Martial.

Approved A.A. (Cam) Gen
"B.W. Howard" Maj
DJA.

"E.M. Burns"
Maj-Genral
GO i/c Cdn Sec Eds
HQ 21 Army Gp
4 May 45

"DAR"

CHARGE SHEET

The Accused, No H.3584 Pte Elmer Gerald BURN, alias D.125409 Sgmn CARON P, X-4 List RCOC, 2 CBRG, attached Cdn Sec HQ Brussels Garrison, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE
SEC 41
ARMY ACT

WOAS, committing a civil offence, that is to say, stealing

in that he

in the Field, on or about 29 Dec 44 did steal 744 gallons of petrol, being Public Property.

SECOND CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the Field, on or about 10 Dec 44 was in improper, without authority possession of approximately 30 bags of meat.

THIRD CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the Field, on or about 7 Mar 45 did improperly use WD vehicle L5403794 (Dodge 3 ton lorry).

FOURTH CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the Field, on or about 29 Dec 44 was concerned in the improper use of WD vehicle CL4273364 (Ford 3 ton lorry).

FIFTH CHARGE
SEC 8(2)
ARMY ACT

WOAS, striking his superior officer

in that he

in the Field, on 7 Mar 45 did strike 14344377 L/Cpl FLETCHER T with the shaft of a pick-axe.

SIXTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, did absent himself without leave from 1030 hrs 9 Oct 44 until apprehended at 2020 hrs 22 Oct 44.
(Absent 13 dys, 9 hrs, 50 min).

SEVENTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, did absent himself without leave from 2030 hrs 8 Nov 44 until apprehended at 1000 hrs 22 Dec 44.
(Absent 43 dys, 13 hrs, 30 min)

"DR"

In re H.3584 Pte E.G. Bunn - X-4 List RCOC att Cdn Sec HQ Brussels Grn

4th ch.

Additional Evidence taken by Court on Plea of Guilty - RP 37(B) to supplement deficiency in the summary of evidence.

H.19018 Cpl Bemebt GHV - 2 Cdn L of C Pro Coy having been duly sworn states:

On evening of 12/13 Jan 45 in response to a phone call to 183 Rue de Laeken, Brussels, I went to IM LEMBEKE Cafe in LAEKEN, Brussels and arrested Ptes Bunn, Schell, Woronuik on the street. I recognize the accused as Pte Bunn. Went to Coy Guard Rm. Returned to the district and arrested Ptes Toneff and Mackenzie in AU BON COIN Cafe. Parked in front of the cafe was WD lorry CL 4273364 - 60 cwt Ford. On it were 30-odd cans of petrol.

No crossexamination.

RP 83(B) complied with.

E.3 Plea in Mitigation

The accused enlisted in 1939 at age of 19. For some considerable time his conduct was very good and until he arrived on the continent there were only 2 crimes of a serious nature. Shortly after his arrival in E.T.O. he started on a system of behaviour that brings him before thisc ourt today. Whether he was led on by bad friends or whether it was the spirit of misadventure he apparently had no regard for the seriousness of the offences committed. His statement says he surrendered himself. The evidence is that he was apprehended. He now realizes the seriousness of his acts. I feel that since he surrendered himself he should be shown leniency. Also that a light sentence will keep him out of trouble and away from evil friends.

"DLR"

Ex A
"DLR"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H.3584 Pte Bunn Elmer Gerals, alias D.125409 Sgmn Caron P, X-4 List, RCOC, 2 CBRG, att Cdn Sec HQ Brussels Garrison, a soldier of he Cdn Army Overseas

The Commanding Officer dircts that the evidence shall be given on oath.

FIRST WITNESS L.13392, Pte WORONUIK M, Lake Superior Regt (Motor)

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the UK, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit 'A'.

"J.J.H. Connors"
(J.J.H. Connors)Lieut RCAMC

I do not require the attendanc of Pte Woronuik for the purpose of cross-examination.

(Sgd) E. Bunn

SECOND WITNESS K.99183 Pte TONEFF J A, 10 Bn 2 CBRG

I certify that in my opinion the attendance of his witness is, owing to his being in custody in the UK, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit 'B'.

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC

I do not require the attendance of Pte Toneff for the purpose of cross-examination.

(Sgd) E. Bunn

THIRD WITNESS H.64724 Cfn Davie E G, RCEME, 2 CBRG

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the UK, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit 'C'.

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC

I do not require the attendance of Cfn Davie for the purpose of cross-examination.

(Sgd) E. Bunn

FOURTH WITNESS B.38216 Pte Schell H A, 3 Rec Coy RCEME.

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the UK, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit 'D'.

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC

I do not require the attendance of Pte Schell for the purpose of cross-examination.

(Sgd) E. Bunn

"DLR"

FIFTH WITNESS 7690482 L/Cpl Glynn, W 244 HQ Pro Coy CMP

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit 'E'.

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC

I do not require the attendance of L/Cpl Glynn for the purpose of cross-examination.

(Sgd) E. Bunn

SIXTH WITNESS 14344977 L/Cpl Fletcher T, 244 HQ Pro Coy CMP

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit 'E'.

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC

I do not require the attendance of L/Cpl Fletcher for the purpose of cross-examination.

(Sgd) E. Bunn

SEVENTH WITNESS Capt W.E. Hoffard, RASC, OC 267 Petrol Depot.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit 'F'.

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC

I do not require the attendance of Capt Hoffard for the purpose of cross-examination.

(Sgd) E. Bunn

EIGHTH WITNESS Capt J.A. Watsen, OC 173 Veh Park.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit 'G'.

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC

I do not require the attendance of Capt Watsen for the purpose of cross-examination.

(Sgd) E. Bunn

"DLR"

NINTH WITNESS Capt C.J. Allendorf, DAPM Cdn Sec HQ Brussels Grn having been duly sworn states:

"I was present when Pte Bunn whom I see here now and recognize, made this statement after having been duly cautioned. This was on the 27 Apr 45."

The accused declines to cross-examine.

(Sgd) J. Allendorf Capt

The statement referred to in the Evidence of the above witness is attached hereto as Exhibit 'H'.

TENTH WITNESS 1036528 Cpl Sinclair, J, 120 Pro Coy CMP

I certify that in my opinion the attendance of this witness is, owing to the exigences of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit 'J'.

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC

I do not require the attendance of Cpl Sinclair for the purpose of cross-examination.

(Sgd) E. Bunn

The following documents produced as documentary evidence were read over to the accused, marked Exhibits as shown, signed by me and attached hereto:

Part II Ord Ext Form d/29 Nov 44 (Exhibit 'K')
Part II Ord Ext Form d/9 Dec 44 (Exhibit 'L')
Certificate of Apprehension d/22 Dec 44 (Exhibit 'M')
Part II Ord Ext Form d/26 Jan 45 (Exhibit 'N')
Part II Ord Ext Form d/14 Feb 45 (Exhibit 'P')
Certificate of Apprehension d/13 Apr 45 (Exhibit 'Q')

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC

The accused was cautioned as follows:

Q. Do you wish to make any staement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be gien in evidence."

A. No, sir, I have already told my story.

(Sgd) E. Bunn

The accused does not wish to call witnesses at this time.

"DLR"

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that RP 4(C)(D)(E)(F) and (G) have been complied with.

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC
Officer detailed to take the Summary

In the Field
2 May 45

REQUEST FOR DEFENDING OFFICER

I want the Convening Authority to appoint an Officer to defend me, please.

In the Field
2 May 45

(Sgd) E. Bunn

LIST OF WITNESSES FOR THE PROSECUTION

1. L.13392 Pte Woronuik, M, Lake Superior Regt (Motor)
2. K.99183 Pte Toneff, JA, 10 Bn 2 CBRG
3. H.64724 Cfn Davie, E.G., RCEME, 2 CBRG
4. B.38216 Pte Schell H.A., 3 Rec Coy RCEME
5. 7690482 L/Cpl Glynn W, 244 HQ Pro Coy CMP
6. 14344977 L/Cpl Fletcher T, 244 HQ Pro Coy CMP
7. Capt W.E. Hoffard, RAMC, OC 267 Petrol Depot
8. Capt J.A. Watsen, OC 173 Veh Park
9. Capt C.J. Allendorf, DAPM Cdn Sec HQ Brussels Grn
10. 1036528 Cpl Sinclair J, 120 Pro Coy CMP

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit 'A' Evidence of Pte Woronuik
Exhibit 'B' Evidence of Pte Toneff
Exhibit 'C' Evidence of Cfn Davie
Exhibit 'D' Evidence of Pte Schell
Exhibit 'E' Evidence of L/Cpl's Glynn & Fletcher
Exhibit 'F' Evidence of Capt Hoffard
Exhibit 'G' Evidence of Capt Watsen
Exhibit 'H' Statement of Pte Bunn
Exhibit 'J' Evidence of Cpl Sinclair
Exhibit 'K' Part II Ord Ext Form d/29 Nov 44
Exhibit 'L' Part II Ord Ext Form d/9 Dec 44
Exhibit 'M' Certificate of Apprehension d/22 Dec 44
Exhibit 'N' Part II Ord Ext Form d/26 Jan 45
Exhibit 'P' Part II Ord Ext Form d/14 Feb 45
Exhibit 'Q' Certificate of Apprehension d/13 Apr 45

"J.J.H. Connors"
(J.J.H. Connors)Lt RCAMC "DLR"

In the Field
2 May 45

File 602/B-5

CDN SEC HQ BRUSSELS GARRISON

2 May 45

Defending Officer
in the case of
H.3584 Pte Bunn E.G.

H.19018 Cpl Beneht G H V
2 Cdn L of C Pro Coy

"DLR"

1. Should it be necessary to do so, prosecution will call m/n NCO under RP 76 to give evidence at the FGCM of the a/m soldier.

2. This witness will state that he helped recover WD Vehicle No CL 4273364 (Ford), and furthermore that it was recovered on 13 Jan 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC
"A" Offr (Dis)
Cdn Sec HQ Brussels Garrison

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:
L.13392 Pte WORONUIK M
Lake Superior Regt

I have been cautioned that I am not obliged to say anything unless I wish to do so and whatever I do say will be taken down in writing and may be given in evidence. To show that I understand this caution I sign my name.

Sgd/ M WORONUIK

"On 4 Dec 44 I was in ANTWERP. PAUL BUNN and GEORGE SCHELL came into a pub and said come with us to BRUSSELS: thers a lot of money up there. At that time I did not have any money. PAUL and GEORGE had one Bedord and one Dodge truck outside. We drove to BRUSSELS. I rode with PAUL in the Bedford and GEORGE SCHELL and DAVIE came into BRUSSELS on 5 Dec 44 with a Dodge truck and about 100 (one hundred) jerrycans of Petrol. PAUL gave me 1000 francs after they had sold the petrol. That night in a crap game I won all the money (about 9000/10000 francs) that DAVE had and quite a bit from GEORGE and PAUL. About 6 Dec 44 B MN and I went to DIEST in the Bedford and brought about (75) seventy five jerrycans of petrol back. We sold some of the petrol at 200 francs a can and GEORGE, PAUL, DAVE and I went to ANTWERP in the Dodge truck. I visited my girl and on my return to the spot where I was supposed to meet the boys there was an argument about who would ride in the jeep. GEORGE and I rode back in the Dodge, the rest in the jeep. DAVE and PAUL were to come into BRUSSELS in the jeep. GEORGE and I arrived in Brussels about 1900 hrs. I left GEORGE in a cafe drunk and went out and met MARY. I said if you stay with me I'll give you 1000 francs and did. We went to a show and she stayed with me in the hotel on Emile Jacqumain. The next morning I met JACKIE TONEFF and his girl friend LUCIENNE. I met GEORGE a couple of days later in LAEKEN at 54 Moorslade. He had a Bedford truck full of meat. He said come with me and we'll sell the meat. There is a civilian by the name of HARRY who is our fence. We sold 26000 francs worth of meat to HARRY. PAUL and DAVE were in the gargge when we came back and said HARRY wants a beg of meat. DAVE took a bag of meat to HARRY's Cafe and sdd it and asked if we had any more. GEORGE said we had and sold the remainder to HARRY the next day. GEORGE gave me 6000 francs for unloading. GEORGE, PAUL, DAVIE and I went down town in two trucks and got into an argument in a cafe, we split and GEORGE and I went down the street a couple of blocks. GEORGE started an argument with a lady and when I tried to stop it he told me to "Fuck off and dont get near that truck or I'll smash you with the crank". GEORGE lost his truck that night (Dodge). I stayed with MARY that night. TONEFF asked me if I had found LAEKEN, and said that he was going with me. We went to LAEKEN and I introduced TONEFF to GEORGE, the boss. He told TONEFF he could come in if he had a truck. We went to BOOM and got a Dodge truck. We came back and put the truck in the garage at 54 Moorslade. This was about 20 Dec 44 both the Bedford

Continued on sheet No TWO.....

"DLR"

This is exhibit A referred to in the Summary of Evidence in the case of
L.13392 Pte Woronuik M Lake Sup Regt
Capt & Adjt
Witnessed Maj

and Dodge trucks went to DIEST. TONEFF and I in the Do ge. GEORGE and PAUL in the Bedford. We got about (50) fifty cans each loaded and returned. DAVE was in an American jee and got caught. GEORGE and PAUL took ROSA and PAULA to LILLE in my Dodge. GEORGE paid TONEFF and I for (50) fifty cans of petrol to take to LILLE. They came back about two days later daying the truck had been picked up by CMP. In the meantime Toneff and I went to Diest and got about (70) seventy cans of petrol in the Beford, which we sdd to our fence. About two days later we took a 31 tram to a Vehicle Park and Toneff started a Ford 60 Cwt and drove it out. A CMP waved us down at the Arch but we went on. He followed us and we ditched the truci. The next day Toneff, Paul George and I returned to the Vehicle Park and got one used Dodge truck - Paul and Toneff got this one and George got a Ford with (4) Harley Davidson motor cycles in it. We all went back to the Garage. Dave was at the arage with a truck too. We unloaded the motor cycles and each one claimed a motor cycle but George s aid they were all his. We tried to sell the motor cycles but couldn't. We took two Trucks Dodge and Bedford and went to Diest and got about (150) one hundred fifty tins of white petrol. We sold about (48000) forty eight thousand francs worth to the garage owners. The grey haired fellow bought this but couldn't pay for all of it. Paul and George collected this money when we were picked up. Toneff and I came back to spend the night with the girls. The next day Toneff went to the garage to see George and Paul, and came back with them and Dave. We all got drunk, and stayed all night. The next day we all went back to Laeken and laid around. We got quite drunk and I stayed in the Hotel Bruckere on Emile Jacqumain all night. I was apprehended the next morning by Sgts Matheson and Poulin - 22 Dec 44. I had about three (3) to five thousand (5000) francs on me and was searched in front of the Sergeant Major, and sent into the small room. I and TONEFF and Paul were all ~~xxxx

Paul and Davie went down to Rosa and Pola on the motor cycle. Dave told me that they had ditched three trucks. The Dodge was in a private garage, the Ford and Bedford were driven out of town and ditched. Jackie and I could not find the garage to get our truck. Jackie and I and McKenzie went to the Vehicle Park and drove back an Ford truck. Paul and George went to the private garage and brought their Dodge back. Between Christmas and New Years, McKenzie, Toneff and I went in one truck, Paul, Dave in the other one to Diest and started loading four gallon tins. The patrol car came down. McKenzie ran to the front truck and pulled away with Paul and Dave. Jackie Toneff started away with my truck I heard a shot fired and I jumped in the ditch. The patrol car followed and Toneff ditched his truck and went back to Brussels by tram. The other load had been sad and I did not get any split on it. A couple of days later 31 Dec 44 Jackie and I went to Diest and got (16000) sixteen thousand francs worth of petrol. In the garage was a 15 cwt that George brought back with him. A couple of days later we sold the petrol and split two ways. A couple of days later about 5 Jan 45 Jackie and McKenzie took the 15 cwt and got a load of petrol. The next night Jackie wanted to go to Diest again but George would not let him use the truck. George and Davie went and on the way back the truck broke down. The following night, Jackie, McKenzie and I and George and Paul went to Diest again and got about 200 tins in each truck. We did not sell this whole load. There were about 38 cans on it when Jackie was picked up. The truck was also taken by Provost. Paul and George also loaded what was on the 15 cwt on their trucks. About 10 Jan 45, Paul, George and Dave went to Diest and got a large load. They had trouble selling this load and it was still in the harage when we three were picked up on 13 Jan 45. Just before this I had won about 20000 twenty thousand francs from the other four fellows. I gave about 18000 eighteen thousand to Mary with whom I was staying. I was taken to CBNG and managed to escape out of the hospital and returned to Brussels. Jackie, Lucienne and Mary and I stayed at 16 rue Ketyls for about two days, then got a room in the garage. A couple of days later Jackie and I went down to the vehicle park again and got a Dodge truck. The next day about 1600 hrs we got about 200 two hundred cans of petrol. We sold it and split two ways about 20000 twenty thousand each. McKenzie returned about now. We went (McKenzie, Jackie and I) to Diest again in a day or so and brought back about 235 cans. Sold it to Harry and split three ways. Jackie cleaned McKenzie at cards and I cleaned Jackie at crap. I had about 53000 fifty three thousand francs now. The next day I was quite drunk and Jackie dared me to steal a truck from the park. I did and it was a Dodge. I went to Diest and got two large loads. Sold them. At this time I bought a complete suit of civilian clothes. And went again for two more loads and sold that. Jackie wanted to sell a truck for 50000 fifty thousand so Jackie, McKenzie and I went to the vehicle park and stole a Dodge. We didn't sell it so gave it to Little Jimmie

Continued on sheet Four.....

"DLR"

(McKenzie). Mary said she was pregnant and I left her, took the Dodge and started out of town, I had an accident and damaged the radiator. I parked the truck by the vehicle park and stole a Ford 60 cwt with 4 harley Davidson motor cycles. When I got back to the garage I found Dave. Jackie, Dave, McKenzie and three scotch fellows took two truck and got two loads of Diesel fuel back with them. The following day Dave took the truck and I have not seen it since. Paul and Dave took McKenzie's truck and left the following day. An English fellow brought 4 jeep wheels into the garage for Jackie and wanted 6000 six thousand francs for them. I paid half and McKenzie half."

Sgd/ M Woromuik

WITNESSED BY ME AT 2230 HRS 16 FEB 45.

(C.J. ALLENDORF) Capt
D.A.P.M.

Cdn Sec HQ Brussels Garrison

Q. What happened to the first 4 motor cycle?
A. George lost one in Antwerp, I lost one in Gare-du Nord, Jackie sold one for about 6000 francs. I ditched one in town.

Q. Where was petrol stored? in the garage?
A. Through a door in the right hand wall.

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHCH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS

"J.J.H. Connors"

(J.J.H. Connors) Lieut RCAMC

"DLR"

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:
K.99153 Pte TONEFF J A
10 Bn CBRG 'CSR"

I have been cautioned that I am not obliged to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution I sign my name.

"On 16 Nov 44 I went absent from my unit (2 CBRG) and came to Brussels. I stayed in Brussels for a couple of weeks, staying with a girl by the name of Lucienne. About 15 Dec I met Jimmie Woronuik who was staying with Marie in Hotel Bruckere Blvd Emil Jacqmain. He talked me into staying with the gang. I met Paul Bunn, Davie Davis, George Schell and Jimmie McKenzie about 21 Dec 44. The boys all gave me some money to carry me over.

About 20 Dec 44 I went to Boom and stole a Dodge truck from a vehicle park. The next day Bunn and Schell took the truck to Lille with Pola and Rosa to bring back black market goods. They were away a couple of days. On their return to Brussels they said the CMP's got the truck in Lille. On 22 Dec 44 I was apprehended by Sgt Matheson and Sgt Poulin. At 183 rue de Laeken I was searched and during this time I gave Sgt Poulin about 5000 fr to give to Lucienne. Paul Bunn and Woronuik also gave him money including three £ 1.0.0 notes. All together he received about 12000 frs. He never gave this money to the girls.

I was admitted to Prince Albert Barracks and escaped from there by going down blankets the following evening 23 Dec 44.

I went back to Laeken to 'Cafe au Bon Coin'. The next night, 24 Dec 44, at about 2200 hrs Bunn and McKenzie arrived.

About 25 Dec 44, Woronuik, Schell and Bunn went with me on the tram to 3 Park 17 RVP and stole two 60 cwt Fords. That night Bunn, Davis, Woronuik and McKenzie and I went to Diest and started to load 4 gal tins of white petrol in the trucks. We were about half loaded when the guards arrived and chased us. I ditched my truck about 4 km this side of Diest on No 250 Highway. The other truck was ditched also. We all came back to Brussels. About 27 Dec 44 Woronuik and I went out to 17 RVP by tram and stole a 60 cwt Ford truck. That night we (Woronuik and I) went to Diest and loaded up about 75 jerry-cans of petrol, which we sold in Brussels to two civilian fences. 1000 litres to one and 500 to another.

George Schell went to Antwerp shortly afterwards and came back with a 15 cwt. This broke down a couple of days

Continued on Sheet 2.....

"DLR"

Also to be filed is signed statement of Bunn to Lieutenant [illegible] H 3984 Pte Bunn, C.S.F. taken before me this 24 day of [illegible] 45
[illegible] Capt
[illegible] Staff RCASC

later on the road from Diest loaded with petrol. Just after New Years Schell and I made another trip to Diest and returned with about 200 jerry-cans of petrol which we sold to the same three fences (civilians). We used two trucks this trip. Woronuik travelled with me and Paul Bunn was with Schell.

About 10 or 11 Jan 45, Schell and I made a trip to Diest with two trucks and got about 100 cans of petrol. On the morning of 13 Jan 45 Schell and I were at the Cafe au Bon Coin when we were apprehended by Cpl Bement. Outside of the cafe my Ford 60 cwt was partially loaded with petrol.

I was sent to Ghent and bought my way out by paying one of the guards a wrist watch (German), Gold case, water-proof. He had one red service stripe and wore an infantry cap badge. This was Sunday afternoon. The guard gave me my paybook and possessions. We went to the hospital and Woronuik and I walled out.

Woronuik and I came back to Brussels by road and tram. Woronuik and I went to 17 RVP about 17 Jan 45 and stole one Dodge 60 cwt. A couple of days later, Woronuik and I went to Diest and got about 100 cans of petrol. McKenzie returned about 1 Feb 45. About this time Woronuik stole a Dodge truck. We - Woronuik McKenzie and myself - went to Diest and got two full loads - about 350 cans of petrol.

About 3 or 4 Feb 45 I went to 17 RVP and stole a Dodge truck for McKenzie. Dave came back about this time and Woronuik went out with his Dodge for a load. We came back with a Ford 60 cwt and 4 Harley Davidson motorcycles.

McKenzie, Dave and I and three English soldiers went to Diest and got two loads of Diesel fuel. This was about 7 or 8 Feb 45. We used to park our trucks in No 54 rue Moorslade. The owners were under the impression we were legitimate. I never sold any petrol to them.

Pte Toneff refuses to sign this statement at the present time.

Taken down by Capt C.J. Allendorf and witnessed by Sgt Matheson this day of 16 Feb 45 at 1200 hrs.

sgd/ C.J. ALLENDORF
(C.J. ALLENDORF) Capt
DAPM
Cdn Sec HQ Brussels Garrison

This statement has been signed by Toneff - 19 Feb 45.

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

"DLR"

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY: H.67424 Cfn Davie E.G.

I have been cautioned that I am not obliged to say anything unless I wish to do so and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution I sign my name.

Sgd/ E G Davie

"After I broke out of my unit guard-room I went to Antwerp the same night. This was the 10th of October 1944 I think. I syayed around Antwerp until just before Christmas when I met George. I don't know his other name. Then we came to Brussels. While in Antwerp I stayed in various English camps, always telling them I was just passhg through. I was making money by changing guilders for civilians. When George and I came to Brussels we met two other fellows Big Jimmie and Paul. We didn't have any money so Big George had a truck so we all went out to Diest to a petrol dump where we got a load of petrol. We sold the petrol to some connections which George had in Brussels. We stayed in Brussels drinking and playing around. Then one night the Provost raided where we were staying and picked up everyone but me, as I happened to be away at the time. However, the next day they came cruising along and caught me and put me in the guard-room in Brussels, from there they sent me to Ghent. When the Provost were arresting me, I rank down the street and the two Provost cornered me in this big yard. I had a little automatic a .22 cal I think and I pulled it out. I hollared that I was coming through. The sgt yanked out his pistol and hollared "Throw that gun down or I'll shoot" or something like that. When I jumped the Sgt and the other Provost took his pistol out and wacked me over the head. We had quite a battle there and I don't remember much about it. They hit me three or four times and put the cuffs on me. From Ghent I was taken to No 1 Disciplinary Centre and after a short while I cut my way out with a pair of wire cutters I got hold of. After escaping I hitch hiked back to Laeken Brussels. Here I met Big Jimmie, Jackie, and Little Jimmie. That same night Paul had busted out of jail, I think it was Ghent and the next day I met him. We decided the Provost knew the spot we were staying at so we thought we'd better get out of there. So me and Paul decided to stay with a couple of girls that we knew. When we arrived at the girl's place we saw a Provost standing there with a Sten Gun. He managed to f's on shot in the air before I grabbed it. Paul ran out the gate and then I did too. The Provost dropped the Sten gun and pulled out his pistol. I immediately started running across the Blvd, and I guess the Provost fired all his shots at us because he hit Paul in he leg. I didn't know he was hit at the time because he was still running. We got over a fence in a railway yard and Paul passed out. I applied a tourniquet and dug the bullet out, it was only about 3/4" in. Then I carried him over to a shed near a factory. After a rest we both

Continued on sheet TWO.....

"DLR"

walked out of the yard. Paul was able to hobble along. We went to a house and said that there had been an accident. I cleaned his wound and bandaged it. We slept in another place al night. His leg was swollen pretty bad the next day so I took him to some friends of his where he could stay. I left him there and went back to Antwerp. I stayed in Antwerp until they caught me again. It was English MP's and some Polish fellows that took me there. I was pretty drunk and don't remember very much about it. I was sitting in my truck a Dodge when arrested. I stopped when I seen these MP's come over, I jumped out and started to do battle with them. The next thing I knew I was in the clink. I gave the name of Bapointe when arrested this time. I was sent back to Ghent and from there to No 1 Fd Punishment. When I arrived back there the MO recognized me so I told them my real name and said I was the one who had escaped. They kept me there until I was brought here now.

Sgd/ E G Davie

TAKEN DOWN BEFORE ME AND WITNESSED BY ME THIS 22nd DAY OF MARCH 1945 at 1500 HRS.

Sgd/ J TWEDDLE - Capt

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WTH THE SUMMARY OF EVIDENCE OF THIS WITNESS

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

"DLR"

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:

B.38216 Pte Schell B A
3 Recovery Coy, RCEME

I have been cautioned that I am not obliged to say anything unless I want to do so and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution I sign my name.

Sgd/ B A Schell

"Early in December I was in Antwerp and met Jimmie and Paul. We had a few drinks and later in the day I met Dave. I asked him if he would like to come to Brussels as things were OK there. We stayed overnight and came to Brussels in a Dodge Truck that I had picked up in Boom. We met Jimmie and Paul at 54 Moorslade. We needed some money so Dave and I went to Diest and got a small load of about (50) fifty tins of petrol and came back to Brussels. Harry (the tall one) helped us sell the petrol. About (2) two days later Paul, Jimmie and I went to Antwerp and returned the same evening. Dave and Paul came back in a jeep. Jimmie and I went down town and I lost my truck. About three (3) days after this (Dec 10) I saw a Bedford truck in the garage and Paul, Dave and I went to Antwerp stayed overnight and I got drunk and ws left there when Paul and Dave returned to Brussels. I looked around for a truck and saw one sitting on the street near the Rations Stores. The motor was running in this Bedford truck so I got in and drove it away. On arriving at Brussels I drove it in the garage at 54 rue Moorslade. The next day I found about thirty (30) to forty (40) bags of meat in the back of the truck. I sold some of the meat through Harry and had Jimmie help me unload it. I parked the truck in the garage overnight and the following night I drove own town again and lost the truck with he remaineder of the meat. Four of us made a trip to Diest in the Bedford and Dodge trucks and gt about fifty (50) cans of petrol in the Bedford. We were afraid the patrol was coming so left. This petrol was sold through Harry also. About a week later Jackie, Jimmie, Paul, and I went to 173 RVP by tram and I drove away a Ford truck that had four (4) Harley motor cycles in the back. The bikes were un,loaded in the garage and the four of us each had one. We left the Bedford truck on the streest as we didn't want it any more. This left us with two (2) Ford trucks. We made another trip to Diest and got more petrol which we sold. About 23 Dec 44 Dave and I went to Antwerp by motor cycle and I was picked up by Provost on 25 Dec 44. I was taken to Ghent and back to my unit at Turnhout. About three (3) days later I took a 15 cwt Ford from 8 General Hospital and came back to Brussels. I made a trip to Diest about 2nd or 3rd of Jan 45 and the truck broke down. The next [illegible]ight Paul, Jackie, Big and Little Jimmie's and I went [illegible] Diest with the two Ford trucks and loaded them up. [illegible]he way back I offloaded, the 15 cwt and brought [illegible]oad in too. I had about two hundred (200) cans [illegible]rd. On 13 Jan 45 I was again apprehended."

Sgd/ B A Schell

[illegible]ITNESSED THIS 28TH FEBRUARY 45 at 1520 hrs. "DLR"

[illegible]UE COPY FROM SIGNED ORIGINAL WHICH IS [illegible]UMMARY OF VIDENCE OF THIS WITNESS.
[illegible].H. Connors" (J.J.H. Connors) Lieut RCAMC

[illegible] Witness [illegible] the summary of evidence from the case of [illegible] Pte Schell B.A. [illegible] on the 28th day of [illegible] 45
[illegible] Lieut RCAMC

STATEMENT OF EVIDENCE IN THE CASE OF

D.127524 PTE F LA POINTE
No 1 PLATOON
SOUTH SASKATCHEWAN REGT

SIR,

At Antwerp on the 7 March 1945 about 1845 hrs I was on duty in Veemart in company with L/Cpl Flethher CM Police when I saw WD 3 ton Dodge No L 5403794 parked in the square. Knowing this vehicle was reported stolen on the 4 March 1945 I approached it and saw the above named soldier sitting in the drivers seat, another soldier was also in the passengers seat.

As Pte LaPointe was wearing a S.D. Cap I asked him what unit he belonged to, and he replied "Signals". I then asked him for his Pay Book, but this he could not produce, instead he handd me the AB 412 for the above vehicle and said "My Work Ticket is in there". I examined his and found it was made out by No.5 Railway Telegraph Coy R.C.S. and the last two entries made out for the 5th and 6th March 1945 (this was after it had been stolen) were for journeys from Keppelellen Bosch to Antwerp; Column 7 of the AFG.3518 had the signature of Capt Bunn. He smelled strongly of alcohol and his dpeach was slurred, he was drunk so I arrested him, and ordered him and the passenger to get out of the vehicle. Pte LaPointe immediately picked up a pick axe head that was lying between his legs and struck me with it, I covered my head with my hands and thae took the blow. I struggled with him and managed to wrench the pick head from him and pull him out of the vehicle.

I called on two Polish soldiers to assist me, they were 13671 Pte A Warm and 2830 L/Cpl Famroz J. both of No 4 Coy 2nd Armd Regt, Polish Forces. At this moment the other soldier in the vehicle moved into the drivers seat and struck at L/Cpl Fletcher with a pick shaft. L/Cpl Fletcher caught hold of the pick shaft and took it away from the woldier who then quickly slammed the dor of the truck and drove away. During this time I was struggling with Pte LaPointe and eventually managed to get him to the Military Police jeep, but he broke away, L/Cpl Fletcher and Pte Warm immediately gave chase. They caught him up and he picked up a brick and attempted to throw it at L/Cpl Fletcher but he was overpowered and eventually put in the jeep.

I then convoyed him to the Town Guard Room where he was handed over to the NCO i/c to be detained. The soldier refused to give his number, rank or name so the above were taken from the Identity Discs he was wearing, he did verbally give me the above regimental particulars. The above mentioned AFB 412 and Work Ticket are attached to this statement, WD 3 Ton Dodge No L 5403794 was stolen from ST Vincent Straat, Antwerp on the 4 March 1945.

Field
8 March 1945.

(sgd) W. Glynn L/Cpl 7690482
244 HQ Provost Company CMP

SIR,

I have read over and corroborate the above statement. During my struggle with Pte LaPointe he hit me on the knee with the pick head, the injury caused made it necessary for me to report sick this morning, Sick report attached to this statement.

(sgd) T. Fletcher L/Cpl 14344977
244 HQ Provost Company CMP

Field
8 March 1945.

Certified true copy.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

"DLR"

Report by OC 267 Petrol Depot RASC

Concerning the pilfering 29 December 1944

At about 1725 hours on 29 Dec 44 I was proceeding along the Montaigu-Sichem rd in company with Lieut C.C. Whitelaw and No S/7604155 S/Sgt Wade, AH, both of this Unit. The rd in question is a POL Sector operated by this Unit and has two sharp bends with approximately 200 yds between each.

On rounding the first of these bends two any trucks, without superstructures, were found to be blocking the road and facing the general direction of Sichem. On approaching several men dressed in British battle-dress and hatless were seen to be loading petrol aboard the vehicles from nearby stack.

These men immediately dashed to their vehicles at our approach and made a quick get-away in the direction of Messelbroeck. Shots were fired as a warningbut he vehicles continued to Messelbroeck turning off and doubling back to the main Montaigu-Billaer rd, where they proceeded towards Aerschot. These vehicles were trailed with considerable dfficulty, for they maintained a reckless speed and were driven with tail-lights only.

The centre of Aerschot was reached and I was on the point of passing both vehicles when the rear one suddenly swung off into a track bounded on one side by the river back and on the other by the rear of private houses. This vehicle was under abservation the whole time and ws followed. We drew abreast with it simultaneously with it coming to a halt on the bank overhanging the water's edge.

Of the driver and one other man known tobe with him there was no trace, and it was evident that the vehicle had been abandoned whilst in gear and with the engine running. It had therefore travelled sme distance under its own power before stalling.

The area was searched but no trace could be found of these men who evdently escaped in the darkness.

The vehicle is Canadan Ford No CL 4273301 and documents and AB 412 is blank. The vehicle was placed in charge of a NCO of 81 Coy CMP(TC) who arranged recovery and removal to 218 PW Camp, Aerschot where it nowlies with its load. One Army great-coat with Canadian buttons was found in the cab together with town letters, matches, cigarettes etc.

The load consisted of 140 4-gall n/R tins of Pet Spirit, i.e. 560 gallons. This load was below the side of the vehicle. The second truck, last seen proceeding towards Antwerp, had what appeared to be a larger load plainly seen stacked above he sides of the vehicle.

Inspection of the stack involved disclosed a shortage of 326 tins of Pet Spirit, i.e. 1304 gallons.

It is considered that the men were familiar with the POL Sector concerned and its intersecting secondary rds. The initial gateway was very fast and the ensuing reckless driving and the ultimate rapid disappearance of the occupants of the caputred vehicle indicate a blatant lawlessness. This does not seem compatable with the usual case of casual pilfering intended for bona-fide military consumption.

Sgd/ W.E. Hoffard Capt
Officer Commanding 267 Petrol Depot
R.A.S.C.

B.L.A.
30 Dec 44.

"DLR"

Certified true copy

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

This is exhibit 'F' referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, EG, taken before me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

Subject: Vehicle stolen from 173 Veh Park Ref: 3VP/Tech/6/1364

To: HQ 17 Veh Coy

(a) We have been informed by D.A.P.M. CDN SEC HQ Brussels Garrison hat the undermentioned vehicles and Motor Cycles have been recovered by them and disposed of as stated.

All the vehicles are on our charge.

Type	WD No	
Lorry 3 ton 4x4 GS Ford	CL 4273015	1 Cdn Port W/Shops
	286	Now in stock at 173 Veh Park
	364	1 Cdn Port W/Shops
	301	In CMP Compound Brussels
Lorry 3 ton 4x2 GS Dodge	L 5408359	Location at Present Unknown

(b) It has also been reported by O i/c Motor Cycle Park that the undermentioned vehicles and Motor Cycles are missing. The Vehicle and Motor Cycles could not be found in the Park on the 9th February 1945, and were presumed to have been stolen.

Lorry 3 ton 4x4 GS Ford	CL 4273839	Loaded with Harley Davidson MCs
M/Cycle Hy 600/700 Harley Davidson	CC4224944 *	
	929 *	
	665 *	
	4225077	

The lorry has not been found by the Provost but three motor cycles marked with an asterisk have, and are, at present held in the CMP Compound.

(c) In addition O i/c Motor Cycle Park reports the loss of two Harley Davidson Motor Cycles WD Nos: 4225677 and 4225669. These were loaded in Lorry 3 ton 4x4 GS Ford (Cdn) WD No. CL 4273702, but the vehicle and two remaining machines were not stolen.

In view of the serious nature of these thefts may we have your comments and further instructions.

(sgd) J.A. Watsen, Capt
O.C. 173 Vehicle Park.

Certified true copy

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC
A Offr 1
Cdn Sec HQ Brussels Grn

This is Exhibit 'G' referred to in the Summary of Evidence, in the case of H.3584, Pte Bunn, E.G. taken befos me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors)Lieut RCAMC

"DLR"

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:
H.3584 Pte Bunn, E.G.
13 Bn 2 Canadian Base
Reinforcement Group

I have been cautioned that I am not obliged to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution, I sign my name.

Sgd/ E Bunn

"I am H.3584 Pte Bunn, Elmer Gerald. On 22 Apr 44, I went AWL from 13 Bn 2 CBRG and was absent about 18 days when I surrendered to Civil Police at St-Meryon, Cornwall. I was returned to 2 CBRG and escaped again about 17/19 May 44 and was absent until about 9 or 10 Sept 44 when I was apprehended. About the end of Sept 44, I was brought to France and ended up in Ghent. I escaped from the end of October 44 and taken to Antwerp where I escaped 13 Bn about 10 Oct 44. I was picked up in Malines about the following day and went to Dieppe and surrendered to the CMP. I remained in custody at 13 Bn 2 CBRG and escaped again. Early in Dec 44, I escaped from Ghent with "Goulet" and hitch-hiked into Brussels, then to Antwerp and met Schell the next night. A few days later Schell and I went to Boom and stole one Bedford truck filled with jerrycans from a vehicle park. We returned to Antwerp and later came to Brussels. I estimate there were about one hundred fifty (150) cans in the truck. We sold about ten (10) cans to a civilian. In a couple of days Schell and I took two girls Rosa and Paula to Lille where we sold about twenty (20) cans of petrol. A few days later Schell and I took a civilian named "Harry" to Paris in the truck and sold the remainder of our petrol (about one hundred '100' cans) there. The civilian bought a large amount of silm, perfume etc for himself and about one hundred thousand 100.000 francs worth for us. This was all brought back in the truck to Brussels and unloaded it into a house on Rue Marie Christine. Schell and I made about three trips to Diest and came back with petrol. About this time I was apprehended by Cdn Provost and placed in Prince Albert Barracks, and escaped the next day. At this time I was in possession of a pistol and a knife. Schell and I went to Boom in the Bedford truck and stole a Dodge and proceeded to Antwerp, picked up Jimmie Woronuik and returned to Brussels. We returned to Antwerp several days later and back to Brussels. Dave and I came back and Schell turned up with a Bedford truck full of meat. We sold the meat and I got about twenty thousand 20.000 francs for my share. We ditched one Bedord truck. Schell and I made numerous trips to Diest and stole petrol and sold it in Brussels. We were chased out of the Dump about this time by the Guard and had to ditch our trucks. We went to 173 Vehicle Park on several occasions and drove trucks out of the lines. To my knowledge there were two trucks loaded with four Harley Davidson motor cycles each. I did not have anything to do with selling the motor cycles. On 22 Dec 44, I was apprehended by Cdn Provost and booked into the CMP Guard Room as D.125409 Pte Caron, P presenting a pay-book I had purchased from a Guard in Ghent.

...../2 "DLR"

Above extracted statement was signed in the presence of E Bunn on the 22nd day of May 45.
H.3584 Pte Bunn
Taken before me this 22 day of May 45.
Capt
(W H Cameron) Capt RCMP

STATEMENT BY:
H.3584 Pte Bunn, E.G. (Continued)

I escaped again on 23 Dec 44, We made several more trips to Diest. I was picked up on 13 Jan 45 and sent to Ghent the following day. I escaped again on 7 Feb 45 and returned to Brussels. Dave and I borrowed Jimmie's truck (Dodge) and went to Ayreshot for petrol and sold it. There was about one hundred eighty 180 cans on this load. We had a brush with Provost again and I was wounded in the leg. The next day we went to Antwerp. We got about three loads of petrol from Ayreshot and sold it in Antwerp. On 7 Mar 45 Dave and I were checked by CMP's in Antwerp and Davie was apprehended. I drove the truck away and it was picked up by US Military Police the same night. At the time we were checked we had a work ticket which I had signed as "Capt Bunn". On 13 Apr 45 I surrendered in Ghent."

Sgd/ E Bunn

TAKEN AND WITNESSED BY CAPTAIN C.J. ALLENDORD 'DAPM'
27 APRIL 45.

"DLR"

I have been cautioned that I amnot obliged to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To show that I understand this caution, I sign my name.

"E Bunn"

I am H.3584 Pte Bunn, Elmer Gerald.

On 22 Apl 44 I went AWL from 13 Btn 2 CBRG and was absent about 18 days when I surrendered to Civil Police at St Meryon, Cornwall. I was returned to 2 CBRG and escaped again about 17-19 May 44 and was absent until about 9 or 10 Sept when I was apprehended About the end of Sept 44 I was brought to France and ended up in Ghent. I escaped from 13 Btn about 10 Oct 44. I was picked up in Malines about the end of October 44 and taken to Antwerp where I escaped the following day, and went to Dieppe and surrendered to the CMP. I remained in custody at 13 Btn 2 CBRG and escaped again.
Early in Dec 44 I escaped from Ghent with "Goulet" and hitch-hiked into Brussels. then to Antwerp and met Schell the next night. A few days later Schell and I went to Boom and stole 1 Bedford truck filled with jerrycans from a vehicle park. We returned to Antwerp and later came to Brussels. I estimate there were about 150 cans in the truck. We sold about 10 cans to a civilian. In a couple of days Schell and I took two girls Rosa and Paula to Lille where we sold about 20 cans of petrol. A few days later Schell and I took a civilian named "Harry" to Paris in the truck and sold the remainder of our petrol (about 100) cans there. The civilian bought a large amount of silk, perfume etc for himself and about 100000 francs worth for us. This was all brought back in the truck to Brussels and unloaded it into a house on Rue Marie Christine. Schell and I made about 3 trips to Diest and came back with petrol.
About this time I was apprehneded by Cdn Pro and placed in P.Alt Bks and escaped the next day. At this time I was in possession of a pistol and a knife. Schell and I went to Boom in the Bedford truck and stole a Dodge and Proceeded to Antwerp, picked up Jimmie Woronuik and returned to Brussels. We returned to Antwerp several days later and back to Brussels. Dave and I came back and Schell turned up with a Bedford truck full of meat. We sold the meat and I got about 20000 F for my share. We ditched one Bedford truck. Schell and I made numerous tripps to Diest and stole petrol and sold it in Brussels. We were chased out of the dump about this time by the guard and had to ditch our trucks. We went to 173 Veh park on several occasions and drove trucks out of the lines. To my knowledge there were two trucks loaded with 4 HD m/c each. I did not have anything to do with selling the m/c.
On 22 Dec I was apprehended by Cdn Pro and booked into the CMP guard room as D.125409 Pte Caron P presenting a pay book I had purchased from a guard in Ghent. I escaped again on 23 Dec. We made serveral more trips to Diest.
I was picked up on 13 Jany 45 and sent to Ghent the following day. I escaped again on 7 Feby 45 and returned to Brussels.
Dave and I borrowed Jimmie's truck (Dodge) and went to Ayreshot for petrol and sold it. There was about 180 cans on this load. We had a brush with Pro again and I was wounded in the leg. The next day we went to Antwerp. We got about 3 loads of petrol from Ayreshot and sold it in Antwerp. On 7 March Dave and I were checked and Davie was apprehended. I drove the truck away and it was picked up by US Mil police the same night. At the time we were checked we had a work ticket which I had signed as "Capt Bunn". On 13th Apl 45 I surrendered in Ghent.

1700 hrs 27 Apl 45. "E Bunn"
"J Allendorf" Capt

This is Exhibit 'J' referred to in the Summary of Evidence in the case of H.3584 Pte Bunn, EG taken before me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors)Lieut RCAMC

No.....

OC
120 Provost Coy

Report - Prisoner escaping from confinement

Sir,

I have to report that at BRUSSELS On the 25 Dec 44

I was NCO i/c Guard at Prince Albert Barracks when

No. D.125409 Rank..Pte..Name..Caron. P....

Unit.. CBRG 46 Coy Signals....

escaped from confinement about 2000 ..hrs

Field
Date..25 Dec 44

"1036528 S Sinclair"

NCO i/c Guard

PART II ORDER EXTRACT FORM

TO:
DISCIPLINE & PAY SECTION

99/20

21 Apr 45

X-4 List RCOC

EXTRACTS FROM: UNIT..... .....19.....

Part II Order No. 73 dated 29 Nov 44

ABSENT WITHOUT LEAVE

(a) AWL from 1030 hrs 9 Oct 44 Ret from AWL 2020 hrs 22 Oct 44
(X-4 List 13 Bn)
H.3584 Pte Bunn E.

"G.E. Marin" Lt

Certified to be a true extract from the regimental books and documents in my custody "G.E. Marin" Lt

Officer IC Records,
Cdn Sec GHQ 2 Ech 21 Army Gp

21 Apr 45

This is Exhibit 'K' referred to in the Summary of Evidence in the case of H.3584, Pte Bunn E.G., taken before me this 2nd day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

The following documents are required. Please ack receipt on att duplicate. Please forward same.

Originating clerks initials..... for Officer Commanding "DLR"
Canadian Section GHQ 2nd Echelon

PART II ORDER EXTRACT FORM

TO:

DISCIPLINE & PAY SECTION

21 Apr 19 45

EXTRACTS FROM: UNIT X-4 List RCOC

Part II Order No. 79 dated 9 Dec 44

6. ABSENT WITHOUT LEAVE

(a) AWL from 2030 hrs 8 Nov 44 (X-4 List 13 Bn) H.3584 Pte Bunn, E

(b) AWL from 2030 hrs 8 Nov 44 Still absent 2030 hrs 16 Nov 44 (8th day) H.3584 Pte Bunn, E (X-4 List 13 Bn)

(c) AWL from 2030 hrs 8 Nov 44 Still absent 2030 hrs 30 Nov 44 (22nd day) H.3584 Pte Bunn, E (X-4 List 13 Bn)

Certified to be a true extract from the regimental books and documents in my custody

"G.E. Marin" Lt

Officer IC Records

21 Apr 45 Cdn Sec CMH 2 Sub 21 Army Gp

The following documents are attached. Please ack receipt on att duplicate

Please forward same. "DLR"

Originating clerks initials

for Officer in Charge Canadian Section CMH 2nd Echelon

This is exhibit "L" referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, taken before me this 2nd day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) RCAMC

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY THAT No.D.125409 Rank Sigmn Name CARON P

Unit 13 Bn 46 Coy (Signals) 2 CBRG was arrested at Brussels (Place)

at 1000 (hours) on 22 Dec 44 (date) and that at the time of his arrest he was wearing (military uniform)

Signature of Provost-Marshal, Assistant Provost-Marhsall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of t the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

"J. Tweddle"
(J. Tweddle) A/Capt
Officer Commanding
2 Cdn L of C Pro Coy

Field
22 Dec 44

"DIR"

This is exhibit 'M' referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, taken before me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors)Lieut RCAMC

TO:

DISCIPDINE & PAY SECTION

EXTRACTS FROM: UNIT X-4 List RCOC 21 Apr 19 45

Part II Order No. 14 dated 26 Jan 45

2. STRENGTH INCREASE

(E) TOS X-4 List (13 Bn) on appfrom des wef 0020 hrs 13 Jan 45
H.3584 Pte Bunn E

Certified to be a true extract from the regimental books and documents in my custody

"G.E. Marin" Lt.
CHIEF CLERK
Cdn Sec GHQ 2 Ech 21 Army Gp

21 Apr 45

The following are attached. Please ack receipt on att duplicate

Please forward same.

"DLR"

Officer in Charge for
Commandant

Originating clerks initials

This is exhibit 'N' referred to in the summary of evidence, in the case of H.3584 Pte Bunn, taken before this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

PART II OTHER EXTRACT FORM

TO:
DISCIPLINE & PAY SECTION

99/20

21 Apr 19 45

EXTRACTS FROM: UNIT X-4 List RCOC

Part II Order No. 25 dated 14 Feb 45

3. ABSENT WITHOUT LEAVE
(a) AWL from 2015 hrs 7 Feb 45 (X-4 List 13 Bn)
H.3584 Pte Bunn E

Certified to be a true extract from the regimental books and documents in my custody

"G.E. Marin" Lt
Officer IC Records,
Cdn Bde 3Bn 2 Bch 21 Army Gp

21 Apr 45

Please ack receipt on att duplicate

The following documents are required. Forward same.

"DLR"

Originating clerks initials

for
Officer in Charge
Canadian Base Det GHQ 2nd Echelon

This is Exhibit 'P' referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, taken before me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut CAMC

This is Exhibit 'Q' referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, taken before me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

CERTIFICATE UNDER ARMY ACT SECTION 163(i)(j)

Certified that No. H.3584..Rank..Pte..Name..Bunn, E....

of the..13 Bn 2 CBRG..Regt..was apprehended by No. F.91430..

Rank..Sgt..Name..Foston. RL...of the..28 Coy 9 Bn...

3 CBRG.. at..Ghent..at..1715 hrs, on the 13th "DLR"

day of April 1945..as an absentee without leave.

He was wearing military uniform at the time of this arrest.

Place..Ghent..
Date...13 April 45

"J.A. Thomson" Lieut
(J.A. Thomson)A/DAPM 2 CBRG
Canadian Provost Corps

5 May 45

This is to state that the documents of H.3584 Pte Bunn E have been requested from 2 Ech. We received the MFM 6 only, and have no particulars of service. The accused has been held in close arrest since 13 Apr 45. Total time 22 days (5 days spent in hospital)

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC
Prosecutor

Cert in Lieu of

Ex B

"DLR"

No H3584 Name BUNN, Elmer Sqn, Battery, or Company

Corps RCOC

Date of enlistment 23/9/39 GC Badges

Service or Proficiency Pay

MR[redacted] (APB 123) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
#1 COHU	2/11/41	Pte		AA 15(1) AWL from 2359 hrs 2 Nov 41 to 1600 hrs 5 Nov 41		3 days pay FR&I 149(1)(a) 3 days pay FR&I 149(1)(b)	6/11/41	#1 COHU DO 78/Nov 41	
#29 LAD	19/1/42	Pte	2	AA19 Drunkenness 3rd off (previous cases not shown)		Fined $10.00	19/1/42	#29 LAD DO 13/Feb 42	Ex C "DLR"
"	4/7/43	Pte	3	AA15(1) AWL from 2359 hrs 4 Jul 43 to 1330 hrs 29 Jul 43		28 days FP 56 days pay	2/8/43	29 LAD DO 36/Aug 43	

(PTO)

No H3584 Name BURN, Elmer

Date of last entry in Company Conduct Sheet

Sqn, Battery, or Company

No and date of last drunk

Corps RCOC

Period not reckoning towards freedom from extra fine

Date of enlistment 23/9/39

GC Badges

Sheet No

Signature OC Company, etc

Service or Proficiency Pay

M[redacted]S (APB 123) 40/Pads/128 (3428)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
#1 COHU	2/11/41	Pte		AA 15(1) AWL from 2359 hrs 2 Nov 41 to 1600 hrs 5 Nov 41		3 days pay FRAI 149(1)(a)	6/11/41	#1 COHU DO 78/Nov 41	
#29 LAD	19/1/42	Pte	2	AA19 Drunkenness 3rd off (previous cases not shown)		3 days pay FRAI 149(1)(b) Fined $10.00	19/1/42	#29 LAD DO 13/Feb 42	Ex C "DLR"
"	4/7/43	Pte	3	AA15(1) AWL from 2359 hrs 4 Jul 43 to 1330 hrs 29 Jul 43		28 days FP 56 days pay	2/8/43	#29 LAD DO 36/Aug 43	

(PTO)

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1)~~ The Court decides (not) ~~to advise accused to change his (their) plea(s) of Guilty to Not Guilty on~~ ..... ~~charge(s). The accused is (are) so informed, and he (they) change(s) his (their)~~ plea(s) on ..... ~~charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) DLR
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)
Court rules sufficient evidence under RP 37(B)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1) DLR
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3) DLR Certificate in lieu of
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. By my Def Offr - note attached (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.3584 Pte Elmer Gerals Bunn - X-4 List RCOC att Cdn Sec HQ Brussels Grn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	Charge (Space for use as required for further charges, accused charged jointly, special findings, etc.)	Plea	Finding
1st AA 41	Guilty	Guilty	7th AA 15(1)	Guilty	Guilty
2nd AA 40	Guilty	Guilty	8th AA 15(1)	Guilty	Guilty
3rd AA 40	Guilty	Guilty	9th AA 15(1)	Guilty	Guilty
4th AA 40	Guilty	Guilty			
5th AA 8(2)	Guilty	Guilty			
6th AA 15(1)	Guilty	Guilty			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present undergoing sentence for ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which 5 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer penal servitude for a term of five (5) years and to be discharged with ignominy from His Majesty's Service.

(Sgd) ..... Judge-Advocate, if any. 5 May 45 Date awarded. (Sgd) "DL Redman" Lt Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the findings and sentence for confirmation

Date 11 May 45 (Sgd) "ELM Burns" Commanding Cdn Sec 1 Ech HQ 21 A Gp

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

"I confirm the findings and sentence"

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

Date 26th May 45 (Sgd) "E.C. Weeks" Maj-Gen Commanding 1st Administrative Canadian ~~Corps~~ Group

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H-3584 Pte Bunn E.G.	1 June 45	A.J. Cormie (A.J. CORMIE) Capt. Staff Capt. A. Cdn Sec HQ Brussels Grn

Published in Cdn Sec HQ Brussels Grn CR #143 d/3 Jun 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

If it is duly that there are no ill-politics or irregularities to justify withholding confirmation of these proceedings.

Maj-Gen
Comd 1 Can Inf Div
Cdn Sec HQ 21 A Gp

Certified true copy of the original in the custody of the DJAG, Cdn Sec GHQ.

CERTIFIED TRUE COPY

M.H. Vaughan Major
Sqn Ldr
Cdn Sec HQ 21 A Gp

SL-142

CFA96 (In lieu of AFA81) 40/P & S/1696 (8144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of ELM Burns Maj-Gen Comd Cdn Sec 1 Ech HQ 21 A Gp dated 4 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.3584	Pte		Elmer Gerald	BUNN	X-4 List RCOC att Cdn Sec HQ Brussels Grn
alias: D.125409 Sgmn			P.	CARON	

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 5 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/70

A1. The President, Members, ~~waiting Member, JA~~ if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1645 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by a court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ as interpreter? Ans ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

~~The interpreter is sworn.(1)~~ ~~Do you object to XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX as shorthand writer? Ans XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.Col	D.L. Redman	Cdn Sec 1 Ech HQ 21 A Gp
Member	Capt	E.B. Van Dine	1 Cdn Disc Centre
Member	Lt	J.D. Metrakos	10 Bn - 2 CBRG
~~Judge-Advocate~~	--	--	--
Prosecutor	Lt	J.J.H. Connors	Cdn Sec HQ Brussels Grn
Defending Offr	Capt	W.B. Sawdon	4 Bn - 3 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded separately (RP 16, 71). For forms of record see references in fns to RuP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62: when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~withdrawn and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No Sir .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) DLR
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)
Court takes mild evidence under RP 37(B)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1) DLR
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on 6 separate sheet.*)

The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using orm E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)
KR Evidence ... Sworn

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. By my Def Offr - notes attached .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CERTIFICATE OF PROMULGATION

FGCM - 5 May 45 H-3584 Pte Elmer Gerald Dunn X-4 List RCOC att Cdn Sec HQ Brussels Garrison

Charges:	Finding:
(1) AA Sec 41	Guilty
(2) AA Sec 40	Guilty
(3) AA Sec 40	Guilty
(4) AA Sec 40	Guilty
(5) AA Sec 8(2)	Guilty
(6) AA Sec 15(1)	Guilty
(7) AA Sec 15(1)	Guilty
(8) AA Sec 15(1)	Guilty
(9) AA Sec 15(1)	Guilty

Sentence: To suffer penal servitude for a term of five (5) years and to be discharged with ignominy from His Majesty's Service.

Minute of confirmation: "I confirm the findings and sentence"

Date: 26 May 45. MGA, CMHQ.

Promulgated and Extracts Taken:

In the Field. Belgium
(Country)

1 June 45
(Date)

A. J. Cormier ..... Signature

A. J. CORMIER Capt. ..... Rank

Staff Capt. A. ..... Appointment

..... Unit

Pros

CHARGE SHEET

The Accused, No H.3584 Pte Elmer Gerald BUNN, alias D.125409 Sgmn CARON P, X-4 List RCOC, 2 CBRG, attached Cdn Sec HQ Brussels Garrison, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE
SEC 41
ARMY ACT

WOAS, committing a civil offence, that is to say, stealing

in that he

in the Field, on or about 29 Dec 44 did steal 744 gallons of petrol, being Public Property.

SECOND CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the Field, on or about 10 Dec 44 was in improper possession of approximately 30 bags of meat.

THIRD CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the Field, on or about 7 Mar 45 did improperly, without authority use MD vehicle L5403794 (Dodge 3 ton lorry).

FOURTH CHARGE
SEC 40
ARMY ACT

WOAS, conduct to the prejudice of good order and military discipline

in that he

in the Field, on or about 29 Dec 44 was concerned in the improper use of MD vehicle CL4273364 (Ford 3 ton lorry).

FIFTH CHARGE
SEC 8(a)
ARMY ACT

WOAS, striking his superior officer

in that he

in the Field, on 7 Mar 45 did strike 14344977 L/Cpl FLETCHER T with the shaft of a pick-axe.

SIXTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, did absent himself without leave from 1030 hrs 9 Oct 44 until apprehended at 2020 hrs 22 Oct 44.
(Absent 13 dys, 9 hrs, 50 min).

SEVENTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, did absent himself without leave from 2030 hrs 8 Nov 44 until apprehended at 1000 hrs 22 Dec 44.
(Absent 43 dys, 13 hrs, 30 min)

"D.R."

EIGHTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, when under arrest did absent himself without leave from 2000 hrs 23 Dec 44 until apprehended at 0020 hrs 13 Jan 45.
(Absent 20 dys, 4 hrs, 20 min)

NINTH CHARGE
SEC 15(1)
ARMY ACT

WOAS, absenting himself without leave

in that he

in the Field, did absent himself without leave from 2015 hrs 7 Feb 45 until apprehended at 1715 hrs 13 Apr 45.
(Absent 64 dys, 21 hrs)

"L.P. Payan"
(L.P. Payan) Lt Col
Commanding Officer
Cdn Sec HQ Brussels Grn

Brussels
2 May 45

To be tried by Field General Court Martial.

Approved AR(Can) 5 vs
"B.S. Howard" Maj
DJA

"E.K.M. Burns"
Major-General
Co 4th Cdn Sec Bde
HQ 21 Army Gp
4 May 1945

"DHR"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.3584	Pte		Elmer Gerald	BUNN	X-4 List RCOC 2 CBRG att Cdn Sec HQ Brussels Garrison
		alias			
D.125409	Sgmn		P	CARON	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 4 May 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ". "E.L.M.B."

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reasons to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. "E.L.M.B."

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "E.L.M.B."

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate the Offr mentioned hereunder.~~ "E.L.M.B."

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	DL Redman VD	CIC att Cdn Sec 1 Ech HQ 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	EB Van Dine	1 Cdn Disc Centre
Capt or Lieut	(To be detailed by Comd 2 CBRG)	

WAITING MEMEER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.) "E L M Burns" (Signed personally. RP 105 fn 2.) Maj-Gen (Rank.)

(ELM Burns)Maj-Gen

Date 4 May 45 Commanding Cdn Sec 1 Ech HQ 21 Army Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143) (See overleaf for oaths and notes for use on trial.) "DLR"

Approved:
"B.W. Howard" Maj DJA

MEDICAL OFFICER'S CERTIFICATE

I certify that No. H.3584 Pte Bunn, E,

RCOC Cdn Army Overseas

is fit to undergo trial by Court Martial.

"DLR"

"R.Rn Smith"
Signature of Medical Officer

Capt
Medical Officer Cdn Sec
HQ Brussels Garrison

Field
5 Mar 45

In re H.3584 Pte E.G. Bunn - X-4 List RCOC att Cdn Sec HQ Brussels Grn

4th ch.

Additional Evidence taken by Court on Plea of Guilty - RP 37(B) to supplement deficiency in the summary of evidence.

H.19018 Cpl Bemebt GHV - 2 Cdn L of C Pro Coy having been duly sworn states:

On evening of 12/13 Jan 45 in response to a phone call to 183 Rue de Laeken, Brussels, I went to IM LEMBEKE Cafe in LAEKEN, Brussels and arrested Ptes Bunn, Schell, Woronuik on the street. I recognize the accused as Pte Bunn. Went to Coy Guard Rm. Returned to the district and arrested Ptes Toneff and Mackenzie in AU BON COIN Cafe. Parked in front of the cafe was WD lorry CL 4273364 - 60 cwt Ford. On it were 30-odd cans of petrol.

No crossexamination.

RP 83(B) complied with.

E.3 Plea in Mitigation

The accused enlisted in 1939 at age of 19. For some considerable time his conduct was very good and until he arrived on the continent there were only 2 crimes of a serious nature. Shortly after his arrival in E.T.O. he started on a system of behaviour that brings him before thisc ourt today. Whether he was led on by bad friends or whether it was the spirit of misadventure he apparently had no regard for the seriousness of the offences committed. His statement says he surrendered himself. The evidence is that he was apprehended. He now realizes the seriousness of his acts. I feel that since he surrendered himself he should be shown leniency. Also that a light sentence will keep him out of trouble and away from evil friends.

"DLR"

Ex A "DLR"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H.3584 Pte BUNN Elmer Gerald, alias D.125409 Sgmn CARON P, X-4 List, RCOC, 2 CBRG, att Cdn Sec HQ Brussels Garrison, a soldier of the Cdn Army Overseas

The Commanding Officer directs that the evidence shall be given on oath.

FIRST WITNESS L.13392, Pte WORONUIK M, Lake Superior Regt (Motor).

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the UK, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "A".

(J.J.H. Connors) Lt RCAMC

I do not require the attendance of Pte WORONUIK for the purpose of cross-examination.

(Sgd) E. Bunn

SECOND WITNESS K.99183, Pte TONEFF J A, 10 Bn 2 CBRG.

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the UK, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "B".

(J.J.H. Connors) Lt RCAMC

I do not require the attendance of Pte TONEFF for the purpose of cross-examination.

(Sgd) E. Bunn

THIRD WITNESS H.64724, Cfn DAVIE E G, RCEME, 2 CBRG.

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the UK, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "C".

(J.J.H. Connors) Lt RCAMC

I do not require the attendance of Cfn DAVIE for the purpose of cross-examination.

(Sgd) E. Bunn

FOURTH WITNESS B.38216 Pte SCHELL B A, 3 Rec Coy RCEME.

I certify that in my opinion the attendance of this witness is, owing to his being in custody in the UK, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "D".

(J.J.H. Connors) Lt RCAMC

I do not require the attendance of Pte SCHELL for the purpose of cross-examination.

(Sgd) E. Bunn

FIFTH WITNESS 7690482 L/Cpl GLYNN W, 244 HQ Pro Coy CMP

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read over to the accused and is attached hereto as Exhibit "E".

(J.J.H. Connors) Lt RCAMC

I do not require the attendance of L/Cpl GLYNN for the purpose of cross-examination.

(Sgd) E. Bunn

SIXTH WITNESS 14344977 L/Cpl FLETCHER T, 244 HQ Pro Coy CMP

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "E".

(J.J.H. Connors) Lt RCAMC

I do not require the attendance of L/Cpl FLETCHER for the purpose of cross-examination.

(Sgd) E. Bunn

SEVENTH WITNESS Capt W.E. HOFFARD, RASC, OC 267 Petrol Depot.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "F".

(J.J.H. Connors) Lt RCAMC

I do not require the attendance of Capt HOFFARD for the purpose of cross-examination.

(Sgd) E. Bunn

EIGHTH WITNESS Capt J.A. WATSEN, OC 173 Veh Park.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "G".

(J.J.H. Connors) Lt RCAMC

I do not require the attendance of Capt WATSEN for the purpose of cross-examination.

(Sgd) E. Bunn

NINTH WITNESS Capt C.J. ALLENDORF, DAPM Cdn Sec HQ Brussels Grn having been duly sworn states:

"I was present when Pte BUNN whom I see here now and recognize, made this statement after having been duly cautioned. This was on the 27 Apr 45."

The accused declines to cross-examine.

(Sgd) J. Allendorf Capt

The statement referred to in the Evidence of the above witness is attached hereto as Exhibit "H".

TENTH WITNESS 1036528 Cpl ~~ST CLAIRE~~ SINCLAIR J, 120 Pro Coy CMP

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written copy of his evidence has been read to the accused and is attached hereto as Exhibit "J".

(J.J.H. Connors) Lt RCAMC

I do not require the attendance of Cpl ST CLAIRE for the purpose of cross-examination.

(Sgd) E. Bunn

The following documents produced as documentary evidence were read over to the accused marked Exhibits as shown, signed by me and attached hereto:

Part II Ord Ext Form d/29 Nov 44 (Exhibit "K")
Part II Ord Ext Form d/9 Dec 44 (Exhibit "L")
Certificate of Apprehension d/22 Dec 44 (Exhibit "M")
Part II Ord Ext Form d/26 Jan 45 (Exhibit "N")
Part II Ord Ext Form d/14 Feb 45 (Exhibit "P")
Certificate of Apprehension d/13 Apr 45 (Exhibit "Q")

(J.J.H. Connors) Lt RCAMC

The accused was cautioned as follows:

Q. "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

A. "No, Sir, I have already told my story.

(Sgd) E. Bunn

The accused does not wish to call witnesses at this time.

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that RP4(c), (d), (e), (f) and (g) have been complied with.

In the Field
2 May 45

(J.J.H. Connors) Lt RCAMC
Officer detailed to take the Summary

REQUEST FOR DEFENDING OFFICER

I want the Convening Authority to appoint an Officer to defend me, please.

In the Field
2 May 45

(Sgd) E. Bunn

LIST OF WITNESSES FOR THE PROSECUTION

1. L.13392 Pte WORONUIK M, Lake Superior Regt (Motor)
2. K.99183 Pte TONEFF J A, 10 Bn 2 CBRG
3. H.64724 Cfn DAVIE E G, RCEME, 2 CBRG
4. B.38216 Pte SCHELL B A, 3 Rec Coy RCEME
5. 7690482 L/Cpl GLYNN W, 244 HQ Pro Coy CMP
6. 14344977 L/Cpl FLETCHER T, 244 HQ Pro Coy CMP
7. Capt W.E. HOFFARD, RASC, OC 267 Petrol Depot
8. Capt J.A. WATSEN, OC 173 Veh Park
9. Capt C.J. ALLENDORF, DAPM Cdn Sec HQ Brussels Grn
10. 1036528 Cpl ~~ST CLAIRE~~ SINCLAIR J, 120 Pro Coy CMP

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" Evidence of Pte WORONUIK
Exhibit "B" Evidence of Pte TONEFF
Exhibit "C" Evidence of Cfn DAVIE
Exhibit "D" Evidence of Pte SCHELL
Exhibit "E" Evidence of L/Cpl's GLYNN & FLETCHER
Exhibit "F" Evidence of Capt HOFFARD
Exhibit "G" Evidence of Capt WATSEN
Exhibit "H" Statement of Pte BUNN
Exhibit "J" Evidence of Cpl ~~ST CLAIRE~~ SINCLAIR
Exhibit "K" Part II Ord Ext Form d/29 Nov 44
Exhibit "L" Part II Ord Ext Form d/9 Dec 44
Exhibit "M" Certificate of Apprehension d/22 Dec 44
Exhibit "N" Part II Ord Ext Form d/26 Jan 45
Exhibit "P" Part II Ord Ext Form d/14 Feb 45
Exhibit "Q" Certificate of Apprehension d/13 Apr 45

In the Field
2 May 45

(J.J.H. Connors) Lt RCAMC

File 602/B-5

CDN SEC HQ BRUSSELS GARRISON

2 May 45

Defending Officer
in the case of
H-3584 Pte BUNN E.G.

H-19018 Cpl BEMENT G H V
2 Cdn L of C Pro Coy

1. Should it be necessary to do so, prosecution will call m/n NCO under RP 76 to give evidence at the FGCM of the a/m soldier.

2. This witness will state that he helped recover WD vehicle No CL 4273364 (Ford), and furthermore that it was recovered on 13 Jan 45.

(J.J.H. Connors) Lieut RCAMC
"A" Offr (Dis)
Cdn Sec HQ Brussels Garrison

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:

L.13392 Pte WORONUIK M
Lake Superior Regt

I have been cautioned that I am not obliged to say anything unless I wish to do so and whatever I do say will be taken down in writing and may be given in evidence. To show that I understand this caution I sign my name.

Sgd/ M WORONUIK.

"On 4 Dec 44 I was in ANTWERP. PAUL BUNN and GEORGE SCHELL came into a pub and said come with us to BRUSSELS: thers a lot of money up there. At that time I did not have any money. PAUL and GEORGE had one Bedord and one Dodge truck outside. We drove to BRUSSELS. I rode with PAUL in the Bedford and GEORGE SCHELL and DAVIE came into BRUSSELS on 5 Dec 44 with a Dodge truck and about 100M (one hundred) jerrycans of Petrol. PAUL gave me 1000 francs after they had sold the petrol. That night in a crap game I won all the money (about 9000/10000 francs) that DAVE had and quite a bit from GEORGE and PAUL. About 6 Dec 44 B NN and I went to DIEST in the Bedford and brought about (75) seventy five jerrycans of petrol back. We sold some of the petrol at 200 francs a can and GEORGE, PAUL, DAVE and I went to ANTWERP in the Dodge truck. I visited my girl and on my return to the spot where I was supposed to meet the boys there was an argument about who would ride in the jeep. GEORGE and I rode back in the Dodge, the rest in the jeep. DAVE and PAUL were to come into BRUSSELS in the jeep. GEORGE and I arrived in Brussels about 1900 hrs. I left GEORGE in a cafe drunk and went out and met MARY. I said if you stay with me I'll give you 1000 francs and did. We went to a show and she stayed with me in the hotel on Emile Jacqumain. The next morning I met JACKIE TONEFF and his girl friend LUCIENNE. I met GEORGE a couple of days later in LAEKEN at 54 Moorslade. He had a Bedford truck full of meat. He said come with me and we'll sell the meat. There is a civilian by the name of HARRY who is our fence. We sold 26000 francs worth of meat to HARRY. PAUL and DAVE were in the gargge when we came back and said HARRY wants a beg of meat. DAVE took a bag of meat to HARRY's Cafe and sold it and asked if he had any more. GEORGE said we had and sold the remainder to HARRY the next day. GEORGE gave me 6000 francs for unloading. GEORGE, PAUL, DAVIE and I went down town in two trucks and got into an argument in a cafe, we split and GEORGE and I went down the street a couple of blocks. GEORGE started an argument with a lady and when I tried to stop it he told me to "Fuck off and dont get near that truck or I'll smash you with the crank". GEORGE lost his truck that night (Dodge). I stayed with MARY that night. TONEFF asked me if I had found LAEKEN, and said that he was going with me. We went to LAEKEN and I introduced TONEFF to GEORGE, the boss. He told TONEFF he could come in if he had a truck. We went to BOOM and got a Dodge truck. We came back and put the truck in the garage at 54 Moorslade. This was about 20 Dec 44 both the Bedford

Continued on sheet No TWO.....

"DLR"

and Dodge trucks went to DIEST. TONEFF and I in the Do ge. GEORGE and PAUL in the Bedford. We got about (50) fifty cans each loaded and returned. DAVE was in an American jeep and got caught. GEORGE and PAUL took ROSA and PAULA to LILLE in my Dodge. GEORGE paid TONEFF and I for (50) fifty cans of petrol to take to LILLE. They came back about two days later daying the truck had been picked up by CMP. In the meantime Toneff and I went to Diest and got about (70) seventy cans of petrol in the Beford, which we sdd to our fence. About two days later we took a 31 tram to a Vehicle Park and Toneff started a Ford 60 Cwt and drove it out. A CMP waved us down at the Arch but we went on. He followed us and we ditched the truci. The next day Toneff, Paul George and I returned to the Vehicle Park and got one used Dodge truck - Paul and Toneff got this one and George got a Ford with (4) Harley Davidson motor cycles in it. We all went back to the Garage. Dave was at the garage with a truck too. We unloaded the motor cycles and each one claimed a motor cycle but George s aid they were all his. We tried to sell the motor cycles but couldn't. We took two Trucks Dodge and Bedford and went to Diest and got about (150) one hundred fifty tins of white petrol. We sold about (48000) forty eight thousand francs worth to the garage owners. The grey haired fellow bought this but couldn't pay for all of it. Paul and George collected this money when we were picked up.Toneff and I came back to spend the night with the girls. The next day Toneff went to the garage to see George and Paul, and came back with them and Dave. We all got drunk, and stayed all night. The next day we all went back to Laeken and laid around. We got quite drunk and I stayed in the Hotel Bruckere on Emile Jacqumain all night. I was apprehended the next morning by Sgts Matheson and Poulin - 22 Dec 44. I had about three (3) to five thousand (5000) francs on me and was searched in front of the Sergeant Major, and sent into the small room. I and TONEFF and Paul were all ~~xxxx

Paul and Davie went down to Rosa and Pola on the motor cycle. Dave told me that they had ditched three trucks. The Dodge was in a private garage, the Ford and Bedford were driven out of town and ditched. Jackie and I could not find the garage to get our truck. Jackie and I and McKenzie went to the Vehicle Park and drove back an Ford truck. Paul and George went to the private garage and brought their Dodge back. Between Christmas and New Years, McKenzie, Toneff and I went in one truck, Paul, Dave in the other one to Diest and started loading four gallon tins. The patrol car came down. McKenzie ran to the front truck and pulled away with Paul and Dave. Jackie Toneff started away with my truck I heard a shot fired and I jumped in the ditch. The patrol car followed and Toneff ditched his truck and went back to Brussels by tram. The other load had been sad and I did not get any split on it. A couple of days later 31 Dec 44 Jackie and I went to Diest and got (16000) sixteen thousand francs worth of petrol. In the garage was a 15 cwt that George brought back with him. A couple of days later we sold the petrol and split two ways. A couple of days later about 5 Jan 45 Jackie and McKenzie took the 15 cwt and got a load of petrol. The next night Jackie wanted to go to Diest again but George would not let him use the truck. George and Davie went and on the way back the truck broke down. The following night, Jackie, McKenzie and I and George and Paul went to Diest again and got about 200 tins in each truck. We did not sell this whole load. There were about 38 cans on it when Jackie was picked up. The truck was also taken by Provost. Paul and George also loaded what was on the 15 cwt on their trucks. About 10 Jan 45, Paul, George and Dave went to Diest and got a large load. They had trouble selling this load and it was still in the harage when we three were picked up on 13 Jan 45. Just before this I had won about 20000 twenty thousand francs from the other four fellows. I gave about 18000 eighteen thousand to Mary with whom I was staying. I was taken to CBMG and managed to escape out of the hospital and returned to Brussels. Jackie, Lucienne and Mary and I stayed at 16 rue Ketyls for about two days, then got a room in the garage. A couple of days later Jackie and I went down to the vehicle park again and got a Dodge truck. The next day about 1600 hrs we got about 200 two hundred cans of petrol. We sold it and split two ways about 20000 twenty thousand each. McKenzie returned about now. We went (McKenzie, Jackie and I) to Diest again in a day or so and brought back about 235 cans. Sold it to Harry and split three ways. Jackie cleaned McKenzie at cards and I cleaned Jackie at crap. I had about 53000 fifty three thousand francs now. The next day I was quite drunk and Jackie dared me to steal a truck from the park. I did and it was a Dodge. I went to Diest and got two large loads. Sold them. At this time I bought a complete suit of civilian clothes. And went again for two more loads and sold that. Jackie wanted to sell a truck for 50000 fifty thousand so Jackie, McKenzie and I went to the vehicle park and stole a Dodge. We didn't sell it so gave it to Little Jimmie

Continued on sheet Four.....

"DLR"

(McKenzie). Mary said she was pregnant and I left her, took the Dodge and started out of town, I had an accident and damaged the radiator. I parked the truck by the vehicle park and stole a Ford 60 cwt with 4 harley Davidson motor cycles. When I got back to the garage I found Dave. Jackie, Dave, McKenzie and three scotch fellows took two truck and got two loads of Diesel fuel back with them. The following day Dave took the truck and I have not seen it since. Paul and Dave took McKenzie's truck and left the following day. An English fellow brought 4 jeep wheels into the garage for Jackie and wanted 6000 six thousand francs for them. I paid half and McKenzie half."

Sgd/ M Woronuik

WITNESSED BY ME AT 2230 HRS 16 FEB 45.

(C.J. ALLENDORF) Capt
D.A.P.M.

Cdn Sec HQ Brussels Garrison

Q. What happened to the first 4 motor cycles?
A. George lost one in Antwerp, I lost one in Gare du Nord, Jackie sold one for about 6000 francs. I ditched one in town.

Q. Where was petrol stored? in the garage?
A. Through a door in the right hand wall.

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS

"J.J.H. Connors"

(J.J.H. Connors) Lieut RCAMC

"DLR"

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:

K.09153 Pte TONEFF J A
10 Bn CBRG "CSR"

I have been cautioned that I am not obliged to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution I sign my name.

"On 16 Nov 44 I went absent from my unit (2 CBRG) and came to Brussels. I stayed in Brussels for a couple of weeks, staying with a girl by the name of Lucienne. About 15 Dec I met Jimmie Woronuik who was staying with Marie in Hotel Bruckere Blvd Emil Jacqmain. He talked me into staying with the gang. I met Paul Bunn, Davie Davis, George Schell and Jimmie McKenzie about 21 Dec 44. The boys all gave me some money to carry me over.

About 20 Dec 44 I went to Boom and stole a Dodge truck from a vehicle park. The next day Bunn and Schell took the truck to Lille with Pola and Rosa to bring back black market goods. They were away a couple of days. On their return to Brussels they said the CMP's got the truck in Lille. On 22 Dec 44 I was apprehended by Sgt Matheson and Sgt Poulin. At 183 rue de Laeken I was searched and during this time I gave Sgt Poulin about 5000 fr to give to Lucienne. Paul Bunn and Woronuik also gave him money including three £ 1.0.0 notes. All together he received about 12000 frs. He never gave this money to the girls.

I was admitted to Prince Albert Barracks and escaped from there by going down blankets the following evening 23 Dec 44.

I went back to Laeken to 'Cafe au Bon Coin'. The next night, 24 Dec 44, at about 2200 hrs Bunn and McKenzie arrived.

About 25 Dec 44, Woronuik, Schell and Bunn went with me on the tram to 3 Park 17 RVP and stole two 60 cwt Fords. That night Bunn, Davis, Woronuik and McKenzie and I went to Diest and started to load 4 gal tins of white petrol in the trucks. We were about half loaded when the guards arrived and chased us. I ditched my truck about 4 km this side of Diest on No 250 Highway. The other truck was ditched also. We all came back to Brussels. About 27 Dec 44 Woronuik and I went out to 17 RVP by tram and stole a 60 cwt Ford truck. That night we (Woronuik and I) went to Diest and loaded up about 75 jerry-cans of petrol, which we sold in Brussels to two civilian fences. 1000 litres to one and 500 to another.

George Schell went to Antwerp shortly afterwards and came back with a 15 cwt. This broke down a couple of days

Continued on Sheet 2.....

"DLR"

later on the road from Diest loaded with petrol. Just after New Years Schell and I made another trip to Diest and returned with about 200 jerry-cans of petrol which we sold to the same three fences (civilians). We used two trucks this trip. Woronuik travelled with me and Paul Bunn was with Schell.

About 10 or 11 Jan 45, Schell and I made a trip to Diest with two trucks and got about 100 cans of petrol. On the morning of 13 Jan 45 Schell and I were at the Cafe au Bon Coin when we were apprehended by Cpl Bement. Outside of the cafe my Ford 60 cwt was partially loaded with petrol.

I was sent to Ghent and bought my way out by paying one of the guards a wrist watch (German), Gold case, water-proof. He had one red service stripe and wore an infantry cap badge. This was Sunday afternoon. The guard gave me my paybook and possessions. We went to the hospital and Woronuik and I walled out.

Woronuik and I came back to Brussels by road and tram. Woronuik and I went to 17 RVP about 17 Jan 45 and stole one Dodge 60 cwt. A couple of days later, Woronuik and I went to Diest and got about 100 cans of petrol. McKenzie returned about 1 Feb 45. About this time Woronuik stole a Dodge truck. We - Woronuik McKenzie and myself - went to Diest and got two full loads - about 350 cans of petrol.

About 3 or 4 Feb 45 I went to 17 RVP and stole a Dodge truck for McKenzie. Dave came back about this time and Woronuik went out with his Dodge for a load. We came back with a Ford 60 cwt and 4 Harley Davidson motorcycles.

McKenzie, Dave and I and three English soldiers went to Diest and got two loads of Diesel fuel. This was about 7 or 8 Feb 45. We used to park our trucks in No 54 rue Moorslade. The owners were under the impression we were legitimate. I never sold any petrol to them.

Pte Toneff refuses to sign this statement at the present time.

Taken down by Capt C.J. Allendorf and witnessed by Sgt Matheson this day of 16 Feb 45 at 1200 hrs.

sgd/ C.J. ALLENDORF
(C.J. ALLENDORF) Capt
DAPM
Cdn Sec HQ Brussels Garrison

This stament has been signed by Toneff - 19 Feb 45.

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

"DLR"

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY;
H.67424 Cfn Davie E.G.

I have been cautioned that I am not obliged to say anything unless I wish to do so and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution I sign my name.

Sgd/ E G Davie

"After I broke out of my unit guard-room I went to Antwerp the same night. This was the 10th of October 1944 I think. I syayed around Antwerp until just before Christmas when I met George. I don't know his other name. Then we came to Brussels. While in Antwerp I stayed in various English camps, always telling them I was just passing through. I was making money by changing guilders for civilians. When George and I came to Brussels we met two other fellows Big Jimmie and Paul. We didn't have any money so Big George had a truck so we all went out to Diest to a petrol dump where we got a load of petrol. We sold the petrol to some connections which George had in Brussels. We stayed in Brussels drinking and playing around. Then one night the Provost raided where we were staying and picked up everyone but me, as I happened to be away at the time. However, the next day they came cruising along and caught me and put me in the guard-room in Brussels, from there they sent me to Ghent. When the Provost were arresting me, I rank down the street and the two Provost cornered me in this big yard. I had a little automatic a .22 cal I think and I pulled it out. I hollared that I was coming through. The sgt yanked out his pistol and hollared "Throw that gun down or I'll shoot" or something like that. When I jumped the Sgt and the other Provost took his pistol out and wacked me over the head. We had quite a battle there and I don't remember much about it. They hit me three or four times and put the cuffs on me. From Ghent I was taken to No 1 Disciplinary Centre and after a short while I cut my way out with a pair of wire cutters I got hold of. After escaping I hitch hiked back to Laeken Brussels. Here I met Big Jimmie, Jackie, and Little Jimmie. That same night Paul had busted out of jail, I think it was Ghent and the next day I met him. We decided the Provost knew the spot we were staying at so we thought we'd better get out of there. So me and Paul decided to stay with a couple of girls that we knew. When we arrived at the girl's place we saw a Provost standing there with a Sten Gun. He managed to fire on shot in the air before I grabbed it. Paul ran out the gate and then I did too. The Provost dropped the Sten gun and pulled out his pistol. I immediately started running across the Blvd, and I guess the Provost fired all his shots at us because he hit Paul in he leg. I didn't know he was hit at the time because he was still running. We got over a fence in a railway yard and Paul passed out. I applied a tourniquet and dug the bullet out, it was only about 3/4" in. Then I carried him over to a shed near a factory. After a rest we both

Continued on sheet TWO.....

"DLR"

walked out of the yard. Paul was able to hobble along. We went to a house and said that there had been an accident. I cleaned his wound and bandaged it. We slept in another place al night. His leg was swollen pretty bad the next day so I took him to some friends of his where he could stay. I left him there and went back to Antwerp. I stayed in Antwerp until they caught me again. It was English MP's and some Polish fellows that took me there. I was pretty drunk and don't remember very much about it. I was sitting in my truck a Dodge when arrested. I stopped when I seen these MP's come over, I jumped out and started to do battle with them. The next thing I knew I was in the clink. I gave the name of Eapointe when arrested this time. I was sent back to Ghent and from there to No 1 Fd Punishment. When I arrived back there the MO recognized me so I told them my real name and said I was the one who had escaped. They kept me there until I was brought here now.

Sgd/ E G Davie

TAKEN DOWN BEFORE ME AND WITNESSED BY ME THIS 22nd DAY OF MARCH 1945 at 1500 HRS.

Sgd/ J TWEDDLE - Capt

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

"DLR"

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:
B.38216 Pte Schell B A
3 Recovery Coy, RCEME

I have been cautioned that I am not obliged to say anything unless I want to do so and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution I sign my name.

Sgd/ B A Schell

"Early in December I was in Antwerp and met Jimmie and Paul. We had a few drinks and later in the day I met Dave. I asked him if he would like to come to Brussels as things were OK there. We stayed overnight and came to Brussels in a Dodge Truck that I had picked up in Boom. We met Jimmie and Paul at 54 Moorslade. We needed some money so Dave and I went to Diest and got a small load of about (50) fifty tins of petrol and came back to Brussels. Harry (the tall one) helped us sell the petrol. About (2) two days later Paul, Jimmie and I went to Antwerp and returned the same evening. Dave and Paul came back in a jeep. Jimmie and I went down town and I lost my truck. About three (3) days after this (Dec 10) I saw a Bedford truck in the garage and Paul, Dave and I went to Antwerp stayed overnight and I got drunk and ws left there when Paul and Dave returned to Brussels. I looked around for a truck and saw one sitting on the street near the Rations Stores. The motor was running in this Bedford truck so I got in and drove it away. On arriving at Brussels I drove it in the garage at 54 rue Moorslade. The next day I found about thirty (30) to forty (40) bags of meat in the back of the truck. I sold some of the meat through Harry and had Jimmie help me unload it. I parked the truck in the garage overnight and the following night I drove own town again and lost the truck with he remaineder of the meat. Four of us made a trip to Diest in the Bedford and Dodge trucks and gt about fifty (50) cans of petrol in the Bedford. We were afraid the patrol was coming so left. This petrol was sold through Harry also. About a week later Jackie, Jimmie, Paul, and I went to 173 RVP by tram and I drove away a Ford truck that had four (4) Harley motor cycles in the back. The bikes were un,loaded in the garage and the four of us each had one. We left the Bedford truck on the streest as we didn't want it any more. This left us with two (2) Ford trucks. We made another trip to Diest and got more petrol which we sold. About 23 Dec 44 Dave and I went to Antwerp by motor cycle and I was picked up by Provost on 25 Dec 44. I was taken to Ghent and back to my unit at Turnhout. About three (3) days later I took a 15 cwt Ford from 8 General Hospital and came back to Brussels. I made a trip to Diest about 2nd or 3rd of Jan 45 and the truck broke down. The next night Paul, Jackie, Big and Little Jimmie's and I went to Diest with the two Ford trucks and loaded them up. On the way back I offloaded, the 15 cwt and brought that load in too. I had about two hundred (200) cans on my Ford. On 13 Jan 45 I was again apprehended."

Sgd/ B A Schell

"DLR"

TAKEN BY AND WITNESSED THIS 28TH FEBRUARY 45 at 1520 hrs.

CERTIFIED TRUE COPY FROM SIGNED ORIGINAL WHICH IS WITH THE SUMMARY OF EVIDENCE OF THIS WITNESS.
"J.J.H. Connors" (J.J.H. Connors) Lieut RCAMC

STATEMENT OF EVIDENCE IN THE CASE OF

D.127524 PTE F LA POINTE
No 1 PLATOON
SOUTH SASKATCHEWAN REGT

SIR,

At Antwerp on the 7 March 1945 about 1845 hrs I was on duty in Veemart in company with L/Cpl Flethher CM Police when I saw WD 3 ton Dodge No L 5403794 parked in the square. Knowing this vehicle was reported stolen on the 4 March 1945 I approached it and saw the above named soldier sitting in the drivers seat, another soldier was also in the passengers seat.

As Pte LaPointe was wearing a S.D. Cap I asked himwhat unit he belonged to, and he replied "Signals". I then asked him for his Pay Book, but this he could not produce, instead he handd me the AB 412 for the above vehicle and said "My Work Ticket is in there". I examined his and found it was made out by No.5 Railway Telegraph Coy R.C.S. and the last two entries made out for the 5th and 6th March 1945 (this was after it had been stolen) were for journeys from Keppelellen Bosch to Antwerp; Column 7 of the AFG.3518 had the dgnature of Capt Bunn. He smelled strongly of alcohol and his dpeach was slurred, he was drunk so I arrested him, and ordered him and the passenger to get out of the vehicle. Pte LaPointe immediately picked up a pick axe head that was lying between his legs and struck me with it, I covered my head with my hands and thse took the blow. I struggled with him and managed to wrench the pick head from him and pull him out of the vehicle.

I called on two Polish soldiers to assist me, they were 13671 Pte A Warm and 2830 L/Cpl Famroz J. both of No 4 Coy 2nd Armd Regt, Polish Forces. At this moment the other soldier in the vehicle moved into the drivers seat and struck at L/Cpl Fletcher with a pick shaft. L/Cpl Fletcher caught hold of the pick shaft and took it away from the woldier who then quickly slammed the dor of the truck and drove away. During this time I was struggling with Pte LaPointe and eventually managed to get him to the Military Police jeep, but he broke away, L/Cpl Fletcher and Pte Warm immediately gave chase. They caught him up and he picked up a brick and attempted to throw it at L/Cpl Fletcher but he was overpowered and eventually put in the jeep.

I then conveyed him to the Town Guard Room where he was handed over to the NCO i/c to be detained. The soldier refused to give his number, rank or name so the above were taken from the Identity Discs he was wearing, he did verbally give me the above regimental particulars. The above mentioned AFB 412 and Work Ticket are attached to this statement, WD 3 Ton Dodge No L 5403794 was stolen from ST Vincent Straat, Antwerp on the 4 March 1945.

Field
8 March 1945.

(sgd) W. Glynn L/Cpl 7690482
244 HQ Provost Company CMP

SIR,

I have read over and corroborate the above statement. During my struggle with Pte LaPointe he hit me on the knee with the pick head, the injury caused made it necessary for me to report sick this morning, Sick report attached to this statement.

(sgd) T. Fletcher L/Cpl 14344977
244 HQ Provost Company CMP

Field
8 March 1945.

Certified true copy.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

"DLR"

Report by OC 267 Petrol Depot RASC

Concerning the pilfering 29 December 1944

At about 1725 hours on 29 Dec 44 I was proceeding along the Montaigu-Sichem rd in company with Lieut C.C. Whitelaw and No S/7604155 S/Sgt Wade, AH, both of this Unit. The rd in question is a POL Sector operated by this Unit and has two sharp bends with approximately 200 yds between each.

On rounding the first of these bends two army trucks, without superstructures, were found to be blocking the road and facing the general direction of Sichem. On approaching several men dressed in British battle-dress and hatless were seen to be loading petrol aboard the vehicles from nearby stack.

These men immediately dashed to their vehicles at our approach and made a quick get-away in the direction of Messelbroeck. Shots were fired as a warningbut the vehicles continued to Messelbroeck turning off and doubling back to the main Montaigu-Billaer rd, where they proceeded towards Aerschot. These vehicles were trailed with considerable difficulty, for they maintained a reckless speed and were driven with tail-lights only.

The centre of Aerschot was reached and I was on the point of passing both vehicles when the rear one suddenly swung off into a track bounded on one side by the river back and on the other by the rear of private houses. This vehicle was under observation the whole time and was followed. We drew abreast with it simultaneously with it coming to a halt on the bank overhanging the water's edge.

Of the driver and one other man known tobe with him there was no trace, and it was evident that the vehicle had been abandoned whilst in gear and with the engine running. It had therefore travelled some distance under its own power before stalling.

The area was searched but no trace could be found of these men who evidently escaped in the darkness.

The vehicle is Canadan Ford No CL 4273301 and documents and AB 412 is blank. The vehicle was placed in charge of a NCO of 81 Coy CMP(TC) who arranged recovery and removal to 218 PW Camp, Aerschot where it nowlies with its load. One Army great-coat with Canadian buttons was found in the cab together with town letters, matches, cigarettes etc.

The load consisted of 140 4-gall n/R tins of Pet Spirit, i.e. 560 gallons. This load was below the side of the vehicle. The second truck, last seen proceeding towards Antwerp, had what appeared to be a larger load plainly seen stacked above the sides of the vehicle.

Inspection of the stack involved disclosed a shortage of 326 tins of Pet Spirit, i.e. 1304 gallons.

It is considered that the men were familiar with the POL Sector concerned and its intersecting secondary rds. The initial gateway was very fast and the ensuing reckless driving and the ultimate rapid disappearance of the occupants of the caputred vehicle indicate a blatant lawlessness. This does not seem compatible with the usual case of casual pilfering intended for bona-fide military consumption.

B.L.A.
30 Dec 44.

Sgd/ W.E. Hoffard Capt
Officer Commanding 267 Petrol Depot
R.A.S.C.

Certified true copy "DLR"

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

This is exhibit 'F' referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, EG, taken before me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

Subject: Vehicle stolen from 173 Veh Park Ref: 3VP/Tech/6/1364

To: HQ 17 Veh Coy

(a) We have been informed by D.A.P.M. CDN SEC HQ Brussels Garrison hat the undermentioned vehicles and Motor Cycles have been recovered by them and disposed of as stated.

All the vehicles are on our charge.

Type	WD No	
Lorry 3 ton 4x4 GS Ford	CL 4273015	1 Cdn 'ort W/Shops
	286	Now in stock at 173 Veh Park
	364	1 Cdn Port W/Shops
	301	In CMP Compound Brussels
Lorry 3 ton 4x2 GS Dodge	L 5408359	Location at Present Unknown

(b) It has also been reported by O i/c Motor Cycle Park that the undermentioned vehicles and Motor Cycles are missing. The Vehicle and Motor Cycles could not be found in the Park on the 9th February 1945, and were presumed to have been stolen.

Lorry 3 ton 4x4 GS Ford	CL 4273839	Loaded with Harley Davidson MCs
M/Cycle Hy 600/700 Harley Davidson	CC4224944 *	
	929 *	
	665 *	
	4225077	

The lorry has not been found by the Provost but three motor cycles marked with an asterisk have, and are, at present held in the CMP Compound.

(c) In addition O i/c Motor Cycle Park reports the loss of two Harley Davidson Motor Cycles WD Nos: 4225677 and 4225669. These were loaded in Lorry 3 ton 4x4 GS Ford (Cdn) WD No. CL 4273702, but the vehicle and two remaining machines were not stolen.

In view of the serious nature of these thefts may we have your comments and further instructions.

(sgd) J.A. Watsen, Capt
O.C. 173 Vehicle Park.

Certified true cpy

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC
A Offr 1
Cdn Sec HQ Brussels Grn

This is Exhibit 'G' referred to in the Summary of Evidence, in the case of H.3584, Pte Bunn, E.G. taken befoe me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors)Lieut RCAMC

"DLR"

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:

H.3584 Pte Bunn, E.G.
13 Bn 2 Canadian Base
Reinforcement Group

I have been cautioned that I am not obliged to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To show I understand this caution, I sign my name.

Sgd/ E Bunn

"I am H.3584 Pte Bunn, Elmer Gerald. On 22 Apr 44, I went AWL from 13 Bn 2 CBRG and was absent about 18 days when I surrendered to Civil Police at St-Meryon, Cornwall. I was returned to 2 CBRG and escaped again about 17/19 May 44 and was absent until about 9 or 10 Sept 44 when I was apprehended. About the end of Sept 44, I was brought to France and ended up in Ghent. I escaped from ~~the~~ 13 Bn about 10 Oct 44. I was picked up in Malines about the end of October 44 and taken to Antwerp where I escaped the following day and went to Dieppe and surrendered to the CMP. I remained in custody at 13 Bn 2 CBRG and escaped again. Early in Dec 44, I escaped from Ghent with "Goulet" and hitch-hiked into Brussels, then to Antwerp and met Schell the next night. A few days later Schell and I went to Boom and stole one Bedford truck filled with jerrycans from a vehicle park. We returned to Antwerp and later came to Brussels. I estimate there were about one hundred fifty (150) cans in the truck. We sold about ten (10) cans to a civilian. In a couple of days Schell and I took two girls Rosa and Paula to Lille where we sold about twenty (20) cans of petrol. A few days later Schell and I took a civilian named "Harry" to Paris in the truck and sold the remainedr of our petrol (about one hundred '100' cans) there. The civilian bought a large amount of silm, perfume etc for himself and about one hundred thousand 100.000 francs worth for us. This was all brought back in the truck to Brussels and unloaded it into a house on Rue Marie Christine. Schell and I made about three trips to Diest and came back with petrol. About this time I was apprehended by Cdn Provost and placed in Prince Albert Barracks, and escaped the next day. At this time I was in possession of a pistol and a knife. Schell and I went to Boom in the Bedford truck and stole a Dodge and proceeded to Antwerp, picked up Jimmie Woronuik and returned to Brussels. We returned to Antwerp several days later and back to Brussels. Dave and I came back and Schell turned up with a Bedford truck full of meat. We sold the meat and I got about twenty thousand 20.000 francs for my share. We ditched one Bedord truck. Schell and I made numerous trips to Diest and stole petrol and sold it in Brussels. We were chased out of the Dump about this time by the Guard and had to ditch our trucks. We went to 173 Vehicle Park on several occasions and drove trucks out of the lines. To my knowledge there were two trucks loaded with four Harley Davidson motor cycles each. I did not have anything to do with selling the motor cycles. On 22 Dec 44, I was apprehended by Cdn Provost and booked into the CMP Guard Room as D.125409 Pte Caron, P presenting a pay-book I had purchased from a Guard in Ghent.

...../2 "DLR"

STATEMENT BY:
H.3584 Pte Bunn, E.G. (Continued)

I escaped again on 23 Dec 44, We made several more trips to Diest. I was picked up on 13 Jan 45 and sent to Ghent the following day. I escaped again on 7 Feb 45 and returned to Brussels. Dave and I borrowed Jimmie's truck (Dodge) and went to Ayreshot for petrol and sold it. There was about one hundred eighty 180 cans on this load. We had a brush with Provost again and I was wounded in the leg. The next day we went to Antwerp. We got about three loads of petrol from Ayreshot and sold it in Antwerp. On 7 Mar 45 Dave and I were checked by CMP's in Antwerp and Davie was apprehended. I drove the truck away and it was picked up by US Military Police the same night. At the time we were checked we had a work ticket which I had signed as "Capt Bunn". On 13 Apr 45 I surrendered in Ghent."

Sgd/ E Bunn

TAKEN AND WITNESSED BY CAPTAIN C.J. ALLENDORD 'DAPM'
27 APRIL 45.

"DLR"

I have been cautioned that I amnot obliged to say anything unless I wish to do so, and whatever I do say will be taken down in writing and may be given in evidence. To show that I understand this caution, I sign my name.

"E Bunn"

I am H.3584 Pte Bunn, Elmer Gerald.

On 22 Apl 44 I went AWL from 13 Btn 2 CBRG and was absent about 18 days when I surrendered to Civil Police at St Meryon, Cornwall. I was returned to 2 CBRG and escaped again about 17-19 May 44 and was absent until about 9 or 10 Sept when I was apprehended About the end of Sept 44 I was brought to France and ended up in Ghent. I escaped from 13 Btn about 10 Oct 44. I was picked up in Malines about the end of October 44 and taken to Antwerp where I escaped the following day, and went to Dieppe and surrendered to the CMP. I remained in custody at 13 Btn 2 CBRG and escaped again.
Early in Dec 44 I escaped from Ghent with "Goulet" and hitch-hiked into Brussels. then to Antwerp and met Schell the next night. A few days later Schell and I went to Boom and stole 1 Bedford truck filled with jerrycans from ~~xh~~ a vehicle park. We returned to Antwerp and later came to Brussels. I estimate there were about 150 cans in the truck. We sold about 10 cans to a civilian. In a couple of days Schell and I took two girls Rosa and Paula to Lille where we sold about 20 cans of petrol. A few days later Schell and I took a civilian named "Harry" to Paris in the truck and sold the remainder of our petrol (about 100) cans there. The civilian bought a large amount of silk, perfume etc for himself and about 100000 francs worth for us. This was all brought back in the truck to Brussels and unloaded it into a house on Rue Marie Christine. Schell and I made about 3 trips to Diest and came back with petrol.
About this time I was apprehneded by Cdn Pro and placed in P.Alt Bks and escaped the next day. At this time I was in possession of a pistol and a knife. Schell and I went to Boom in the Bedford truck and stole a Dodge and Proceeded to Antwerp, picked up Jimmie Woronuik and returned to Brussels. We returned to Antwerp several days later and back to Brussels. Dave and I came back and Schell turned up with a Bedford truck full of meat. We sold the meat and I got about 20000 F for my share. We ditched one Bedford truck. Schell and I made numerous tripps to Diest and stole petrol and sold it in Brussels. We were chased out of the dump about this time by the guard and had to ditch our trucks. We went to 173 Veh park on several occasions and drove trucks out of the lines. To my knowledge there were two trucks loaded with 4 HD m/c each. I did not have anything to do with selling the m/c.
On 22 Dec I was apprehended by Cdn Pro and booked into the CMP guard room as D.125409 Pte Caron P presenting a pay book I had purchased from a guard in Ghent. I escaped again on 23 Dec. We made serveral more trips to Diest.
I was picked up on 13 Jany 45 and sent to Ghent the following day. I escaped again on 7 Feby 45 and returned to Brussels.
Dave and I borrowed Jimmie's truck (Dodge) and went to Ayreshot for petrol and sold it. There was about 180 cans on this load. We had a brush with Pro again and I was wounded in the leg. The next day we went to Antwerp. We got about 3 loads of petrol from Ayreshot and sold it in Antwerp. On 7 March Dave and I were checked and Davie was apprehended. I drove the truck away and it was picked up by US Mil police the same night. At the time we were checked we had a work ticket which I had signed as "Capt Bunn". On 13th Apl 45 I surrendered in Ghent.

1700 hrs 27 Apl 45. "E Bunn"
"J Allendorf" Capt

This is Exhibit 'J' referred to in the Summary of Evidence
in the case of H.3584 Pte Bunn, EG taken before me this 2d day of May 45.

"J.J.H. Connors" No.....
(J.J.H. Connors)Lieut RCAMC

OC
120 Provost Coy

Report - Prisoner escaping from confinement

Sir,
I have to report that at BRUSSELS On the 25 Dec 44

I was NCO i/c Guard at Prince Albert Barracks when

No. D.125409 Rank..Pte..Name..Caron. P....

Unit.. CBRG 46 Coy Signals....

escaped from confinement about 2000 ..hrs

Field
Date..25 Dec 44

"1036528 S Sinclair"

NCO i/c Guard

PART II ORDER EXTRACT FORM

TO: 99/20

DISCIPLINE & PAY SECTION 21 Apr 1945

EXTRACTS FROM: UNIT X-4 List RCOC

Part II Order No. 73 dated 29 Nov 44

ABSENT WITHOUT LEAVE

(a) AWL from 1030 hrs 9 Oct 44 Ret from AWL 2020 hrs 22 Oct 44
(X-4 List 13 Bn)
H.3584 Pte Bunn E.

"G.E. Marin" Lt

Certified to be a true extract from the regimental books and documents in my custody

"G.E. Marin" Lt
Officer IC Records.

21 Apr 45

Odn Sec 3HQ 2 Ech 21 Army Gp

Please ack receipt on att duplicate

The following documents are required please forward same.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

This is Exhibit 'K' referred to in the Summary of Evidence attached. H.3584, Pte Bunn E.G., taken before me this 2nd day of May 45. In the case of

Officer in Charge
Canad Section HQ 2 Echelon

Originating clerks initials: "DLR"

PART II ORDER EXTRACT FORM

99/20

TO:

DISCIPLINE & PAY SECTION 21 Apr 19 45

EXTRACTS FROM: UNIT X-4 List RCOC.

Part II Order No 79 dated 9 Dec 44

6. ABSENT WITHOUT LEAVE

(a) AWL from 2030 hrs 8 Nov 44 (X-4 List 13 Bn) H.3584 Pte Bunn, E

(b) AWL from 2030 hrs 8 Nov 44 Still absent 2030 hrs 16 Nov 44 (8th day) H.3584 Pte Bunn, E (X-4 List 13 Bn)

(c) AWL from 2030 hrs 8 Nov 44 Still absent 2030 hrs 30 Nov 44 (22nd day) H.3584 Pte Bunn, E (X-4 List 13 Bn)

Certified to be a true extract from the regimental Books and documents in my custody

"G.E. Marin" Lt

Officer IC Records.

This is exhibit "L" referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, taken before me this 2nd day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) RCAMC
Officer in Charge
Canadian Section GHQ 2nd Echelon

21 Apr 45 Cdn Sec GHQ 2 Ech 21 Army Gp

Please ack receipt on att duplicate

"DLR"

The following documents are attached. Please forward name required

Originating clerks initials

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY THAT No.D.125409 Rank Sigmn Name CARON P

Unit 13 Bn 46 Coy (Signals) 2 CBRG was arrested at Brussels (Place)

at 1000 (hours) on 22 Dec 44 (date) and that at the time of his arrest he was wearing (military uniform)

Signature of Provost-Marshal, Assistant Provost-Marhsall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

"J. Tweddle"
(J. Tweddle) A/Capt
Officer Commanding
2 Cdn L of C Pro Coy

Field
22 Dec 44

"DIR"

This is exhibit 'M' referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, taken before me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors)Lieut RCAMC

PART II ORDER EXTRACT FORM

TO:

DISCIPLINE & PAY SECTION

99/RO

21 Apr 19 45

EXTRACTS FROM: UNIT X-4 List RCOC

Part II Order No. 14 dated 26 Jan 45

2. STRENGTH INCREASE

(g) TOS X-4 List (13 Bn) on appfrom dos wef 0001 hrs 13 Jan 45
H.3584 Pte Bunn E

Certified to be a true extract from the regimental books and documents in my custody

"G.E. Marin" Lt
Officer IC Records
Cdn Sec GHQ 2 Echn 21 Army Gp

Please ack receipt on att duplicate
Please forward same. "DLR"

This is exhibit 'N' referred to in the summary of evidence, in the case of H.3584 Pte Bunn, taken before me this 2nd day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut
Officer in Charge
Canadian Section GHQ 2nd Echelon
RCAMC

21 Apr 45

The following documents are attached.

Originating clerks initials

PART II ORDER EXTRACT FORM

TO:

DISCIPLINE & PAY SECTION

99/40

21 Apr 19 45

EXTRACTS FROM: UNIT X-4 List RCOC

Part II Order No. 25 dated 14 Feb 45

3. ABSENT WITHOUT LEAVE

(a) AWL from 2015 hrs 7 Feb 45 (X-4 List 13 Bn)
H.3584 Pte Bunn E

Certified to be a true extract from the regimental books and documents in my custody

"G.R. Marin" Lt
Officer IC Records,
Cdn Sec GHQ 2 Ech 21 Army Gp

21 Apr 45

This is Exhibit 'P' referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, taken before me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC
Officer in Charge
Canadian Section GHQ 2nd Echelon

Originating clerks initials

"DLR"

The following documents are attached. Please ack receipt on att duplicate
requisition forward same.

This is Exhibit 'Q' referred to in the Summary of Evidence, in the case of H.3584 Pte Bunn, taken before me this 2d day of May 45.

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC

CERTIFICATE UNDER ARMY ACT SECTION 163(i)(j)

Certified that No. H.3584..Rank..Pte..Name..Bunn, E....

of the..13 Bn 2 CBRG..Regt..was apprehended by No. F.91430..

Rank..Sgt..Name..Foston. RL...of the..28 Coy 9 Bn...

3 CBRG.. at..Ghent..at..1715 hrs, on the 13th

day of April 1945..as an absentee without leave. "DIR"

He was wearing military uniform at the time of his arrest.

Place..Ghent..
Date...13 April 45

"J.A. Thomson" Lieut
(J.A. Thomson)A/DAPM 2 CBRG
Canadian Provost Corps

5 May 45

This is to state that the documents of H.3584 Pte Bunn E have been requested from 2 Ech. We received the MFM 6 only, and have no particulars of service. The accused has been held in close arrest since 13 Apr 45. Total time 22 days (5 days spent in hospital)

"J.J.H. Connors"
(J.J.H. Connors) Lieut RCAMC
Prosecutor

Cert in Lieu of

Ex B

"DLR"

No H3584 Name BUNN, Elmer | Sqn, Battery, or Company | Corps RCOC | Date of enlistment 23/9/39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
#1 COHU	2/11/41	Pte		AA 15(1) AWL from 2359 hrs 2 Nov 41 to 1600 hrs 5 Nov 41		3 days pay FR&I 149(1)(a) 3 days pay FR&I 149(1)(b)	6/11/41	#1 COHU DO 78/Nov 41	
#29 LAD	19/1/42	Pte	2	AA19 Drunkenness 3rd off (previous cases not shown)		Fined $10.00	19/1/42	#29 LAD DO 13/Feb 42	Ex C "DLR"
"	4/7/43	Pte	3	AA15(1) AWL from 2359 hrs 4 Jul 43 to 1330 hrs 29 Jul 43		28 days FP 56 days pay	2/8/43	29 LAD DO 36/Aug 43	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
29 LAD	30/9/43	Pte	3	FGCM AA 15(1)AWL from 2400 hrs 30 Sep 43 to 1045 hrs 15 Nov 43		8 mos det forfs 322 days pay	18/12/43	29 LAD DO 1/Jan 44	
1 CORU		Pte	3	above sentence: 92 days remitted			17/5/44	1 CORU DO 49/44	
1 CORU		Pte	3	AA 15(1) AWL from 0715 hrs 8 Sep 44 to 1230 hrs 10 Apr 44		14 days CB 3 days pay	12/4/44	1 CORU Do 92/44	

Duplicate created from MFM4 16 Apr 45. Record of conduct in Canada prior to TOS Cdn Army Overseas 6 Apr 44 not available.

"W.H. Laughlin" Capt
Officer i/c Records 'X'
Cdn Sec 2 Ech HQ 21 A Gp

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 3584 Pte ELMER BUNN 29 LAD (RCOC) ATT. 2 Bn R.C.E

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 33 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Eight months detention.

(Sgd) N/A — Judge-Advocate, if any. 18 December 1943 — Date awarded. (Sgd) J. Blair Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.) 1 Bn R.C.E

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

~~I confirm the findings and the sentence of the court.~~

Date ..... (Sgd) ..... Commanding ..... ~~C.E. Works, First Cdn Army~~

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and the sentence of the court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) ..... Col

Date 21 Dec. 43. Commanding C.E. Works, First Cdn Army — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H3584 Pte Bunn E	23 Dec 43	Major — Maj. R.C.E. O.C. 2 Bn. R.C.E.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

AAA-14.

CFA96 (In lieu of AFA3) 40/P & S/1608 (2894)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Colonel D.H. Storms Comd C.E Works First Cdn Army dated 16 Dec 1943

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H5384	Pte		Elmer	Bunn	29 LAD (RCOC) att 2 Bn RCE

PROCEEDINGS REVIEWED

29 Jan 44 R.C. Finch Lieut. Reg'd

REVIEWING OFFICER, JAG BRANCH G.M.H.Q.

4939

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 18 Dec 1943

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-127. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J. Blair	1 Bn RCE
Member	A/Major	H.H.G. Moody	Cdn C.E. Wks.
Member	Lieut	L.S. Lavigne	3 Bn RCE
Judge-Advocate			
Prosecutor		Lieut R.G. Chapman	29 LAD RCOC
Defending Offr		Lieut W.C. Hughson	2 Bn RCE

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused H 3584 Pte Elmer Bunn before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. See charge sheet "G" attached.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 39.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....no, sir!.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty ~~to Not Guilty~~ on.....charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) plea(s) on~~.....charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. H, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....No, sir.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. J and Ex. K respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....No, sir.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 209, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

G

CHARGE SHEET

The Accused H3584 Pte Elmer BUNN, 29 LAD (RCOC) attached 2 Bn RCE, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE

Army Act
Sec 15 (1)

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field, did absent himself without leave from 2400 hours 30 Sep 43 till 1030 hours 15 Nov 43.

Time Absent - 45 days 10 hours 30 minutes

Field,
9 Dec 43

(W.A. CAPELLE) A/Lt-col.,
Commanding Officer,
2 Bn., R.C.E., C.A.

To be tried by F.G.C.M.

In the field
16 Dec. 43.

.....Col
C.E. Works, First Cdn Army

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAS/1097 (2563)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-3584	Pte.		Elmer	Bunn	23 LAD (RCOC) attached to 2 Bn RCE.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Dec 43 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint an Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J. Blair	1 Bn RCE.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A/Major	H. H. G. Moody	Cdn C.E. Works.
~~Lieut~~ ~~Capt.~~	~~L.E. LAVIGNE. To be detailed~~	3 Bn RCE.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 16 Dec 43.

(Signed personally. RP 105 fn 2) (Rank.) Col

Commanding C.E. Works, First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

83

2 Battalion, RCE
18 Dec 43

MEDICAL OFFICER'S CERTIFICATE

I certify that No. H3584 Pte Bunn, E., 29 LAD (RCOC) Attached 2 Bn RCE, is fit to undergo trial by Court-Martial.

E. Fabah ....Capt.
Medical Officer.

Statement by Defending Officer.

Pte Bunn is a young man of 23 years of age. Last April he became engaged to be married. He decided to remain engaged for a year and wrote for his parents blessing. This was not forthcoming instead a letter came saying they were breaking all communications with him. Such a break was unsettling to his nerves. He had had nothing on his MFM6 at this time since January 1942, more than a clear year. I submit that both these crimes this year are owing to nervous condition about his own home affairs. May the court give every consideration to this man in this plea for a reasonable sentence.

I do not wish to name any officer to defend me.

NO

E. Bunn

H3584 E. Bunn Pte.

Exhibit "A" referred to in the summary
[illegible]

RECORD of the Declaration of a Court of Inquiry assembled at

St. Eval on the 25 day of October 1943

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. H-3584 Pte. Bunn E.

DECLARATION

The Court declare, that H-3584 Pte. Bunn Royal Canadian Ordnance Corps, illegally absented himself without leave on 30 day of Sept 43, at 2400 hours, and that he is still absent, and that on the 25 day of Oct 43 he was deficient and still is of the following articles.

Article	No.	100 % Value	75% of Value
B.D. Blouse and B.D. Trousers	One of each	$ 2-15-7	$ 2-1-8¼
Boots ankle pairs	One	1--1-6	16-1½
Brasses, button	One	0- 0-2	0-0-1½
Brushes, button	One	0- 0-8	0-0-6
Brushes, shaving	One	0- 1-4	0-1-0
Brushes, tooth	One	0- 0-4½	0-0-3¼
Comb, Hair	One	0- 0-2	0-0-1½
Drawers, woolen	Two	0-10-6	0-7-9½
Holdall	One	0- 0-9	0-0-6¾
Housewife	One	0- 2-3	0-1-8¼
Jerseys pullover	One	0- 6-9	0-5-0¼
Knife clasps	One	0-65-2½	0-4-7¾
Shirts, angora drab	One	0- 9-2	0-6-10½
Towels, hand	One	0- 0-11½	0-0-8½
Shirts, woolen	Two	0-10-2	0-7-6½
Shirts, under cotton	One	0- 2-4	0-1-9
Vests, gym	Two	0- 3-0	0-2-3
Belt, waist web	One	0- 3-4	0-3-3
Braces, Web Equip. M.	One	0- 2-2½	0-1-7¾
Haversack	One	0- 9-7	0-7-11¼
Sheets, ground	One	0-10-9	0-8-2¼
Cap, a/G.	One	0-19-10	0-14-10½
	Totals	$ 8-17-5	$ 6-14-7

Signature of Commanding Officer .....

Certified true copy .....

Names of President and Members:

Lieut. J.W. Wylie
Lieut. L.J. Gerrier
Lieut. R.G. Chapman

Signature of Commanding Officer [illegible] Lt-Col. R.C.E.
[illegible] Bn. R.C.E.

Certified true copy [illegible]
Signature of Officer Having Custody of original record.
Adjt. 2 Bn. R.C.E.

FORM 2121

LIST OF WITNESSES

PROSECUTION

B28407 Sgt Hewins, CAF — 2 Bn RCE
Capt. G.D. Gibson — 2 Bn RCE

DEFENCE

Nil

H 18

SUMMARY OF EVIDENCE IN THE CASE OF
H3584 Pte Bunn, E., 29 LAD (RCOC),
Attached 2 Bn RCE CA

By direction of the Commanding Officer, 2 Bn RCE CA, the Summary of Evidence is taken on Oath.

First Witness

Capt. G.D. Gibson, 2 Bn., R.C.E., having been duly sworn, states:

I am Capt. G.D. Gibson, Adjutant 2 Bn. R.C.E., and I present herewith NFB 375 in the case of H3584 Pte. Bunn, E., and marked Exhibit "A".

G.D. Gibson Capt.
G.D.Gibson. Capt.
2 Bn. R.C.E.

Accused declines to cross-examine this witness.

Second Witness

B28407 Sgt Hewins, C.A.F., HQ Coy 2 Bn RCE, having been duly sworn, states:

I am B28407 Sgt Hewins, C.A.F., HQ Coy 2 Bn RCE. At 1030 hrs 15 Nov 43, H3584 Pte Bunn, E., surrendered himself to me at Bramley Park, Bramley, Surrey. At 1045 hrs, 15 Nov 43, I turned H3584 Pte Bunn, E., over to Lt. H.S. Beagle of 2 Bn RCE.

C.A.F. Hewins Sgt.
B28407 C.A.F. HEWINS Sgt
2 Bn RCE

Accused declines to cross-examine this witness.

The accused was cautioned in accordance with Rule of Procedure 4 (E) as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make any statement.

H3584 E. BUNN Pte.

E. Bunn

Certified that Rule of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 24th day of November, 1943, at Munstead Heath, Surrey, and consisting of two pages.

R.G. Chapman Lieut

(R.G. CHAPMAN) Lt.
29 LAD (RCOC)

No. H 3584 Name Pte Bunn C. Sqn., Battery, or Company } Corps WLI (MG) Date of enlistment } 23-9-39 G.C. Badges } Service or Proficiency Pay } K

Date of last entry in Company Conduct Sheet } 2-7-40 No. and date of last drunk } 16-6-40 Period not reckoning towards freedom from extra fine } DISTRICT DEPOT NO 10 CASF Sheet No. ~~TWO~~ ONE Signature O.C. Company, etc. } Charge Clerk

Sheet 1 Discharged after 6 months service

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Winnipeg	16-6-40	Pte	I	Drunk @ 0330 hours 16-6-40	CSM Barlow	48 hrs Detention	17-6-40	Maj H. Lutchky	JW2
Winnipeg	2-7-40	Pte		AWOL 2-7-40 till 11-7-40	CSM Barlow	14 days Detention	16-7-40	Maj H. Lutchky	JW2
Winnipeg	13-8-40	Pte	II	Drunk @ 1630 hrs 13-8-40 apprehended by Civil Police	Documentary	Fine $50 2nd offence 7 days CB	15-8-40	Maj J. Heish	
Winnipeg	21-12-40	Pte		Conduct to the prejudice of good order & Military Discipline Sec 40 AA. When in confinement escaping Sec 22 AA.	Det Newman Capt Tarn Documentary	15 days Detention	11-1-41	Lt Col Hassell	Fine forfeit 33 days pay JW2
Winnipeg	21-12-40			having been taken on strength from desertion effect 7-11-40 in close arrest from 12.30 hrs 7-11-40 total close arrest 12 days 22 hours awarded 28 days detention to run to a total of 41 days pay under RR & I. Date of award 28-11-40		41 days pay 28 days detention		Maj H. Hassell	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
[redacted]	16-1-42	Pte	III	AA Sec 19. WOAS. Drunkenness	documentary	Fined $10.00 for 3rd offence	19-1-42	Maj. J.H. Peterson	
Field	25-5-43	Pte		AA Sec. 40. Conduct to prejudice etc. Unat. W.O. Norton Mk 60 M/A.	documentary	10 days pay	6-6-43	23rd Cavalry	
FIELD.	4-7-43	Pte.		AWL. From 2400 hrs 4 July 43. until 1330 hrs 29 July 43. Total Time absent 24 days. 1330 hrs. AA sect 15 (1)	documentary	28 days Field Punishment. 28 days Pay.	2 Aug 43	23rd Inf Brigade	25 days Pay F.R. & I. 149 (r) (a).

Certified that the above is a true extract from the original document held in my custody.

[signature]
Capt. R.C.E.
Adj. 2 Bde. R.C.E.

5

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 28

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H 3584	Pte	Brown E.	29 LAD. (RCOC)

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ ~~Conduct sheets~~ ~~or~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For Drunkenness	Nil	times	three	times
For A.W.L.	one	time	three	times
For Conduct to the prej.	one	time	two.	times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ Nil

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the day of~~ Nil

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 24 days in military Air Force custody, making a total of 24 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 22 years 10 months

6. The date of his ~~commission~~ attestation specified in his record of service is ~~attestation paper~~ 23 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 2 mos 15 days

8. The accused is entitled to reckon 4 3/12 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. ~~State any air force decoration or reward military~~ Nil

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of.~~ Nil

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....

Permanent Force
unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Eighth day of December 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked 5 signed by the president, and annexed to the proceedings.

H.Q.C. 55-B-2064 CONFIDENTIAL

M.F.B. 30B
ADM—2-45 (5000)
H.Q. 300-1-62

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BURNETT, WALLACE FREDERICK A-118733 GNR.

CONFIDENTIAL
H.Q.C. B-2064

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 18 1945				JAG	NEW FILE	CR	15-10-45
OCT 25 1945					With Papers C.P. OCT 24 1945		
JAN 01 1948				WGR	PER REQUISITION NOV 3 1947		

If space allowed for purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute".

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for one or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQS 55-D-2084 (JAG/D-5)

25 Oct 45

District Officer Commanding,
Military District No. 1,
London, Ontario.

Standing
A.118755 Gnr. Wallace Frederick Burnett
No. 1 District Depot, CA.
.....Court-Martial

L.28-B-1078

23rd October 5

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.L.M.
for (R.J. Orde) Brigadier,

ELM/fdf Judge Advocate-General.

CANADA

IN REPLY PLEASE QUOTE
No. L.28-B-1978

DEPARTMENT OF NATIONAL DEFENCE
ARMY

H.Q. MD 1, London, Ont., 23 Oct 1945

Judge Advocate-General,
Department of National Defence,
OTTAWA, Canada.

CENTRAL REGISTRY Army
COMF. 4713
OCT 24 1945
File 55-B-2064
Chgd. to
Referred to JAG

STANDING COURT-MARTIAL
A.118733 Gnr. Wallace Frederick Burnett
No. 1 District Depot, C.A.

Reference your H.Q.C. 55-B-2064 (JAG/D-3), dated 17 Oct 45.

2. The proceedings of the m/n Standing Court-Martial are returned herewith for custody as directed.

for (P. Earnshaw), Brigadier
D.O.C.
M.D. 1

DZhainmajor

N.D. 23
2 Mil—5-43 (321)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at No. 1 District Depot, C.A., London, Ontario

on the 12th day of October 1945 at 1030 hours,

for the trial of: A.118733 Gnr. Wallace Frederick Burnett
Number Rank Full Name

No. 1 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major D.R. Nairn, President Courts-Martial M.D. 1

PROSECUTOR: Lieut. W.D. Roberts, Permanent Prosecutor M.D. 1
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut. E.G. Crosbie No. 1 District Depot, CA
Rank Full Name Unit Attachment, if any

FINDING: Guilty

SENTENCE: To undergo detention for a period of twenty-one (21) days.

Extracts entered as No. 40360 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 17 day of Oct 19 45

Signed at London, Ontario this 12th day of October 1945.

(D.R. Nairn), Major
President, Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to W-20589, Pte. V.M. Chatterson HQ MD 1 as shorthand writer ?

Answer: No, Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, he has not Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the (~~first~~) charge against you, which you have heard read ?

Answer: Guilty, Sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer.

(The accused having pleaded guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

'B2'
W.R. Cunningham Major

CHARGE SHEET

The Accused, No. A-118733 Gnr. Wallace Frederick BURNETT, No. 1 District Depot, C.A., London, Ontario, a G.S. soldier of the Canadian Army, placed on Active Service is charged with:-

CHARGE
Section 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

IN THAT-HE

At Shilo, Man. on the 14th day of August, 1945 absented himself without leave from A.3 C.A.T.C., C.A. Shilo, Manitoba, at 0600 hours on the said 14th day of August 1945 until surrendering himself to Regimental Police at No. 1 District Depot, C.A., London, Ontario at 1500 hours on the 24th day of September 1945.

(H.L.Petrie) Lt.-Col.
C.O. No.1 District Depot, C.A.

No.1 District Depot, C.A.
LONDON, Ontario.
2 October 1945.

C.C.

Proceedings on Plea of Guilty

The accused having pleaded guilty to the charge, is found guilty of the said charge[x]

(The Prosecutor will be asked if he has any statement to make regarding all the circumstances connected with the offence.)

Question to the accused. Have you any statement to make in reference to the charge to which you pleaded guilty?

Answer. No, Sir.

~~(Statement of the accused to be recorded on a separate page.)~~

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. I have a written statement, Sir.

(Statement of the accused to be recorded on a separate page.)

(See document C.C. 3)

Question to the accused. Do you wish to give evidence yourself as to character?

Answer. No, Sir.

Question to the accused. Do you wish to call any witness as to character?

Answer. No, Sir.

R.P. 37 *(d). If from the statement of the accused or from the Summary or Abstract of Evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty" the Court shall alter the record and enter a plea of "Not Guilty" and proceed with the trial accordingly.*

For variation, see M.M.L. pg. 747.

CC3
Warren Major
President SCM

Plea of Mitigation

Sirs.

While on my furlough I met the girl I had chumed around with prior to my joining the army. She informed me she was about to have a child of which I was the father. She said her parents would like to have a talk with me but I didn't know what to do so I put it off until a few days later her parents came to my house & informed me that the girl was in hospital & had had the baby. They also stated that it was up to me to pay the hospital expenses & support the child. I told them I hadn't the money to cover the expenses so they put it in the hands of the Childrens Aid. A few days later the Childrens Aid came & told me this was a serious offence. They informed me it would be better for me to sign the papers stating that I was to support the child. I did this & they then told me that it would be forwarded to the army. I was very worried about going back to camp & facing this so I stayed A.W.L. After the girl came from hospital I received a letter saying I would have four months to make good these obligations or it would be put in the hands of a court. A while later I received a form

of mine who talked to me & explained that there was nothing I could do but face it so I returned to this Depot & surrendered myself to the regimental police.

W. F. Burnett
A 118733
Lnr. Burnett W. F.

OFFICE HOURS
2 TO 4
7 TO 8

TELEPHONE 1108

196 ONTARIO STREET

Stratford August 11 1945

Mr. Fred A. Anderson
St. Marys

To Dr. T. R. Nichols

Ruth For Professional Services $35.00
Confinement
Medical Care from April 10/45 to August 11/45

Received Payment

Stratford, Ont., August 13, 1945

Miss Ruth Anderson

199 Ontario Street, City

To The City of Stratford General Hospital Trust Dr.

	Aug. 2 – Aug. 13	
	11 days @ 2.75	30.25
2	Birth Room Fee	3.00
	Baby – Aug. 2 – Aug. 13	
	11 days @ .60	6.60
	Anaesthetic	1.00
		40.85

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, Sir.

Question to the accused. Do you wish to address the Court?

Answer. My Defending Officer will speak for me.

(See document marked "G")

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

'Y' on warrant officer pres. SCM

M.F.B. 355
7M—8-40 (6400-1)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-118733	Gnr.	Wallace Frederick BURNETT	No.1 DD. CA. Field

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron, Battery~~ ~~Service and General~~ Conduct sheets ~~or Company Conduct sheets~~ ~~Air Force~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. 15(2)	1 times	A.A. 15(2)	1 times
For	A.A. 40	1 times	A.A. 40	1 times
For		times		times
For		timer		times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused ~~by a~~ court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ beginning on the ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 18 days in military ~~Air Force~~ custody, making a total of 18 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~recorded service is~~ attestation paper is 19 years 2 months

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 9 Feb 45.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~receive~~ military decoration, or ~~military~~ military reward ~~for~~

~~In possession of or entitled to) State any air force decoration or reward.~~

10. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held ~~the regimental rank of~~ Air Force

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....
Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Air Force Unit

Name .....of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12 th. day of October, 1945. (W.L.Kress) Capt.
O.C.Legal Section No.1 DD CA.
Officer i/c of Original Documents.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(A.F.E. 1320)
5005M—11-41 (2402)
H.Q. 1773-39-1003

Date of enlistment } 9 Feb. 42 | C.C. Badges } | Tradesmen's Rates of Pay } | Character

Sheet No. One. | Signature O.C. Company, etc. } F.E. Renn. Capt.

No. A-118733 | Name Burnett. Wallace. Frederick. | Sqn., Battery, or Company } | Corps RCA | No. and date of last drunk } | Period not reckoning towards freedom from extra fine }

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Shilo.	Camp. Man.	18 Jun. 45.	Gnr.	Failing to appear at place of parade etc. failed to appear on vehicle picquet after being warned by troop Officer Sec. 15.(2) A.A.	documentary	7 days C.B.	20 Jun 45.	Major. W.L. Hough.	
Shilo.	Camp Man.	7 Jul. 45.	Gnr.	"An Act to the Prejudice, etc" ie. Driving a D.N.D. vehicle at an excessive rate of speed. (62-936)	Capt. G. Woods.	7 days C.B.	9 Jul. 45.	Major. W.L. Hough.	

CERTIFIED TRUE COPY.

(W.L. KRESS.) CAPT.
O.C. Legal Sec. M.I. DD.CA.
Officer having Custody Original Document.

(P.T.O.)

Document "G"

Wakasimbuja President SCM

STATEMENT OF DEFENDING OFFICER IN MITIGATION OF SENTENCE

Sir, this man was a Pacific Volunteer, which proves his willingness to serve. In view of this and the facts of the case which has been found in the evidence, I would like to plead with the Court for leniency.

MEDICAL OFFICER'S REPORT

W. Shaw Lager
President SCM

I certify that No. A-118733 Gnr. BURNETT, W.B.
of No. 1 D.D. is in a fit state of health,
and is able to undergo Trial by Court martial.

D J Broadwell Capt
Medical Officer
(D. J. Broadwell) Capt
R?C.A.M.C.

Station No. 1 D.D.

Date 5 Oct 45

M. F. B. 246
50M—12-43 (32221)
H.Q. 1773-39-460

MEDICAL OFFICER'S REPORT

Dishonourably Pres. S.C.M.

I certify that No. A-118733 Gnr. BURNETT, W.F.
of No. 1 D.D. CA is in a fit state of health,
and is able to undergo Trial by Court martial.

D J Broadwell Capt.
Medical Officer
(D.J. BROADWELL) CAPT.
R.C.A.M.C. No. 1 D.D. CA

Station No. 1 District Depot, CA

Date 12 Oct 45

M. F. B. 246
50M—2-43 (254)
H Q 1772-39-480

STANDING COURT MARTIAL

PRECIS OF EVIDENCE

At the trial of A-118733 Gnr. Wallace, Frederick, BURNETT, No.1 District Depot C.A., London, Ontario:

CHARGE: ABSENTING HIMSELF WITHOUT LEAVE
Section 15(1) Army Act.

To prove the charge the following evidence is available:-

DOCUMENTARY - M.F.B. 375

M.F.M. 216

(W.L. Kress) Captain
O.C. Legal Section #1 D.D., C.A.
Officer detailed to take Precis of Evidence.

RECORD of the Declaration of a Court of Inquiry assembled at Shilo, Man. on the 7th day of September 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A.118733

Gnr. Wallace Frederick Burnett, A3 C.A.T.C., C.A.

DECLARATION

The Court declare that No. A.118733 (Regt'l No.) Wallace Frederick Burnett. (Full Name) Gunner (Rank) A3 C.A.T.C., C.A. (Unit) illegally absented himself without leave from A3 C.A.T.C. (Place) at 0600 hours on the 14th day of August, 1945, that he is still so absent, and that on the 26th July, 1945 he was deficient, and that he is still deficient of the following articles:—

A.H. Dudley, Capt. A3 C.A.T.C. (Name) (Rank) (Unit) President

Signed at Shilo, Man. (Name) (Rank) (Unit) Member

this 7th day of Sept 1945 (Name) (Rank) (Unit) Member

Signature of Commanding Officer W.S.Griffin Colonel. A3 C.A.T.C.,C.A. (Name) (Rank) (Unit)

Certified true copy (Name) (Rank) (Unit)

ADJUTANT

(Signature of Officer having custody of original record)

A 3. CANADIAN ARTILLERY TRAINING CENTRE

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-237

RECORD of the Declaration of a Court of Inquiry assembled at Shilo, Man.

on the 7th day of September 1945, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No. A.118733

Gnr. Wallace Frederick Burnett, A3 C.A.T.C., C.A.

DECLARATION

The Court declare that No. A.118733 (Regt'l No.) Gunner (Rank)

Wallace Frederick Burnett. (Full Name) A3 C.A.T.C., C.A. (Unit)

illegally absented himself without leave from A3 C.A.T.C.

at Shilo, Man. (Place) at 0600 hours on the 14th day of August, 1945,

that he is still so absent, and that on the 26th July, 1945 he was deficient, and

that he is still deficient of the following articles:—

A3 C.A.T.C.
Shilo Camp, Man.,
26 July 45

LIST OF DEFICIENCIES OF KIT OF A118733
GNR. BURNETT W.F.

Article	Qty.	Vocab.Rate	Total
Blouses Battle Dress Serge	1	6.50	6.50
Trousers Battle Dress Serge	1	6.55	6.55
Badges Cap Artillery	1	.07	.07
Sticks button	1	.04	.04
Brushes hair	1	.39	.39
Brushes shaving	1	.42	.42
Brushes tooth	1	.09	.09
Combs hair	1	.04	.04
Dressings first field	2	.17	.34
Forks table	1	.08	.08
Holdall	1	.22	.22
Knives table	1	.18	.18
Razors safety sets	1	.42	.42
Spoons table	1	.08	.08
Eyeshields anti-gas	2	.15	.30
Mitts leather pullover prs	1	.93	.93
Pins collar safety	1	.06	.06
Overshoes 2 buckle prs	1	1.36	1.36
Shoes leather black prs.	1	4.84	4.84
Socks black prs.	2	.28	.56
			$
Total at Vocabulary Rates			$ 23.47
Depreciation 25%			5.87
Total Value to be charged 75%			$ 17.60

TRO

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942. and in General Order No. 127. 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Lt. Col. H. L. Petrie C. O. No. 1 District Depot C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that A-118733 Gnr. Burnett, Wallace, Frederick.
(Number) (Rank) (Name in full)

of the A-3 CATC Camp Shilo, Manitoba.
(Unit and attachment, if any)

Strike out words not applicable } [redacted] (surrendered to) A-86901 Sgt.
(Number) (Rank)

Gardner, P. K. No. 1 District Depot C.A.
(Name) (Unit or appointment)

at London, Ontario at 1500
(Place) (Hour)

on the 24th day of September 1945

Strike out words not applicable } as a deserter (or absentee without leave) and that at the time of his arrest he was wearing military [redacted] uniform [redacted].

Dated at London, Ontario. this 25th day of September 1945

(Signature, Number, Rank, Unit or appointment)
(H.L. Petrie) Lt. Col.
C. O. No. 1 District Depot C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

HQC.55-B-2064 (JAG/D-3)
Your File L.28-B-1978

17 Oct 45

District Officer Commanding,
Military District No. 1,
LONDON, Ontario.

STANDING COURT-MARTIAL

A.118733, Gnr. Wallace Frederick Burnett
No.1 D.D., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

EPL/AB

(R.J. Orde), Brigadier,
Judge Advocate-General.

H.Q.C. 55-B-2064
THIS COPY FOR M.D. 28-B-1978 (JAG/

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. A-118733 Name BURNETT, Wallace Frederick

Rank Gnr Unit No 1 DD CA

Charge AA 15(1) AWL

Date of Crime 14-8-45

Date of Arrest 24-9-45. Charge Signed 2-10-45.

Orders for D.C.M.

Place and Date of Trial No 1 DD CA; 12-10-45.

Sentence Det 21 days

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40360

Date 16-10-45.

MEMO

MD 1 - No 1 DD CA

Absent	Sentence
1 1/3 mos;	det 21 days.

for Judge Advocate-General

10M-S-45(M-189)

IN REPLY PLEASE QUOTE
No. L.28-B-1978 (JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

H.Q. MD 1, London, Ont., 13 Oct 1945

C,35-B-2064

Judge Advocate-General,
National Defence Headquarters
OTTAWA, Canada.

STANDING COURT-MARTIAL
A.118733 Gnr. Wallace Frederick Burnett
No.1 District Depot, C.A.

Enclosed herewith are the proceedings of the m/n Standing Court-Martial which took place at No. 1 District Depot, CA 12 Oct 45.

(D.R. Nairn), Major
Pres. S.C.M. M.D. 1

N.D. 23
2 Mil.—5-43 (321)
H.Q. 1772-101-23

40360

H.Q.C. 55-B-2065 CONFIDENTIAL

M.F.R. 2078
35M—2-45 (6689)
H.Q. 201-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BETIT, EMILE D-163929 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2065

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on ref line, add minute to file and enclose with Minute)		
	Cancelled	Cancelled		(Re) JAG	NEW FILE	CR	16-10-45
NOV 19 1945				JAG	PER B.F. NOV 20 1945		

OCT 22 1945

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

2

H.Q.C. 55-B-2065 (JAG/D-6)

18 Nov 45.

District Officer Commanding,
Military District No. 4
Montreal, Quebec.
Standing

D.163919 Pte. Emile Betit
Infantry (N) C.A., attached to
C. I. T. C. Camp, Ste. Anne des Monts.

Court-Martial.

M. 1-B-19611 (J)

24 October 5
Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.L.M

for (R.J. Orde), Brigadier,

Judge Advocate-General.

ELM:jb

8M-5-45(M-96)

IN REPLY PLEASE QUOTE No. M. 1-B-19611 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

R231

Montreal, P.Q.,
October 24th, 1945.

REGISTERED

The Secretary
Department of National Defence
O T T A W A, Ontario.

CENTRAL REGISTRY ARMY
COURT 5028
OCT 25 1945
55-B-2065
Original
Referred to JAG

STANDING COURT MARTIAL
D-163929, Pte. Emile BETIT,
Infantry (R) C.A., attached to
C. I. T. C. A 12, C.A.

Reference your H.Q.C. 55-B-2065 (JAG/D-4), dated 20th October, 1945, enclosing the proceedings of the marginally-noted Standing Court Martial.

2. Same are returned, herewith, for custody, as requested in paragraph 2 of your above-mentioned letter.

(E.J.Renaud), Major-General,
for District Officer Commanding,
Military District No. 4.

enc.

NAT. DEF. B. 480
2500M-4-44-43211
H.Q. 1772-39-767

MEDICAL OFFICER'S REPORT

I certify that No. D-163929 Pte. BETIT R.

~~of~~ attached to A-12 C.I.T.C is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

W. E. Gentle Capt

~~(W. E. GENTLE)~~ CAPT. RCAMC
Medical Officer
CMO

Station FARNHAM QUE.

Date 10-10-45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-99-460

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à C.I.T.C. A-12, C.A., Farnham, Qué.

le 10e jour de octobre, 1945 à 1430 heures,

pour le procès de D-163929 Pte. Emile BETIT,
Matricule Grade Nom et prénoms

Infantry (R) C.A., attaché à C.I.T.C. A-12, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. BELLEAU, Quartiers-Généraux, District Militaire 4

PROCUREUR: Capitaine H. PRIMEAU,
Grade Nom et prénoms

Quartiers-Généraux, District Militaire 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant B. LAMARRE,
~~ou AVOCAT~~ Grade Nom et prénoms

C.I.C., C.A., attaché à C.I.T.C. A-12, CA.
Unité Détachement, le cas échéant

VERDICT: La Cour déclare l'accusé, D-163929 Pte. Emile BETIT, Infantry (R) C.A., attaché à C.I.T.C. A-12, C.A., coupable à l'égard du premier et du deuxième chefs d'accusation.

SENTENCE: La Cour condamne l'accusé, D-163929, Pte. Emile BETIT, Infantry (R) C.A., attaché à C.I.T.C. A-12, C.A., à la détention pendant cinquante (50) jours et à une suppression de solde jusqu'à ce qu'il ait remboursé la somme de $14.21, coût des articles perdus.

Extracts entered as No. 40400 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 17 day of Oct 19 45

Signé à Farnham, Qué. ce 10e jour de octobre, 1945.

H.E. Belleau

(L.J.E. BELLEAU) Major Président de la cour martiale permanente.

M.F.E. 1486A
10M-1-45 (6449)
H.Q. 1772-33-2296
K.P. 26109

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à comme interprète ?~~

Réponse:

Question à l'accusé. Vous opposez-vous à D-136118 CSM (WO II) DeKONINCK, P., CMSC, CA, comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermenté~~s~~

Question au procureur. L'accusé a-t-il opté pour une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le~~s~~ deux ~~chefs~~ chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J.E. Bellemare major
Pres. CSM.

"B2" 5

CHARGE SHEET

The accused D-163929 Private Emile BETIT, Infantry (R) C.A., attached to C.I.T.C. A-12, C.A., a G.S. soldier of the Canadian Army placed on Active Service is charged with:

1st Charge
Sec. 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE.

in that he

At C.I.T.C. A-12. C.A., Farnham, Que., absented himself without leave from C.I.T.C. A-12, C.A., from 0615 hours on 18th July 1945, until he surrendered himself to the Military Authorities at C.I.T.C. A-12, C.A., Farnham, Que., at 2215 hours on 26th September 1945 wearing military uniform.

2nd Charge
Sec. 24(2)
Army Act.

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENT AND REGIMENTAL NECESSARIES.

in that he

At C.I.T.C. A-12, C.A., Farnham, Que., on 1st October 1945, was deficient of the following articles of his clothing, equipment and regimental necessaries viz:
Clothing, Equipment and Regimental necessaries at 75% of Vocabulary rates C.A.R.O. 2972.

		100%		75%
Clothing Division "A"				
Overalls, combination	1	2.52		1.89
Coat, waterproof Army	1	6.91		5.18
Clothing Division "B"				
Drawers, cotton short prs	1	.42		.32
Drawers, woollen prs	1	1.40		1.05
Puttees, prs	1	.97		.73
Shirts, khaki cotton	2 @1.95	3.90	2 @ 1.46	2.92
Trousers, khaki drill sht prs	1	1.31		.98
Clothing Division "C"				
Brush, shoe polishing	1	.21		.16
Brush. tooth	1	.09		.07
Combs, hair	1	.04		.03
Fork. NS table	1	.08		.06
Housewife, complete	1	.35		.26
Knife, table	1	.18		.14
Pin. collar safety	1	.06		.05
Socks, black prs	1	.28		.21
Section "A"-1.				
Bag, ration	1	.04		.03
Section "B"-1				
Pullthroughs, single	1	.17		.13
TOTAL		18.93		14.21

A.T. Howard

(A.T.Howard) Colonel
Commanding Officer
C.I.T.C. A-12, C.A.

Dated at
Farnham, Que.
2nd October 1945.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au x premier et deuxième chefs d'accusation, il est déclaré coupable ~~de ladite~~ desdites accusations.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.
Ma mère avait besoin de moi. Il y a 11 enfants chez-nous. Deux seulement travaillent, mon père et mon frère, qui gagnent $35. et $18. par semaine. Moi dans le civil je gagnais $42. par semaine. Quand j'ai été chez-nous en fin de semaine ma mère m'a demandé de rester pour aider à la famille un peu.

~~(La déclaration de l'accusé doit être consignée sur une feuille séparée.)~~

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par mon officier défenseur.

PAR L'OFFICIER DEFENSEUR

M. le Président,

Vous avez devant vous un jeune soldat qui vient d'avoir 19 ans en septembre. Ses parents avaient besoin de lui à la maison où il y a onze enfants et seulement deux travaillent pour faire vivre cette grosse famille. En plus de ça le soldat Betit, après la guerre finie, a été déclassé pour ses pieds "L-4". Il s'est en allé chez-lui en passe de fin de semaine et sa mère lui a demandé, et a insisté même, pour qu'il reste chez-lui pour aider à faire vivre cette nombreuse famille.

Si la cour veut bien prendre ces raisons en considération, je lui demanderais d'être clémente envers l'accusé.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT A-12 C.I.T.C.
Farnham, Que.

PART II ORDERS

By
Col. A.T.Howard, V.D.,
Commandant

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. 175

STATION A-12 C.I.T.C.

DATE 20 July 1945.

"Last Order Issued No. 174 dated 19 July 194

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
		HOLDING ESTABLISHMENT				
Para 13(a) sheet No. 3						
	ABSENT WITHOUT LEAVE.					
		D-163929	Pte BETIT, E.	"C"	AWL from 0615 hrs.- (1st pub.)	18 July 1945
		Signed by (M.A. Hoey) Lieut. for Col. A.T.Howard, V.D., Commandant A-12 CANADIAN INFANTRY TRAINING CENTRE?				

CERTIFIED TRUE EXTRACT

J. E. Major Lieut

(JE. Major) Lieut.
Asst. Adjt. I/C Records
A-12 C.I.T.C. Farnham, Que,

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

E. F. D. 873A
(300,000-10-42 (8791)
(Q. 1772-39-254

Officer Commanding or Adjutant

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel A.T.Howard, O.C. A-12, C.I.T.C. Farnham, Que.
(Number) (Rank) (Name) (Unit)

hereby certify that D-163929 Private Emile BETIT
(Number) (Rank) (Name in full)

of the INFANTRY (R) C.A., attached to C.I.T.C. A-12, C.A.
(Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXXXX~~ a.o.h. (surrendered to) C-75098 Cpl.
(Number) (Rank)

REGIMBALD, A. Reg. Police att'd A-12, C.I.T.C.
(Name) (Unit or appointment)

at Farnham, Que. at 2215
(Place) (Hour)

on the 26th day of September 1945

Strike out words not applicable } ~~XXXXXXXXXX~~ a.o.h. (or absentee without leave), and that at the time of his ~~XXXX~~ Surrender he was wearing military (~~XXXXX~~ a.o.h.) uniform (~~XXXXXXXXXXXXXXXX~~ a.o.h.).

Dated at Farnham, Que this 27th day of September 1945

A T Howard.
(Signature, Number, Rank, Unit or appointment)
(A.T.Howard) Colonel
O.C. A-12, C.I.T.C. Farnham, Que,

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

RECORD of the Declaration of a Court of Inquiry assembled at Farnnham, Que

on the 11th day of August 1945, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-163929 Pte BETIT, E.
INF(R)CA att'd A-12 C.I.T.C. Farnham, Que.,

DECLARATION

The Court declare that No. D-163929 (Regt'l No.) Pte. (Rank)

BETIT, E. INF(R)CA att'd A-12 C.I.T.C. Farnham, Que. (Full Name) (Unit)

illegally absented himself without leave from A-12 C.I.T.C.

at Farnham, Que. (Place) at 0615 hours on the 18th day of July 1945.

that he is still so absent, and that on the 11th August 1945. he was deficient, and

that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Clothing, Equip. & Reg. necessaires				75% voc . rates C.A.R.O: 2972			
Anklets web prs	1		56	Amount brought forward		27	95
Overalls, combimation	1	1	89	Brush tooth	1		07
Coat waterproof	1	5	18	Combs hair	1		03
Blouss battle dress	1	4	88	Forks NS table	1		06
Boots ankle prs	1	4	37	Housewife complete	1		26
Drawerscotton short prs	1		32	knife table	1		14
Drawers woollen prs	1	1	05	Pin collar safety	1		05
Trousers Battle dress prs	1	4	91	Socks black prs	1		21
Puttees prs	1		73	Badges cap	1		05
Shirts khaki cotton	2	2	92	Bag ration	1		03
Trousers khak drill short prs	1		98	Belts waist xxxx	1		54
Brush shoe polishing	1		16	Pullthroughs single	1		13
Sub-total carried forward		27	95	TOTAL		29	52

M.T.Malone, Lieut. GEN LIST CA President
(Name) (Rank) (Unit)

P. CASEY. Lieut. GEN LIST CA Member
(Name) (Rank) (Unit)

Signed at Fa nham, Que,

L.M.CHAMPAGNE, Lieut, GEN LIST CA Member
(Name) (Rank) (Unit)

this 11th day of August 1945

Pres. & Members att'd A-12 C.I.T.C.

Signature of Commanding Officer A.T.Howard, Colonel O.C. A-12 C.I.T.C.
(Name) (Rank) (Unit)

Certified true copy J.E. Major Lieut.
(Name) (Rank) (Unit)

(J.E.Major) Lieut. (Signature of Officer having custody of original record)
Asst. Adjt. I/C Records
A-12 C.I.T.C. Farnham, Que.

M.F.B. 375
A.F.B. 118
200M—1-44 (3376)
H.Q. 1772-39-257

J.E. Belleau Major
Pres. CM.

M.F.R. 355
75M.—5-45 (1441)
H.Q. 1772-39-630
A.F.B. 294

"Y"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-163929	Private	BETIT, Emile	INF(R)CA att'd A-12 C.I.T.C. Farnham, Que

1. The following is a fair and true summary of the entries in the Field Conduct sheet of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A W L	3 times	A W L	3 times
For		times		times
For		times		times
For		times		times

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 14 days in military custody, making a total of 14 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper 19 years 1 month

6. The date of his attestation, specified in his attestation paper 15 Mar 45

7. [illegible]

8. [illegible]

9. The accused is in possession of or entitled to no military decoration, or military award.

10. [illegible] the accused [illegible] the regimental rank of [illegible]

Date of Birth 7 Sept. 2

Reg. No. D-163929 Name BETIT, Emile Corps C.I.C. Date of enlistment or enrolment 15 Mar 45

Signature O.C. Company, etc.

Sheet No. one of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
J.C.B. Mtl Sht	25 Mar 45	Pte		AWL from 0800 hrs 25 Mar 45 to 2200 hrs 11 Apr.45(17 dys,14hrs) AA Sec. 15-1	Documentary	awarded 14 dys CB forf.21 dys pay (AA. Sec.46)	13-4-45	Col. S. Echenberg	Fof. 18 days pay.Art 149 FR&I.
St. Jerome,Que	14May 45	Pte		AA15(I) AWL from 0200 hrs 14 May 45. till 0125 hrs 15 May 45.	Documentary	2 dys C.B.	15May45	Boissonnault	Auto.forf 1 dy pay ArtFR&I 149
Farnham, Que	15 Jul 45	Pte		AA15(I) AWL from 0730 hrs 15 Jul 45. until 1225 hrs 16 Jul 45. Abs.(1day, 4hrs, 55mins.)	L/Cpl Tremblay Documentary	7 DYS C.B.	16 JULY45	Major R. Racine	Auto Forf 2 dys pay FR&I 149

M.F.M. 5—800M—8-44 (5398)
H.Q. 1779-39-1052

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY

J.E. Major Lieut

(J.E.Major) Lieut.
Asst. Adjt. I/C Records
A-12 C.I.T.C. Farnham, Que.

H.QC.55-B-2065 (JAG/D-4)
Your M. 1-B-19611 (J)

20 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

B.163929 Pte. Emile Betit,
Inf (R) C.A.,att.A-12 C.I.T.C., C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

JOGR/MM

(R.J.Orde) Brigadier
Judge Advocate-General.

8M-7-45(M-188)

THIS COPY FOR H.Q. C.55-B-2065
M.D.M. 1-B-19611

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-163929 Name RETIT, Emile

Rank Pte Unit InF (R) CA, att A-12 CITC CA

Charge (1) AA 15(1) AWL

(2) AA 24(2) Losing by neglect...

Date of Crime (1) 18-7-45; (2) 1-10-45.

Date of Arrest (1) 26-9-45. Charge Signed 2-10 -45.

Orders for D.C.M.

Place and Date of Trial A-12 CITC CA; 10-10-45.

Sentence Det 50 days; stoppages $14.21

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40400

Date 17-10-45.

MEMO

MD 4 - att A-12 CITC CA

Absent	Sentence
2½ mos;	det 50 days.

10M-8-45(M-189)

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. M. 1-B-19611 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Montreal, Que.,
13 Oct 45

1.55 - B - 2065

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

STANDING COURT-MARTIAL
D-163929 Pte. Emile BETIT,
Infantry (R) C.A., attached to
C.I.T.C. A-12, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report dated 10 Oct 45.

2. Submitted for your information, consideration and approval, please.

L.J.E. Belleau

(L.J.E. BELLEAU) Major
Headquarters, Military District No. 4,
President, Standing Court-Martial

Encl.

404 ow

NAT. DEF. B. 640
250000-4-44 (432)
H.Q. 1752-39-787

COUNTER NUMBER 79276

HOUR 12:27

OPERATOR'S INITIALS HV

RELIEVING OPERATOR HV

H.Q.C. 55-B-2066 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BLOOMER, WILLIAM FREDERICK B-165039 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2066

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 20 1945				JAG	NEW FILE CR 16-10-45		
				JAG	With Papers C.R. OCT 30 1945		
OCT 31 1945	1 11/45	P.A.			To note pl.		31-10-45
NOV 2 - 1945	24 11/45			JAG	With Papers C.R. DEC 22 1945		
DEC 26 1945	18 Jan 46	PA		EMBR	Per Requisition C.R. JAN 10 1946		
JAN 18 1946	8/10/46			ORB	PER REQUISITION CR AUG 31 1946		
OCT 19 1946	28/1/48	PA		WGR	PER REQUISITION CR OCT 24 1947		
JAN 23 1948	16/6/48	PA		WGR	PER REQUISITION CR FEB 5 1948		
JUN 17 1948	12/11/48	PA			PER REQUISITION CR SEP 2 1948		
NOV 1 1948							

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQ 80-7-20-3
(J)/DAJMY

DIRECTORATE OF ADMINISTRATION
SEP 2 1948
OTTAWA
CANADA 5

OTTAWA, 24 December 1945

District Officer Commanding
Military District No 2
TORONTO, Ontario

B-165039, Pte BLOOMER, WF
No 2 District Depot, CA

Receipt is acknowledged of your T-20-D-15792 (AJAG) dated 20 Dec 45, under cover of which you forwarded to this headquarters for custody Form of Remission, together with MFM 288, in respect of the m/m soldier.

/jm

(R J Orde) Brigadier
Judge Advocate General

T-20-B-16792(AJAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
20 Dec 45

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
16753
DEC 22 1945
File
Digest to
Referred to Jag

Remission of Sentence
B-165039 Pte. BLOOMER W.F.
No. 2 District Depot CA.

Reference HQC.55-B-2066.

2. Herewith completed Appendix "G" to C.A.R.O. 5913.

3. Also enclosed herewith W.F.M. 288. with respect to the marginally-named, for disposal, please.

(A. E. Potts)
Major-General
D.O.C. M.D. 2.

APPENDIX "G" TO CANADIAN ARMY ROUTINE ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY CSM.

NDHQ File No. HQC 55-B-2066
District File No. T-20-B-16792 (AJAG)

PART I

No. B-165039 Rank Private Name William Frederick BLOOMER
Unit (Canadian Infantry Corps) No. 2 District Depot, C.A.

PART II

Date of Trial 9th October, 1945
Charge(s) DESERTION (Army Act, Section 12(1)(a))
Sentence Detention (140 days)
Date of Sentence 9th October, 1945
Confirmation - (a) Authority N/A (S.C.M.)
(b) Date ---

PART III

REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act (superior military authority under Section 57A of the Army Act (xxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B.165039 - Pte. BLOOMER, William Frederick
Number Rank Name in full

(CIC) No. 2 District Depot, C.A.
Unit Attachment (if any)

Sentenced to 140 days detention

on 9th day of October 1945 at Stanley Bks., Toronto, Ontario

91 Military Detention Barracks, Chippewa, Ontario (31 Oct 45) - (Folio 18)

being served at Chorley Park Military Hospital, Toronto, Ontario.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 years of age; Enlisted 9 Sep 44

YOB P U L H E M S
Medical grade or category 26 1 1 1 1 1 1 1 - 13 Oct 45

FIRST TRIAL—PART II

To .....
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

STATE OF TRAINING

The documents show that B.165039 - Pte. BLOOMER,W.F., has completed only his Basic training.

(or until .....)

(and) be reviewed on .....

Place .....

Date ..... Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) [put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority

M.F.M. 268
(Army Form A-2184)
25M—9-49 (1949)
H.Q. 1772-59-2013

Part V

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of .....

.....(and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
22 Nov 45	Remit effective 17 Dec 45.	Arthur E. Potts A. E. POTTS, Maj.-Gen. D.O.C. M.D. No. 2	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE Sec.12(1)(a) Army Act. B.165039 - Pte. BLOOMER,W.F.,a G.S. soldier of the C.A.,placed on Active Service,is charged with:-WHEN ON ACTIVE SERVICE:DESERTING HIS MAJESTY'S SERVICE:-in that he:-absented himself from A-29 C.I.C. T.C., Camp Ipperwash, Ont., at 2359 hrs 27 Jan 45 until apprehended by Military Police at Toronto, Ont., at 2230 hrs 30 Aug 45, dressed in military uniform. Signature of Officer making entry Capt. Adj., (J.J.Eyles) No. 2 District Depot, C.A.	27 Jan 45	9 Oct 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
25 Oct 45	Consideration for remission or suspension of sentence is not recommended in this case. On completion sentence to be made available for routine duties.	A. Ramsay Lt Col for O.C. 3 Div Depot

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2066 (JAG/D-6)

31 Oct 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing
B.165039 Pte. William Frederic, BLOOMER,
(CIC) No. 2 District Depot, C.A.
.....Court-Martial

29th October 5 T-20-B-16792 (AJAG)

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the Court-Martial in the case of the above-named
Your explanation of the delay in this case has been noted.

E L M
for (R.J. Orde) Brigadier,

Judge Advocate-General.

Noted for
Col. D. Adams
O.K.

ELM/fdf

IN REPLY PLEASE QUOTE No. T-20-B-16792 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
29th October, 1945.

5972

OCT 30 1945
55-B-2066
Chgd.
Referred to

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-165039, Pte. William Frederic, BLOOMER,
(CIC) No. 2 District Depot, C.A.

Reference H.Q.C. 55-B-2066 (JAG/D-7) dated 19th October, 1945.

2. Herewith returned proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. Pursuant to H.Q. 55-1-41 FD 74 (Admin) dated 16th January, 1945, it is advised that it is considered the proceedings disclose no administrative matter requiring action.

4. In connection with para 3 of the above reference under reply, it is advised that the time spent in custody is accounted for as follows:

30 Aug 45 - Marginally-named soldier apprehended.
4 Sep 45 - T.O.S. No. 2 District Depot, C.A.
6 Sep 45 - Wire to National Defence Headquarters for documents.
27 Sep 45 - Documents received
Followed by remand for Standing Court-Martial, preparation of Precis of Evidence, and -
9 Oct 45 - Trial at next available Standing Court-Martial.

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 440
(3000M-4-44 (4320)
H.Q. 1772-29-767

A.

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 9th day of October 19 45 at 1015 hours,

for the trial of: B-165039, Pte. William Frederick BLOOMER,
Number Rank Full Name

(CIC) No. 2 District Depot, C.A.,
Unit Attachment, if any

PRESIDENT: Major W.P. McClemont, ED, (A&SH) Headquarters, M.D. 2.

PROSECUTOR: Capt. J.L. Downey, Headquarters, M.D. No. 2.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ ~~OR~~ DEFENDING OFFICER: Lieutenant O. Lloyd, No. 2 District Depot, C.A.
Rank Full Name Unit Attachment, if any

FINDING: Guilty of the charge except that the absence commenced at Chorley Park Military Hospital and not as stated in the Charge-Sheet.

SENTENCE: To undergo detention for ONE HUNDRED & FORTY (140) DAYS.

Extracts entered as No. 40401 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 17 day of Oct 1945

Signed at Toronto, Ontario, this 9th day of October 1945.

W.P. McClemont Major.
President,
Standing Court-Martial

M.F.R. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter?~~

Answer:

Question to the accused. Do you object to B-55937, SM W.O. Stuart, No. 2 Det., CMSC, CA, Headquarters, M.D. No. 2, as shorthand writer?

Answer: No, sir.

The shorthand ~~w~~riter ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, sir.

The accused is arraigned upon ~~the~~ charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read?

Answer: Not Guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Answer.

~~The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

8-2
W. D. McClement
Pres S.C.M. Maj.

CHARGE SHEET

The accused, No. B-165039, Private William Frederick BLOOMER, (CIC) No. 2 District Depot, C.A., a G.S. soldier of the Canadian Army, placed on active service, is charged with:-

CHARGE
Sec. 12 (1)(a) - Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:

- in that he -

at Camp Ipperwash, Ontario, on the 27th day of January, 1945, absented himself from A-29 C.I.C.T.C. at 2359 hours, on said 27th day of January, 1945, until he was apprehended by the Military Police, Toronto, Ontario, at 2230 hours, on the 30th day of August, 1945, dressed in military uniform.

H. C. MacInnes Colonel.
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
3rd October, 1945.

120 days

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution.

B-58203, L/Cpl. R.N. Hewer, Home War Establishment, No. 2 District Depot, C.A.,

being duly sworn, is examined by the Prosecutor.

Question

Q- Corporal Hewer, what is your position in No. 2 District Depot?

A- Sir, I am N.C.O., Home War Establishment.

Q- Do you know the accused?

A- I recognize Private Bloomer, sir.

Q- Have you any information to give the Court regarding the accused?

A- I produce M.F.B. 375, being a certified true copy of a record of a declaration of a Court of Inquiry assembled at Camp Ipperwash, Ontario, on August 24th, 1945, signed by Lieutenant and Assistant Adjutant A.W. Boyle, officer having custody of the original record.

Q- To whom does that document refer?

A- To the accused, sir.

Q- Will you present that document to the Court, please.

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection?

BY THE DEFENDING OFFICER: No, sir.

--- M.F.B. 375, certified true copy of a record of a declaration of a Court of Inquiry assembled at Camp Ipperwash, Ont., on 24 AUG 45 is read, marked Exhibit "F", signed by the President and attached to the proceedings.

BY THE WITNESS (Cont'd): I further produce M.F.M. 216, being a certificate of apprehension signed by Major F.E. McMahon, Officer Commanding No. 31 Company, Canadian Provost Corps.

EXAMINED BY THE PROSECUTOR (Cont'd):

Q- To whom does that document refer?

A- To the accused, sir.

Q- Present that document to the Court, please.

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection to this document?

BY THE DEFENDING OFFICER: No, sir.

--- M.F.M. 216, certificate of apprehension of the accused is read, marked Exhibit "G", signed by the President and attached to the proceedings.

BY THE WITNESS: I have no further evidence, sir.

--- The Defending Officer declines to cross-examine.

--- The witness withdraws.

--- The Prosecution has no further evidence.

--- The Prosecution is closed.

WPMc

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to make an unsworn statement, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

UNSWORN STATEMENT BY THE ACCUSED:

Sir, on January 27th I was nowhere near Ipperwash, I was in Chorley Park Hospital being treated for a carbuncle on my throat.

BY THE PRESIDENT: Is there anything else you wish to say?

BY THE ACCUSED: No, sir, except I would like to present this sick report from Chorley Park Hospital.

--- The accused resumes his seat.

--- The Defence is closed.

--- The Defending Officer makes a closing address - not transcribed.

--- The Prosecutor makes a closing address - not transcribed.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

W.P.Mc.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

BY THE DEFENDING OFFICER: Sir, the accused, as is known to the Court, is a GS soldier and he was apprehended in military uniform, which is quite a point to his credit. As you have just checked, the accused has been in custody for 40 days awaiting trial and his character must be of a good nature since he has been given a standing job in the detention barracks rather than be put on the parade square with the other prisoners. That is all, sir.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

"F"

W. McClement
Pres. L.C.M. Major

Exhibit "A"

17

RECORD of the Declaration of a Court of Inquiry assembled at Camp Ipperwash, Ont. on the 24th day of August 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.165039 Private BLOOMER, William Frederick.

DECLARATION

The Court declare that No. B.165039 (Regt'l No.) Private (Rank) BLOOMER, William Frederick (Full Name) A-29 C.I.C.T.C. (Unit) illegally absented himself without leave from A.29 CICTC, Camp Ipperwash, Ont. at Camp Ipperwash (Place) at 2359 hours on the 27th day of January 1945, that he is still so absent, and that on the 24 August 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE
Blouses Battledress	1	6	50	Brass Button	1	04
Boots Ankle Prs	1	5	82	Brush Button	1	11
Drawers Woollen, prs	2	2	80	Brush Clothes	1	17
Gloves Knitted Drab.	1		66	Brush Hair	1	39
Greatcoat Drab	1	15	54	Brush Shaving	1	42
Jersey Pullover	1	1	65	Brush Shoe Polishing	1	21
Overalls Combination	1	2	52	Brush Tooth	1	09
Socks, prs	3	1	38	Cap Comforter	1	41
Trousers Battledress, prs	1	6	55	Combs Hair	1	04
Shirts Woollen	1	1	20	Holdall	1	22
Badges Cap	1		09	Razor Safety with blade	1	42
Bags Kit	1	1	68	Towels Hand	1	31
Braces	1		28	Covers Breech Rifle	1	34

"A.W. Legg" Lieut. A-29 CICTC President
(Name) (Rank) (Unit)

Signed at Camp Ipperwash, Ont. ..... Member
(Name) (Rank) (Unit)

this 24th day of August 1945 ..... Member
(Name) (Rank) (Unit)

Signature of Commanding Officer "H. Ballantyne" Col. A-29 C.I.C.T.C.
(Name) (Rank) (Unit)

Certified true copy A.W. Boyle Lieut. A-29 C.I.C.T.C.
(Name) (Rank) (Unit)
(A.W. Boyle) A/Adj.
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-29-257

ARTICLES		VALUE		ARTICLES	VALUE
Frogs Baynnet Web	1		12		
Belts Waist Web	1		25		
Caps Winter Melton	1	1	05		
Coats Waterproof	1	6	91		
Mufflers Khaki	1		93		
Pins Collar Safety	1		06		
Shirts Khaki Cotton	3	4	62		
Shirts Undercotton	2		86		
Shoes Leather Black	1	4	84		
Socks, Black prs	2		56		
		70	04		
Less 25%		17	51		
TOTAL		$52	53		

"G"

W. P. McClement
Lt. Col. A.M.P. major

Exhibit "B"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major, F.E. McMahon, NO.31 COY. CDN. PROVOST CORPS C.A.
(Number) (Rank) (Name) (Unit)

hereby certify that B.165039 PTE. BLOOMER, W.F.
(Number) (Rank) (Name in full)

of the A-29 C.I.T.C. CAMP IPPERWASH, Ontario.
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~XXXXXXXXXXXX~~ B.97694 L/Cpl. HARRIS, C.C.
(Number) (Rank)

B.83117 L/Cpl. BURTON, L.J. NO.31 COY. C.PRO.C. C.A.
(Name) (Unit or appointment)

at 7 DUNDEE ST. TORONTO, Ontario. at 2230 hrs.
(Place) (Hour)

on the 30th day of AUG 1945

Strike out words not applicable } as a ~~XXXXX~~ (or absentee without leave), and that at the time of his arrest he was wearing military (~~XXXXX~~) uniform ~~XXXXXXXXXXXXXXXXXX~~.

339 GEORGE STREET,
Dated at TORONTO, Ontario. this 31st day of AUG 19 45

(SOLDIER OF THE ACTIVE ARMY)

F.E. McMahon
(F.E. McMahon) Major,
(Signature, Number, Rank, Unit or appointment)

Officer Commanding, No.31 Coy, C.Pro.C. C.A.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

W. McClement
Pres S.C.M. major

M.F.B. 355
75M—5-43 (165)
H.Q. 1772-99-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-165039,	Private	William Frederick BLOOMER, (CIC)	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field Service and Regimental Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.W.L.	4	times	A.W.L. 4	times
For		times		times
For		times		times
For		times		times

Number of times awarded distinguished conduct or. There are no entries for the conduct sheets of the accused. Note: If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted or. Previous convictions of the accused by a court-martial or a civil court and summary awards under Section 47 of the Army Act and dispositions without trial under Army Rules are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time or. The accused at the present time is under sentence for xxxxxxxxxx beginning on the xxxxxxxxx day of xxxxxxxxxx.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 40 days in military custody, making a total of 40 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper 29 years, 8 months

6. The date of his commission specified in his record of service is attestation attestation paper 9th September, 1944

7. The service which the accused is authorized to reckon for his discharge is:

8. The accused is entitled to reckon xxxxxxxxxx service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to an air force decoration or air force reward for service in military military

10. If the accused is a commissioned officer: The accused before he was made a warrant officer or an Air Force the regimental rank of

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of October, 1945. Moyles

Capt. & Adj.
No. 2 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

54-11

No. B-165039 Name Pte. BLOOMER, William Frederick Sqn., Battery, or Company # 2 DD (AF) C.INF.C (RIFLES) Corps R WING #3 Coy. Btfd. "Y" Date of enlistment 9 Sep 44 G.C. Badges Tradesmen's Rates of Pay

No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. One Signature O.C. Company, etc. Saunders, Capt. Character

(A.F.W. 1393 7004—12-43 (1000) H.Q. 1773-28-1392)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				First Sheet Destroyed 9 Mar 45 - Date of Last Entry 23 Jan 45					
Simcoe, Ont.	2 Oct 44	Pte.		A.A. Sec.15(1) AWL from 0600 hrs 2 Oct to 0115, 10 Oct 44 (7 dys 19 hrs 15 min)	Cp. Rayner Pte. Braid Documentary	14 days C.B.	10 Oct 44	Major J.M. Hunter	Forf. 8 days pay under Art 149 (1) (a) FR & I.
Simcoe, Ont.	11 Oct 44	Pte.		A.A.Sec.15(1) AWL from 1200 hrs 11 Oct 44 to 2310 hrs 16 Oct 44 (5 dys 11 hrs 10 mins)	Cpl. Rayner Cpl. Norton Documentary	14 days C.B. C.of Apph.$5.64 7 dys pay	19 Oct 44	Major J.M. Hunter	Forf. 6 dys Pay under Art.149 (a) FR & I
Simcoe, Ont.	27 Nov 44	Pte.		A.A. Sec. 15(1) AWL from 0600 hrs 27 Nov 44 to 1510 hrs 11 Dec 44 (14 days 9 hrs 10 mins)	Cpl. Reid L/Cpl.Dunbar Documentary	15 days pay C. of Apprh. $5.73	14 Dec 44	Major J.M. Hunter	Forf. 15 days pay under Art. 149 (1)(a) FR & I.
Chorley Park Hospital, Toronto Ontario.	23 Jan	Pte.		A.A. Sec.15(1) AWL from 2200 hrs 23 Jan 45 to 1400 hrs 26 Jan 45. Total absence 2 days 16 hrs.	Doc'ty.	Awarded 3 days Pay A.A. 46	27 Jan 45	DO PT II #33 3 Feb 45	Forf 3 days Pay FR & I 149

CERTIFIED TRUE COPY.....Capt. & Adj.
No. 2 District Depot, C.A.

(P.T.O.)

Valleau
Maj.
for Major

MEDICAL OFFICER'S REPORT

I certify that No. B.165039 Pte. William Frederick BLOOMER

of No. 2 D.D. is in a fair state of health,

and is fit to undergo Trial by Court martial.

W Stubbings Capt.
Medical Officer RCAMC
Att. to No. 2 District Depot CA(A)
Toronto, Ont.

Station Exhibition Barracks,
Toronto, Ont.

Date 9 Oct 45

M. F. B. 246
75M—10-42 (5503)
H.Q. 1772-39-480

W.P. McClement
Pro S.C.M. Major

{Squadron / Battery / Company / Detachment} A 29 C.I.C.T.C.

Unit or Battalion

MORNING SICK REPORT

Ipperwash, Ont 27 Jan 45

Regt'l No.	RANK AND NAMES (Christian Names in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
						P.T.O.	
	Transferred from O.P.M.H. to Camp.						
						RTW	

Medical Officer

Orderly N.C.O.

Cpl

M. F. E. 292
Millions—11-42 (7128)
H.O. 1772-39-248

(OVER)

TO BE DISCHARGED FROM HOSPITAL TO-MORROW

Troop Battery Company	Corps	Regt'l No.		RANK AND NAMES
A 29	C.I.C.T.C.	B 165039	Pte	BLOOMER Wm. F.

Diagnosis: Carbuncle neck left ant. 1201

Improved. To [illegible] Admitted 7 Jan 45

RTM

H.Q.C.55-B-2066 (JAG/D-7)
Your T.20-B-16792

19 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B.165039 Pte. William Frederick Bloomer,
(CIC) No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused was 40 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

8M-7-45(M-188)

THIS COPY FO... H.Q. C.55-B-2066
M.D. T-20-B-16792

GS

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B-165039 Name BLOOMER, William Frederick

Rank Pte Unit (CIC) No 2 DD CA

Charge AA 12(1)(a) WOAS, Desertion

Date of Crime 27-1-45

Date of Arrest 30-8-45. Charge Signed 3-10-45.

Orders for D.C.M.

Place and Date of Trial S Lankey Bks, Toronto; 9-10-45.

Sentence Det 140 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40401

Date 17-10-45.

MEMO. Balance of sentence remitted by Conf. Auth. 12-12-45

MD 2 - no 2 DD CA

Absent	Sentence
7 mos;	det 140 days.

L. F. Fyson

for Judge Advocate-General

10M-8-45(M-199)

CANADA

IN REPLY PLEASE QUOTE No. T-20-B-16792 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Headquarters, Military District No. 2,
199 Bay Street, Toronto, Ontario,
13th October 194 5

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-B-2066

STANDING COURT-MARTIAL

B-165039, Pte. William Frederick BLOOMER,
(CIC) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
Permanent President
Standing Courts-Martial.

40401

NAT. DEF. B. 440
(20M)(M-4-44 (4326)
H.Q. 1772-39-767

H.Q.C. 55-B-2067 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BERTHIAUME, RAYMOND D-449104 BDR.

CONFIDENTIAL
H.Q.C. 55-B-2067

CENTRAL REGISTRY	DATE	P.A. OR S.J.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 19 1945		Cancelled		JAG	NEW FILE	CR	16-10-45
OCT 25 1945	26/10/45			JAG	With Papers C.R OCT 24 1945		

(If space for purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2067 (JAG/D-6)

25 Oct 45

Commander,
Petawawa Military Camp,
Petawawa, Ontario.

Standing
D.449104 Bdr. BERTHIAUME R.
A-1, C. A. T. C.
.....Court-Martial

P.8-C-B-3045(JAG)

22nd October 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E & M

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

IN REPLY PLEASE QUOTE
No P.6-0-B-3045(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Petawawa Military Camp, 22 October, 1945

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
4708
OCT 24 1945
File CJVS D-2067
Chgd. to
Referred to JAG

Judge Advocate-General,
Department of National Defence,
OTTAWA - Canada.

STANDING COURT-MARTIAL
D-449104, Bdr. BERTHIAUME, R.
A-1, C. A. T. C.

Reference your HQC 55-B-2067 (JAG/D-3) dated 18 Oct 45.

2. Now enclosed herewith are the proceedings of the m/n Standing Court-Martial which are returned for custody as instructed in your above reference.

James S. Craig, Major
for (W. C. Thackray) Brigadier,
Commander,
Petawawa Military Camp.

JSC:jg
Encl.

N.D. 23
3000M—10-44 (5769)
H.Q. 1772-101-23

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Petawawa Military Camp

on the 12th day of October 1945 at 1015 hours,

for the trial of: D-449104 Bombardier Raymond Berthiaume
Number Rank Full Name

A-1, Canadian Artillery Training Centre, C.A.
Unit Attachment, if any

PRESIDENT: Major G. Longman, Camp Headquarters, Petawawa Military Camp.

PROSECUTOR: Capt. J.R. McMullan, RCA, Camp Headquarters, Petawawa Military Camp.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ OR DEFENDING OFFICER: Lieut. R.B. Mallory, A-1, C.A.T.C.
Rank Full Name Unit Attachment, if any

FINDING: The Court find that the accused, D-449104, Bombardier Raymond Berthiaume, A-1, Canadian Artillery Training Centre, C.A. is not guilty of the charge

SENTENCE:

40399 in the
office of the Judge Advocate-General kept in the
this 18 day of Oct 19 45

Signed at Petawawa Mil Camp this 12th day of October 1945.

Major.
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, Sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. Do you object to N/A as interpreter?

Answer:

Question to the accused. Do you object to Mrs. Enid Jones, Civil Servant, as shorthand writer?

Answer: No, Sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, Sir.

The accused is arraigned upon each charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, Sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read?

Answer: Not Guilty, Sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer. N/A

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer. N/A

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer. N/A

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

B2
Elin Fraser Moyer
Pres. S.C.M.

CHARGE SHEET

The Accused, No D-449104 Bombardier Raymond BERTHIAUME A-1, Canadian Artillery Training Centre, C.A., an NRMA soldier of the Canadian Army placed on Active Service, is charged with:

CHARGE

Sec.15(1)

Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,
at Petawawa Military Camp, Ontario, on the 24th day of September 1945, absented himself without leave from A-1, Canadian Artillery Training Centre, C.A., from 0600 hours on the said 24th day of September 1945, until surrendering himself to the Military Authorities at A-1 Canadian Artillery Training Centre, C.A., at 0600 hours on the 10th day of October 1945, wearing military uniform.

Petawawa Military Camp, Ontario,
this 10th day of Oct 1945.

K. H. Tremain Col.
(K.H.Tremain) Col., RCA,
Commandant, A-1 CATC CA,
Petawawa Mil. Camp, Ont.

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No, Sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

~~The Prosecutor proceeds to call witnesses.~~

First Witness for prosecution.

Capt. J.R. McMullen, the prosecutor, presents the following documents in support of this case.

~~being duly sworn, is examined by the Prosecutor:~~

Question

This is a certified true extract from Casualty Return No. 222 dated 28 Sep 45 A-1 CATC relating to the accused.

(Document produced is read, marked Exhibit "F", signed by the President and attached to the proceedings).

This is a certified true extract from Casualty Return No. 234 dated 4 Oct 45 A-1 CATC relating to the accused.

(Document produced is read, marked Exhibit "G", signed by the President and attached to the proceedings).

This is an M.F.M. 216 dated 10 Oct 45 relating to the accused.

(Document produced is read, marked Exhibit "H", signed by the President and attached to the proceedings).

D

The Prosecutor has no ~~further~~ witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence myself as a witness, Sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. Yes, Sir.

Question to the accused. Is the witness to be called a witness as to character only?

Answer. No, Sir.

First witness for the defence

The accused, D-449104, Bombardier Raymond Berthiaume, A-1, Canadian Artillery Training Centre, C.A., being duly sworn, is examined by the defending officer.

Q. Bdr. Berthiaume, before you went on furlough, did you apply for leave of absence to go back to your old job?

A. Yes, Sir.

Q. But before this application could be granted, it was necessary for your former employer to submit a letter stating that you worked for him prior to going into the army and that your job was waiting for you?

A. Yes, Sir.

Q. When did you go on furlough?

A. 7 September, 1945.

Q. What did you do on your furlough?

A. I left here on Friday, 7 September, and I got home Saturday night on the 8 and on Sunday, I went to a ball game and I met my old boss and he told me he was very short handed and asked me if I would work for a few days on my furlough and I started to work on Monday, 10 September.

Q. When did your furlough officially end?

A. 0600 hours, 24 September.

Q. You did not report into Camp until 0600 hours, 10 October, 1945. Is that correct?

A. Yes, Sir.

Q. Why did you not return to Camp on 24 September?

A. Because I was granted 20 days extension of leave from the Justice of the Peace.

Q. Did you go to see that Justice of the Peace or was it your employer?

A. It was my employer, Sir.

Q. When he came back and informed you of that extension, just what did he tell you?

A. Well, when I told him on the 21 that I would have to stop work that I had to go back to Camp on the 24, he told me that he was going to see the Justice of the Peace and get me an extension which I was to pick up on Monday, 24.

Q. Did you get that letter from the Justice of the Peace on Monday, 24 September?

A. I did, Sir.

Q. Just how long did you work for Mr. R.B. Goodhue?

A. Until 6 October, Sir.

Q. Why did you return to Camp before the 20 days extension were up?

A. Because I received a letter from Capt. Roe informing me that my person was necessary here to make application for my discharge or a long leave.

Q. When did you leave home to return to Camp?

A. I left home to return to Camp on Monday night, 8 October, 1945.

Q. Why did you not leave home Sunday, 7 October?

A. Because I was away in the States and I could not get back any earlier.

Q. But it was Sunday that you received word about this letter from Capt. Roe?

A. Yes, Sir.

Q. Just how did that information come to you?

A. On Sunday, I was away to my sisters in the States and I received a phone call from my boss informing me that he had a letter for me which I told him to open and read the contents to me which he did.

Q. Was there any possible way of getting back to your home Sunday Evening?

A. No, Sir.

Q. And you took the first available means of getting there on Monday?

A. On Monday morning, Yes, Sir.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Bdr. Berthiaume, how was this leave or extension granted by the Justice of the Peace?

A. By letter, Sir.

Q. Have you the letter?

A. I have it in my pocket book which as far as I know is with the Adjutant of the Training Centre.

Q. Did you see the Justice of the Peace yourself?

A. I just saw him for a few minutes Monday morning when I picked up the letter.

Q. Did you read the letter?

A. Yes, Sir.

Q. What did it say?

A. It said that I would not be able to return to Camp for twenty days which he was giving notice to my Commanding Officer that I was working for Mr. R.B. Goodhue transporting milk. He said he was granting me twenty days extension.

Q. What is the name of the Justice of the Peace?

A. Mr. Jacques Bombardier.

Q. Where does he reside?

A. Dunham, Quebec.

Q. How do you know he is a Justice of the Peace?

A. He is the only one I know around there, Sir.

Q. How long have you known him?

A. I have known him, why quite a few years, Sir. I could not say exactly how many years.

Q. Well, when you tell us that he is a Justice of the Peace, what do you mean?

A. A Justice of the Peace.

Q. What does he do?

A. I cannot tell you.

Q. If I told you that Jacques Bombardier was not a Justice of the Peace, what would you say?

A. As far as I know myself, he is.

Q. How do you know?

A. Because he has been a Justice of the Peace since I have been away in the Army. My boss told me he was a Justice of the Peace and I did not ask for any credentials, I thought it was true.

Q. Did he sign this letter you speak of as a Justice of the Peace?

A. Yes, Sir. He told me so.

Q. Is Jacques Bombardier the Secretary-Treasurer of the town of Dunham?

A. At the same time he is, Sir.

Q. Do you deny, Bdr. Berthiaume, that you absented yourself from A-1 from 0600 hours on the 24th day of September, 1945, until 0600 hours on the 10th October, 1945?

A. I do, Sir.

Q. You are quite sure, Bdr. Berthiaume, that the letter you saw was signed by Jacques Bombardier?

A. I am, Sir.

Q. And you are quite sure that he signed as a Justice of the Peace?

A. I am, Sir.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE

QUESTIONED BY THE COURT

Q. Did you personally make application to the alleged Justice of the Peace for an extension?

A. I did not, Sir. My boss did.

Q. Did you have any conversation with the Justice of the Peace at all concerning the extension?

A. Well, when I picked up the letter, he told me he had wrote the letter and was granting me twenty days.

Q. Why did you not personally make application to the Justice of the Peace at the time?

A. I was working, Sir, and I did not have time during the day and the office was closed at night.

The witness resumes his seat.

Second witness for the defence

Lieut. R.P. Wright, A-1, C.A.T.C., being duly sworn, is examined by the defending officer.

Q. Lieut. Wright, are you the Legal Officer of A-1?

A. Yes, Sir.

Q. Do files concerning cases in A-1 come into your office?

A. Yes, they do.

Q. Have you a letter from Mr. R.B. Goodhue on the file asking for Bdr. Berthiaume's release?

A. Yes, Sir, I have.

Q. Have you a letter on your file written by the Justice of the Peace, Mr. Jacques Bombardier to Capt. Roe?

A. Yes, I have letter addressed Municipality of the Township of Dunham marked Secretary-Treasurer, Jacques Bombardier, Dunham, Quebec, 24 September, 1945. It is addressed to the Officer Commanding, C. Battery, Petawawa Military Camp, Petawawa Ontario, re D-449104, Bdr. Raymond Berthiaume. The letter is in French and is signed by Jacques Bombardier, Secretary-Treasurer.

Q. Have you a letter on your file written by Capt. Roe to Bdr. Berthiaume?

A. Yes, Sir. I have a carbon copy of that letter to Bdr. Berthiaume, dated 1st October, 1945.

Defending Officer: I ask the permission of the Court to file these letters as Exhibits.

Prosecutor: I have no objections.

(Certified true copy of letter dated 17 September, 1945, addressed to the Commanding Officer, A-1 C.A.T.C. from R.B. GoodhueExpress registered is received, read, and marked Exhibit "I").

(Letter dated 24 September, 1945, addressed to

Officer Commandant, C. Batterie, Petawawa Military Camp and signed by Jacques Bombardier, received, read, and marked Exhibit "J").

(Letter dated Petawawa Military Camp, Ontario, 1 Oct 45, addressed to A-449104 Bdr. Berthiaume, R. from Capt. J.B. Roe, A-1, C.A.T.C., received, read and marked Exhibit "K").

CROSS-EXAMINED BY THE PROSECUTOR

Q. Mr. Wright, as officer in charge of records, are you able to produce a letter relating to the accused addressed to him and signed by a Justice of the Peace?

A. No.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE

The witness withdraws.

The Defence is closed.

The Court considers it necessary in the interest of justice that the accused, D-449104, Bombardier Raymond Berthiaume, first witness for the Defence, be recalled.

QUESTIONED BY THE COURT

Q. Bdr. Berthiaume, you told us in your previous evidence that you obtained a letter from Mr. Jacques Bombardier which letter you stated you have not now with you but you are of the opinion that it is with the Adjutant of the Training Centre. To whom was this letter that you refer to addressed?

A. It was addressed to the Commanding Officer, A-1.

Q. Was this the letter that you say was signed by a Justice of the Peace?

A. It was, Sir, signed by the Justice of the Peace.

Q. When you say signed by the Justice of the Peace, do you mean that the person who signed the letter signed it as a Justice of the Peace or the man who signed the letter was a Justice of the Peace?

A. The man who signed the letter was a Justice of the Peace.

Q. But he signed it as a Justice of the Peace?

A. I cannot say whether he signed the letters "J.P." after his name.

Q. I show you a letter, Exhibit "J". What have you to say about this letter, having in mind the letter given to you by Jacques Bombardier?

A. This is a duplicate letter of the one he gave me, signed and stamped the same as that.

Q. Will you tell the Court whether or not the letter, Exhibit "J", is or is not signed by a Justice of the Peace?

A. It is signed by a Justice of the Peace, Sir.

Q. Who is the Justice of the Peace?

A. Jacques Bombardier.

Q. What is there in the letter to indicate that he is a Justice of the Peace?

A. As far as I know, it is the paragraph 2 of the letter which refers to paragraph number 4 on the back of my leave form which has to do with a Justice of the Peace granting an extension of leave.

Q. Other than this paragraph referred to, is there anything about the signature of the person signing the letter indicating that he is a Justice of the Peace?

A. I don't know, Sir. I cannot tell what is written on the bottom.

Q. Was there anything written on your letter that is not on this letter, Exhibit "J".

A. No, Sir.

Q. Bdr. Berthiaume, do you consider that there is any information contained in this letter, Exhibit "J", that would tell the person receiving it that the man who signed it was in fact a Justice of the Peace?

A. Just paragraph 2 here.

The witness resumes his seat.

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. N/A

Question to the accused. Do you wish to address the Court?

Answer. N/A

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Exhibit F. Plaintiff's Exhibit

A-1 CASUALTY RETURN TO 2ND ECHELON (Cont) Pres. Sec'y.

25

HOME WAR ESTABLISHMENT

"B" OTHER RANKS

C.Return No 322
d/28 Sep 45

2 ABSENT WITHOUT LEAVE

a A.W.L. from 0600 hrs 24 Sep 45.

D 449104 Bdr BERTHIAUME R (C)

(Signed) Capt. S. Elkin

(S. Elkin)Capt., RCA,
Adjutant, A-1 CATC CA,
Petawawa Mil Camp,Ont.

Certified true extract.

R.P. Wright Lt

(R.P. Wright)Lt., R C A,
Offr i/c Records, A-1 CATC,
Petawawa Military Camp,Ont.

Exhibit 9. Hampson, Mori
Pres 5c7.

A-1 CASUALTY RETURN TO 2ND ECHELON (Cent)

HOME WAR ESTABLISHMENT

"B" OTHER RANKS

C.Return No 234
d/4 Oct 45

4 ABSENT WITHOUT LEAVE

e- A.W.L. 0600 hrs 24 Sep 45. Still Absent 0600 hrs 2 Oct 45. (8th day)

D 449104 Bdr BERTHIAUME R (C)

(Signed) S. Elkin) Capt.

(S. Elkin) Capt., RCA,
Adjutant, A-1 CATC CA,
Petawawa Mil Camp, Ont.

Certified true extract
R.P. Wright Lt
(R. P. Wright) Lt., R C A,
Offr i/c Records, A-1 CATC,
Petawawa Military Camp, Ont.

Exhibit H
Confirmation Maj Pres. SCM

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Colonel (Number) K.H.Tremain (Rank), Commandant, (Name) A-1 C.A.T.C., C.A. (Unit)

hereby certify that D-449104 (Number) Bdr. (Rank) Raymond BERTHIAUME (Name in full)

of the A-1 C.A.T.C., C.A., Petawawa Military Camp, Ontario. (Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) G-52239 (Number) Sergeant (Rank)

D.A. Cosgrove, "F" Bty., A-1 C.A.T.C., C.A. (Name) (Unit or appointment)

at A-1 C.A.T.C., C.A. (Place) at 0600 hrs (Hour)

on the 10th day of October 19 45

Strike out words not applicable } as a ~~deserter~~ absentee without leave), and that at the time of his ~~arrest~~ surrender he was wearing military ~~uniform~~ uniform ~~[illegible]~~

Dated at A-1 C.A.T.C., C.A. this 10th. day of October 19 45

K.H. Tremain Col.
(Signature, Number, Rank, Unit or appointment)
(K.H.Tremain) Col., RCA,
Commandant, A-1 CATC CA. Pet.Mil.Camp.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
50M—5-42 (4731)
H.Q. 1772-39-1936

MONTREAL
FItz 2256

KNOLTON
Tel 136

FRELIGHSBOURG
Dunham 27 r 5
Bedford 750

Exhibit I
Examination Mon
Pres. S.C.M.

R.B.GOODHUE EXPRESS
registered

FRELIGHSBURG, QUE.
Montreal Warehouse: 1301 Montmorency Street

Sept. 17/45

Commanding Officer A-1 CATC

Petawawa Military Camp Ont.

Re-Berthaume D-449104

Dear sir;

As the man mentioned above was my employee for several years prior to his Military call in 1942 and at present is impossable to get a dependable man to drive one of my trucks on milk delivery to Montreal from Frelighsburg daily, actually we are carring about 700 cans daily to different milk companys in Montreal

Due to the fact that this product is perrishable we need competent drivers to carry this product to destinations.

Would you kindley grant Mr, Berthaume a leave of absence so that he may become an employee again of which would be of great help at this time.

Trusting that this request will be taken into consideration at your earliest convenience.

Yours Truly

R.B.GOODHUE EXPRESS REG.

(signed) Per. R.B.GOODHUE

Certified true copy
R.P. Wright Lt
(R.P.Wright) Lt. RCA
Offr. i/c Records A-1 CATC
Petawawa Military Camp Ont.

6-0-B 4x6

Exhibit J.

Gl. Fraser Maj. Pris. S.C.M.

OFFICE IN THE TOWN HALL
HOURS: 9 TO 4
TELEPHONE: 5-W.

BUREAU A L'HOTEL-DE-VILLE
HEURES: 9 À 4
TÉLÉPHONE: 5-W

Municipality of the Township of Dunham
Canton de Dunham

SEC.-TRES. JACQUES BOMBARDIER SEC.-TREAS.

Dunham, Quebec.

24 septembre 1945.

Officier Commandant,
C. Batterie,
Petawa Mil Camp
Petawawa Ont.

D.449 104
Bdr Raymond Berthiaume.

Monsieur l'Officier:

Monsieur Raymond Berthiaume ne peu retourner à son camp militaire avant 20 jours et la date de l'expiration de son furlough se termine aujourd'hui.

Me basant sur le paragraphe No 4 je vous donne avis à cet effet.

Il travaille actuellement pour Goodhue express Reg. de Frelighsburg, Que sur un camion de transport de lait à Montreal et ce dernier est court d'aide pour le moment.

Espérant que tout sera dans l'ordre,

Je demeure,

Votre tout dévoué

Jacques Bombardier
Sec. Trés.

Exhibit - K.

35

IN REPLY PLEASE QUOTE

Glenfrew. Morr. Pri. S.C.M.

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Petawawa Military Camp, Ont.
1 Oct 45.

A-449104 Bdr. Berthiaume R.,
Frelighsburg, Missisquo, P.Q.

A letter has been received from R.B. Goodhue Express asking for your release to return to their employ. A further registered letter from the Sec Treas of the Township of Dunham has been received advising he has granted you 20 days extension of leave.

In order to gain your release from the Army, it will be essential for you to return to this unit to instigate the necessary proceedings.

This is to advise you to return immediately so that your case may receive early attention.

Capt RCA
(J.B. Roe)
O.C. "E" Bty., A-1 C.A.T.C.,
Petawawa Military Camp, Ont.

NAT. DEF. B. 663
3000M - 12 - 43 - 1261
14-14 - 17TH. DR. 767

MEDICAL OFFICER'S REPORT

I certify that No. D 449104 Bdr Berthiaume R.

of C Bty Al. C.A.R.C. is in a good state of health,

and fit to undergo Trial by Court martial.

A. Remsay Capt

Medical Officer

Al. R.C.A.M.C.

Station Petawawa Camp.

Date 12. october. 45.

Thomson Major

Pres. sect.

12 Oct 45

M. F. B. 246

50M—9-44 (5437)

H.Q. 1772-39-480

H.Q.C.55-B-2067 (JAG/D-3)
Your P.6-0-B-3045

18 Oct 45

The Commander,
Petawawa Military Camp, Petawawa, Ont.

Standing Court-Martial
D.449104 Bdr Raymond Berthiaume,
A-1 C.A.T.C., C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. It is noted that the accused was found NotGuilty of the charge and Released.

3. The proceedings are forwarded to you to note. After this has been done, may they please be returned to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

EPL/MM

AR

THIS COPY FOR: H.Q. C.55-B-2067
M.D. P.6-0-B-3045

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-449104 Name BERTHIAUME, Raymond

Rank Bdr Unit A-1 CATC CA

Charge AA 15(1) AWL

Date of Crime 24-9-45

Date of Arrest 10-10-45. Charge Signed 10-10-45.

Orders for D.C.M.

Place and Date of Trial Petawawa; 12-10-45.

Sentence Accused released

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40399

Date 17-10-45.

MEMO Not guilty

xxD Petawawa - A-1 CATC CA

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE
No P.6-0-B-3045(JAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Petawawa Military Camp 13 October 1945.

Judge Advocate-General,
Department of National Defence,
OTTAWA - Canada.

C.55-B - 2067

STANDING COURT-MARTIAL
D-449104, Bdr. Berthiaume, H.
A-1, C.A.T.C.

The proceedings of Standing Court-Martial of the a/m soldier are forwarded herewith together with medical certificate in accordance with C.A.R.O. 4566.

2. For your approval, please.

(G. Longman) Major,
President,
Standing Court-Martial.

/EJ

40399

N.D. 23
3M—10-44 (3769)
LQ 1772-101-23

H.Q.C. 55-B-2068

CONFIDENTIAL

H.Q. 301-1-48

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BERNIER, MAURICE E-625346 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2068

CENTRAL REGISTRY	DATE	P.A. OR B.A.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 20 1945				JAG	NEW FILE	CR	17-10-45
OCT 30 1945	29-11-45	PA	pm	JAG	With Papers C.R. OCT 29 1945 With Papers C.R. NOV 3 1945		
NOV 7 - 1945	8/11/45	PA		JAG	To note file	pm	6-11-45
MAR 20 1946	19 Mar 46	PA	Bm	Admin	JAN 24 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2068
(JAG/D-6)

OTTAWA, 6 November 5

District Officer Commanding
Military District No 5
QUEBEC, Que

K-625346, Pte Maurice BERNIER
RCOC CA Att No 5 DD CA

Receipt is acknowledged of your Q.39-B-4836 (JA) dated 29 Oct 45, under cover of which you forwarded to this office for custody Form of Remission, together with MFM 288, in respect of the m/n soldier.

/jm

for (R J Orde) Brigadier
Judge Advocate General

Nominal Roll
amended accordingly.
Capt.
8/11/45.
CMB BR-3

IN REPLY PLEASE QUOTE No. Q. 39-B-4836 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 29 Oct 45.

CENTRAL REGISTRY ARMY
6978
NOV 8 1945
Referred to JAG

THE SECRETARY
Department of National Defence
OTTAWA ONT

6.55-B-2068

REMISSION OF SENTENCE - SCM.

E-625346 Pte Maurice BERNIER
RCOC CA Att No.5 DD CA.

1. Ref HQC. 55-B-

2. A remission of sentence in this case has been granted w.e.f. 24 Oct 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. R. 440
2000M-4-44 (4321)
H.Q. 1772-19-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. .....
District File No. Q-33-P-1836(JA)

PART I

No. E-625346 Rank Pte Name BERNIER, Maurice.
Unit RCOC, C.A. Att. No. 5 DD, Lauzon.

PART II

Date of trial 25 September 1945.
Charges Art. Sec. 12(1)(a) -- Sec. 24(2)
Sentence 9 months detention & stopp. $1.72
Date of Sentence 25 September 1945.
Confirmation - (a) Authority Standing Court-Martial, M.D. No. 5.
(b) Date .....

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E-625346, Pte. BERNIER, Maurice, RCOC, CA, Att: No. 5 DD, Lauzon, effective 24 October, 1945.

Signed at QUEBEC, P.Q., this 16th day of October, 1945.

Edmond Blais
(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No.5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon
this 25th day of October 1945.

W.G. LAROCHE Capt
RCCS Att 5 DD
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-625346 Rank Pte Name BERNIER Marurice
The sentence of 9 months detention and stopp $1.72
awarded by Court-Martial on the 25 Sep 1945
has been remitted
on the 24 October 1945 by Brig EDMOND BLAIS CBE MC
D.O.C. MD 5

Unit No 5 District Depot

Certified true Extract of Daily Orders Part II of
No. 264 Place Lauzon Date 26 Oct 45

(M. R. LEDOUX) Capt.
Gen List Att 5DD
Adjutant.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-625346 Pte. Maurice BERNIER.
Number Rank Name in full

R.C.O.C. C.A. Att'd to 5 D.D.
Unit Attachment (if any)

Sentenced to 9 Months Det.

on 26 Sep 45. at Lauzon, P.Q.

being served at Val Mil Det Brrks.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 30 yrs 7 months 2-6-42

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General,
Superior Military Authority

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be ~~suspended~~ (reviewed on 26 January 1946, date for reasons given in paragraph X.

Place QUEBEC QUE

(Edmond BLAIS) - Brigadier,
D.O.C., MD No.5,
Confirming Authority

Date 26 Oct 45.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Superior Military Authority

Date

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Confirming Authority

Date

M.F.M. 268
(Army Form A 3104)
25M—2-43 (1300)
H.Q. 1172-49-2018

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

Date.....

Superior Military Authority

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
29 Oct 45:	Remission of Sentence granted w.e.f. 24 Oct 45.	(Edmond BLAIS)-Brig D.O.C.,MD No.5.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
A.A. Sec 12 (1)(a) A.W.L. from 2315 heures on 27 Nov, 44, until he surr: at 0845 hrs on 11 Sep 45, Uniform.	27-Nov, 44	26 Sep 45.
A.A.Sec 24 (2) Los by neglect his Equip Cloth and Reg Recc. for: $11.35	19 Sep 45.	26 Sep 45.

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 Oct, 45.	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	G.L.Taschereau Lt-Col A/Commanding Officer.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2068 (JAG/D-6)

29 Oct 45

District Officer Commanding,
Military District No. 5,
Quebec, Que.

Standing
E.625346 Pte. Maurice BERNIER
RCOC CA Att No. 5 DD CA
.....Court-Martial

Q. 39-B-4836 (JA)

26th October 5

Receipt is acknowledged of your Standing dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

E. L. M.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

IN REPLY PLEASE QUOTE No. Q/B-4836 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 26 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

CENTRAL REGISTRY Army
COURT SEC.
5596
OCT 28 1945
File 55-B-2068
Charge to
Referred to JAG

STANDING COURT-MARTIAL

E-625346 Pte Maurice BERNIER
RCOC CA, Att No.5 DD CA.

1. Ref HQC. 55-B-2068 (JAG/D-7) dated 19 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

NAT. DEF. B. 449
2500M-4-44 (321)
H.Q. 1772-39-767

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au dépôt régional No.5, A.C., Lauzon, P.Q.

le 25e jour de septembre 1945 à 1115 heures,

pour le procès de E-625346, Soldat Maurice BERNIER, R.C.O.C., A.C., att. dépôt régional No. 5, A.C.
(Matricule, Grade, Nom et prénoms; Unité, Détachement, le cas échéant)

PRÉSIDENT: Major Pierre DECARY
Président Permanent, C.M.P., Q.G., R.M. No. 5.

PROCUREUR: Capitaine TASCHERE AU, Pierre
(Grade, Nom et prénoms)
Procureur Permanent, Q.G., R.M. No. 5.
(Unité, Détachement, le cas échéant)

OFFICIER DÉFENSEUR: Lieut. BERNIER, J.Y.
(Grade, Nom et prénoms)
R.C.E., A.C., att. dépôt régional No.5, A.C.
(Unité, Détachement, le cas échéant)

VERDICT: La Cour déclare le prévenu non coupable de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation, sauf que la valeur des effets perdus est de $1.72 au lieu de $11.35.

SENTENCE: La Cour condamne le prévenu à la détention pendant NEUF (9) mois, et à une suppression de solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, savoir: $1.72.

Signé à LAUZON, P.Q. ce 26ème jour de septembre 1945.

Pierre Decary -Major
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.O. 1772-39-2296
K.P. 26109

Extracts entered as No. 40440 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 18 day of Oct 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non Monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.*~~ ~~Vous opposez-vous à~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à Mlle Thérèse Leclerc comme sténographe ?

Réponse: Non Monsieur.

Le sténographe ~~[illegible]~~ dûment assermentée (Minute d'ajournements et de reprise d'audience, voir document "F" ci-joint.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non Monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui Monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable.

~~*Question à l'accusé.*~~ ~~Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef ~~d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.~~

Pierre Decary
(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

ACTE D'ACCUSATION

Le prevenu, E-625346 Soldat Maurice BERNIER, R.C.O.C., A.C., attache au Depot Regional No. 5, A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF
Art. 12(1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE, DESERTE LE SERVICE DE SA MAJESTÉ,

en ce que,

a Montreal, P.Q., a 2315 heures, le 27 novembre 1944, il s'est absente sans permission du L.P.D.D., R.C.O.C., AC, jusqu'a ce qu'il se livre aux autorites militaires, a 0845 heures, le 11 septembre 1945, en uniforme militaire.

DEUXIEME CHEF
Art. 24(2)
Army Act

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES SES EFFETS D'EQUIPEMENT D'HABILLEMENT ET AUTRES EFFETS REGIMENTAIRES,

en ce que,

a Lauzon, P.Q., le 19 septembre 1945, il etait deficient des articles suivants:

	C.A.R.O. 1862	MOINS 25% C.A.R.O. 3464
HABILLEMENT DIVISION "B"		
2 Drawers cotton short	.84	.62
1 Shirt flannel	1.63	1.22
2 Shirts under cotton	.86	.64
1 Shirt woollen	1.20	.90
1 Shoes canvas pr	2.29	1.72
HABILLEMENT DIVISION "C"		
1 Knife clasp & lanyard	.99	.74
1 Pin collar	.06	.04
1 Sock black pr	.28	.21
1 Towel hand	.31	.23
SECTION "A-1"		
1 Bag ration	.04	.03
1 Bottle water	.62	.46
1 Brace left	.35	.26
1 Carrier water bottle	.37	.28
1 Helmet steel complete	2.39	1.79
2 Pouches basic	2.06	1.54
2 Straps shoulder L&R	.62	.46
2 Straps seb supp.	.28	.21
TOTAL:	$ 15.19	$11.35

Lauzon, P.Q.
21 septembre 1945

Pierre Tascherreau
(PIERRE TASCHEREAU) Capitaine,
Procureur Permanent 5e District Militaire

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non Monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins~~

~~[illegible]~~

~~[illegible] par le président.~~

~~[illegible]~~

LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE.

- - - - -

1° MFB. 375 en date du 19 décembre 1944, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier."

2° MFM 216A, en date du 11 septembre 1945, se rapportant à l'accusé;

"Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier."

LE PROCUREUR APPELLE LE CQMS ANNETT, E-30500;

L'OFFICIER DEFENSEUR DECLARE ADMETTRE QUE SI LE CQMS.ANNETT RENDAIT TEMOIGNAGE IL DECLAREREAIT QU'A LA DATE MENTIONNEE SUR LE DEUXIEME CHEF D'ACCUSATION IL MANQUAIT A L'ACCUSE DES EFFETS POUR UN MONTANT DE $11.35, D'APRES UN INVENTAIRE BASE SUR LA 375, ET IL DECLARE QU'IL N'AURAIT PAS DE TRANSQUESTION A FAIRE.

- - - - - - - - - - - -

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, voir page D-3 et suiv.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non Monsieur.

Question à l'accusé. ~~Exposez brièvement les faits à l'appui de vos réponses~~

Réponse:

TEMOIN DE LA DEFENSE: E-625346, Soldat Maurice BERNIER, R.C.O.C., A.C., att. dépôt régional No. 5, A.C., étant dûment assermenté, est interrogé par l'Officier Défenseur

Q. Voulez-vous dire à la Cour depuis quand vous êtes dans l'Armée?

R. Le 25 mai 1942.

Q. Quelle sorte d'occupations avez-vous dans l'Armée?

R. Je suis dans l'Infanterie.

Q. Vous êtes marqué R.C.O.C. Depuis quand êtes-vous transféré dans L'Ordonnance?

R. Mois d'août l'automne dernier.

Q. Est-ce que vos parents vivent encore?

R. Seulement ma mère.

Q. Votre père est mort?

R. Oui.

Q. Avez-vous des frères?

R. Oui, ils sont tous mariés.

Q. Est-ce qu'il y a quelqu'un qui reste avec votre mère?

R. Seulement ma mère.

Q. Est-elle en bonne santé?

R. Elle est malade depuis plusieurs années.

Q. De quoi souffre-t-elle?

R. Maladie de coeur.

Q. Est-ce que vous pouvez dire à la Cour pourquoi vous vous êtes absenté?

R. J'avais eu une passé de 48 heures. A la maison ma mère était dans un état critique. Devant les crises qu'elle m'a faite, j'ai du plier et rester à la maison.

Q. Qu'est-ce que vous avez fait pendant votre absence?

R. J'ai resté à la maison.

Q. Avez-vous pris soin de votre mère?

R. Oui, quand son état l'exigeait.

Q. Est-elle mieux?

R. Pas parfaitement rétabli, elle s'est améliorée un peu.

Q. Lorsque vous êtes parti sans permission quelles étaient vos intentions au sujet du service militaire?

R. De me rapporter aussitôt que l'état de ma mère se serait amélioré.

Q. Sur la deuxième charge, vous avez entendu la liste lue par le Président de la Cour, est-ce que vous l'avez comprise?

R. Oui.

Q. Lorsque vous êtes parti en passe qu'est-ce que vous avez fait avec votre équipement: Un sac de ration?

R. Resté dans meskit bags.

Q. Une bouteille à eau?

R. Restée là aussi.

Q. Brace left?

R. Resté là.

Q. Carrier water bottle?

R. Resté là.

Q. Steel helmet complet?

R. On me l'a ôté.

Q. Est-ce que vous l'avez remis au Quartier-Maître?

R. Oui.

Q. 2 pouches basic?

R. On me les a ôtées.

Q. 2 straps shoulder L&R?

R. La droite je l'ai gardée, l'autre je l'ai remise qu Quartier-Maître.

Q. 2 straps web supp?

R. Restées là.

Q. Est-ce qu'il y a d'autre articles que vous avez remis au Quartier-Maître?

R. Non Monsieur.

Q. Il y aurait le steel helmet, 2 pouches et une courroie d'épaule?

R. Oui.

Q. Pas d'autres choses?

R. Non.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:

Q. A quelle occasion avez-vous remis ces articles

R. Quand on est arrivé la-bas parce qu'on faisait pas d'entraînement.

Q. A qui avez-vous remis ça?

R. Au sgt. celuien charge, le Quartier-Maitre.

Q. Les autres articles dont on vous a fait lecture et qu'on dit que vous êtes déficient, ne les avez-vous pas rapporté ici?

R. Non.

Q. Les avez-vous laissés chez vous?

R. Non. Je les ai laissés au camp. J'ai tout laissé dans mes kit bags.

Q. On dit que vous êtes absent depuis le 27 novembre 1944 jusqu'au 11 septembre cette année, est-ce exact?

R. Oui .

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

PAR LA COUR:

Q. Les caleçons de coton?

R. Restés au camp dans le kit bag. J'ai parti avec mon linge sur moi la balance est restée là.

Q. Est-ce qu'on vous avait dit de laisser ça sur le lit ou qu Quartier-Maître?

R. On était supposé les laisser sur le lit.

Q. Une chemise en flanelle?

R. Dans le kit bag.

Q. 2 sous-vêtements de coton?

R. Restés là aussi.

Q. un sous-vêtement de laine?

R. Dans le kit bag.

Q. Shoes P.T?

R. Je les avais pas. J'en avais eu je les ai perdus ou ont été volés.

Q. Knife clasp & lanyard?

R. Restés dans le kit bag.

Q. L'épingle à collet?

R. Même chose.

Q. Les bas noirs?

R. Restés là aussi.

Q. Une serviette?

R. Aussi.

Q. Dans la section I vous avez remis ces articles au Quartier-Maître?

R. En partie.

Q. Des autres dans le kit bag?

R. Oui Monsieur.

Q. Avez-vous toujours fait ça quand vous êtes parti, avez-vous toujours laissé ça sur votre lit?

R. Toujours.

Q. Depuis combien de temps vous étiez à l'Ordonnance?

R. 3 mois, depuis le 3 août.

DE L'AVIS DE LA COUR, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83(B).

- - - - - -

L'ACCUSE REPREND SON SIEGE

- - - - - -

LE PROCUREUR SOUMET LA CAUSE TELLE QUE PROUVEE.

- - - - - -

L'OFFICIER DEFENSEUR PRONONCE UNE PLAIDOIRIE.

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non Monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: L'Accusé, par son Officier Défenseur, dit: " J'aimerais simplement rappeler à la Cour les faits qui ont été dits par l'accusé, dans son témoignage sous serment, à savoir que son père est mort, sa mère est malade, aussitôt que sa mère a été mieux l'accusé est revenu, lorsqu'il y a eu amélioration sensible il s'est rapporté. Durant tout le temps qu'il a été absent il a resté à la maison pour prendre soin de sa mère. Il n'a pas travaillé. Je demande la clémence de la Cour."

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

"F"

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - - -

A 1120 heures le 25 septembre 1945 la Cour s'est ajournée.

A 1645 heures le 25 septembre 1945 la Cour se rassemble.

PAR LA COUR:

Votre cause est ajournée au 26 septembre 1945.

MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE

- - - -

A 1647 heures le 25 septembre 1945 la Cour s'est ajournée.

A 1215 heures le 26 septembre 1945 la Cour se rassemble.

LE PROCES SE POURSUIT

- - - - - - - -

"G"

Pierre Decary

(PIERRE DECARY) MAJOR
PRESIDENT. Montreal MQue.

RECORD of the Declaration, of a Court of Inquiry assembled at LPOD., Montreal MQue. on the 19th day of December 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-625346-Pte-BERNIER, M.

DECLARATION

The Court declare that No. E-625346 (Regt'l No.) Private (Rank) BERNIER, Maurice (Full Name) L.P.O.D., R.C.O.C. (CA) (Unit) illegally absented himself without leave from L.P.O.D., R.C.O.C. (CA) at Montreal, Que. (Place) at 2315 hours on the 27th day of November 1944, that he is still so absent, and that on the 19th December 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
AS PER ATTACHED LIST			

(A.M.DUNN) CAPT., LPOD., RCOC(CA) President
(Name) (Rank) (Unit)

(R.A.E.KERR) Lieut., LPOD., RCOC(CA) Member
(Name) (Rank) (Unit)

Signed at Montreal, Que.

this 19th day of December 1944 (P.E.HALLS) Lieut., LPOD., RCOC(CA) Member
(Name) (Rank) (Unit)

Signature of Commanding Officer HERBERT K. MCLEAN Col., A/O.C. LPOD., RCOC(CA)
(Name) (Rank) (Unit)

Certified true copy P.V. SALWANESCHI Lieut & Adjt., LPOD., RCOC(CA)
(Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. 875
A.F.B. 133
150M—10-42 (6530)
H.Q. 1773-39-257

STATEMENT OF DEFICIENCIES IN THE KIT

OF E:625346. PTE BERTIER. M.

Article	Amt.	VALUE 100%	VALUE 85%
CAT SEC. "A"			
Greatcoats, Serge, Drab	1	15.54	11.66
CAT SEC. "B"			
Caps, Field Service	1	.70	.53
Drawers, Cotton, Short	2	.84	.62
Shirts, Flannel, Khaki	1	1.63	1.22
Shirts, Undercotton	2	.86	.64
Shirts, Woollen	1	1.20	.90
Shoes, Canvas	1	2.29	1.72
Shoes, Leather, Balck	1	4.84	3.63
Trousers, Serge, Drab, N.P.	1	4.33	3.25
TOTAL:		$16.69	$12.51
CAT SEC. "C"			
Neckties, Black	1	.19	.14
Knives, Clasp & Lanyard	1	.99	.74
Pins, Collar, Safety	1	.06	.05
Socks, Black	1	.28	.21
Towels, Hand	1	.31	.23
TOTAL:		$1.83	$1.37
CAT SEC. "I-A"			
Bags, Ration	1	.04	.03
Bottles Water	1	.62	.46
Braces, Left	1	.35	.26
Carriers, Waterbottle	1	.37	.28
Helmets Steel Complete	1	2.39	1.79
Pouches, Basic,	2	2.06	1.55
Straps, Shoulder, Haversack L.&.R	2	.62	.46
Straps, Web, Supporting	2	.28	.22
TOTAL:		$6.73	$5.05

SUMMARY

CAT SEC. "A"	15.54	11.66
CAT SEC. "B"	16.69	12.51
CAT SEC. "C"	1.83	1.37
CAT SEC. "I-A"	6.73	5.05
	$40.79	$30.59

FINAL TOTAL:- $30.59

19th December 1944.

(G.L. Nichols) Captain
Quartermaster
Longue Pointe Reference Depot.

"H"

Pierre Decary

CERTIFICAT en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 1940 tel que publié dans l'O.S.C. 1877 et dans l'ordre général 127 de 1942.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné Colonel PAUL MATHIEU O.C. NO 5 D.D. C.A.
(Matricule) (grade) (nom) (unité)

certifie par les présentes que E-625346 PTE.
(Matricule) (Grade)

BERNIER Maurice.
(Nom au complet)

de Att No 5 D.D. C.A.
(Unité et détachement, s'il y a lieu)

Biffer les mots inutiles } ~~XXXXXXXXXX~~ RH (s'est livré à) E-602390 CPL.
(Matricule) (Grade)

BOURGAULT L.' Att No 5 D.D. C.A.
(Nom) (Unité ou emploi)

à LAUZON P.Q. à 0845
(Lieu) (Heure)

le 11e jour de Sep 19 45

Biffer les mots inutiles } comme déserteur (~~XXXXXXXXXXXX~~ RH) et qu'au moment ~~XXXXXXXXXXXX~~ RH portait l'uniforme de l'armée ~~XXXXXXXXXXXXXXXXXXXXXXXX~~

Donné à RH Lauz n, P.Q. ce 11e jour de Sep 19 45

Paul Mathieu Colonel
(Signature, Matricule, Grade, Unité ou emploi)
(PAUL MATHIEU) Colonel
Commanding No 5 D.D. C.A.

NOTE—Si le militaire, qui a été arrêté ou s'est livré, est détenu par une unité ou une formation, ce certificat doit porter la signature du commandant de cette unité ou de cette formation, et non celle d'un autre officier en son nom.

Si le militaire, qui a été arrêté ou s'est livré, est détenu par un détachement du Corps de Prévôté canadien, A.C., ce certificat doit porter la signature de l'officier, sous-officier breveté ou sous-officier en charge de ce détachement.

M.F.M. 216A.
Q.G. 1771-99-1936
10M-4-43 (9776)

"Y"

Pierre Decary

(PIERRE DECARY) Major
PRÉSIDENT, S. C. M.

M.F.R. 355
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-625346	Private	BERNIER Maurice	N.R.M.A.

1. The following is a fair and true summary of the entries in the field ~~Regimental~~ ~~Air~~ ~~Service and General~~ Squadron, Battery ~~or Company~~ Conduct sheets ~~Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times AA Sec 15(1)	1 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct or~~

~~There are no entries in the conduct sheet of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by~~

~~Previous convictions of the accused by court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.F.A. 73 are set out in the Schedule Air Force Act A.F.A. 73 Annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~or~~ ~~beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 15 days in military custody, making a total of 15 days in custody, ~~Air Force~~ of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 30 years, 7 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 2-6-42

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

10. ~~If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of~~ ~~Air Force~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

(B. TASCHEREAU) Lieut.
Ass. Records Officer,
No.5 D.D. Lauzon, Que.

Signed this 26th day of SEPTEMBER 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. E-625346 Name BERNIER Maurice Sqn., Battery, or Company | Corps N.R.M.A. | Date of enlistment 2-6-42 | G.C. Badges | Tradesman's Rates of Pay | Character

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier,PQ	17-8-42	Pte	nil	AA Sec 15(1) AWL from 0600hrs 17-8-42 until 1800hrs 18-8-42. Total;- 1 day,11hrs,	Cpl Gosselin A.	10 days' pay	21-8-42	P.E. Belanger Major	Forf 2 days' pay.

CERTIFIED TRUE COPY
(B. TASCHEREAU) Lieut,
Ass. Records Officer,
No.5 D.D. Lauzon, Que.

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No EL25346 Pte Bernier. M.
of DD#5 is in a good state of health,
and fit to undergo Trial by Court martial.

Fitzover, capt.
Medical Officer

Station Lauzon Guard Room

Date 25 Sept 45

Medical Inspection Room
D.D. M.D. No. 6
SEP 25 1945
LAUZON, P.Q.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-99-480

MEDICAL OFFICER'S REPORT

I certify that No. E625-346 PVT Burnier M.
of D D 5 is in a good state of health,
and fit to undergo Trial by Court martial.

[illegible], MC
Medical Officer

Station Luzon Guard Room

Date 26 Sept 45

Medical Inspection Room
D.D. M.D. No. 5
SEP 28 1945
LUZON, P.O.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

RESUME DE LA PREUVE

Proces de E-625346 Soldat Maurice BERNIER, R.C.O.A., A.C., attache au Depot Regional No.5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P.II No. 284 d/ 2 decembre 1944, date a Montreal, P.Q.

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. M.F.B. 275

ORALE: E-30500 CQMS ANNETT, Liste Generale, A.C. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (9-6-45)

H.Q.C.55-B-2068 (JAG/D-7)
Your Q. 39-B-4836

19 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

Standing Court-Martial
E.625346 Pte. Maurice Bernier,
RCOC.,CA.,att. No. 5 District Depot, C.A.

Receipt is acknowledged of the proceedings of the m/n Standing Court-Martial which were forwarded by the President named therein.

2. As to the admission of the Defending Officer on the charge of Losing by Neglect, may reference be made to the comments on the file of DOYON, H.Q.C.55-D-1295, your Q.39-D-4968. As to the present case it is further observed that if M.F.B.375 had been relied upon to prove the charge, this document would have been open to objection in that the deficiencies are set out on a list attached to the form and not signed by the Members of the Court. If the list of deficiencies is too long for the space in the form, it should be extended on a sheet of paper and glued to the front of the form. Amendment to Handbook on District Courts-Martial page 61, para. 1(d)(3) "Articles and Value."

3. The proceedings are otherwise legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier,
Judge Advocate-General.

LJR/MM

THIS COPY FOR: H.Q. C. 55-B-2068
M.D. 9.39-B-4836

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E-625346 Name Maurice BERNIER

Rank Pte. Unit RCOC Att No. 5 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion....

(2) AA 24 (2) Losing by neglect.

Date of Crime 27-11-44 (2) 19-9-45

Date of Arrest 11-9-45 Charge Signed 21-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. 25-9-45

Sentence Detention 9 mos. Stoppages $1.72

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40440

Date 18-10-45

MEMO Guilty AWL Balance of sentence remitted by Conf. Auth. 24-10-45

M.D. 5 RCOC Att No. 5 D.D. C.A.

Absent 9½ mos. Sentence Det. 9 mos.

D Ryan
for Judge Advocate-General

10M-8-45(M-189)

CANADA

IN REPLY PLEASE QUOTE No. [redacted]

Q:39-B-4836

DEPARTMENT OF NATIONAL DEFENCE

ARMY

C.55-B-2068

Headquarters,
Military District No. 5,
Quebec, Que.,
Oct. 15th. 1945.

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

E/625346, Pte. Maurice BERNIER.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

Pierre Decary

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

40440

H.Q.C. 55-B-2069

CONFIDENTIAL

N.F.R. 2078
DSM-2-45 (4000)
H.Q. 301-1-18

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BRILLANT, ROLAND B-635458 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2069

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 20 1945	cancelled	cancelled		JAG	NEW FILE	CR	17-10-45
				JAG	With Papers C.R. OCT 30 1945		
OCT 31 1945	1/11/45	P.A.			To note file		31-10-45
NOV 2 - 1945				JAG	With Papers C.R. NOV 19 1945		
NOV 22 1945	22/11/45	P.A.		DMBR	To note file		20-11-45

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to see same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing papers should bear the subject line on them.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2069
(JAG/D-6)

OTTAWA, 20 November, 5

District Officer Commanding
Military District No 5
QUEBEC, Que

E-635458, Pte Roland BRILLANT
Regt de Chat CA, Att No 5 DD CA

Receipt is acknowledged of your Q..39-B-9285 (JA) dated 15 Nov 45, under cover of which you forwarded to this headquarters Form of Remission, together with MFM 288, in respect of the m/n soldier.

E.L.M

/jm

for (R J Orde) Brigadier
Judge Advocate General

Noted.
CMBR-3
22/11/45.

CANADA

IN REPLY PLEASE QUOTE No. Q. 39-B-9285 (JA)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 15 Nov 45.

THE SECRETARY
Department of National Defence
OTTAWA ONT

CENTRAL REGISTRY ARMY
CONF
9938
NOV 19 1945
File 55-B-2069
Cbgd. to
Referred to

REMISSION OF SENTENCE - SCM.

E-635458 Pte Roland BRILLANT
Regt de Chat CA Att No.5 DD CA

1. Ref HQC. 55-B-2069 (JAG)

2. A remission of sentence in this case has been granted w.e.f. 3 Nov 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

AT. DEF. B. 440
DGM 4-44 (432)
HQ. 1772-39-167

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQC.55-B-1069 (JA)
District File No. Q.39-B-9285

PART I

No. E-635458 Rank Private Name Roland BRILLANT
Unit Regt. de. Chat. CA Att. No. 5 DD. CA.

PART II

Date of trial 5 Oct 45.
Charges AA: Sec. 12(1)(a)
Sentence 7 months detention.
Date of Sentence 5 Oct 45.
Confirmation - (a) Authority Standing Court-Martial MD. No. 5.
(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E-635458 Pte Roland BRILLANT, Regt de Chat CA Attached No. 5 District Depot CA, effective 3rd November 1945.

Signed at QUEBEC, P.Q. this 30th. day of October 1945.

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon
this 7th day of November 1945

(W. G. LAROCHE) Capt.
RCCS att 5DD
Officer i/c Documents (1)

(1) Unit, attachment and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-635458 Rank Pte Name BRILLANT Roland
The sentence of 7 months detention
awarded by Court-Martial on the 5 oct 1945
has been remitted
on the 3rd Nov 1945 by Brig. EDMOND BLAIS CBE MC
D.O.C. MD 5

Unit No 5 District Depot
Certified true Extract of Daily Orders Part II of
No. 274 Place Lauzon Date 7 Nov 45

(M. R. LEDOUX) Capt.
Gen List att 5DD
Adjutant.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B-635455 (Number) Pte. (Rank) Roland BRILLANT (Name in full)

Le Regt de Chateauguay, (Unit) Att.No. 5 DD (Attachment (if any))

Sentenced to 7 months detention

on 5 Oct 45 at Lauzon, P.Q.

being served at Valcartier Military Detention Barracks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years, 4 mths, 11 Aug 44

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~XXX~~) committed to undergo his sentence, which I recommend should ~~XXX~~ be (~~XXXXXXXXXXXXXXXXXX~~) reviewed on 10 January 1946, (date) for reasons given in paragraph X.

Place QUEBEC QUE

Date 27 Oct 45.

Edmond Blais

(Edmond BLAIS) - Brigadier, D.O.C., MD No.5, (Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offences, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 288
(Army Form A-3104)
15M—5-43 (44)
H.Q. 1772-29-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
15 Nov 45:	Remission of Sentence granted w.e.f. 3 Nov 45. (Edmond BLAIS) - Brigadier DOC MD No.5.	Edmond Blais	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
AA SEC 12(1)(a) AWL from 2359 heures, le 28 decembre 44 until he surr. at Lauzon at 1620 hrs on 31 Aug 45, in civ. cloth.	28-12-44	5-10-45
Signature of Officer making entry: Thomas Simms Capt.		

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 Oct 45	In view of this soldier's character, it is requested that his sentence be reviewed at a later date.	(G.L. TASCHEREAU) A/Commanding No.5 DD

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2069 (JAG/A-6)

31 Oct 45

District Officer Commanding,
Military District No. 5,
Quebec, Que.

Standing
B.635458 Pte. Roland BRILLANT
Le Regt de Chat CA Att No. 5 DD CA
Court-Martial

27th October 5 Q. 39-B-9285 (JA)

Receipt is acknowledged of your
dated 194 , under cover of which you
returned the Standing
Court-Martial
of the marginally noted

Your explanation of the delay in this case has been noted.

E.L.M.

(R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdr

IN REPLY PLEASE QUOTE No. Q. 39-B-9285 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 27 Oct 45.

6114
OCT 30 1945
C 53-B-2069

THE SECRETARY
Department of National Defence
OTTAWA ONT

STANDING COURT-MARTIAL
B-635458 Pte Roland BRILLANT
Le Regt de Chat CA Att No.5 DD CA.

1. Ref HQC. 55-B-2069 (JAG/D-7) dated 19 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5913.

4. The delay of 35 days in this case is due to the following facts: Pte Brillant surrendered on 31 Aug 45, and his documents were requested immediately but were received on 18 Sep only. He was then remanded for SCM and on 19 Sep 45 an Application for SCM was submitted to this HQ. The trial was held on 5 Oct and this delay is due to the fact that 137 SCsM were held in Sep and it was not possible for the Court to hear this case before 5 Oct.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5.

NAT. DEF. B. 440
250GM-4-44 (432)
H.Q. 1772-29-267

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à Dépôt Régional No. 5, A.C., Lauzon, P.Q.

le cinquième jour de octobre 1945 à 1055 heures,

pour le procès de B-635458 Soldat Roland BRILLANT
Matricule Grade Nom et prénoms

Le Régiment de Chateauguay, A.C., attaché au Dépôt Régional No. 5, A.C.,
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Quartiers-Généraux, R.M. No. 5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms
Procureur Permanent, Quartiers-Généraux, Région Militaire No. 5.
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant M. COURTEMANCHE,
Grade Nom et prénoms
Regt. de la Chaudière, attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

" LA COUR DECLARE LE PREVENU "

B-635458- Soldat Roland BRILLANT, Le Régiment de Chateauguay, A.C., attaché au Dépôt Régional No.5, A.C., innocent de l'accusation de désertion, mais coupable d'absence sans permission sous le chef d'accusation".

SENTENCE:

" LA COUR CONDAMNE LE PREVENU "

B-635458- Soldat Roland BRILLANT, Le Régiment de Chateauguay, A.C., attaché au Dépôt Régional No.5, A.C., à subir une peine de sept (7) mois de détention".

Signé à Dépôt Régional No.5, A.C., ce cinquième jour de octobre 1945.

Major.
Président de la cour martiale permanente.

Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-32-2296
K.P. 26109

Extracts entered as No. 4049 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 18 day of dec 1945 AJR

"B-2"

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.C.M.

ACTE D'ACCUSATION

Le prevenu B-635458 Soldat Roland BRILLANT, Le Regiment de Chateauguay, A.C., attache au Deppt Regional No.5, A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

ACCUSATION
Art 12(1)(a)
Army Act

D'AVOIR EN ACTIVITE DE SERVICE,
DESERTE LE SERVICE DESA MAJESTE,

en ce que,

A Sorel, P.Q. a 2359 heures, le 28 decembre 1944, il s'est absente sans permission du Regiment de Chateauguay, A.C., Jusqu'a ce qu'il se livre aux autorites militaires, a Lauzon, P.Q., a 1620 heures, le 31 aout 1945, en tenue civile.

Lauzon, P.Q.
19 septembre 1945

Pierre Taschereau

(PIERRE TASCHEREAU) CAPITAINE,
Procureur Permanent 5e District Militaire.

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~*Question à l'accusé.*~~ ~~Vous opposez-vous à comme interprète ?~~

~~*Réponse:*~~

Question à l'accusé. Vous opposez-vous à Mademoiselle HELENE LAVOIE comme sténographe ?

Réponse: Non, monsieur.

La sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermentée.

(POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir document "F" ci-joint)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, ~~les prescriptions de la Règle de procédure 35 (B) sont observées.~~

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins.~~

~~Interrogatoire de charge.~~

~~Étant dûment assermenté, est interrogé par le procureur.~~

~~Question.~~

" LE PROCUREUR REMET AU PRESIDENT

LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE"

1.- Une formule M.F.M. 216A, en date du 31 août, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2.- Un extrait certifié des Ordres Partie II, Ordre No. 85, en date du 31 décembre, 1944, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "H", signé par le Président et versé au dossier.)

-o-o-o-o-o-o-o-o-o-o-

Le procureur n'a pas de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Oui, monsieur, sous serment (voir page D-3 et suivantes).

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

~~*Question à l'accusé.*~~ ~~Est-ce uniquement un témoin à l'appui de votre réputation?~~

~~*Réponse:*~~

TEMOIN POUR LA DEFENSE:-

L'accusé:- B-635458- Soldat Roland BRILLANT, Le Régiment de Chateauguay, A.C., attaché au Dépôt Régional No.5,A.C.

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR:-

Q.- Quel âge avez-vous?
R.- Dix-neuf ans, monsieur.

Q.- A quelle date vous êtes-vous enrôlé?
R.- Le 11 août 1944.

Q.- Est-ce que vos parents vivent?
R.- Oui, monsieur.

Q.- Une grosse famille chez-vous?
R.- Onze enfants.

Q.- Combien de frères? combien de soeurs?
R.- Six frères, quatre soeurs.

Q.- Est-ce que vos frères sont chez-vous ou mariés?
R.- Juste trois qui sont pas mariés.

Q.- Les soeurs?
R.- Toutes les quatre mariées.

Q.- Est-ce qu'il y en a qui sont malades?
R.- Un de mes frères infirme, ne marche pas.

Q.- Où demeurez-vous?
R.- Bic, Rimouski.

Q.- Qu'est-ce que votre père fait?
R.- Il travaille sur la terre.

Q.- Voulez-vous expliquer à la Cour pourquoi vous êtes parti?
R.- Mon p`ere avait besoin pour travailler, j'ai parti en congé, j'ai resté pour aider.

Q.- Vous êtes parti le 28 décembre, durant tout l'hiver qu'est-ce que vous avez fait?
R.- J'ai buché du bois avec mes frères pour bâtir le camp le printemps.

Q.- Le printemps?
R.- J'ai bâti la grange et je me suis rapporté.

Q.- Quand vous êtes parti quelles étaient vos intentions?

R.- J'avais pas l'intention de quitter l'armée longtemps, j'ai vu que mon père avait besoin de moi, il m'a gardé.

Q.- Un coup l'ouvrage fini qu'est-ce que vous vouliez faire?

R.- Venir me rapporter.

INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR:-

Q.- Quand vous êtes parti en passe vous n'aviez pas l'intention de déserter l'armée?

R.- Non, monsieur.

Q.- C'est à la fin de votre passe que vous avez décidé de "jumper" l'armée?

R.- Oui, monsieur.

Q.- On dit que vous avez été absent du 28 décembre 1944 au 31 août 1945, est-ce que c'est exact?

R.- Oui, monsieur.

Q.- Vous avez travaillé à une grange pour votre père?

R.- Oui, monsieur.

Q.- Combien ça a pris de temps pour bâtir cette grange-là?

R.- Ca a commencé l'hiver, on a fini une semaine avant de venir me rapporter.

Q.- Ca a pris du 28 décembre à la fin d'août?

R.- Oui, parce-qu'on était pas grand monde.

Q.- Vous étiez deux?

R.- Des fois on était plus.

Q.- Pour construire rien qu'une grange?

R.- Oui, monsieur.

Q.- Est-ce que c'est cela que vous faisiez avant d'entrer dans l'armée?

R.- Non, je travaillais sur le Canadien Pacifi

L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER DE NOUVEAU.

Q.- Qu'est-ce qu'il fait votre père?

R.- Il est cultivateur, il travaille bois aussi en même temps.

De l'avis de la Cour il n'est pas néces de se conformer à la Règle de Procédure

- LE TEMOIN REPREND SON SI

LE PROCUREUR SOUMET LA CAUSE TELLE VEE ET L'OFFICIER DEFENSEUR PRÉSENTE

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: (l'accusé par son Officier Défenseur, dit:)

" Je demanderais à la Cour de considérer le cas du soldat Brillant. Il est allé chez-lui en passe, vu la pénurie d'employés qu'il y a sur la ferme, les fermiers peuvent pas avoir personne pour leur aider, le soldat Brillant a décidé de demeurer chez-lui pour aider son père à bâtir la grange. Ils ont travaillé une partie de l'hiver dans le bois. Quand le printemps est arrivé ils ont bâti leur grange, ensuite il est venu se rapporter. Le soldat Brillant a des frères et des soeurs, mais mariés, excepté deux qui sont malades. Parmi cela un infirme, incapable de travailler. Je demanderais la clémence de la Cour".

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

"p"

" MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE "

" A 1057 heures, le cinquième jour d'octobre, 1945, la Cour s'est ajournée".

-o-o-o-o-o-o-o-o-o-o-o-o-

" A 1515 heures, le cinquième jour d'octobre, 1945, la Cour se rassemble".

-o-o-o-o-o-o-o-o-o-o-o-o-

-LE PROCES SE POURSUIT-

"G"

Pierre Decary

CERTIFICAT en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 1942, tel [illegible] S.C. 1877 et dans l'ordre général 127 de 1942.

PIERRE DECARY, MAJOR
PRÉSIDENT, S.C.M.

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné Lt-Col. G.L. TASCHEREAU T/O.C. NO 5 D.D. C.A.
(Matricule) (grade) (nom) (unité)

certifie par les présentes que E-635458 PTE.
(Matricule) (Grade)

BRILLANT Roland.
(Nom au complet)

de Attache au Depot Regional No 5 AC.
(Unité et détachement, s'il y a lieu)

Biffer les mots inutiles } ~~XXXXXXXXXX~~ (s'est livré à) E-602390 CPL.
(Matricule) (Grade)

BOURGAULT L. att au Depot Reg No 5 AC.
(Nom) (Unité ou emploi)

à LAUZON P.Q. (Lieu) à 1620 (Heure)

le 31ieme jour de aout 1945

Biffer les mots inutiles } comme déserteur ~~XXXXXXXXXX~~ et qu'au moment ~~XXXXXXXXX

"H"

DAILY ORDERS PART II

BY

LT.-COL. R. STE. MARIE

Commanding

LE REGIMENT DE CHATEAUGUAY, C.I.C.

(PIERRE DECARY) MAJOR
PRÉSIDENT, S.G.M.

No. 85

Place Sorel, Que.

Date 31 Dec 44

(Last Order Issued No. 84 / 29 Dec 44

"B" OTHER RANKS

1. ABSENT WITHOUT LEAVE

1-a (i) Absent without leave from 2359hrs 28 Dec 44
(1st Publication)

(No.3 Spec'l Wing) Group 4

B.635456 Pte. BRIAND, B.

(Signature Illegible) Capt & Adjt
for (R.Ste.Marie) Lt Col
Commanding Officer,
LE REGIMENT DE CHATEAUGUAY, C.I.C.

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of
Regimental PART II ORDERS
kept by the Officer i/c.
Regt'l S.D.H.Q.
DATE SEP 24 1945

Prepared by:
and
Checked by:

"Y"

(PIERRE DECARY) M.R.R. 295
PRESIDENT, S. C. M. 772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name		Regiment (or unit)
B-635458	Private	BRILLANT	Rolland	N.R.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets of~~ the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct or~~ —

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~on~~ ~~Previous convictions of the accused by a court martial or civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for, or beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 35 days in military custody, making a total of 35 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 years, 4 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 11-8-44.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force reward (or is in possession of or entitled to). State any air force decoration or military reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force [redacted] rank of
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit / Regiment
Name.....of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial by ~~the court~~ court-martial is a true extract from the regimental books in my custody.

Signed this 5 24 day of ~~SEPTEMBER~~ OCTOBER 1945.

(B. TASCHEREAU) Lieut,
Ass. Records Officer,
No.5 D.D. Lauzon, Que.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. B-635458 Name BRILLANT Roland Sqn., Battery, or Company } Corps N.R.M.A. Date of enlistment } 11-8-44 G.C. Badges } Tradesmen's Rates of Pay }

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. one Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				-- N I L --					
				CERTIFIED TRUE COPY Benoit Tascheraau (B. TASCHEREAU) Lieut, Ass. Records Officer, No.5 D.D. Lauzon, Que.					

(P.T.O.)

MEDICAL OFFICER'S REPORT

I certify that No. B135458 Pte Brillant R.

of DD#5 is in a good state of health,

and fit to undergo Trial by Court martial.

J. Philbert, Capt. RCAMC/CA.
Medical Officer

Station Lauzon Guard Room

Date 5 Oct 45

Medical Officer's Room
OCT 5
LAUZON, P.Q.

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-39-480

RESUME DE LA PREUVE.

Proces de: D-635458 Soldat Roland BRILLANT, Le regiment de Chateauguay A.C. attache au Depot Regional No5 A.C.

ACCUSATION : 1: DESERTION:

Pour confirmer l'accusation, la preuve ci-apres est disponible.

DOCUMENTAIRE:

1. Extrait certifie de s O.P.II No 85 d# 31 Dec 44, a Sorel, P.Q.

2. M.F.M. 216

LAUZON P.Q.

(PAUL MATHIEU) Colonel.
Commanding NO 5 DISTRICT DEPOT C.A.

L.O. 1516

H.Q.C.55-B-2069 (JAG/D-7)
Your Q. 39-B-9285

19 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

B.635458 Pte. Roland Brillant,
Le Regt. de Chat., C.A.,att.
No. 5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused was 35 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

8M-7-45(M-188)

THIS COPY FOR

H.Q.C. 55-B-2069
M.D.5. 39-B-9285

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B-635458 Name Roland BRILLANT

Rank Pte. Unit Le Regt. de Chat. Att No. 5 D.D. C.A.

Charge AA 12 (1) (a) WOAS DESERTION.....

Date of Crime 28-12-44

Date of Arrest 31-8-45 Charge Signed 19-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. 5-10-45

Sentence Detention 7 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40419

Date 18-10-45

MEMO Guilty AWL Balance of sentence remitted by Conf. Auth.

M.D. 5
Absent
8 mod.

Le Regt. de CHAT. Att No. 5 D.D. C.A.
Sentence
Det. 7 mos.

D. Ryan Lt
for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. Q:39-B-9285

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters,
Military District No. 5,
Quebec, Que.,
Oct. 15th. 1945. C.55-B-2069

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

B/635458, Pte. Roland BRILLANT.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

40-119.

NAT. DEF. S. 440
2500M-4-40 (432)
H.Q. 1172-39-267

H.Q.C. 55-D-2070 **CONFIDENTIAL**

M.F.R. 3078
2132—2-45 (6000)
H.Q. 201-1-60

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BARETTE, JEAN-MARIE E-602019 GNR.

CONFIDENTIAL
H.Q.C. 55-D-2070

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 20 1945				JAG	NEW FILE	CR	17-10-45
OCT 30 1945	29.10.45	PA	jm	JAG			
JAN 8 1946	8/1/46	PA.	ag	CMBR	With Papers C.R. OCT 29 1945 For Requisition C.R. JAN 7 1946		
				JAG	With Papers C.R. JAN 9 1946		
JAN 1 6 1946	11/1/46	PA.	ag	CMBR	To note file	jm	9-1-46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

IN REPLY PLEASE QUOTE No. Q:-39-B-7821 (DA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters
Military District No 5
QUEBEC QUE. 7 JAN 46.....

THE SECRETARY
Department of National Defence
OTTAWA ONT

960
JAN 8 1946
File
Object
Referred to
JAG.

REMISSION OF SENTENCE

E 602019 Gnr BARETTE Jean-Marie
RCA (Att No 5 DD)

1. Ref HQC. 55-B-2070 (JAG/D-7) 19 OCT 45.

2. A remission of sentence in this case has been granted w.e.f. 29 DEC 45.

3. The form for Remission of Sentence together with MFM 288, duly completed, are attached hereto.

(EDMOND BLAIS) Brigadier
District Officer Commanding
Military District No 5.

NAT. DEF. B. 440
250096-4-46 (4321)
H.Q. 1772-39-767

FORM FOR REMISSION OF SENTENCE BY COURT-MARTIAL

N.D.H.Q. File No. HQ.55-A-2070(JAG/D-7)
District File No. XX.C.39-407821(D4).

PART I

No. E 602019 Rank Pte Name BARETTE Jean Marie

Unit RCA (Att. No. 5 DD)

PART II

Date of trial 28 SEP 45

Charges Sec. 12(1)(a)AA Sec. 24(2)AA

Sentence 7 months of detention & stoppages of pay for 3.05

Date of Sentence 2 OCT 45

Confirmation - (a) Authority SCM

(b) Date

PART III --- R E M I S S I O N

I, the undersigned, being the competent military authority under Section 57(2) of the Army Act, do hereby remit the unexpired portion of the sentence awarded to E 602019 Pte BARETTE Jean Marie

29 DEC 45

Signed at QUEBEC, P.Q., this 28th day of DEC 45

(EDMOND BLAIS) - Brigadier,
District Officer Commanding,
Military District No. 5.

PART IV --- P R O M U L G A T I O N

Remission duly promulgated and extracts taken at Lauzon

this 4th day of Jan 1946

(W. G. LAROCHE) Capt.
RCCS att. 5DD
Officer i/c Documents (1)

(1) Unit, attachement and appointment to be stated.

PART V

-- CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. E-602019 Rank Pte Name BARETTE J. M.

The sentence of 7 months detention and stopp. 3.05

awarded by Court-Martial on the 2 Oct 1945

has been remitted

on the 29 Dec 1945 by Brig. EDMOND BLAIS CBE MC

D.O.C. MD 5

Unit No. 5 District Depot

Certified true Extract of Daily Orders Part II of

No. 5 Place Lauzon Date 5 Jan 46

(M. R. LEDOUX) Capt.
Gen List att 5DD
Adjutant.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of E-602019 (Number) Gnr. (Rank) Jean-Marie BARETTE. (Name in full)

RCA A.C. (Unit) Att'd No 5 D.D. (Attachment (if any))

Sentenced to 7 Months Dep.

on 2 Oct, 45. at Lauzon, P.Q.

being served at Val Mil Det Brrks. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 22 yrs 2 months 13-6-44

Medical grade or category

FIRST TRIAL—PART II

To The Adjutant-General, (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~XXX~~) committed to undergo his sentence, which I recommend should (~~XXX~~) be (~~XXXXXXXXXXXXXXXXXXXX~~) (reviewed on 10 Jan 46 (date)) for reasons given in paragraph X.

Place QUEBEC QUE (Edmond BLAIS) - Brigadier, D.O.C., MD No.5 (Confirming Authority)

Date 26 Oct 45.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place (Superior Military Authority)

Date

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To (Superior Military Authority)

For details of offence, see pars. VIII. For C.O.'s remarks, see pars. XII.

This man was again convicted on and sentenced to , and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place (Confirming Authority)

Date

M.F.M. 368
(Army Form A-3104)
RM—2-43 (1942)
H.Q. 1773-99-2018

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
7 JAN 46	Remission of sentence granted effective 29 DEC 45.	Edmond Blais (EDMOND BLAIS) Brigadier District Officer Commanding Military District No 5	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
A.A. Sec 12 (1)(a) A.W.L. from 0600 hrs on 8 jan, 45 until he surr at 1030 hrs on 12 Sep 45. Uniform.	8 Jan 45.	2 Oct, 45.
A.A. Sec 24 (2) Los by Negl his Cloth and Equip Reg Mcc for: $3.05	21 Sep 45.	2 Oct, 45.

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
24 Oct, 45.	In view of this soldier's character it is requested that his sentence be reviewed at a later date.	G.L. Taschereau. Lt-Col. A/Commanding Officer

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQ0 55- B-2670 (CMBR-5) N

8 Jan 46

Case No ----------

REVIEW OF SENTENCE

BY

COURTS-MARTIAL BOARD OF REVIEW

1. No. Rank and Name: E-602019 GNR BARETTE J-M

2. Unit at date of offence: 5 D D C.A.

3. Charge: (1) AA Sec 12 (1) (a) AWL from 0600 hours 8 Jan 45 until surrendering 1030 hours 12 Sep 45. Length of absence: 8 months.

(2) AA Sec 24 (2) Loss of kit to the extent of $3.05.

Plea: (1) Not guilty
(2) Not guilty

4. Place and Date of Trial: 5 D D Lauzon, Quebec - 28 Sep 45
(Unit) (Place) (Date)
~~xxxxxxxxxxxxx~~

5. Finding: (1) Not guilty of desertion but guilty of AWL.
(2) Guilty

6. (a) Sentence: 7 mos detn. and stoppages of pay to the extent of $3.05

(b) Date of Sentence: 2 Oct 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: in M.D. ---------

(N.B. - Discharged under R.O. 1029 ( ) for WEF)

Remitted by DOC 5 Mar 5.
AWL may

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	NIL		
(ii) Courts-Martial:	NIL		
(iii) Summary Convictions:	NIL		

(b) After Conviction: Expected date of release 20 Feb 46.

(c) Date of enrolment/~~xxxxxxxxxx~~ 13 Jun 44 Present Age: 22

12. Remarks: (Here note any Petition or Representation other than in Item 10, but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

Item 10 has been omitted.
In sworn evidence the accused says he went home on embarkation leave and fully intended to return at the expiration of his pass. When he got home he found his mother was sick and he decided to stay and help a while and then return. His mother has only his assigned pay plus dependence allowance ~~of~~ $25.00 and that was not sufficient so the accused decided to work to earn some money.

13. Recommendations: (State by whom made, e.g., CMHQ, DOC, Reviewing Officer, etc.)

Reviewing Officer: As he is an NRMA soldier who was on embarkation leave it is suggested that no action be taken towards remission.

Reviewed by A. M. Stephenson
~~A. M. Stephenson, Major~~

14. Recommendation of the Board:

Date

----------Major
Secretary
Courts-Martial Board of Review.

HQC 55-B-2070 (JAG/D-6)

29 Oct 45

District Officer Commanding,
Military District No. 5,
Quebec, Que.

Standing
E.602019 Gnr. Jean-Marie BARETTE
RCA CA ATT No. 5 DD CA
.....Court-Martial

Q. 39-B-7821 (JA)

26th October 5

Receipt is acknowledged of your Standing dated 194 , under cover of which you returned to this office for custody the proceedings of the marginally noted Court-Martial.

E.L.M.
for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdr

25

IN REPLY PLEASE QUOTE No. Q. 39-B-7821 (JA)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters MD No.5,
QUEBEC QUE 26 Oct 45.

THE SECRETARY
Department of National Defence
OTTAWA Ont

CENTRAL REGISTRY Army
COMS SECT
5594
OCT 28 1945
File 6.55-B-2070
Chgd. to
Referred to
JAG

STANDING COURT-MARTIAL

E-6020 19 Gnr Jean-Marie BARETTE
RCA CA Att No.5 DD CA.

1. Ref HQC. 55-B-2070 (JAG/D-7) dated 19 Oct 45.

2. The proceedings of the mn SCM are returned herewith for custody.

3. This case will be duly reviewed in accordance with CARO 5915.

JAC/C.

(Edmond BLAIS) - Brigadier
District Officer Commanding
Military District No.5

24

A

Formule de procès verbal de cour martiale permanente

1

Procès verbal d'une cour martiale permanente tenue à Dépôt Régional No. 5, A.C., Lauzon, P.Q.

le vingt-huitième jour de - - - septembre - - - 19 45-- à - - 1440 -v- - heures,

pour le procès de - - - E-602019- Artilleur Jean-Marie BARETTE - - - - - - - - - - -
Matricule Grade Nom et prénoms

A.R.C., A.C., attaché au Dépôt Régional No. 5, A.C., - - - - - - - - - - - - - - - - -
Unité Détachement, le cas échéant

PRÉSIDENT: Major Pierre DECARY,
Président Permanent, C.M.P., Quartiers-Généraux, R.M. No. 5.

PROCUREUR: Capitaine Pierre TASCHEREAU,
Grade Nom et prénoms

Procureur Permanent, Quartiers-Généraux, Région Militaire No. 5,
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant M. COURTEMANCHE,
Grade Nom et prénoms

Régiment de la Chaudière, attaché au Dépôt Régional No. 5, A.C.
Unité Détachement, le cas échéant

- LA COUR DECLARE LE PREVENU : -

Mat. E-602019, - Artilleur Jean-Marie BARETTE, A.R.C., A.C., attaché au Dépôt Régional No. 5, A.C., innocent de l'accusation de désertion, mais coupable d'absence sans permission sous le premier chef d'accusation, et coupable sous le deuxième chef d'accusation. "

-x-x-x-x-

- LA COUR CONDAMNE LE PREVENU : -

SENTENCE: Mat. E-602019, - Artilleur Jean Marie BARETTE, A.R.C., A.C., attaché au Dépôt Régional No. 5, A.C., à la détention pendant sept (7) mois, et à une suppression de sa solde jusqu'à ce qu'il ait remboursé la valeur des effets perdus, savoir: $3.05. "

-x-x-x-x-

Signé à 5DD, A.C., Lauzon, P.Q., ce deuxième jour de octobre - - - 194 5.

Pierre Decary Major.
Président de la cour martiale permanente.
Q.G., R.M. No. 5.

M.F.B. 1486A
10M-1-45 (6449)
H.O. 1772-39-2296
K.P. 26109

Extracts entered as No. 4048 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 18 day of DEC 1945

23

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

~~Question à l'accusé.~~ ~~Vous opposez-vous à comme interprète~~

Réponse:

Question à l'accusé. Vous opposez-vous à Mademoiselle HELENE LAVOIE comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~[illegible]~~ est dûment assermenté.

(POUR MINUTE D'AJOURNEMENT ET DE REPRISE D'AUDIENCE, voir document marqué "F" ci-joint)

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ~~ou devant une cour martiale~~ ?

Non, monsieur.

~~Question~~ : Vous opposez-vous à E-21035, S.M. (W.O. I) G. Vidal, comme sténographe ?

Réponse :- Non, monsieur. (Le mat. E-21035, S.M. (W.O. I) G. Vidal, 5è Dét. CMSC, A.C., 5è Région militaire, A.C., est le sténographe dûment assermenté)

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du (premier) chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

Question à l'accusé. Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: " NON COUPABLE. "

~~*Question à l'accusé.* Etes-vous coupable ou non du troisième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

" B -2 "

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

ACTE D'ACCUSATION.

E-602019 (1)

Le prevenu Artilleur Jean-Marie BARETTE. ~~Liste Générale~~ N.A.A.C., A.C. attache au Depot Regional No5 A.C., un soldat N.R.M.A. de l'armee canadienne, mis en activite de service, est accuse:

PREMIER CHEF.
Art 12(1)(a)
Army Act.

D'AVOIR EN ACTIVITE DE SERVICE
DESERTE LE SERVICE DE SA MAJESTE.

en ce que,

a Petawawa, Ont. a 0600 heures, le 8 janvier, 1945, il s'est absente sans permission du (A-1) CATC,A.C.. jusqu'a ce qu'il se livre aux autorites militaires a Lauzon, P.Q. a 1030 heures, le 12 septembre, 1945 en uniforme militaire.

DEUXIEME CHEF.
Art 24 (2)
Army Act.

D'AVOIR PERDU PAR NEGLIGENCE SES ARMES
SES EFFETS D'EQUIPEMENT D'HABILLEMENT
ET AUTRES EFFETS REGIMENTAIRES.

en ce que

a Lauzon, P.Q. le 21 septembre, 1945, il etait en deficit des articles suivants:

	C.A.R.O. 1862	Moins 25% C.A.R.O. 3464
HABILLEMENT DIVISION "B"		
4 Socks woollen.	1.84	1.38
1 Puttees	.97	.73
HABILLEMENT DIVISION "C"		
1 Brush pol.	.21	.16
1 Pin collar.	.06	.04
SECTION A-1		
1 Belt waist Web.	.25	.18
1 Helmet sun.	.69	.51
1 Bottle oil.	.07	.05
Tot:	$4.09	$3.05

Lauzon, P.Q.
24 sept, 1945.

(PIERRE TASCHEREAU) Capitaine.
Procureur Permanent 5eme District Militaire.

21

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

~~Le procureur procède à l'appel des témoins~~

~~Premier témoin à charge~~

- LE PROCUREUR REMET AU PRESIDENT LES DOCUMENTS SUIVANTS SE RAPPORTANT A L'ACCUSE : -

~~étant dûment assermenté, est interrogé par le procureur~~

~~Question~~

1o. M.F.B. 375, déclaration d'une Cour d'Enquête tenue à Petawawa Military Camp, Ontario, le 30 janvier, 1945, se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué "G", signé par le Président et versé au dossier.)

2o. M.F.M. 216A, certificat de reddition signé à Lauzon, P. Q., le 12 septembre, 1945, par le Colonel Paul Mathieu, Commandant du Dépôt Régional No. 5, A.C., se rapportant à l'accusé.

(Ce document est lu par la Cour, marqué " H ", signé par le Président et versé au dossier.)

---xxx---

- LE PROCUREUR PROCEDE A L'APPEL DES TEMOINS. -

TEMOIN DE LA POURSUITE:- P-48788, - C.Q.M.S. M. LEBLANC, Liste Générale, A.C., attaché au Dépôt Régional No. 5, A.C.,

étant dûment assermenté,

EST INTERROGE PAR LE PROCUREUR : -

Q. Voulez-vous dire à la Cour quelles sont vos fonctions ?

C - 3

R. Quartier-Maître au Camp de Lauzon, monsieur.

Q. Connaissez-vous l'accusé dans cette cause ?

R. Barette, J.M., ici, au milieu (indiquant l'accusé).

Q. Avez-vous eu l'occasion de faire l'inspection de l'équipement de l'accusé ?

R. Oui, monsieur. Il s'est présenté au Quartier-Maître le 21 septembre, 1945, et il a rapporté des articles pour $58.24. Il lui manquait encore des articles pour la somme de $3.09, comme suit :

4	Socks Woollen, prs.	$ 1.38
1	Puttees, pr.	0.73
1	Brush Polishing	0.16
1	Pin Collar Safety	0.05
1	Belt Waist Web	0.19
1	Helmet Sun	0.51
1	Bottle Oil	0.07
	Total	$ 3.09

C'était, à 100%, $4.02, sans charger la bouteille d'huile, soit $3.02 à 75%. D'après la déclaration de la Cour d' Enquête, la bouteille d'huile a été chargée à $0.07; j'ai laissé cet item tel quel, et ça fait $3.09.

Q. Sur quoi vous êtes-vous basé pour faire ces constatations ?

R. Sur la formule 375, monsieur.

- L'OFFICIER DEFENSEUR NE DESIRE PAS INTERROGER CONTRADICTOIREMENT. -

- INTERROGE PAR LA COUR : -

Q. Est-ce que la bouteille à l'huile doit être chargée à 100% ?

R. Quand c'est chargé à 100% sur la Cour d'Enquête, c'est probable qu'il y avait une raison pour ça et je ne l'ai pas changé.

- De l'avis de la Cour, il n'est pas nécessaire de se conformer à R. P. 83 (b). -

- LE TEMOIN SE RETIRE. -

-x-x-x-

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: L'accusé désire rendre témoignage sous serment, monsieur.

(Voir page D-3 et suivantes.)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense?

Réponse: Non, monsieur.

~~*Question à l'accusé.*~~ ~~Entendrez-vous un témoin à l'appui de votre réputation?~~

~~*Réponse:*~~

18

D - 3

Témoin de la Défense:-

L'accusé, mat. E-602019, - Artilleur Jean-Marie BARETTE, A.R.C., A.C., attaché au Dépôt Régional No. 5, A.C.,

étant dûment assermenté,

EST INTERROGE PAR L'OFFICIER DEFENSEUR : -

Q. Voulez-vous donner votre âge à la Cour ?

R. 22 ans.

Q. A quelle âge vous êtes-vous enrôlé ?

R. A 21 ans.

Q. A quelle date, ça ?

R. Le 13 juin, 1944.

Q. Est-ce que vos parents vivent ?

R. Rien que ma mère, monsieur. Mon père est mort.

Q. Est-ce qu'il y a des enfants, chez vous ?

R. Deux qui vont à l'école.

Q. Voulez-vous donner vos raisons à la Cour, pourquoi vous êtes parti le 8 janvier, 1945 ?

R. Quand je suis parti, je suis parti en passe d'embarcation; j'avais l'idée de me rapporter au camp une fois ma passe finie. Quand je suis arrivé chez nous, ma mère était malade; je me suis dit: "Je vais travailler pour lui aider", "dès qu'elle sera mieux, je viendrai me rapporter".

Q. Avez-vous des frères, ou soeurs, qui peuvent aider à votre mère ?

R. Une de mes soeurs; les autres vont à l'école.

D - 5

Q. Quelle était votre intention ?

R. Me rapporter au camp aussitôt ma passe finie. Quand j'ai vu que ma mère était malade, je suis resté pour lui venir en aider, à ma mère.

Q. Vous avez $3.09 de perte d'équipement, de l'équipement qui vous manque; où est cet équipement ?

R. Chez nous, monsieur.

- INTERROGE CONTRADICTOIREMENT PAR LE PROCUREUR : -

Q. De quelle manière vouliez-vous venir en aide à votre mère ?

R. Vu qu'elle était malade, que personne ne travaillait chez nous; elle n'avait que ma pension et le $25.00 du Gouvernement, quand j'ai vu que ça ne suffisait pas, j'ai dit: "Je vais travailler et je viendrai ensuite me rapporter".

Q. Où avez-vous travaillé ?

R. D'un bord et de l'autre, dans le Lac St-Jean, dans le bois.

Q. Qu'est-ce que vous faisiez ?

R. Je buchais dans le bois.

Q. Etait-ce ce que vous faisiez avant ?

R. Je travaillais dans la menuiserie.

Q. Quand êtes-vous parti pour travailler dans le Lac St-Jean ?

R. Le 7 janvier.

Q. Pendant votre passe ?

R. Oui.

Q. Avez-vous demandé un congé ?

R. Non, monsieur.

Q. On dit que vous avez été absent sans permission du 8 janvier, 1945, jusqu'au 12 septembre; est-ce exact ?

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur. (L'accusé, par son Officier Défenseur, dit :-

" Je demanderai à la Cour de prendre en considération le cas du Soldat Barette. Il a fait preuve de bonne foi, même s'il est parti pour quelques mois, tout le temps qu'il était dans l'armée, il envoyait de l'argent à sa mère qui recevait en outre une pension du Gouvernement. Je demande la clémence de la Cour. "

-X-X-X

RECORD of the Declaration of a Court of Inquiry assembled at PETAWAWA MILITARY CAMP ONT.

on the 30 th day of JANUARY 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-602019 Gnr BARRETTE J.M.

"H" T/S BTY. A-1, C.A.T.C. C.A.

DECLARATION

The Court declare that No. E-602019 (Regt'l No.) GUNNER (Rank)

BARRETTE J.M. (Full Name) "H" T/S BTY. A-1, C.A.T.C. C.A. (Unit)

illegally absented himself without leave FROM A-2 C.A.T.C. C.A.

at PET.MIL.CAMP. (Place) at 0600 hours on the 8 th day of JANUARY 45

that he is still so absent, and that on the 30 th day of Jan 45 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES BROUGHT FORWARD		VALUE
SECTION CLO.DIV."A"					$47.31
OUTLET WEB	1	.74	SOCKS PRS	4	1.84
GLOVES WOOLLEN	1	.66	SHIRTS WOOLLEN	2	2.80
GREATCOAT DRAB	1	15.54	" C/K	3	4.62
DRESSING FIRST FIELD	2	.44	PUTTEES PRS	1	.97
CAP WINTER MELTON	1	1.05	SECTION CLO.DIV."C"		
~~WINTER MELTON~~	1		BRACES PRS	1	.22
COAT WATERPROOF	1	6.91	BRUSHES SHAVING	1	.42
SECTION CLO.DIV."B"			" POLISHING	1	.21
BATTLE DRESS BLOUSES	1	6.50	COMBS HAIR	1	.04
2 " TROUSERS	1	6.55	FORKS TABLE	1	.08
BOOTS ANKLE PRS	1	5.82	HOLDALL	1	.22
CAP FIELD SERVICE	1	.70	HOUSEWIFE	1	.35
DRAWERS WOOLLEN	2	2.40	KNIFE TABLE	1	.18
		$47.31			$59.32

"S.Elkin" Capt R.C.A. President
(Name) A-1, C.A.T.C. (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at PET.MIL.CAMP.ONT.

this 30 th day of Jan 19 45

"R.H. Tremain" A/Colonel R.C.A.
COMMANDANT A-1, C.A.T.C. C.A.
PETAWAWA MILITARY CAMP, ONTARIO.

Signature of Commanding Officer

Certified true copy of
Original Entry in M.T. 68.

(S.S.Bard) Lt. RCA.
Offr. i/c Records. A-1. CATC.
Pet'wa. Mil. Camp, Ont.

(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (5550)
H.Q. 1772-39-257

PIERRE DECARY) MAJOR
PRESIDENT, S.C.M.

12

BROUGHT FORWARD		$59.32
AZORS SAFETY STES	1	.42
POONS TABLE	1	.06
ONTIS HAND	2	.62
ILTS WAIST WEB	1	.25
ICKTIES BLACK	1	.19
N COLLAR SAFETY	1	.06
OCKS BLACK	2	.56
		$61.50

BROUGHT FORWARD		$61.50
SECTION CLO.DIV. "D"		
BADGES CAP R.C.A	1	.07
SECTION "A-1"		
HELMET SUN	1	.62
		$62.19
25% Deduction R.O. 3464..		$15.55
SECTION "B-1"		$ 46.70
BOTTLE OIL	1	.07
GRAND TOTAL.....		$46.77

" H "

(PIERRE DECARY) MAJOR
PRÉSIDENT.

CERTIFICAT en conformité de l'arrêté en conseil C.P. 2797 du 10 avril 1942, publié dans C.W.S.C. 1877 et dans l'ordre général 127 de 1942.

(MILITAIRES ARRÊTÉS PAR L'AUTORITÉ MILITAIRE OU SE LIVRANT À CETTE AUTORITÉ)

JE, soussigné Colonel (Matricule) Paul Mathieu. (grade) Commanding No 5 D.D.C.A. (nom) (unité)

certifie par les présentes que E-602119 Pte. (Matricule) (Grade)

Barrette Jean Marie. (Nom au complet)

de Att'd No 5 D.D.C.A. (Unité et détachement, s'il y a lieu)

Biffer les mots inutiles } [redacted] (s'est livré à) D-616313 (Matricule) L/Cpl. (Grade)

Labonte. (Nom) L.P. (Unité ou emploi)

à Lauzon P.Q. (Lieu) à 1030 rs. (Heure)

le 12 jour de sept. 19 45

Biffer les mots inutiles } comme déserteur ([redacted] qu'au moment de [redacted] il portait l'uniforme de l'armée [redacted]

Donné à Lauzon P Q. ce 12 jour de sept. 19 45

Paul Mathieu Colonel.
(Signature, Matricule, Grade, Unité ou emploi)
(Paul Mathieu.) Commanding No 5 D.D C.A.

NOTE—Si le militaire, qui a été arrêté ou s'est livré, est détenu par une unité ou une formation, ce certificat doit porter la signature du commandant de cette unité ou de cette formation, et non celle d'un autre officier en son nom.

Si le militaire, qui a été arrêté ou s'est livré, est détenu par un détachement du Corps de Prévôté canadien, A.C., ce certificat doit porter la signature de l'officier, sous-officier breveté ou sous-officier en charge de ce détachement.

M.F.M. 216A.
Q.G. 1772-39-1936
10M-4-43 (9776)

11

Pierre Decary

(PIERRE DECARY) MAJOR
PRÉSIDENT, S. C. M.

"Y"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-602019	Private	BARRETTE Jean-Marie	N.R.M.A.

1. The following is a fair and true summary of the entries in the field ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct or~~

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act or dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for or beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 20 days in military custody, making a total of 20 days in custody, of which nil days were spent in hospital. ~~Air Force~~

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years, 2 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 13 Jun 44.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of ~~or entitled to~~ no ~~air force~~ military decoration, ~~or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

10

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... dated ....., and in his regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2nd day of ~~SEPTEMBER~~ OCTOBER 1945.

(B. TASCHEREAU) Lieut,
Ass. Records Officer,
No.5 P.D. Lauzon, Que.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. R-602019 Name BARRETTE Jean Marie

Corps N.R.M.A.

Date of enlistment 13-6-44

Sheet No.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				-- N I L --					

CERTIFIED TRUE COPY
(B. TASCHEREAU) Lieut,
Ass. Records Officer,
No.5 D.D. Luzon, Que.

SPECIAL DISCHARGED MEDICAL
PRES. DEPARTMENT S.E.M.

M.F.Ms. 6
(A.F.S. 129)
500M—11-41 (2400)
H.Q. 1775-99-1002

RESUME DE LA PREUVE

Proces de E-602019 Artilleur Jean Marie BARRETTE. Liste Generale, A.C. attache au Depot Regional, No 5, A.C.

ACCUSATIONS: 1) DESERTION
2) PERTE PAR NEGLIGENCE

Pour confirmer la premiere accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

1. Extrait certifie des O.P. II 4c

2. M.F.B. 375

3. M.F.M. 216

Pour confirmer la seconde accusation, la preuve ci-apres est disponible:

DOCUMENTAIRE:

ORALE: P-46788 CQMS. Leblanc M. Liste Generale, A.C. attache au Depot du District No.5 A.C., qui rendra temoignage au sujet du deficit de l'accuse constate a l'inventaire de son equipement.

L O 1507 (9-6-45)

8

MEDICAL OFFICER'S REPORT

I certify that No. E602019 Pvt Barrett J. M.
of U S O is in a good state of health,
and fit to undergo Trial by Court martial.

Kinnett, Capt
Medical Officer

Station Luzon Headquarters

Date 27 Sept 45

Headquarters Base
E.T.O. M.P. No. 1
SEP 27 1945
LAUZON, P.O.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

7

MEDICAL OFFICER'S REPORT

I certify that No. E 603119 PFC Barrette, L.M.
of SD #5 is in a Bon state of health,
and fit to undergo Trial by Court martial.

Medical Officer

Station Lauzon Guardhouse

Date 28 Sept 45

M. F. B. 246
50M—12-43 (3222)
H.Q. 1772-39-480

Medical Inspection Room
D.D. H.Q. No. 5
SEP 28 1945
LAUZON, P.Q.

2-10-415

6

MEDICAL OFFICER'S REPORT

I certify that No. E602119 PE Barrett J M.
of 2D45 is in a good state of health,
and fit to undergo Trial by Court martial.

J. Minaret
Medical Officer

Station Luzon Guard Room

Date 2 Oct 45

M. F. B. 246
50M—12-43 (3223)
H.Q. 1772-30-480

Medical Inspector's Room
O.D. M.D. No. 8
OCT 2 1945
LUZON, P.I.

5

H.Q.C.55-B-2070 (JAG/D-7)
Your Q. 39-B-7821

19 Oct 45

The District Officer Commanding,
Military District No. 5, Quebec, Que.

STANDING COURT-MARTIAL

E. 602019 Gnr. Jean-Marie Barette,
RCA., CA.Att. No. 5 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

LJR/MM

3

8M-7-45(M-188)

THIS COPY FOR: H.Q.C. 55-B-2070
M.D. ~~4~~. 39-B-7821

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. E-602019 Name Jean-Marie BARETTE

Rank ~~[illegible]~~ Gnr. Unit R.C.A. Att No. 5 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion.....

(2) AA 24 (2) Losing by neglect...

Date of Crime 8-1-45 (2) 21-9-45

Date of Arrest 12-9-45 Charge Signed 24-9-45

Orders for D.C.M.

Place and Date of Trial No. 5 D.D. C.A. 28-9-45

Sentence Detention 7 mos. Stoppages $3.05

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40418

Date 18-10-45

MEMO Guilty AWL Balance of sentence remitted by Conf. Auth. 29-12-45

M.D. # 5
Absent
8 mos.

R.C.A. Att No. 5 D.D. C.A.
Sentence
Det. 7 mos.

2

10M-8-45(M-189)

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. Q:39-B-7821

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

c.55-B-2070

Headquarters,
Military District No. 5,
Quebec, Que.,
Oct. 15th. 1945.

The Judge-Advocate General,
Department of National Defence,
Ottawa, Ont.

STANDING COURT MARTIAL

E/602019, Gnr. Jean-Marie BARETTE.

Enclosed herewith the proceedings of the m/n Standing Court Martial, forwarded pursuant to C.A.R.O. 4565 (11) (a).

(PIERRE DECARY) - Major,
Permanent President, S.C.M.

40418

NAT. DEF. B. 440
2500M-4-44 (537)
H.Q. 1772-28-787

CS5-B-2071

FILE
No

CHARGED OUT					RETURNED		
TO	PER	DATE		BY	DATE		FILED BY
Zacy		10/1/46					
		CS5-B-2071					

NOT TO BE REMOVED FROM FILING CABINET

O.S.S.
R.C.A.F.
10M
H.Q.

H.Q.C. 55-B-2072

CONFIDENTIAL

M.F.R. 2178
35M—2-45 (5600)
H.Q. 301-1-45

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BOILARD- MAURICE M-104345 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2072

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 19 1945		Cancelled		JAG	NEW FILE	CR	17-10-45
		cancel					
NOV 13 1945	13-11-45	Pa	RC	JAG	WithPapersC.R. NOV 10 1945		
				JMB	Non Requisition C.R. JAG 11 1946		
JAN 26 1946	26-1-46	Pa		Adm 3	Recommendation		JAN 18 1946
				JGH	WithPapersC.R. FEB 20 1946		
FEB 22 1946	22-2-46	Pa		Adm	To note commission pt		22/2/46

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This causes it being completed and kept in order, and also gives other officers an opportunity to peruse it.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. Officers leaving, will hand the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE

ARMY T-20-B-19946 (AJAG)

Headquarters, Military District 2,
159, Bay Street, Toronto, Ontario.
18th February, 1946.

8291
FEB 20 1946
File
Chgd. to
Referred to J.A.G.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REMISSION OF SENTENCE
M-104345 - Pte. Maurice BOILARD
(RCOC) No. 2 District Depot, C.A.

Reference H.Q.C. 55-B-2072 (JAG/D)
dated 13th November, 1945.

2. Herewith completed Appendix "G" to CARO 5913.

3. Also enclosed herewith MFM.288 with respect to the marginally named, for disposal, please.

for (C. C. MANN)
Brigadier
G.O.C. M.D.2

APPENDIX "G" TO CANADIAN ARMY MONTHLY ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY C.S.M.

NDHQ File No. HQC 55-B-2072
District File No. T-20-B-19946

PART I.

No. M-104345 Rank Private NAME Maurice BOILARD
Unit (RCOC) No. 2 District Depot, C.A.

PART II.

Date of Trial 2nd October, 1945
Charge(s) DESERTION - AA Sec 12(1)(a)
Sentence 9 months' detention; $2.04 stoppages (apprehn)
Date of Sentence 2nd October, 1945
Confirmation - (a) Authority S.C.M.
(b) Date ---

PART III.
REMISSION

I, the undersigned, being the competent Military authority under Section 87(2) of the Army Act (xxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of M.104345 - Pte. BOILARD, Maurice
Number Rank Name in full

(RCOC) No. 2 District Depot, C.A.
Unit Attachment (if any)

Sentenced to Nine months detention

on 2nd day of October 1945 at Stanley Bks., Toronto, Ont.

being served at No. 61 Military Detention Barracks, Brampton, Ont.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years of age; Enlisted 27 Nov 42

Medical grade or category YOB P U L H E M S
23 1 1 1 1 1 4 1 4 Oct 45.

STATE OF TRAINING

The documents show no record of M.104345 - Pte. BOILARD, M. having completed any training.

Go Observations Part VII.

recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

..... Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... Confirming Authority

Date .....

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-30-2015

...e sentence (which I hereby commute to .....

I remit .....) (be suspended) (be put into execution)

...nd that it run (concurrently) (consecutively) with the previous sentence of .....

.....(and) be reviewed on .....

Place .....

Date .....

Superior Military Authority

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
17 Jan 46	Remit effective 14 February, 1946	Arthur E Potts A. E. POTTS, Maj.-Gen. D.O.C. M.D.No. 2	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
CHARGE Sec.12(1)(a) Army Act. M.104345 - Pte. BOILARD,M., a G.S. soldier of the C.A.,placed on Active Service, is charged with:-WHEN ON ACTIVE SERVICE; DESERTING HIS MAJESTY'S SERVICE:-in that he:-absented himself from Longue Pointe Ordnance Depot,RCOC,C.A., at Montreal,Que. at 0730 hrs 20 Mar 44 until apprehended by Military Police at Welland, Ont., at 1150 hrs 13 Sep 45 dressed in civilian clothes cost of apprehension and retrun to No. 2 District Depot, C.A. being $2.04. M Eyles Signature of Officer making entry (J.J.Eyles) Capt.Adj., No. 2 District Depot, C.A.	20 Mar 44	2 Oct 45

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
6 Nov. 45	It is recommended that Pte. Boilard be discharged under CARO 1029(8) as it is apparent that he is not amenable to army discipline. Remission of sentence is recommended at a later date to coincide ~~with discharge.~~	A.R. Kennedy Lt Col for O.C. 2 Dist Depot

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date		Signature
9 Nov 45	Review 17th February, 1946.	M. Dwyer Lt Col A. E. POTTS, Maj.-Gen. D.O.C. M.D.No. 2

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
17 Jan 46	Remit effective 14 February, 1946	Arthur E Potts A. E. POTTS, Maj.-Gen. D.O.C. M.D.No. 2	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
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Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
..... Signature of Officer making entry		

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 Nov. 45	It is recommended that Pte. Boilard be discharged under CARO 1029(8) as it is apparent that he is not amenable to army discipline. Remission of sentence is recommended at a later date to coincide ~~with discharge.~~	A.H. Lumsy Lt Col for O.C. 2 Dist Depot

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
9 Nov 45	Review 17th February, 1946.	A. E. POTTS, Maj.-Gen. D.O.C. M.D.No. 2

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

CANADA

IN REPLY PLEASE QUOTE
No. T-20-B-19946
T-20-M-18924 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE
ARMY

21st January, 1946.
Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

M-104345 - Pte. BOILARD, Maurice
B-115407 - Pte. McMASTER, Leslie Elbion

C 55-B-2072
405-B-22281
C-55-M-1529
405-M-29567

Receipt of RANKS 1602 dated 19th January, 1946, with respect to the marginally-named soldiers is acknowledged.

Pa on 55-B-2072
26-1-46

for (A. E. Potts)
Major-General
D.O.C. M.D. 2.

N.D. 23
500M—10-44 (5769)
H.Q. 1772-101-23

INCLUDE ORIGINATOR'S NO. AND SECURITY CATEGORY OF MESSAGE AS INTRODUCTION IN THE TEXT OF THE MESSAGE.

HQC 55-B-2072
55-M-1529
ADM 3(b)3
FILE

CIPHER

ARMY MESSAGE

(OUTGOING)

PLACE DATE

DISTRICT OFFICER COMMANDING
MILITARY DISTRICT NO 2
TORONTO ONT

OTTAWA ONT 19 JAN 46

RANKS 1602 RESTD

REVIEW REF AG 0267 D/18 OCT 45 (.) CMBR RECOMMENDS IMMEDIATE RELEASE OF THE FOLLOWING SUB (.) M104345 PTE BOILARD M B115407 PTE MCMASTER L E (.) AG CONCURS (.) ACK (.)

ADJUTANT GENERAL

INFM COPY TO: CMBR

JAG

EXM/MA

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MUST BE SENT IN CIPHER	IF THIS MESSAGE IS LIABLE TO BE PUBLISHED, INDICATE BELOW.	DEGREE OF PRIORITY	TIME OF ORIGIN
Major-General Adjutant-General		IMMEDIATE	1255

SIGNED

THIS MESSAGE WILL BE TRANSMITTED IN CIPHER. CONFIRMATION COPIES MUST NOT BE SENT BY MAIL.

SINGLE FORM FOR CIPHER MESSAGE

HQC 55-B-2072 (CMBR-5) /

17 Jan 46.

Case No.

1822

REVIEW OF SENTENCE
BY
COURTS-MARTIAL BOARD OF REVIEW

1. No, Rank and Name: M-104345 PTE BOILARD M

2. Unit at date of offence: Longue Pointe Ordnance Depot, RCOC

3. Charge: AA Sec 12 (1) (a) DESERTION - AWL from 20 Mar 44 until apprehended 13 Sep 45 dressed in civilian clothes. Length of absence: 1 year 5½ months.

Plea: Not guilty

4. Place and Date of Trial: Toronto, Ontario 2 Oct 45
~~(GCCM) (DCM)~~ (SCM)

5. Finding: Guilty

6. (a) Sentence: 9 mos. detn

(b) Date of Sentence: 2 Oct 45

7. Date of Confirmation:

8. Date of Promulgation:

9. Being served at: 61 MDB

In M.D 2
1602

(N.B. - Discharged under R.O. 1029 ( ) for w.e.f.).

27

CONDUCT

11. (a) Prior to conviction:

	Offence	Date	Sentence
(i) Civil Convictions:	NIL		
(ii) Courts-Martial:	NIL		
(iii) Summary Convictions:	6 - AWL 2 other offences.		

(b) After Conviction: Good. Expected date of release 1 Apr 46.

(c) Date of xxxxxxxx/enlistment: 27 Nov 42 Present Age: 22

12. Remarks: (Here note any Petition or Representation other than in Item 10 but if Item 10 has been omitted so state, and show here any mitigating circumstances.)

In Mitigation the Defending Officer states that the accused could not go overseas because his Pulhems profile, which is M-4. Because of low mentality the accused was unable to cope with army life. The accused's wife is expecting a baby in August or November 1945.

13. Recommendations: (State by whom made, e.g. CMHQ, DOC, Reviewing Officer, etc.)

Rev. Offr: As the accused has now served over 1/3 of his sentence I recommend immediate release.

Reviewed by A.M. Stephenson
A.M. Stephenson, Major.

14. Recommendation of the Board:

Immediate Release

Date JAN 1 81946

H. A. Stitt Major
Secretary
Courts-Martial Board of Review.

45 CIB HD 68

TORONTO Jan 15 1145

SECTY

OTTAWA

TZ 11 RETEL CMBR 91 UNCLASSIFIED DATED 11 JAN 46 H 618402 RIVEST C J RELEASED 10 JAN 46 STOP M 104345 PTE BOILARD M AND B 115407 PTE MCMASTER L E IN NO 61 MDB BRAMPTON ONTARIO AND CONDUCT IN BOTH CASES IS GOOD

CMDG 2

151243 EG

COPY

25

M.F.M. 237
20M-2-44 (1027)
R.P. 1525 H.Q. 1771-26-201

CLEAR

ARMY MESSAGE
(OUTGOING)

FILE

HQC 55-B-960
55-B-2072
55-B-1529
(CMHB-5)

PLACE: OTTAWA, Ontario

DATE: 11 Jan 46

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

CMHB 91 UNCLASSIFIED

WIRE LATEST REPORT ON CONDUCT AND LOCATION OF FOLLOWING 5 U

B-618402 PTE RIVERT C J (T-20-B-9783 (AJAG)

B-104345 PTE BOILAND H (T-20-B-19946)

B-115407 PTE MCMASTER L E (T-20-B-18924)

MARKED ATTENTION CMHB

ADJUTANT-GENERAL

ORIGINATOR'S INSTRUCTIONS

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT INCLUDING { WIRELESS

SIGNED: (H.G. Weeks) Major-General, Adjutant-General

DEGREE OF PRIORITY:

TIME OF ORIGIN: 1430

COPY 5 FOR ORIGINATOR'S FILE

24

H.Q.C.55-B-2072 (JAG/D)

13 Nov 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING Court-Martial
M.104345 Pte. Maurice Boilard,
(ROOC) No. 2 District Depot, C.A.

T.20-B-19946

Receipt is acknowledged of your dated 9th November 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M

for (R.J.Orde) Brigadier
Judge Advocate-General.

MM

22

IN REPLY PLEASE QUOTE No. T-20-B-19946 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
9th November, 1945.

CONFIDENTIAL

8402
NOV 10 1945
File 55-B-2072
Chgd. To
Referred to JAG.

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
M-104345 - Pte. Maurice BOILARD,
(RCOC) No. 2 District Depot, C.A.

Reference H.Q.C.55-B-2072 (JAG/D-3) dated 19th October, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. With respect to H.Q. 55-1-41 F.D. 74 (Adm) dated 16th January, 1945, it is advised that there appears to be no necessary administrative action arising from the proceedings.

p. (A. E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 440
250034 4-44 (A320)
H.Q. 1772-39-767

21

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 2nd day of Oct., 1945 at 1315 hours,

for the trial of: M.104345, Pte. Maurice BOILARD
Number Rank Full Name

(RCOC) No. 2 District Depot, C.A.
Unit Attachment, if any

PRESIDENT: Major R. D. Evans, H.Q., M.D.2.

PROSECUTOR: Capt. J. L. Downey, H.Q., M.D.2.
Rank Full Name Unit Attachment, if any

~~COUNSEL~~ DEFENDING OFFICER: Capt. A. W. Burnard (RCASC) No. 2 D.D., C.A.
Rank Full Name Unit Attachment, if any

FINDING: Guilty.

SENTENCE: To undergo detention for nine months, and to be put under stoppages of pay until he has made good the sum of $2.04 in respect of the cost of apprehension and return to his corps.

Signed at Toronto, Ontario, this 2nd day of October, 1945.

R D Evans (Major)
President,
Standing Court-Martial.

M.F.P. 1486
25M-6-44 (4236)
H.Q. 1772-39-2296

Extracts entered as No. 40439 in the Record of Courts-Martial kept in the Office of the Judge Advocate-General this 18 day of Oct 1945

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to as interpreter ?~~

Answer:

Question to the accused. Do you object to M.36367, SM R. Gostick, No. 2 Det., CMSC CA HQ MD 2, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial ~~or by other Court-Martial ?~~

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~(first)~~ charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. Are you guilty or not guilty of the second charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the third charge against you, which you have heard read ?

Answer.

Question to the accused. Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Answer.

(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)

Bt. Wm. Lt. Cols. Regt.
President G.C.M.

B-2

CHARGE SHEET

The accused, No. M-104345, Private Maurice BOILARD, (RCOC) No. 2 District Depot, C.A., a G.S. soldier of the Canadian Army, placed on active service, is charged with:-

CHARGE
Sec. 12 (1) (a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:

- in that he -

at Montreal, Quebec, on the 20th day of March, 1944, absented himself from Longue Pointe Ordnance Depot, RCOC (CA) at 0730 hours, on said 20th day of March, 1944, until he was apprehended by the Military Police at Welland, Ontario, at 1150 hours, on the 13th day of September, 1945, dressed in civilian clothes, costs of apprehension and return to No. 2 District Depot, C.A., Toronto, Ontario, being Two Dollars and Four Cents, ($2.04)

H C MacPherson Colonel.
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
28th September, 1945.

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B.58203, L/Cpl. R. N. HEWER, H.W.E., No. 2 D.D., C.A., being duly sworn, is examined by the Prosecutor.

Question

Q Cpl. Hewer, what is your position in No. 2 District Depot?

A Sir, I am an N.C.O. of the Home War Establishment.

Q Do you know the accused?

A I recognize Pte. Burnard, sir.

Q Have you any information to give the Court regarding the accused?

A Yes, sir. I produce an M.F.B. 375, being certified true copy of the record of the declaration of a court of inquiry assembled at LPOD, Montreal, Quebec, on the 11th day of April, 1944, signed by Capt. & Adjt. P. D. McDougall, officer having custody of original record.

Q To whom does that document refer?

A To the accused, sir.

THE PROSECUTOR: Will you hand that to the President, please, and offer it as an exhibit.

THE PRESIDENT: Any objection, Capt. Burnard?

THE DEFENDING OFFICER: No, sir.

(Certified true copy of MFB 375 sgnd at Montreal, Que., 11 Apr 44, is marked Exhibit "F," sgnd by the Pres., pertinent portions read, and att'd to the proceedings.)

THE WITNESS: (cont'd) I further produce M.F.M. 216, being certificate of apprehension, signed by Sgt. F. G. Little, N.C.O. in charge, No. 1 Detachment, 31 Company, Canadian Provost Corps, Camp Niagara, Ont.

Q To whom does that document refer?

A To the accused, sir.

THE PROSECUTOR: Present it to the Court.

THE PRESIDENT: Any objection, Capt. Burnard?

THE DEFENDING OFFICER: No, sir.

(MFM 216 dated at Camp Niagara, Ont., 13 Sept 45, is marked Exhibit "G," sgnd by the Pres., read, and att'd to the proceedings.)

THE WITNESS: (cont'd) I further produce M.F.B. 1481, being certificate of transportation in the amount of $4.08, which is half chargeable against the accused in the amount of $2.04.

Q To whom does that document refer?

A To the accused, sir.

Q And anyone else mentioned in that document?

A Yes, sir.

Q Who?

A Pte. Doan, sir.

THE PROSECUTOR: Will you hand that to the President, please.

THE PRESIDENT: Any objection, Capt. Burnard?

THE DEFENDING OFFICER: No, sir.

(MFB 1481 dated at Niagara Camp, Ont., 14 Sept 45, is marked Exhibit "H," sgnd by the Pres., read, and att'd to the proceedings.)

Q Anything else, Corporal?

A I have no further evidence, sir.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE.

THE WITNESS WITHDRAWS.

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. An unsworn statement in writing, sir.

(Statement attached - see following page -- read by the President.)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

The Defending Officer and Prosecutor make closing addresses which are recorded but not transcribed.

Question to the accused. Is the witness to be called a witness as to character only?

Answer.

Return to
President S.C.M.

13

Stanley Barracks,
2nd Oct 45.

Sir:

My Officers said I could not go overseas because of My Pulhems, and I was put on fatigues.

I was sent to R.C.O.C. in Montreal where I boarded out in a civilian home and recieved subsistence allowance. but I seemed to have trouble traveling to and from my work and arriving late.

I am married and my wife lives in Welland Ontario, she is not well and expects a child in October or November of this year.

Boilard M
M-104345, Pte. Boilard, M.

14

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Through my Defending Officer (see following page).

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

THE DEFENDING OFFICER:

Sir, I have two factors. The first one has to do with the mentality of the accused. The M.F.M. 2 shows the PULHEMS as 23, and having a 4 under the "M." He was given a French "M" Test, and his M.F.M. 196 shows the score as being 52, sir. This was taken on the 9th of August, '43. This man is obviously, from this M.F.M. 196, not coping with the Army life, and why he was kept in with this low "M" score I do not know, sir. But I submit to the Court that is the cause of all this trouble, as the complex Army life to an individual with an "M" score of 52 is rather hard to cope with.

The second factor is the fact that the accused has a wife, and she is expecting a child very early in October, I believe the statement said, and she will need assistance of some description, sir.

Exhibit "A"

F. [illegible] Capt.
President. S.C.M.

RECORD of the Declaration of a Court of Inquiry assembled at LPOD., Montreal, Que on the 11th day of April, 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M-104345 - Pte BOILARD, M.

DECLARATION

The Court declare that No. M-104345 - Pte BOILARD, M. Longue Pointe Ordnance Depot., RCOC(CA) illegally absented himself without leave from LPOD., RCOC(CA) at 0730 hrs on the 20th day of March, 1944, that he is still so absent, and that on the 11th April, 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
As per attached list			

Signed at Montreal, Que this 11th day of April, 19 44

Sgd. Capt. (P.D. McDougall) LPOD., RCOC(CA) — President

Sgd. Lieut. (R.A. Milliken) LPOD., RCOC(CA) — Member

Sgd. Lieut. (E.H. Onger) LPOD., RCOC(CA) — Member

Signature of Commanding Officer Sgd. (L. Patrick) Colonel

Certified true copy P.D. McDougall
(P.D. McDougall) Capt. & Adjut.
Longue Pointe Ordnance Depot.
Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
100M—4-43 (6237)
H.Q. 1773-20-257

STATEMENT OF ARTICLES DEFICIENT IN THE KIT OF

M-104345 - Pte BOILARD, M.

ARTICLES CHARGED ON M.F.C. 800	M.F.C. 800	ARTICLES RECOVERED M.F.C. 565	ARTICLES DEFICIENT	FULL VOCAB. RATE PER ARTICLE	TOTAL VALUE ARTICLE	PERCENT CHARGED 75%
Anklets, Web prs.	1	-	1	.79	.79	.59
Badges, Arm Worsted "Can." prs.	3	-	3	.04	.12	.09
Badges, Emb. Col. R.C.O.C. prs.				.05		
Battledress Serge Trousers prs.	2	-	2	5.25	10.50	7.87
Battledress Serge Blouses	2	-	2	5.39	10.78	8.09
Boots, Ankle prs.	2	-	2	5.46	10.92	8.19
Caps, Field Service	1	-	1	.70	.70	.53
Drawers, Cotton Short prs.	1	-	1	.36	.36	.27
Dressings, First Field	1	-	1	.22	.22	.17
Gloves, Woollen Khaki prs.	1	-	1	.59	.59	.44
Greatcoats Drab	1	-	1	17.22	17.22	12.92
Jackets, Serge Drab Open Collar				10.13		
Jackets, Sweater				1.38		
Jerseys, Pullover	1	-	1	1.56	1.56	1.17
Overalls Combination prs.	1	-	1	2.72	2.72	2.04
Shirts, Undercotton				.39		
Shirts, Flannel, Khaki				1.71		
Shoes, Canvas prs.	1	-	1	2.55	2.55	1.91
Socks, prs.	4	-	4	.37	1.48	1.11
Trousers, Serge Drab N.P. prs.				4.28		
Sheets Ground				2.47		
Boots Lumbermans, Rubber prs.				1.14		
Boots, Ankle Felt, prs.				5.35		
Boots, Insoles, prs.				.07		
Caps, Winter, Melton Cloth	1	-	1	1.06	1.06	.80
Drawers, Woollen, prs.	2	-	2	1.20	2.40	1.80
Mitts, Pullover, prs.	1	-	1	.76	.76	.57
Mufflers, Khaki	1	-	1	.87	.87	.65
Overshoes, Black prs.	1	-	1	1.71	1.71	1.28
Rubbers, prs.				.62		
Shirts, Woollen	2	-	2	1.20	2.40	1.80
Belts, Waist, Web 1½"	1	-	1	.30	.30	.23
Buttons, G.S. Large				.01		
Buttons, G.S. Small				.01		
Helmets, Sun				.68		
Jackets, Khaki Drill				3.56		
Puttees, Drab prs				.97		
Shirts, Khaki, Cotton W/S.S.	2	-	2	1.25	2.50	1.88
Shirts, Khaki, Cotton W/L.S.	1	-	1	1.28	1.28	.96
Trousers, Khaki Drill prs.				1.60		
Trousers, Khaki Drill Short, prs.				1.20		
Jackets, Serge, Drab, O.C.	1	-	1	10.13	10.13	7.60
Neckties, Black	1	-	1	.21	.21	.16
Pins, Collar, Safety				.06		
Shoes, Leather, Black, prs.	1	-	1	4.41	4.41	3.31
Socks, Black prs.				.27		
Trousers, Serge, Drab, N.P. prs.	1	-	1	4.28	4.28	3.21
Coats, Waterproof, Army				7.63		
Buckles, Brass	1	-	1	.06	.06	.05
Badges, Cap, R.C.O.C.	1	-	1	.06	.06	.05
Bags, Kit	1	-	1	.78	.78	.59
Blacking Tins	1	-	1	.05	.05	.04
Boot Dressing Tins	1	-	1	.05	.05	.04
Bootlaces, prs.	1	-	1	.03	.03	.02
Braces, prs.	1	-	1	.32	.32	.24
Brasses, Button				.02		
Brushes, Boot Polishing	1	-	1	.19	.19	.14
Brushes, Button	1	-	1	.11	.11	.08
Brushes, Cloth	1	-	1	.27	.27	.20
Brushes, Hair	1	-	1	.26	.26	.19
Brushes, Shaving	1	-	1	.42	.42	.32
Brushes, Tooth	1	-	1	.09	1.09	.82
					485 28-6-43	
					TOTAL	91.[illegible]

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STATEMENT OF ARTICLES DEFICIENT IN THE KIT OF

M-104345 - Pte BOILARD, M.

(Continued)

ARTICLES CHARGED ON M.F.C. 800	M.F.C. 800	ARTICLES RECOVERED M.F.C.565	ARTICLES DEFICIENT	FULL VOCAB. RATE PER ARTICLE	TOTAL VALUE ARTICLE	PERCENT CHARGED
Caps, Comforter	1	-	1	.33	.33	.25
Combs, Hair	1	-	1	.04	.04	.03
Forks, Table	1	-	1	.08	.08	.06
Holdalls	1	-	1	.19	.19	.14
Housewives	1	-	1	.35	.35	.26
Knives, Table	1	-	1	.18	.18	.14
Razors Safety Sets	1	-	1	.39	.39	.29
Sponges Pipeclay	1	-	1	.03	.03	.02
Spoons,	1	-	1	.07	.07	.05
Towels, Hand	2	-	2	.23	.46	.34
Bags, Ration	1	-	1	.04	.04	.03
Belts, Waist	1	-	1	.93	.93	.70
Bottles, Water	1	-	1	.65	.65	.49
Braces W.E. Patt. '37 lefts	1	-	1	.49	.49	.37
Braces W.E. Patt. '37 rights				.46	.46	.35
Carriers Cartridge	1	-	1	.77		
Carriers Waterbottle	1	-	1	.45	.45	.34
Frogs, Bayonet	1	-	1	.21	.21	.16
Haversacks	1	-	1	1.63	1.63	1.22
Helmets Steel MK II (Comp.)				2.39	2.39	1.79
Slings, Rifle				.24		
Pouches, Basic	2	-	2	1.49	2.98	2.24
Straps Shoulder Haversack	2	-	2	.45	.90	.68
Straps, Web Supporting	2	-	2	.17	.34	.26
Tins, Mess, Rectangular	1	-	1	.57	.57	.43
Packs	1	-	1	2.13	2.13	1.60
Respirator Anti-Gas:-						
Cloths, Disinfecting Facepiece	2	-	2	.03	.06	.04
Containers Type E MK VI	1	-	1	1.60	1.60	1.20
Facepiece MK V	1	-	1	2.60	2.60	1.95
Haversacks, MK VII	1	-	1	1.27	1.27	.95
Outfits Anti-Dimming MK VI	1	-	1	.03	.03	.02
Eyeshields Anti-Gas (pkt.of six)	1	-	1	1.04	1.04	.78
Cleanser, Haversack				.08		
Cleaner Khaki	1	-	1		.08	.06
					TOTAL	17.24

TOTALS: PAGE I 71.67
PAGE II 17.24

GRAND TOTAL $ 88.91

Sgd. (G.L. Tisdale) Capt.

(G.L. Tisdale) Capt.,
Quartermaster
Longue Pointe Ordnance Depot.

L.P. 485 G
28-6-43

9

Exhibit "B"

G. [illegible] Capt
President, SCM.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, B-35521, Sgt. Little, F.G., No.1Det., 31Coy., C'Pro'C'CA, Camp Niagara, Ontario
(Number) (Rank) (Name) (Unit)

hereby certify that M-104345 Pte. BOILARD, Maurice
(Number) (Rank) (Name in full)

of the R.C.O.C. (CA) Longue Pointe, Montreal, Quebec
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by (~~surrendered to~~) B-118806 L/Cpl. Smith, A. & B-160072 L/Cpl. Lombardy, R.W., No.1Det., 31Coy., C'Pro'C'CA, Camp Niagara, Ontario
(Number) (Rank) (Name) (Unit or appointment)

at WELLAND BRASS & IRON COY., Welland, Ontario (Place) at 1150 hrs. (Hour)

on the 13th. day of September 19 45

Strike out words not applicable } as a ~~deserter~~ (or absentee without leave), and that at the time of his arrest he was wearing ~~military (service) uniform~~ dressed in civilian clothes).

Dated at Camp Niagara, Ont this 13th day of September 19 45

F. Little Sgt.

B-35521, Sgt. Little, F.G., 31Coy., C'Pro'C'CA
(Signature, Number, Rank, Unit or appointment)
N.C.O. i/c No.1Detachment, Camp Niagara, Ont.

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

8

Exhibit "C"

H. [illegible] Lt. S.C.M.

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut. (Rank) H.J. Murphy (Name) # 2 Dist. Coy. R.C.A.S.C. C.A. (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~authorized~~) the hereinafter itemized transportation for escort

Complete — to proceed from Nia.-on-the-lake, Ont. (Place) to Toronto, Ont. (Place) and return to Niagara-on-the-lake, Ont. (Place) for the purpose of escorting

Full description of soldier being escorted — M 103345 Pte. Boelard, M.E. (Number) (Rank) B 168115 Pte. Doan, G.N. (Name in full) C.I.C. (Unit) R.C.O.C. (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~the transportation authorized~~) and the cost thereof for said soldier and escort being as follows:

PARTICULARS	COST
Escort	
B 131041 Sgt. ~~XXXXX~~ Lougheed, J.E.	
One return second class boat fare from Niagara-on-the-lake, Ont. to Toronto, Ont.	$ 1.75
Tax. 15%	.25
Prisoners. M 103345 Pte. Boelard, M.E. B 168115 Pte. Doan, G.N.	
Two single second class boat fare from Niagara-on-the-lake, Ont. to Toronto, Ont.	$ 1.80
Tax 15%	.28
Covered by C.S.L. Boat Tickets Nos. 16490 (1,2,3 & 4)	
Charge one-half to M 103345 Pte. Boelard, M.E.	$ 2.04
Charge one-half to B 168115 Pte. Doan, G.N.	$ 2.04
TOTAL $ 4.08	$ 4.08

Dated at Niagara Camp, Ont. this 14 day of Sep A.D. 1945

Lieut. H.J. Murphy, C.S. & T.O. Niagara Camp, Issuing Officer for D.S. & T.O. No. 2 Dist. Coy. R.C.A.S.C. C.A. (A).

Signature, rank, unit, attachment (if any) and appointment of officer (issuing transport warrants) (~~authorizing transportation~~)

Strike out description not applicable.

H J Murphy

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

M.F.B. 1482
(Rev—10-43 (600))
B.Q. 279-40-600

Y - Veteran Sgt.
pleaded S.C.M.

M.F.D. 155
75M—5-43 (3445)
H.Q. 1772-39-420
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M-104345,	Private	Maurice BOLLARD, (RCOC)	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regulations, Karaka Karma~~ Conduct sheets ~~or stamp pay Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Mentions and~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	AWL	6 times
For		times	Los. by Negl.	1 times
For		times	Act to the Prej. of good order	times
For		times	& Mil. Discipline:	1 times

~~Minor convictions of military or disciplinary nature ~~ ~~Entries as to character and conduct ~~ ~~Note: If the charge is for drunkenness the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted ~~by a court-martial or civil court, or summary award under Section 47 of the Army Act or has dispensation with trial under Rule 73 not set out in the Schedule hereto.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ~~ ~~beginning on the ~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~28~~ 19 days in military custody, making a total of ~~28~~ 19 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 27th November, 1942

~~The accused at the commencement of his service or towards discharge is~~

~~The accused is entitled to reckon ~~ ~~service for the purpose of ~~

~~The accused is in possession of ~~ ~~military ~~ ~~military ~~ ~~military ~~

~~Until the accused is a warrant officer ~~ ~~Army ~~ ~~the regimental number~~

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~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit Regiment Name.....of.....Air Force

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~27th~~ 2nd day of ~~September~~ October, 1945. Capt & Adj No. 2 District Depot CA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. M-10434 Name BOILLARD, Maurice Battery, or Company | Corps RCOC DA Longue Pointe. | Date of enlistment 27-11-42 | G.C. Badges | Tradesmen's Rates of Pay | Character

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. Two | Signature O.C. Company, etc. G.D.McDougall Lt.

M.F.M. 8 (A.F.B.122) 7001M—19-43 (1537) H.Q. 1773-29-1000

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
L.P.Q.D.Montreal				Sheet No. 1 destroyed after six months service		"G.D. McDougall Lt. "			
St.Jerome Que.	14-1-43	Pte.	Nil	Act to the prejudice of Good order and Military Discipline: AWL from 0200 hrs. 2-1-43 to 1935 hrs. 9-1-43 Absent 7 days, 17 hrs. 35 mins.	Documentary	28 days Det'n	14-1-43	P.Brosseau Lt.Col.	Forf 8 days pay FR&I
Joliette Que	5-7-43	Pte.		AWL from 0001 hrs.4-7-43 until 2200 hrs. 4-7-43 Absent 21 hrs. 59 mins.	Cpl.Graham J. L/Cpl WEBER M.	7 days CB	5-7-43	Major H. Chapdelaine	Forf 1 days pay
Joliette Que	19-7-43	Pte		AWL from 0700 hrs. 19-7-43 until 1730 hrs. 19-7-43 Absent 10 hrs. 30 min.	Cpl. Malo T. Sgt. Levasseur.	7 days CB	19-7-43	Major H. Chapdelaine	Forf. 1 days pay FR&I

149 (F.T.O.)

59

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
LPOD Montreal	28-8-43	Pte.		Mil Absence Without leave from 1930 hrs. 28-8-43 to 0730 hrs. 30-8-43 Total absence 1 day 12hrs. Sec. 15 (1)AA	CPL Mink G. L/Cpl.McGillivray H.	Admonished	30-8-43	FOHEaton Major	Forf 2 days pay under FR&I (Can) E. Jack Capt.
LPOD Montreal									
LPOD Montreal	14-9-43	Pte.		AWL fr: 0730 hrs. 14-9-43 until apprehended by Military Authorities at Mtl. Que, at 2150 hrs 23-12-43 dressed in civilian clothes. Sec. 15 (1) AA Abs; 101 days 14 hrs. 30 min.	CSM Davis	14 days Detention	10-2-44	(F.O. H. Eaton) Lt.Col. DSO	Forf 63 dys pay FR&I (Can)
				2nd Charge:-Losing by neglect his clothes equipment and regimental necessaries. Sec. 24 (2) A.A.	Documentary	Admonished	10-2-44	(FOH Eaton) Lt.Col.DSO	Placed under Stoppages of pay to amt of $47.[illegible]
LPOD Montreal	11-3-44	Pte.		AWL fr. 0730 hrs. 11-3-44 to 0820 hrs. 13-3-44 abs. 2 days 30 min AA 15 (1)	L/Sgt Mink G.	Admonished	13-3-44	(FOH Eaton) Lt. Col.	Forf Auto 3 days pay 149 FR&I

CERTIFIED TRUE COPY .....Moyles.....Capt. & Adj.
No. 2 District Depot, C.A.

MEDICAL OFFICER'S REPORT

I certify that No. M.104345 Pte. Maurice BOILARD

of No. 2 D.D. is in a good state of health,

and is fit to undergo trial by Court martial.

A S Hubbings Capt.
Medical Officer Capt. RCAMC
Att. to No. 2 District Depot CA(A)
Toronto, Ont.

Station Exhibition Barracks, Toronto, Ont.

Date 2 Oct 45

President S.C.M.

M. F. B. 246

15M—10-43 (6503)
H.Q. 1772-39-480

H.Q.C.55-B-2072 (JAG/D-3)
Your T. 20-B-19946

19 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

M. 104345 Pte. Maurice Boilard,
(RCOC) No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

EPL/MM

3

8M-7-45(M-188)

THIS COPY FOR: H.QC. 55-B-2072
M.DT-20-B-19946

G.S.

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. M-104345 Name Maurice BOILARD

Rank Pte. Unit (RCOC) No. 2 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion....

Date of Crime 20-3-45

Date of Arrest 13-9-45 Charge Signed 28-9-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks, Toronto 2-10-45

Sentence Detention 9 mos. Stoppages $2.04

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40439

Date 18-10-45

MEMO Balance of sentence remitted by Conf. Auth. 14-2-46

M.D. 2

Absent
5¼ mos.

(RCOC) No. 2 D.D. C.A.

Sentence
Det. 9 mos.

2

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. T-20-B-19946 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
13th October 1945

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-B-2072

STANDING COURT-MARTIAL

M-104345, Pte. Maurice BOILARD,
(RCOC) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

R.D. Evans Major

(R.D. Evans) Major
Permanent President
Standing Courts-Martial.

NAT. DEF. B. 440
250M-4-44 (4320)
H.Q. 1772-39-787

40439

1

H.Q.C. 55-B-2073 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BALYCH, DONALD BEN B-632207 RFMN.

CONFIDENTIAL
H.Q.C. 55-B-2073

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 21 1945	cancelled	cancelled		JAG	NEW FILE	CR	18-10-45
NOV 7 - 1945	5.11.45				With Papers C.R. NOV 2 1945		
JAN 14 1946	10/1/46				With Papers C.R. JAN 9 1946		

(If purpose for which referred cannot be expressed on one line, add minute to file and mark "With Minute")

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to see same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All enquiries by phone should bear the official file number.

PASS THIS FILE IN ENVELOPE

DEPARTMENT OF NATIONAL DEFENCE
ARMY

T-20-B-12958 (AJAG)

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
7th January, 1946.

CENTRAL REGISTRY Army
CORRESPONDENCE
1060
JAN 9 1946
FILE
Referred to
Completed

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Remission of Sentence
B-632207 - Rfmn. Donald Ben BALYCH
(Ox Rif) No. 2 District Depot, C.A.

Reference H.Q.C. 55-B-2073 (JAG/D-6) dated 5th November, 1945.

2. Herewith completed Appendix "G" to C.A.R.O. 5913.

3. Also enclosed herewith N.F.M. 288 with respect to the marginally-named, for disposal, please.

for (A. E. Potts)
Major-General
D.O.C. M.D. 2.

74

APPENDIX "G" TO CANADIAN ARMY PENSION ORDER No. 5913

FORM FOR REMISSION, COMMUTATION, MITIGATION, SUSPENSION OR PUTTING INTO EXECUTION OF SENTENCE AWARDED BY C.S.M.

Unit File No. HQC 55-B-2073
District File No. T-20-B-12958

PART I

No. B-632207 Rank Rifleman Name Donald Ben BALYCH
Unit (Ox Rif) No. 2 District Depot, C.A.

PART II

Date of Trial 9th October, 1945
Charge(x) DESERTION - AA Sec 12(1)(a)

Sentence 160 days' detention
Date of Sentence 9th October, 1945
Confirmation - (a) Authority S.C.M.
(b) Date ---

PART III
REMISSION

I, the undersigned, being the competent Military authority under Section 57(2) of the Army Act xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxx

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of B.632207 - Rfmn. BALYCH, Donald Ben.
Number Rank Name in full

(Ox.Rifles) No. 2 District Depot, C.A.
Unit Attachment (if any)

Sentenced to 160 days detention

on 9th day of October 1945 at Stanley Bks., Toronto, Ont.,

being served at No. 91 Military Detention Brks. Chippawa, Ontario.
(Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19 years of age; Enlisted 2 Sep 43

Medical grade or category YOB P U L H E M S
24 1 1 1 1 1 1 1 - 13 Oct 45

STATE OF TRAINING

The documents show that B.632207 - Rfmn. BALYCH, D.B., has completed both his Basic and Advanced training.

For details of offences see Part VII.

I have directed that the above-named be (not) committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place .....

..... Confirming Authority

Date .....

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

..... Superior Military Authority

Date .....

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To .....
Superior Military Authority

For details of offences, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

..... Confirming Authority

Date .....

M.F.M. 288
(Army Form A-3204)
20M—9-45 (3662)
H.Q. 1773-21-2013

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

Date..... Superior Military Authority

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
26 Dec 45	Remit effective 2 January, 1946.	Arthur E Potts A. E. POTTS, Maj.-Gen. D.O.C. M.D.No. 2	

Part VII—First Trial

CHARGE	Charge or Charges giving Particulars	Date of Offence	Date of Trial
Sec.12(1)(a) Army Act.	B.632207- Rfmn. BALYCH, D.B., an N.R.M. A., soldier of the C.A.,placed on Active Service,is charged with:-WHEN ON ACTIVE SERVICE:DESERTING HIS MAJESTY'S SERVICE:-in that he:-absented himself from 1st Bn.Oxford Rifles, C.A. at London,Ont. at 0600 hrs 27 Dec 44 until 1540 hrs when he voluntarily surrendered to Military Authorities at No. 2 District Depot,C.A. dressed in military uniform.	27 Dec 44	9 Oct 45

MEyles Capt.Adj.,
Signature of Officer making entry
(J.J.Eyles) No. 2 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
29 Oct 45	Consideration for remission or suspension of sentence is not recommended in this case. On completion of sentence to be made available for routine duties.	A Thomas Lt Col for O.C. 2 Dis Depot

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2073 (JAG/D-6)

5 Nov 45

District Officer Commanding,
Military District No. 2,
Toronto, Ontario.

Standing
R.632207 Rfn. Donald Ben HALYCH
(Ox. Rif.) No. 2 District Depot, CA
Court-Martial

1st November 5 T-20-D-12958 (AJAG)

Receipt is acknowledged of your
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

E.L.M.

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdr

AR

IN REPLY PLEASE QUOTE No. T-20-B-12958 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
1st November, 1945.

CONFIDENTIAL

CENTRAL REGISTRY Army
CONF. SEC.
6642
NOV 2 1945
File 55-B-2073
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-632207, Rfn. Donald Ben BALYCH,
(Ox. Rif.) No. 2 District Depot, C.A.

Reference H.Q.C. 55-B-2073 (JAG/D-1) dated 20th October, 1945.

2. Herewith returned proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. Pursuant to H.Q. 55-1-41 FD 74 (Admin) dated 16th January, 1945, it is advised that it is considered the proceedings disclose no administrative matter requiring action.

Burrell M. Surgery
Capt

(A.E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 440
250M-4-44 (4320)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 9th day of October 1945 at 1115 hours,

for the trial of: B-632207, Rifleman Donald Ben BALYCH,
Number Rank Full Name

(Ox. Rif.) No. 2 District Depot, CA.
Unit Attachment, if any

PRESIDENT: Major W.P. McClemont, ED (A&SH) Headquarters, M.D. No. 2.

PROSECUTOR: Capt. J.L. Downey, Headquarters, M.D. No. 2.
Rank Full Name Unit Attachment, if any

~~PROSECUTOR~~ OR DEFENDING OFFICER: Capt. W.A.B. Gabriel (RRofC) No. 2 D.D., CA.
Rank Full Name Unit Attachment, if any

FINDING: GUILTY.

SENTENCE: To undergo detention for ONE HUNDRED & SIXTY (160) DAYS.

Signed at Toronto, Ontario, this 9th day of October 1945.

W P McClemont Major.
President,
Standing Court-Martial.

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 10482 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 19 day of Oct 1945

B

Question to the accused. Do you object to be tried by me as President of the Court?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to a interpreter?~~

Answer:

Question to the accused. Do you object to B-55937, SM W.O. Stuart, No. 2 Det., CMSC, CA, Headquarters, M.D. No. 2. as shorthand writer?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial?

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the charge against you, which you have heard read?

Answer: Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Answer.

~~The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

B-2
W. McClemon
Pres. S.C.M. Maj

CHARGE SHEET

The accused, No. B-632207, Rifleman Donald Ben RALYCH, (Ex.Rif) No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:-

CHARGE
Sec. 12 (1)(a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:

- in that he -

at London, Ontario, on the 27th day of December, 1944, absented himself from 1 Bn. Oxford Rifles, at 0600 hours, on said 27th day of December, 1944, until he voluntarily surrendered himself to the Military Authorities at No. 2 District Depot, C.A., Toronto, Ontario, at 1540 hours, on the 19th day of September, 1945, dressed in military uniform.

W. McClemon Colonel.
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
3rd October, 1945.

1 Dx
160 days

C

Proceedings on Plea of Not Guilty

Question to the accused.

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. B-58203, L/Cpl. R.N. Hewer, Home War Establishment, No. 2 District Depot, C.A.,

being duly sworn, is examined by the Prosecutor.

Question Q- Corporal Hewer, what is your position in No. 2 District Depot?

A- Sir, I am N.C.O., Home War Establishment.

Q- Do you know the accused?

A- I recognize the accused, sir.

Q- Have you any information to give the Court regarding the accused?

A- I produce M.F.B. 375, being a certified true copy of the record of a declaration of a Court of Inquiry assembled at Wolseley Barracks, London, Ontario, on the 5th day of February, 1945, signed by Captain W.L. Kress, O.C., Legal Section.

Q- To whom does that document refer?

A- To the accused, sir.

Q- Present that document to the Court, please.

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection?

BY THE DEFENDING OFFICER: No, sir.

--- M.F.B. 375, certified true copy of a record of a declaration of a Court of Inquiry assembled at Wolseley Barracks, London, Ont., on 5 FEB 45 is read, marked Exhibit "F", signed by the President and attached to the proceedings.

BY THE WITNESS (Cont'd): I further produce M.F.M. 216, being a certificate of surrender, signed by Lieutenant-Colonel W.A. Dunlop, O.C., No. 2 District Depot.

EXAMINED BY THE PROSECUTOR (Cont'd):

Q- To whom does that document refer?

A- To the accused, sir.

Q- Present that document to the Court, please.

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection?

BY THE DEFENDING OFFICER: No, sir.

--- M.F.M. 216, certificate of apprehension of the accused is read, marked Exhibit "G", signed by the President and attached to the proceedings.

BY THE WITNESS: I have no further evidence, sir.

--- The Defending Officer declines to cross-examine.

--- The witness withdraws.

--- The Prosecution has no further witnesses.

--- The Prosecution is closed.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to hand in an unsworn statement, sir.

(see statement attached)

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

--- The Defending Officer makes a closing address - not transcribed.

--- The Prosecutor makes a closing address - not transcribed.

Question to the accused. ~~Is the witness to be called a witness as to character only?~~

Answer.

13

"Keep in touch with the folks at home"

THE SALVATION ARMY

ON ACTIVE SERVICE
with the
CANADIAN FORCES

_____ 194__

Toronto Exhibition Grounds

Sir. The reason I went as W.O.L. as as stated. I came home and found my father drinking and my mother is not very healthy. I have two sisters one age 6 and the other 12 and they are going to school. I found my mother working in the laundry making about 7 or 8 dollars a week and she keeps my sisters and herself on that so I stay at to get my father from drinking but for a while I could not so I had to make a little money to

Think Any reference to shipping or troop movements will result in the delay or mutilation of this letter.

"Keep in touch with the folks at home"

ON ACTIVE SERVICE
with the
CANADIAN FORCES

_____ 194

helps my mother and sister
they reason for my father
starting to drinking was
because he could not get
a good job. He tried to get
in war work but did not
succeed because he was born
in Austria and they would
let him work at war work
so he took a job as a
labourer not paying very much
and it was to hard for him
because he is about 55 yr. of
age. After work he would go
and get something to drink
and he started. Became that
he couldn't get along if
he had nothing to drink

Think Any reference to shipping or troop movements will result in the delay or mutilation of this letter.

"Keep in touch with the folks at home"

ON ACTIVE SERVICE
with the
CANADIAN FORCES

_____ 194_

and my mother always
being sick did not have
very much for the family
to live on. In spite of my
mother sickness she wants
to work to make a little
to live on but it was
not enough so when I
came home they had a
pretty big bill to pay for.
And I went to work taking
any kind of a job to make
a little money for her I
sometime went ~~out~~ for two
or three days not eating so
to help my mother.

Think Any reference to shipping or troop movements will result in the delay or mutilation of this letter.

"Keep in touch with the folks at home"

ON ACTIVE SERVICE
with the
CANADIAN FORCES

_____ 194__

Said a couple of weeks ago I broke my father from drinking not completely completely but he promised ~~not~~ not to drink as much as he was and give my mother the money he got paid So I came back knowing that my family was all right.

BG 3 2 07
R for Babych O.R.

Think *Any reference to shipping or troop movements will result in the delay or mutilation of this letter.*

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

BY THE DEFENDING OFFICER: Sir, this family trouble this man has had, as he mentioned in his statement, it has been no good. Apparently his father has been drinking excessively and has caused a considerable amount of worry and with a mother and two young girls at home, there is no doubt it would cause worry in any one's mind. Another factor is, he has been helping his mother, as his documents show he has assigned pay and, therefore, he has been trying to help his mother and family out where his father could not. On top of that, he has sent home money besides his assigned pay. The other factor is, he has spent 23 days in custody at the present moment.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

Exhibit "A"

"F"

W. McClement
Pres. C.M. Major

RECORD of the Declaration of a Court of Inquiry assembled at Wolseley Barracks London Ontario

on the 5th day of February 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.632207 Rfm BALYCH Donald Ben

DECLARATION

The Court declare that No. B.632207 (Regt'l No.) Rfm (Rank) BALYCH Donald Ben (Full Name) No 1 District Depot CA (Unit) London Ontario illegally absented himself without leave from 1 Bn Oxford Rifles Queens Park at London Ontario (Place) at 0600 hours on the 27th day of December 1944, that he is still so absent, and that on the 5th February 1945 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	
CLOTHING DIVISION "A"			
Anklets web prs	1		56
Caps winter melton cloth	1		79
Dressings first field	1		22
Gloves woolleb khaki pr	1		50
Greatcoats drab	1	11	66
Overalls combination pr	1	1	89
CLOTHING DIVISION "B"			
Blouses B.D.	2	9	75
Boots ankle prs	2	8	73
Caps F.S.	2	1	05
Drawers cotton short pr	2		63
Drawers woollen pr	2	2	10

ARTICLES		VALUE	
CLOTHING DIVISION "B" (cont'd)			
Jerseys pullover	1	1	24
Shirts khaki cotton	3	3	47
Shirts undercotton	2		65
Shirts woollen	2	1	80
Shoes canvas	1	1	72
Socks woollen prs	4	1	38
Trousers B.D. prs	2	9	83
Trousers K.D. short prs	1		99
CLOTHING DIVISION "C"			
Bags kit Mk11	1		96
Belts lea brown	1		27
Braces prs	1		21
Total carried fwd		$60	40

W.L. Kress Capt No 1 DD CA President
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at London Ontario

Member
(Name) (Rank) (Unit)

this 5th day of February 19 45

Signature of Commanding Officer H.L. Petrie, Lt.Col, C.O. No 1 DD CA
(Name) (Rank) (Unit)

Certified true copy W.L. Kress
(W.L. Kress, CApt (Name) (Rank) (Unit) (Signature of Officer having custody of original record)
O.C. Legal Section

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-257

(See reverse side)

CLOTHING DIVISION "C" (cont'd)

Brought forward			$60.40
Brushes boot polishing		1	16
Brushes button		1	09
Brushes cloth		1	13
Brushes hair		1	30
Brushes shaving		1	32
Brushes tooth		1	07
Caps comforter		1	31
Combs hair		1	03
Forks table		1	06
Holdalls		1	17
Housewives		1	27
Knives clasp		1	75
Knives table		1	14
Neckties black		1	19
Razors safety sets		1	32
Socks black	prs	2	56
Spoons table		1	06
Towels hand		2	47
Sticks button		1	03
Pins collat safety		1	06
CATALOGUE SECTION "D"			
Badges cap		1	07
CATALOGUE SECTION "1/A"			
Bags ration MkIV		1	03
Belts Waist w.e. &37 patt		1	54
Bottles water Mk VII		1	47
Braces W.E. '37 patt L&R		2	51
Carriers water bottle		1	28
Frogs bayonet W.E. '37 patt		1	14
Haversacks W.E. '37 patt		1	1 72
Helmets steel N.P. USA		1	4 25
Packs W.E. '37 patt		1	1 70
Pouches basic small		2	1 55
Straps shoulder hsvk L&R		2	47
Straps web supporting		2	21
Tins mess rectangular		1	43
Covers mess tin		1	06
Net camouflage helmet		1	20
Carriers implement entrenching		1	53
CATALOGUE SECTION "A-2"			
Capes anti-gas		1	3 33
Eyeshields anti-gas	prs	6	68
Ointment anti-gas		2	39
OUtfits ant-dimming		1	03
RESPIRATORS A.G.:			
Containers CP MkII		1	3 14
Facepiece Mk 1			
Haversacks L-1 Mk II			
SECTION "J-1"			
Sheets ground		1	1 79
Implements entrenching handle		1	18
" " heads		1	42
Total			$88.01

"G" Exhibit "B" 75

W.P. McClemont Pte.
Major, L.C.M.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Lt-Col. W.A.Dunlop, Officer Commanding, No. 2 District Depot CA(A)
(Number) (Rank) (Name) (Unit)

hereby certify that B.632207 Pte. BALYCH B.R.
(Number) (Rank) (Name in full)

of the Oxford Rifles, Nanaimo
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) B.139667 Cpl. Brown, G.R.
(Number) (Rank)

(Name) Duty N.C.O.
(Unit or appointment)

at No. 2 D.D., Toronto, Ont. at 1540 Hrs.
(Place) (Hour)

on the 19th day of September, 19 45

Strike out words not applicable } ~~as a deserter~~ (or absent without leave), and that at the time of his arrest he was wearing military ~~(air force)~~ uniform (~~dress or other clothes~~).

Dated at Toronto, Ont. this 21st day of September 19 45

G.R. Brown
B.139667 Cpl. Brown, G.R.

W.A. Dunlop Lt-Col
(Signature, Number, Rank, Unit or appointment)
(W.A. Dunlop) Lt-Col.,
Officer Commanding, No. 2 District Depot CA(A)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

W. McClement
Pres & M. Maj

A.F.B. 155
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B.632297	Rifleman	Donald Ben BALYCH, (Ox.Rif)	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field ~~Service and Casualty~~ ~~Regimental and Squadron Registers~~ Conduct sheets ~~on Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~or under an Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.W.L.	1 times		Disobeying Lawful Command	2 times
For	times		Neglect to Prejudice etc.	2 times
For	times		A.W.L.	1 times
For	times			times

~~Numbers of instances of gallantry or distinguished conduct~~ ~~or~~

There are no entries in the conduct sheets of the accused.

~~Note: If the charge is for drunkenness the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted ~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under the Army Act~~ ~~Section 46 of the Army Act and dispensations with trial under A.A. 71 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or,~~

~~The accused at the present time is under sentence for xxxxxxxxxx beginning on the xxxxxxxxxx day of xxxxxxxxxx~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~28~~ 20 days in military custody, making a total of ~~28~~ 20 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation~~ enrollment paper is 21 years, 4 months

6. The date of his ~~commission~~ ~~attestation~~ enrollment specified in his ~~record of service~~ ~~attestation~~ enrollment paper is 2nd September, 1943

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~xxxxxxxxx

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~
Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force / Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....
Unit
Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~3rd~~ 9th day of October, 1945. M Eyles Capt. & Adj.
No. 2 District Depot, C.A.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

B.632207 No. | RALYCH Donald Ben Name | Sqn., Battery, or Company: A Coy | Corps: Oxford Rifles | Date of enlistment: 2-9-43 | G.C. Badges | Tradesmen's Rates of Pay | Character: Fair

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. Two | Signature O.C. Company, etc.: H. Harley Major

M.F.M. 4 (A.F.B.122) 750M—19-12 (7589) H.Q. 1772-39-1000

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet 1 destroyed 2-3-44 Date of last entry 19-1-44					
Camp Borden, Ont.	4-2-44	Pte		AA Sec 9 (2) Disobeying a lawful command - 0815 hrs 4 Feb 45. refused to double march	Sgt Rose CF Cpl Martin JG	10 days C.B. 2 days Pay FR&I 149 (2)	4 Feb 44	Lt.-Col. G. Machell	
				Blood Donor - 18 Nov 43 - Brantford					
Prince George BC	5-4-44	Rfn		Refusing to obey a lawful command given by a superior officer AA 9(2)	Cpl.Spargalo	14 days C.B.	5 Apr 44	Lt.-Col. E. Elliott	
Prince George BC	20-6-44	Rfn		Neglect to prejudice - appeared on parade with a dirth bren. AA.Sec.40	Sgt.Metherell	5 days C.B.	20 Jun 44	Maj. H. Harley	

(P.T.O.)

2 - The McClement Files F.C.M. Maja

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Wainwright Mil. Camp	3 Aug. 44	Rfn		Conduct to the prejudice etc., appeared on parade with a dirty bren. AA Sec 40	2/Lt. R.B. Hanson	7 days C.B.	3 Aug 44	C.J.Woods Major	
Nanaimo B.C.	29 Oct. 44	Rfn.		AWL from 1430 hrs 29 Oct 44 to 1400 hrs 3 Nov 44 (4 days 23 hrs 30 mins) AA Sec.15(1) Total forf of pay - 12 days	Documentary	169 hrs Det. forf 7 days pay FR&I 149(1)(b)	4 Nov 44	Lt.-Col. E. Elliott	Forf 5 days pay FR&I 149(1)(a)
London, Ont.	27 Dec. 44	Rfn.		SCS Des. having been decl. illegally absent from 0600 hrs 27 Dec 44 by a Ct. of Inq. held 5 Feb 45. Def. of kit to the value of $88.01.			5 Feb 45.		

CERTIFIED TRUE COPY.....McCulles.....Capt. & Adj.
No. 2 District Depot, C.A.

MEDICAL OFFICER'S REPORT

I certify that No. B.632207 Rfn. Donald Ben BALYCH

of No. 2 D.D. is in a good state of health,

and is fit to undergo Trial by Court martial.

R. H. Stubbings Capt.
Capt.
Medical Officer RCAMC
Att. to No. 2 District Depot CA(A)
Toronto, Ont.

Station Exhibition Barracks,
Toronto, Ont.

Date 9 Oct 45

M. F. B. 246
25M—10-42 (6503)
H.Q. 1772-39-480

W. P. McClement
Pres S.C.M. Major

H.Q.C.55-B-2073 (JAG/D-1)
Your T. 20-B-12958

20 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B.632207 Rfn Donald Ben Balych,
(Ox Rif) No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

ALT/MM

(R.J.Orde) Brigadier
Judge Advocate-General.

8M-7-45(M-188)

THIS COPY F...

H.Q.C. 55-B-2073
M.D. T-20-B-12958

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B-632207 Name Donald Ben BALYCH

Rank Rfn. Unit (Ox.Rif.) No. 2 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion...

Date of Crime 27-12-44

Date of Arrest 19-9-45 Charge Signed 3-10-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks. 9-10-45

Sentence Detention 160 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40482

Date 19-10-45

Balance of sentence remitted by Conf. Auth. 2.1.46

MEMO

M.D. 2
Absent
8¼ mos.

(Ox.Rif.) No. 2 D.D. C.A.
Sentence
Det. 160 days.

H. Thurlow Capt
for Judge Advocate-General

10M-2-45(M-189)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

IN REPLY PLEASE QUOTE No. T-20-B-12958 (AJAG)

CONFIDENTIAL

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
16th October
194 5

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-13-2073

STANDING COURT-MARTIAL

B-632207, Rfmn. Donald Ben BALYCH,
(Ox. Rid.) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
Permanent President
Standing Courts-Martial.

40482

NAT. DEF. B. 440
(50004 4-44 (43257)
H.Q. 1772-28-787

THIS COPY FOR

H.Q.C. 55-B-2073
M.D. T-20-B-12958

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B-632207 Name Donald Ben BALYCH

Rank Rfn. Unit (Ox.Rif.) No. 2 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion...

Date of Crime 27-12-44

Date of Arrest 19-9-45 Charge Signed 3-10-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks. 9-10-45

Sentence Detention 160 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40482

Date 19-10-45

MEMO. Balance of sentence remitted by Conf. Auth. 2.1.46

M.D. 2
Absent
8¾ mos.

(Ox.Rif.) No. 2 D.D. C.A.
Sentence
Det. 160 days.

R. Thurlow Capt
for Judge Advocate-General

10M-8-45(M-189)

No irregularities noted. Passed 19 Oct 45 HT

H.Q.C. 55-B-2074

CONFIDENTIAL

N.F.B. 1123
35M—2-45 (6985)
H.Q. 201-1-45

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BARBATIE, GERALD FELIX B-606327 SPR.

CONFIDENTIAL
H.Q.C. 55-B-2074

CENTRAL REGISTRY	DATE	P.A. OR S.P.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
	22 11 45	cancelled cancelled		JAG	NEW FILE	CR	18-10-45
NOV 7 - 1945	7-11-45	PA		JAG	With Papers C.F. NOV 6 1945		

If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes".

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.55-B-2074 (JAG/D)

7 Nov 45

District Officer Commanding,
Military District No. 2,
TORONTO, Ontario.

~~Standing~~ Court-Martial
B.606327 - Spr. Gerald Felix BARBARIE
(RCE) No.2 DD, CA.

Receipt is acknowledged of your T-20-B-17229 dated 3 November, 194 5 under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

E.L.M.

/AB

for (R.J. Orde), Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE No. T-20-B-17229 (AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No.2,
159 Bay Street, Toronto, Ontario,
3rd November, 1945.

CONFIDENTIAL

7301
NOV 6 1945
655-B.2074
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

Standing Court-Martial
B-606327 - Spr. Gerald Felix BARBARIE,
(RCE) No. 2 District Depot, C.A.

Reference H.Q.C.55-B-2074 (JAG/D-1) dated 22nd October, 1945.

2. Returned herewith proceedings of the marginally-noted Standing Court-Martial pursuant to C.A.R.O. 4567(7)(C)(e).

3. With respect to H.Q. 55-1-41 F.D. 74 (Adm) dated 16th January, 1945, it is advised that there appears to be no necessary administrative action arising from the proceedings.

for (A. E. Potts)
Major-General
D.O.C. M.D. 2.

NAT. DEF. B. 440
230606-4-44 (4320)
H.Q. 1772-39-767

A

Form of Proceedings for a Standing Court-Martial

Proceedings of a Standing Court-Martial held at Stanley Barracks, Toronto, Ont.,

on the 9th day of October 1945 at 1330 hours,

for the trial of: B-606327, Spr. Gerald Felix BARBARIE,
Number Rank Full Name

(RCE) No. 2 District Depot, C.A.,
Unit Attachment, if any

PRESIDENT: Major W.P. McClemont, ED (A&SH) Headquarters, M.D. 2.

PROSECUTOR: Capt. J.L. Downey, Headquarters, M.D. No. 2.
Rank Full Name Unit Attachment, if any

COUNSEL OR DEFENDING OFFICER: W.A.B. Gabriel (RRofC) No. 2 D.D., CA.
Rank Full Name Unit Attachment, if any

FINDING: Not guilty of desertion but guilty of absence without leave, except that the absence commenced at 0600 hours on December 19th, 1944, and not as stated in the charge-sheet.

SENTENCE: To undergo detention for NINETY (90) DAYS.

Signed at Toronto, Ontario, this 9th day of October 1945.

W.P. McClemont Major.
President,
Standing Court-Martial

M.F.B. 1486
25M-6-44 (4826)
H.Q. 1772-39-2296

Extracts entered as No. 40487 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 18 day of 10-27 1945

B

Question to the accused. Do you object to be tried by me as President of the Court ?

Answer: No, sir.

(N.B. If objection is made it should be recorded together with the decision of the Court on a separate page marked "B B" and attached immediately under Page B.)

Question to the accused. ~~Do you object to be interpreter ?~~

Answer:

Question to the accused. Do you object to No. B-55937, SM W.O. Stuart, No. 2 Det., CMSC, CA, Headquarters, M.D. No. 2, as shorthand writer ?

Answer: No, sir.

The shorthand writer ~~and interpreter (if any) are~~ is duly sworn.

Question to the prosecutor. Has the accused elected to be tried by a Standing Court-Martial or other Court-Martial ?

Answer: No, sir.

The accused is arraigned upon ~~each~~ the charge in the Charge Sheet marked B-2, and annexed to the proceedings after having been signed by the President.

Question to the accused. Is that your number, rank, name and unit ?

Answer by accused. Yes, sir.

Question to the accused. Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read ?

Answer: Not guilty, sir.

Question to the accused. ~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer.

Question to the accused. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer.

~~(The accused having pleaded guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.)~~

B-2
W. H. McClement
Pres SCM Tag

CHARGE SHEET

The accused, No. B-606327, Sapper Gerald Felix BARRARIE, (RCE) No. 2 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army, placed on active service, is charged with:-

CHARGE
Sec. 12 (1)(a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE:

- in that he -

at Chilliwack, B.C., on the 12th day of December, 1944, absented himself from 25 Fd. Coy. R.C.E. C.A., at 0600 hours, on said 12th day of December, 1944, until he voluntarily surrendered himself to the Military Authorities at No. 2 District Depot, C.A., Toronto, Ontario, at 1805 hours, on the 18th day of September, 1945, dressed in military uniform.

W. H. McClement Colonel.
Officer Commanding,
No. 2 District Depot, C.A.

Toronto, Ontario,
3rd October, 1945.

C

Proceedings on Plea of Not Guilty

Question to the accused. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, sir.

(If the accused applies for an adjournment see instructions at page 747 M.M.L.)

The Prosecutor proceeds to call witnesses.

First Witness for prosecution. No. B-58203, L/Cpl. R.N. Hewer, Home War Establishment, No. 2 District Depot, C.A.,

being duly sworn, is examined by the Prosecutor.

Question

Q- Corporal Hewer, what is your position in No. 2 District Depot?

A- Sir, I am N.C.O., Home War Establishment.

Q- Do you know the accused?

A- I recognize Sapper Barbarie, sir.

Q- Have you any information to give the Court regarding the accused?

A- I produce M.F.B. 375, being a certified true copy of a record of a declaration of a Court of Inquiry assembled at Chilliwack, B.C. on January 3rd, 1945, signed by Captain W.G. Cosser, Officer having custody of the regimental record.

Q- To whom does that document refer?

A- To the accused, sir.

Q- Will you present that document to the Court, please.

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection?

BY THE DEFENDING OFFICER: I have no objection to the document, sir, but I have objection to the contents.

--- M.F.B. 375, certified true copy of a record of a declaration of a Court of Inquiry assembled at Chilliwack, B.C. on 3 JAN 45 is read, marked Exhibit "F", signed by the President and attached to the proceedings.

BY THE WITNESS (Cont'd): I further produce M.F.M. 216, being a certificate of surrender signed by Lieutenant-Colonel W.A. Dunlop, Commanding Officer, No. 2 District Depot.

EXAMINED BY THE PROSECUTOR (Cont'd):

Q- To whom does that document refer?

A- To the accused, sir.

Q- Present that document to the Court, please.

BY THE PRESIDENT TO THE DEFENDING OFFICER: Have you any objection?

BY THE DEFENDING OFFICER: No objection, sir.

--- M.F.M. 216, certificate of apprehension of the accused is read, marked Exhibit "G", signed by the President and attached to the proceedings.

BY THE WITNESS: I have no further evidence, sir.

--- The Defending Officer declines to cross-examine.

--- The witness withdraws.

--- The Prosecution has no further witnesses.

--- The Prosecution is closed.

D

The Prosecutor has no further witness to call.
The Prosecution is closed.

Motion – No Case

It is open to the accused, his Counsel or Defending Officer at the close of the case for the prosecution to submit that the evidence given for the prosecution has not established a *prima facie* case against him, and that he should not therefore be called upon for his defence. If such Motion is made, the proceedings will be recorded on separate pages which will be inserted immediately before the present page D. If the Court is satisfied that the Motion is well founded, it must acquit the accused and register its Finding on Page A.

Defence

The President will now address the acused as follows:—

"It is my duty at this stage to advise you as to your rights in the general conduct of your defence. The procedure to be followed depends entirely on the answers given to the formal questions which are about to be put to you. It is therefore important that you should understand and appreciate the effect of your answers to these questions. You do not need to give evidence on oath unless you wish to do so, but if you do give sworn evidence you are liable to be cross-examined by the Prosecutor and questioned by the Court."

"If you do not give evidence on oath you are entitled to make a statement giving your account of the subject of the charge against you. You will not be sworn and no question may be put to you by the Court or any person with respect to such statement. I must warn you, however, that evidence given on oath will carry more weight with the Court than a mere statement not on oath."

If there is no Defending Officer the President should then explain to the accused the effect which his answer to the formal questions on Page D of the proceedings will have on the order of the Closing Addresses as provided in R.P. 40 and 41.

Question to the accused. Do you apply to give evidence yourself as a witness, or do you wish to make an unsworn statement?

Answer. I wish to give evidence on oath, sir.

Question to the accused. Do you intend to call any witness in your defence?

Answer. No, sir.

Question to the accused. Where ~~Is the witness to be called a witness as to character only?~~

Answer.

FIRST WITNESS FOR THE DEFENCE. - B-606327, Spr. Gerald Felix Barbarie, (RCE) No. 2 District Depot, CA, having been duly sworn is examined by the Defending Officer:

Q- Were you on leave on December 12th, 1944?

A- Yes.

Q- Did you return to camp?

A- No, sir, I didn't report to camp.

Q- What did you do?

A- My leave was up on December 19th, 1944, and after that I stayed home.

Q- Do you recognize this document?

A- Yes, I recognize that document as being a telegram I received from my Acting C.O. of the 25th Field Company, Captain Cosser.

Q- Will you present that to the Court, please.

BY THE PRESIDENT TO THE PROSECUTOR: Have you any objection?

BY THE PROSECUTOR: I have no objection, sir.

--- Canadian Pacific Telegraph to the accused, signed by O.C. 25 Field Coy is read, marked Exhibit "H", signed by the President and attached to the proceedings.

ACCUSED EXAMINED BY THE DEFENDING OFFICER (Cont'd):

Q- Sapper Barbarie, will you go ahead and tell your story to the Court in your own words.

A- I, Sapper Gerald Felix Barbarie, was stationed at Chilliwack, B.C. and I received a telegram from the doctor that my wife was urgently operated on and I was called to go home. After I got the telegram calling me home, I went to the O.C. the next morning and I asked for leave and he told me that I could only get 10 days. It took me 8 days to go home and that only left me 2 days. I asked

ACCUSED EXAMINED BY THE DEFENDING OFFICER (Cont'd):

him about getting compassionate leave and he said 'alright, we will have to write to the Pacific Command to get compassionate leave'. So I stayed at the camp and later I got another one that my wife was getting worse, so I went over and seen the Acting O.C. and asked him what he could do and he said the best he could do was give me 10 days and after I got home give me an extension. I said, 'alright, sir, I will take that'. So I went home and the first day after I got home I wired for an extension and I had 10 days extension - that telegram there. After that, when that expired, my wife wasn't any better, and my child is blind, sir.

Q- How old is that child?

A- A little over a year, sir.

Q- He has been that way for a year?

A- Yes, sir.

W.C.C.

BY THE DEFENDING OFFICER: I have no further questions.

The Prosecutor Cross-Examines

Q- I will be as light as I can but I want to ask you a few questions. I have to ask you some questions now, Sapper Barbarie, so bear up the best you can, will you?

A- Yes, sir.

Q- You told us, I believe, that you had an extension of a pass which was up on December 19th, 1944. Is that right?

A- Yes, sir.

Q- You produced a telegram to the Court, signed by the O.C. of the 25th Field Company, giving you an extension of leave until 0600 hours on December 19th, 1944. Is that right?

A- Yes, sir.

CROSS-EXAMINED BY THE PROSECUTOR (Cont'd):

Q- And were you absent from that time until you surrendered in Toronto?

A- Yes, sir, I was absent.

Q- You had no pass?

A- No, sir.

Q- Therefore you admit you were absent from Chilliwack, B.C. from 0600 hours on December 19th, 1944, to the time you surrendered in Toronto at 2005 hours on September 18th, 1945. Is that right?

A- Yes, sir.

Q- So, then, you were continuously absent?

A- Yes, sir.

Q- Was Captain Cosser your Officer Commanding at the time?

A- Yes, sir.

Q- Did you know Captain Cosser also signed the form which is Exhibit "F", M.F.B. 375?

A- No, sir.

Q- You didn't know that?

A- No, sir.

Q- It appears, for your information, even though he gave you an extension, he has signed the certified true copy of M.F.B. 375 and he also signed your original document showing that you were absent from December 12th.

A- There must be some mistake some place.

Q- How long had you been in the army before this time.

A- Before I went on the loose?

Q- Yes, before you went on the loose?

A- three years and sixteen days.

CROSS-EXAMINED BY THE PROSECUTOR (Cont'd):

Q- Have you always been quite a ways away from your wife?

A- Always.

Q- You got lonesome?

A- I was when she was sick.

Q- Why did you wait all that time to go and surrender yourself? Why didn't you give yourself up, say, five months ago?

A- Because I couldn't; I didn't know the way of going at it, and all the bills I had since I was in the army and my wife wasn't paying the bills and my wife was sick and everything and they never paid anything for me.

Q- They naturally wouldn't pay it when you were absent without leave?

A- I wasn't before that and they still wouldn't pay.

Q- You couldn't pay your bills out of your own pay?

A- I couldn't pay out of my own pay.

Q- Why did you wait so long to give yourself up? It was about nine months you were away?

A- Yes, sir.

Q- Why did you wait so long?

A- Well, sir, the only thing is, my wife and kid were sick and I stayed home to look after them.

Q- That doesn't answer my question. Why did you wait so long?

A- To that question, sir, I don't think I have an answer.

Q- You haven't? Why didn't you surrender yourself to the army before the war was over?

A- I don't know, sir, why I didn't do it.

CROSS-EXAMINED BY THE PROSECUTOR (Cont'd):

Q- Do you think you should have?

A- I should have but nobody was there to look after my wife.

Q- What were your intentions when you were absent without leave? What did you intend to do?

A- I didn't intend to do anything; the only think I intended to do was look after my wife and child.

Q- You didn't intend to come back to the army?

A- I had intentions of coming back some time.

Q- When?

A- Well, I don't know, sir.

--- The Defending Officer declines to re-examine,

QUESTIONED BY THE PRESIDENT:

Q- What is the nature of your wife's illness?

A- She has gall-stones and she was just operated on for her appendix, an urgent operation. She still goes to the doctor every week. Every week she is sick about two times and she goes to bed and gets up after it is past.. The doctor told her that she had to be operated on for gall-stones and if she waits any longer it will be harder on her.

Q- Was she operated on for gall-stones?

A- No, sir, she was operated on for her appendix.

Q- That was the operation which brought you home for the beginning of this absence?

A- Yes, sir.

Q- What operation does she require now?

A- An operation for gall-stones.

QUESTIONED BY THE PRESIDENT (Cont'd):

Q- You just have the one child?

A- Yes, sir.

Q- That child is about a year old?

A- Yes, a little over a year, about 14 months.

Q- It was born blind?

A- Yes, sir.

Q- Is there any likelihood of that child being able to see?

A- He may be able to see but the specialist says it may be two years before he can say whether he will be blind.

Q- He doesn't know now?

A- As far as he knows now he is blind but he says you cannot tell before he is two years old.

Q- Your wife is not pregnant by any chance, is she?

A- No, sir.

Q- What type of work did you do while away?

A- I stayed on her father's farm.

Q- You worked on her father's farm?

A- Yes, sir.

Q- What sort of pay did you receive?

A- I received no pay.

Q- Just board.

Q- Just board for the two of us.

--- The accused resumes his seat.

--- The Prosecutor makes a closing address - not transcribed.

--- The Defending Officer makes a closing address - not transcribed.

E

Proceedings on Conviction before Sentence

After the Court has arrived at a Finding on all the charges against the accused and such Finding has been announced to the accused, the Prosecutor will tender to the President M.F.B. 355, together ,when it is possible, with an M.F.M. 6.

These documents are read to the Court by the President, are marked "Y" and "Z", signed by the President and annexed to the proceedings.

Question to the accused. Have you any statement to make concerning the documents which have just been read to you?

Answer. No, sir.

Question to the accused. Do you wish to address the Court?

Answer. Yes, sir, through my Defending Officer.

The Sentence is then recorded on Page "A' of the proceedings and same is announced to the accused in open Court.

The President then completes and signs the "Warrant of Commitment", if any, which shall be transmitted forthwith to the Commanding Officer of the accused. He will also complete and sign in every case, the "Certificate of trial by Standing Court-Martial", and address same as directed by the regulations. The proceedings, with all documents, will be transmitted to the Judge Advocate General.

STATEMENT BY THE DEFENDING OFFICER RE MITIGATION.

Sir, I would like to read to the Court a certificate from the doctor which states that the accused's wife has been under treatment and is under treatment at the present time. The certificate is from Dr. I.R. LeBourdais, dated September 24th, 1945, and is addressed 'To Whom it May Concern' and states: "This is to certify that I have had under treatment Mrs. Gerald Barbarie whom I have operated upon for urgent acute appendix last fall and who has developed digestive trouble, clinically diagnosed as gall-stones, occurring as frequently as once a week or even twice a week. Moreover, Mrs. Barbarie is the mother of a two year old child who is blind."

Sir, the accused has had a very strange case. First of all his wife took sick and he had a child who is blind. He has applied for compassionate leave and he has been refused. The man has an exceptionally clean conduct sheet for the length of time he has been in the army, and the last factor is that he has been in custody now for 21 days.

W.P.M.

Exhibit "A" 27

"F"
W. McClemont
Pres & Cm. Major

RECORD of the Declaration of a Court of Inquiry assembled at CHILLIWACK B.C.

on the 3rd day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-606327 Spr Barbarie G.F.

DECLARATION

The Court declare that No. B-606327 (Regt'l No.) Sapper (Rank) Barbarie Gerald Felix (Full Name) 25 Fd Coy R.C.E. C.A. (Unit) illegally absented himself without leave --- ---

at Chilliwack BC (Place) at 0600 hours on the 12th day of December 1944

that he is still so absent, and that on the 20 Dec 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
As per attached list;			

W.H. Seaton Lieut. 25 Fd Coy RCE President
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at Chilliwack B.C.

Member
(Name) (Rank) (Unit)

this 3rd day of Jan 19 45

Signature of Commanding Officer (W.G. Cosser) Capt. 25 Fd Coy RCE CA
(Name) (Rank) (Unit)

Certified true copy W.G. Cosser Capt 25 Fd Coy R.C.E. CA
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

(W.G. Cosser) Capt. Officer Commanding.

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-257

IN REPLY PLEASE QUOTE No.

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

LIST OF DEFICIENCIES OF Spr. BARBARIE G.F., B-606327

	ARTICLE	QUANITY	PRICE
Sec "A"	Gloves Woollen Khaki	1	$ .66
Sec A-1	Haversack	1	2.14
	Braces, left	1	.45
Sec "B"	Boots Ankle	1	5.82
	Drawers, Cotton Shorts	1	.42
	Socks, Woollen	1	146
Sec "C"	Braces	1	.28
	Brasses Button	1	.04
	Brushes, Boot Polishing	1	.21
	Brushes, Shaving	1	.42
	Brushes, Tooth	1	.09
	Combs, Hair	1	.04
	Holdalls	1	.22
	Neckties, Black	1	.19
	Pins Collar	1	.06
	Razors	1	.42
Sec "D"	Badges Cap	1	.09
		Total	$12.01

"G"

Exhibit "3"

33

W. McClement
Lieut. & A. Major

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th. 1942, and in General Order No. 127 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Lt-Col. W.A. Dunlop, Officer Commanding, No. 2 District Depot CA
(Number) (Rank) (Name) (Unit)

hereby certify that B.606327 Pte. BARBARIE, G.F.
(Number) (Rank) (Name in full)

of the 25 Field RCE Chilliwack
(Unit and attachment, if any)

Strike out words not applicable } ~~was apprehended by~~ (surrendered to) B.144227 Gnr. McKinley, J.W.
(Number) (Rank)

R.M.P.
(Name) (Unit or appointment)

at No. 2 D.D., Toronto, Ont. at 1805 Hrs.
(Place) (Hour)

on the 18th day of September 1945

Strike out words not applicable } ~~a deserter~~ (or absented without leave), and that at the time of his arrest he was wearing military ~~(or forces)~~ uniform ~~(dressed in civilian clothes)~~

Dated at Toronto, Ont. this 21 day of September 1945

J W McKinley
B.144227 Gnr. McKinley, J.W.

W A Dunlop Lt.Col.
(Signature, Number, Rank, Unit or appointment)
(W.A. Dunlop) Lt-Col.,
Officer Commanding, No. 2 District Depot CA(

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 116
150M—2-44 (3730)
H.Q. 1772-39-1936

CANADIAN PACIFIC TELEGRAPHS

World Wide Communications

W. O. NEIL, General Manager of Communications

"H"
W. McClement
Pte S.C.R. Major

21 12 collect via Vancouver B C

Chilliwack B C

Dec 4- 245p

B 606327

Spr Barbarie C Buckingham Q

25519 granted extension

of leave until

0600 hours 19 December

1944.

O C 25 Field Coy

RCE

810a

37

W. P. McClement
Pass S.C.M. Maps

W.O.F.B. 355
(753M—5-43 (145)
41 G. 1773-39-620
A. F. B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-606327,	Sapper	Gerald Felix BARRARIE (RCE)	No. 2 District Depot, C.A.

1. The following is a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Nil times	1 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ ~~or~~

~~There are no entries in the conduct sheets of the accused.~~
~~NOTE: If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted ~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ ~~Air Force Act~~ ~~Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or~~

~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~Air Force~~ 21 days in military custody, making a total of 21 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ is 28 years,

6. The date of his ~~commission~~ ~~attestation~~ specified in his ~~record of service~~ ~~attestation paper~~ is 4th December, 1941.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, etc.~~

~~9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in~~ ~~military~~ ~~military~~ ~~possession of or entitled to) State any air force decoration or reward.~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ ~~Air Force~~ ~~the regimental rank of~~

48

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of October, 1945. Myles Capt & Adj.
No. 2 District Deppt. RA

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

No. 5-606327 Name BARRARIE G.F. Sqn., Battery, or Company } 22nd Fd. Coy RCE Corps Date of enlistment } 4-12-41 G.C. Badges } Tradesmen's Rates of Pay }

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 2 Signature O.C. Company, etc. } Not legible Character

M.F.M. 6 (A.F.B.123) 7503f—19-12 (7207) H.Q. 1773-39-1050

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet #1 Destroyed 4-6-42					
Dundurn	23-6-42	Spr.		Issued Special Transportation Warrant #A 128014 -15 for furlough					
Dundurn	7-7-42	Spr.		AWL from 0600 hrs. 8-7-42 to 0600 hrs. 9-7-42 Total time -1 days L/Cpl. Clements			10-7-42	Lt. T.I. Conn	Forf. 1 days pay KR&I 149 (1)
Terrace BC 12 [illegible] 43	16-10-43			Certified Correct to date "J.W. Riddell Major"					
Winnipeg	21 Aug 44			Issued with tpt warrant No. A-740382 Furlough A.M. West	Lieut.	25 Fd. Coy R. C.E.			R.W
				CERTIFIED TRUE COPY M Eyles Capt. No. 2 District Depot, C.A.					

(PTO)

Certified Clements Pass to Cm. [illegible]

MEDICAL OFFICER'S REPORT

I certify that No. B.606327 Spr. Gerald Felix BARBARIE

of No. 2 D.D. is in a good state of health,

and is fit to undergo Trial by Court martial.

R. Stubberfield Capt.
Medical Officer RCAMC
A.t. to No. 2 District Depot CA(A)
Toronto, Ont.

Station Exhibition Barracks,
Toronto, Ont.

Date 9 Oct 45.

W. P. McClement
Pres. S.C.M. Major

M. F. B. 246

25M—10-42 (6503)
H.Q. 1772-39-480

H.Q.C.55-B-2074 (JAG/D-1)
Your T. 20-B-17229

22 Oct 45

The District Officer Commanding,
Military District No. 2, Toronto, Ont.

STANDING COURT-MARTIAL

B.606327 Spr. Gerald Felix Barbarie,
(RCE) No. 2 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

ALT/MM

(R.J.Orde) Brigadier
Judge Advocate-General.

8M-7-45(M-186)

THIS COPY FOR: H.Q.C. 55-B-2074
M.D.T-20-B-17229

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. B-606327 Name Gerald Felix BARBARIE

Rank Spr. Unit (RCE) No. 2 D.D. C.A.

Charge AA 12 (1) (a) WOAS Desertion....

Date of Crime 12-12-44

Date of Arrest 18-9-45 Charge Signed 3-10-45

Orders for D.C.M.

Place and Date of Trial Stanley Barracks. 9-10-45

Sentence Detention 90 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40487

Date 19-10-45

MEMO Guilty AWL

M.D. 2
Absent
9 mos.

(RCE) No. 2 D.D. C.A.
Sentence
Det. 90 days.

A.T. Purdom Capt
for Judge Advocate-General

10M-8-43(M-169)

Passed. B irregularities noted. AKI
20 Oct 24.

CANADA

IN REPLY PLEASE QUOTE No. T-20-B-17229 (AJAG)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

CONFIDENTIAL

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
16th October 1945

The Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

C.55-13-2074

STANDING COURT-MARTIAL

B-606327, Spr. Gerald Felix BARBARIE,
(RCE) No. 2 District Depot, C.A.

Herewith proceedings and all documents pertaining thereto of the trial by Standing Court-Martial of the marginally-named soldier, in accordance with C.A.R.O. 4565, Section 11 (a).

W.P. McClemont

(W.P. McClemont) Major
Permanent President
Standing Courts-Martial.

40487

NAT. DEF. B. 440
2500M-4-44 (4320)
H.Q. 1772-39-767

H.Q.C. 55-B-2075

CONFIDENTIAL

CONFIDENTIAL H.Q.C. 55-B-2075

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BERGERON, JOSEPH RAYMOND D-504841 GNR.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS (Space for which referred cannot be expressed on one line, add minute to file and enter here "With Minutes")	INITIALS	DATE
22 1945		cancelled		JAG	NEW FILE	CR	18-10-45
		cancelled		JAG	WithPapersC.R. NOV 10 1945		
NOV 16 1945	16/11/45	PA					16/11/45
				J.A.G.	WithPapersC.R. DEC 6 1945		
NOV 1945				Admin			6.12.45
DEC 7 - 1945					w. min. re sh		7.12
DEC 8 - 1945							
DEC 18 1945	1.1.46	BF		Admin	with trans.		
					WithPapersC.R. DEC 22 1945		
	3/1/46	BF		Adm.			
				SE (AG)	SE		29/12/45
				D Trans	Trans Write to A Sec b3		31.12.45
JAN 7 1946	5-1-46	PA		P.M.	With Trans.		5 1946
				Admin	Re BF 3/1/46	CR	7/1/46
				Trans	Pass to Sig pl.		8/1/46
JAN 8 1946							JAN 10
JAN 10 1946	10/1/46	PA		SM	with trans.		
JAN 11 1946	11/1/46	PA		Admin	Re BF 11/1/46		10/1/46
				Admin	WithPapersC.R. APR 26 1946		
APR 27 1946	29/4/46			JAG	to rate file		29/4/46
MAY 7 1946	7/5/46			JAG	WithPapersC.R. MAY 2 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All correspondence should bear the correct file number.

PASS THIS FILE IN ENVELOPE

B-2075

X M.1-B-6273

A/DIS

DEPARTMENT OF NATIONAL DEFENCE
(A R M Y)

MONTREAL, Que.,
27 Apr 46

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

CENTRAL REGISTRY Army
CONF. SEC.
20246
MAY 1 1946
File CS 3-B-2075
Clngd. to
Referred to

D 504841 Pte BERGERON B

Att hereto completed Form of Remission with respect to the marginally named soldier.

ENC:

(W J HOME) BRIG
DOC MD NO 4

FORM OF REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT - MARTIAL

NDH File No. HQC 55-
District File No. T.1-B-6273 ADIS

PART I

NO. D-504841 RANK PTE NAME BERGERON, R.

UNIT 4 DD

PART II

Date of Trial 11th of October 1945
Charge (s) ABSENTING HIMSELF WITHOUT LEAVE
Sentence Eighteen months detention
Confirmation -- (a) Authority: DJ x 2 m Dec
(b) Date 02.4.45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention as of 22 Apr 46.

Signed at Montreal 17 Apr 46

W. J. Home

(W J HOME) Brig
DOC MD NO 4

PART IV

PROMULGATION

Remission ~~(xxxxxxxxxxxxxxxxxxxx)~~ promulgated and extracts taken at Montreal South, Que this day 23rd April of April 1946 (1)

Ass-Officer i/c Documents

(1) Unit, attachment and appointment to be stated. (R.P.W. RYAN) Lieut. R.C.A., C.A., att'd to No.4 D.D., C.A.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

NO. D-504841 RANK Gnr NAME J.R. BERGERON

The sentence of Eighteen months detention awarded by ~~General~~ Publishing Court-Martial on the 11th October 1945 has been remitted on the 22nd April 1946 by D.O.C.

UNIT Military District No.4, Montreal, Quebec

Certified true Extract of Daily Orders Part II of No.4 District Depot, CA No. 96 Place Jacques Cartier Bde date 23rd April 1946
Montreal South, Que

P. Rivard Capt

(P. RIVARD) Capt A/Adjt.,
Gen.List., C.A., attached
to No.4 District Depot, C.A.

4

M. 1-B-6273 A/DIS

DEPARTMENT OF NATIONAL DEFENCE
(A R M Y)

CENTRAL REGISTRY, Army
25 APR 1946
CONF. SEC.
19505
APR 26 1946
File
Orig. to 55-8-2075
Referred to admin

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

REVIEW OF SENTENCES CM (CARO 5913)
D 504841 Gnr BERGERON J R

Att hereto is MFM 288 pertaining to the m/n soldier, duly completed and submitted to NDHQ in accordance with instrs contained in para 4 of HQC 9039-1, Adm 3(b)3, dated 8 Sep 45.

Gibbon Capt
(W J HOME) BRIG
DOC MD NO 4

ENC:

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-504841 (Number) Gunner (Rank) BERGERON, J.R. (Name in full)

R.C.A.,C.A., attached to No.4 District Depot,C.A. (Unit) (Attachment (if any))

Sentenced to 18 months detention

on 11th October, 1945. at Montreal South,Que.

being served at No.65 Military Detention Barracks,Longueuil,Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 23years and 7months

PULHEMS

Medical grade or category 1111111

FIRST TRIAL—PART II

To Adjutant General NDHQ (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~XXXX~~ committed to undergo his sentence, which I recommend should ~~XXX~~ be (~~XXXXXX~~) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place Montreal que.

Date 6 Nov 45

(E.J.Renaud)Maj Gen (Confirming Authority)
D.O.C. M.D. No. 4.

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....)

(of which I remit .....) (be suspended) (be put into execution)

(and) be reviewed on .....

Place .....

Date ..... (Superior Military Authority)

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced

to ..... and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date ..... (Confirming Authority)

M.F.M. 268
(Army Form A-2104)
20M—2-43 (1860)
H.Q. 1777-20-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
19 Nov 45	No suspension No remission of S.F. at 1/2 and 11 July 46	J. Fletcher Capt for DOCM Sqd	
17 Apr 46	Sentence remitted wef 22 Apr 46.	W. J. Home. (W.J. HOME) Brigadier, D.O.C., M.D. 4.	
22 Apr 46	"RELEASED" wef 23 Apr 46	C. Potter Major (C. Potter) Major, Commandant, #65 Mil. Det. Bks.	Marks earned 1560

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15(1) Army Act. ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Petawawa Military Camp, Ont. at 2200 hrs. on the 1st November, 1942 absented himself without leave from his unit 22nd Field Regt. RCA, C.A., until he was apprehended by the M. Authorities at Montreal, Que. at 1820 hrs on the 31st August, 1945, dressed in civilian clothes	1Nov 42	11Oct 45

E.I. Auerbach
Signature of Officer making entry

(E.I. AUERBACK) CAPT.,
General List, C.A., att'd to
No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
30Oct 45	I do not recommend any remission of sentence in this soldier's case.	(S. ECHENBERG) Colonel, Commanding No.4 District Depot, CA.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 Nov 45	Sentence is considered fair and reasonable 1st review on 26 Nov 45	(E.J. Renaud) Maj-Ge DOC MD 4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HDC/D

Q.G.C.55-B-2075 Adm 3(b)2

le 9 janvier 1946.

Monsieur,

Je vous accuse réception de votre lettre du 29 novembre 1945, au sujet du soldat J.-R. Bergeron, matricule D-504841.

Les officiers compétents du ministère m'informent que le soldat Bergeron a été traduit devant une cour martiale permanente le 11 octobre 1945, pour répondre à une accusation d'absence illégale à compter du 1er novembre 1942 jusqu'au 30 août 1945, alors qu'il a été appréhendé, revêtu d'habits civils. Il a été trouvé coupable et condamné à 18 mois de détention.

Comme vous le savez sans doute, les sentences sont régulièrement revisées en vue d'une remise de peine lorsque les circonstances la motivent. On m'informe que la sentence du soldat Bergeron a été revisée le 15 novembre 1945 et on a décidé de ne lui accorder alors aucune remise de peine.

En ce qui concerne l'embarras dans lequel se trouve actuellement sa famille, il est à prévoir que le paiement de l'allocation familiale militaire sera rétabli dès que son compte de solde sera en règle.

Votre bien dévoué,

pour le sous-ministre,

(Paul Mathieu), colonel.

M. Jean-M. Bériault,
59 ouest, rue Saint-Jacques,
Bureau 600-605,
Edifice La Prévoyance,
Montréal, P.Q.

HQC 55-B-2075
Adm 3(b)2

Ottawa, 8th January, 1946

Dear Sir:

This will acknowledge receipt of your letter of 29th November, 1945, with reference to D-504841 Pte Bergeron, J.R.

I am informed by the appropriate officers of this Department that this soldier was tried by Standing Court-Martial on 11th October, 1945, having absented himself without leave from 1st November, 1942 until he was apprehended on 30th August, 1945 dressed in civilian clothes. He was found guilty and sentenced to eighteen months' detention.

As you undoubtedly know, sentences awarded are subject to periodical reviews with a view to effecting remission where circumstances warrant. I am informed that this soldier's sentence was accordingly reviewed on 15th November, 1945 and it was directed that no remission should be effected at that time.

With reference to the present difficult financial situation of this soldier's family, as soon as his pay account has been brought into balance, it can be presumed that Dependent's Allowance will once again be re-instated.

Yours truly,

Deputy Minister
(Army)

JAN 8 1946
Rec'd
JAN 10 1946
BUREAU OF TRANSLATION
NATIONAL DEFENCE

Jean M. Beriault, Esq.,
59 St. James Street West,
Room 600-605,
"La Prevoyance" Building,
Montreal, Quebec.

FT:

Please translate and pass to DM for signature.

G. O. Dickie, Capt
p (H. M. Cathcart) Col
D Adm

DEPARTMENT OF NATIONAL DEFENCE
ARMY

In reply quote No. HQC 55-B-2075
Adm 3(b)2

TO: DM

27 Dec 45

D.504841 Pte Bergeron J F

SE 1603C d/13 Dec 45

The attached letter has been prepared for translation and your signature if you approve pls.

A. G. ENQUIRY
No. Primed 1603C
Date DEC 31 1945
Passed

GDB:6293:sp
FINAL

(A E Walford)
Major-General
Adjutant-General

M.F.A. 1328A
1.00051—3-45 (9996)
H.Q. 1772-39-2009

HDC/GB

Q.G.C. 55-B-2075 Adm. 3(b) 2

le 4 janvier 1946.

Cher monsieur Godbout,

Je vous accuse réception de votre lettre du 5 décembre 1945 au sujet du soldat Raymond Bergeron, matricule D.504841.

Les officiers compétents du ministère m'informent que le soldat Bergeron a été traduit devant une cour martiale permanente le 11 octobre 1945, pour répondre à une accusation d'absence illégale du 1er novembre 1942 au 31 août 1945, alors qu'il a été appréhendé vêtu en civil. Il a été trouvé coupable et condamné à 18 mois de détention.

Comme vous le savez, les sentences sont revisées périodiquement en vue d'une remise de peine lorsque les circonstances la motivent. J'apprends que la sentence du soldat Bergeron a été revisée le 15 novembre 1945 et l'on a décidé de ne lui accorder aucune remise de peine pour le moment.

Toutefois, j'ai signalé vos remarques aux officiers compétents, pour qu'ils les examinent lors de la prochaine revision de la sentence. Il est probable, vu la longue absence du soldat Bergeron, qu'aucune remise de peine ne lui sera accordée dans un avenir rapproché.

En ce qui concerne l'embarras pécuniaire où se trouve actuellement sa famille, il est à prévoir que le paiement de l'allocation familiale militaire sera rétabli dès que son compte de solde sera en règle.

Votre bien dévoué,

pour le sous-ministre,

(Paul Mathieu), colonel.

M. Benoît Godbout,
Secrétaire particulier,
Solliciteur général,
O T T A W A, Ontario.

HQC 55-B-2075
Adm 3(b)2

27 December, 1945

Dear Sir:

This will acknowledge receipt of your letter of 5 December, 1945 addressed to Colonel Mathieu with reference to D.504841, Pte Raymond Bergeron.

I am informed by the appropriate officers of this Department that this soldier was tried by Standing Court-Martial on 11 October, 1945, having absented himself without leave from 1 November 1942 until he was apprehended on 31 Aug 45 dressed in civilian clothes. He was found guilty and sentenced to 18 months' detention.

As you know, sentences awarded are subject to periodical reviews with a view to effecting remission when circumstances warrant. I am informed that this soldier's sentence was accordingly reviewed on 15 November 1945 and it was directed that no remission should be effected at that time.

Your representations have, however, been brought to the attention of the appropriate officers for their consideration at next review of sentence. It is probable that, in view of this soldier's long absence, no remission will be effected within the near future.

With reference to the present difficult financial situation of this soldier's family, as soon as his pay account has been brought into balance, it can be presumed that Dependents' Allowance will once again be reinstated.

Yours truly,

Deputy Minister
(Army)

GDB:sp
Mr Benoit Godbout,
Private Secretary,
Solicitor General,
OTTAWA, Ont.

TRANS:

For translation pls.

(H M Cathcart)
Colonel - D

HQC 55-B-2075
Adm 3(b)2

27 Dec 45

TO: DM

SE 16030 d/13 Dec 45

D.504841 Pte Bergeron J P

The attached letter has been prepared for translation and your signature if you approve pls.

(A E Walford)
Major-General
Adjutant-General

GDB:6293:sp

QUOTE No. HQC 55-B-2075
Adm 3(b)2

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

OTTAWA, CANADA.

27 December, 1945

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I am informed by the appropriate officers of this Department that this soldier was tried by Standing Court-Martial on 11 October, 1945, having absented himself without leave from 1 November 1942 until he was apprehended on 31 Aug 45 dressed in civilian clothes. He was found guilty and sentenced to 18 months' detention.

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Yours truly,

Deputy Minister
(Army)

JAN 5 1946

Mr Benoit Godbout,
Private Secretary,
Solicitor General,
OTTAWA, Ont.

TRANS:

For translation pls.

(H M Cathcart)
Colonel - D Adm

FOR TRANSLATION
Rec'd
JAN 2 1946

Nat. Def. A-168-A
1,000M—3-45 (8028)
H.Q. 1773-39-375

IN REPLY PLEASE QUOTE No. M-1-B-19494 ADIS

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que.,
21 Dec 1945.

16703
DEC 22 194
admin

Secretary,
Department of National Defence,
OTTAWA, Ontario.

D-504841 Pte. BERGERON, J.P.

Reference your letter HQC 55-B-2075 Adm 3 (b) 2 dated 18 Dec 1945.

2. Review of sentence has been made in the case of the m/n soldier on 15 Nov 45.

3. No further review is contemplated prior to half of sentence having been served.

4. For your information, no representations have been made to this Headquarters on the behalf of this soldier.

(E.J. RENAUD), Major-General,
D.O.C. M.D. No. 4

NAT. DEF. M. 447

HQC 55-B-2075
Adm 3(b)2

CONFIDENTIAL

OTTAWA, Ont. 18 Dec 45

District Officer Commanding,
Military District No 4,
MONTREAL, P.Q.

D.504341 Gnr Bergeron, J R

Ref M.1-B-19494(J) dated 9 Nov 45.

2. Various representations have been received on behalf of this soldier. May this HQ be infm pls the result of the review of sentence with reference to the above file number.

3. As this matter is the subject of a Special Enquiry, may it be treated as urgent pls.

(A E Walford)
Major-General
Adjutant-General

WOP:sp

AR

869-B-3430

URGENT
SPECIAL ENQUIRY

DATE: DEC 13 1945

No: 1603C

To: D: Admin

Draft reply addressed to B. Godbout for signature of D.M. will be forwarded in duplicate (exclusive of file copy) to Special Enquiry Section, A.G. Branch, BY HAND, at the earliest possible moment. If any part of the information is not available, or will involve a great deal of time to prepare, an interim reply or other advice will be forwarded to the Special Enquiry Section, (Room 507 Bate Bldg.) immediately. Replies will be signed in the Directorate concerned, for the A.G.

E. W. Atkinson, Capt.
SPECIAL ENQUIRIES-AG

A.G. Control & Co-ordination
(S.E. Section)

DEC 13 1945

TRANSLATION
MB/CGa
10/12/45

AG(SE)

SOLICITOR GENERAL
CANADA

Ottawa, December 5th, 1945.

Colonel Paul Mathieu,
Deputy Minister of National Defence,
OTTAWA, Ont.

Dear Mr. Mathieu:

D-504841, Pte. Raymond Bergeron was sentenced to 9 months of detention some time ago.

His father points out that his salary is $20. per week, that he has 7 children none of whom is old enough to work and that he would absolutely need the financial help of his above named son. The latter could obtain employment immediately as a taxi driver if he were released.

The kind consideration which you could be ~~asked to~~ give to these representations would be greatly appreciated.

Yours truly,

(SGD) Benoit Godbout,
Private Secretary.

RECEIVED
DEC 13 1945
ADMIN
314/2

A. G.
for reply for DAM (A)
Signature please
P Mathieu 8/12/45

SOLICITEUR GÉNÉRAL
CANADA

BUREAU FOR TRANSLATIONS
DEC 10 1945
Rec'd
NATIONAL DEFENCE

DEC 12 1945

O T T A W A,
le 5 décembre 1945.

Colonel Paul Mathieu,
Sous-Ministre de la Défense Nationale,
O t t a w a.

Cher monsieur Mathieu,

Le soldat Raymond Bergeron, D-504841, a été, il y a quelque temps, condamné à neuf mois de détention dans une prison militaire.

Son père représente que son salaire est de $20. par semaine, qu'il a sept enfants dont aucun n'est en âge de travailler, et qu'il aurait absolument besoin de l'aide financière de son fils. Celui-ci pourrait, advenant sa libération, obtenir immédiatement un emploi de chauffeur de taxi.

La bonne considération qui pourrait être accordée à ses représentations serait vivement appréciée.

Bien à vous,

Bernard Rodgers
Secrétaire particulier.

TRANSLATION ADMIN.
MB/JLa
13-12-45

Jean-Marie Bériault
Advocate
"La Prévoyance" Building
59 St. James St. W., Room 600-605

Montreal, November 29, 1945.

Department of National Defence,
Parliament Buildings,
Ottawa, Canada.

Mr. Minister:

Re: D.504841, Roland Bergeron.

The above-named was sentenced to eighteen months of detention for absence without leave from the Army by a court martial on October 11th, 1945.

Pte Bergeron's support is necessary to his family which comprises nine young children in addition to the father and mother; the father earns but $20.00 to $25.00 per week and Pte Bergeron's health condition is poor.

As the Christmas season which is also the period of pardon is drawing near, would it be possible to release this soldier so that he may help his family. I am positive that you will kindly do something to be of assistance in this special case and I thank you in anticipation.

Yours very truly,

(Sgd.) Jean-M. Bériault.

TRANSLATION
MB/JLa
13-12-45

ADMIN.

Jean-Marie Bériault
Advocate
"La Prévoyance" Building
59 St. James St. W., Room 600-605

Montreal, November 29, 1945.

Department of National Defence,
Parliament Buildings,
Ottawa, Canada.

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Yours very truly,

(Sgd.) Jean-M. Bériault.

TRANSLATION
MB/JLa
13-12-45

ADMIN.

Jean-Marie Bériault
Advocate
"La Prévoyance" Building
59 St. James St. W., Room 600-605

Montreal, November 29, 1945.

Department of National Defence,
Parliament Buildings,
Ottawa, Canada.

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As the Christmas season which is also the period of pardon is drawing near, would it be possible to release this soldier so that he may help his family. I am positive that you will kindly do something to be of assistance in this special case and I thank you in anticipation.

Yours very truly,

(Sgd.) Jean-M. Bériault.

RÉFÉRENCE DOSSIER NO.....

JEAN-MARIE BERIAULT
AVOCAT - ADVOCATE
~~SURINTENDANT GÉNÉRAL~~
~~ENGAGEMENTS~~

Téléphone: PLateau 2541-2

ÉDIFICE "LA PRÉVOYANCE" BUILDING
59 ouest, rue St-Jacques — Suite 600-605
MONTRÉAL

13514

Montréal, 29 nov. 1945.

NATIONAL REGISTRY Army
SERS. SEC.
DEC 3 1945
File 6-500-12-3-7-4
Check in
Referred to DS

Dept. de la Défense Nationale,
Edifice du Parlement,
Ottawa, CANADA.

Honorable Ministre,

re: Roland Bergeron,
D-504841-.

Le doldat ci-haut nommé a été condamné à 18 mois de détention pour absence sans permission de l'armée. La Cour Martiale a passé sentence le 11 octobre 1945.

Or le soldat Bergeron est d'un soutien nécessaire à sa famille, laquelle est composée de 9 enfants en bas âge en plus du père et de la mère, lequel père ne gagne que $20.00 à $25.00 par semaine. De plus, l'état de santé du soldat Bergeron laisse à désirer.

Comme le temps des Fêtes approche, ce qui est aussi la période du pardon, serait-il possible de libérer ledit soldat pour qu'il puisse aider sa famille. Je suis certain que vous voudrez faire quelque chose pour aider ce cas particulier et je vous remercie à l'avance.

DEC 10 1945
Rec'd
DEC 14 1945
NATIONAL DEFENCE

Bien à vous,

JEAN M. BERIAULT.

JMB/CT

HQC 55-B-2075 (JAG/D-6)

18th November 45

District Officer Commanding,
Military District No. 4,
Montreal, P.Q.

Standing Court-Martial
D-504~~x~~841, Gnr. J.R. Bergeron.

Receipt is acknowledged of your M.1-B-19494(J) dated 9th November 1945, under cover of which you returned to this office for custody the proceedings of the marginally noted Standing Court-Martial.

Your explanation of the delay in this case has been noted.

E.L.M.

for (R.J.Orde) Brigadier,
Judge Advocate-General.

IN REPLY PLEASE QUOTE No. M.1-B-19494(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
9th November, 1945.

8291
NOV 10 1945
HQC 55-B-2075
Referred to JAG

REGISTERED

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT-MARTIAL
D-504841 Gnr. J.R. BERGERON,
RCA,CA, attached to No. 4 DD,CA.

Reference your HQC.55-B-2075(JAG/D-4) dated 20 Oct 45.

2. Hereunder, for your information, an explanation as to why the accused spent 40 days in custody awaiting trial:

31 Aug 45	Apprehended
1 Sep 45	Wired for status & docs
8 Sep 45	Documents received
13 Sep 45	Remanded for S.C.M.
14 Sep 45	Tracer for Part II
21 Sep 45	" " "
28 Sep 45	" " "
1 Oct 45	Part II received
9 Oct 45	S.C.M. proceedings completed.
10 Oct 45	Application for S.C.M. received at this H.Q. and trial of the accused scheduled to take place on 11 Oct 45
11 Oct 45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

J.E. Simonsen Capt
for (E.J.Renaud), Major-General,
D.O.C., M.D. No. 4.

Enc.

NAT. DEF. B. 443
2500M-4-44 (5211)
H.Q. (72-39-767)

MEDICAL OFFICER'S REPORT

R.C.A. C.A. I certify that No. D-504841 Gunner Joseph Roland BERGERON
att'd to No. 4ID., C.A., in a good state of health,
and fit to undergo Trial by Court martial.

J.G.Brunet Capt

J.G.BRUNET, Capt. Medical Officer
R.C.A.M.C. C.A. ATT'D TO
No. 4 District Depot, C.A.,

Station Jacques Cartier Barracks,

Date 11th October, 1945.

J. C. G. Chubbs major
President SCM

M. F. B. 246
50M—5-43 (254)
H.Q. 1772-30-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue au Dépot du District No. 4, C.A.

le 11e jour de octobre, 19-45 à 1010 heures,

pour le procès de D-504841 Gnr. Joseph Raymond BERGERON,
Matricule Grade Nom et prénoms

R.C.A., C.A., attaché au Dépot du District No. 4, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. DUBEAU, ED, Quartiers-Généraux, District Militaire 4

PROCUREUR: Capitaine P.J.F. BOUSQUET,
Grade Nom et prénoms

Quartiers-Généraux, District Militaire 4
Unité Détachement, le cas échéant

~~OFFICIER DÉFENSEUR~~ OU AVOCAT: Me Jean-Marie BERIAULT, Membre du Barreau de la Province
Grade Nom et prénoms

de Québec,
Unité Détachement, le cas échéant

VERDICT: La Cour déclare l'accusé, D-504841, Gnr. Joseph Raymond BERGERON, R.C.A., C.A., attaché au Dépot du District No. 4, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La Cour condamne l'accusé, D-504841, Gnr. Joseph Raymond BERGERON, R.C.A., C.A., attaché au Dépot du District No. 4, C.A., à la détention pendant dix-huit (18) mois.

Signé à Montréal-Sud, Qué. ce 11e jour de octobre, 1945.

(J.A.G. DUBEAU) Major
Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extract entered as No. 40483 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of Oct 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à~~ J.C.R.V.

Réponse:

Question à l'accusé. Vous opposez-vous à P-136118 CSM (WO II) DeKONINCK, F., CMSC, CA, comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ est ~~sont~~ dûment assermentés. J.C.R.V.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur le ~~chacun des~~ chef~~s~~ mentionné~~s~~ dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président. J.C.R.V.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ? J.C.R.V.

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

J.C.R.V.

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées. J.C.R.V.

J. C. G. Walker major
President SCM

"B2"

CHARGE SHEET

The Accused, D-504841, Gunner Joseph Raymond BERGERON, R. C. A., C. A., attached to No. 4 District Depot, C. A., an N. R. M. A. Soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Petawawa Military Camp, Ontario at 2200 hours on the 1st of November, 1942, absented himself without leave from his unit, 22 Field Regiment, R. C. A., C. A., until he was apprehended by the Military Authorities at Montreal, Quebec, at 1820 hours on the 31 st of August, 1945, dressed in civilian clothes.

Signed at
Montreal South, Quebec,
2nd of October 1945.

(S. Echenberg) Colonel
Commanding No. 4 District Depot, C. A.

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au .....
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(Voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

M. le Président,

Mes parents étaient dans le besoin et j'étais le seul soutien chez-nous car mon père est malade et ne travaille pas. J'étais "tanné" d'être dans l'armée et recevoir des ordres du matin au soir. Je ne pouvais pas endurer ça plus longtemps, c'était un supplice pour moi. Au lieu de faire des bêtises, j'ai préféré de partir. J'ai toujours été comme ça dans la vie civile, je n'ai jamais pu être capable de prendre des ordres.

Je suis dans l'armée depuis le mois de février 1942. J'ai 27 ans. J'ai passé par les camps de Joliette et ensuite à Petawawa et ici. Avant d'être dans l'armée je travaillais pour la "Diamond Taxi" Je ne suis pas marié. Durant mon absence sans permission j'ai travaillé un peu partout et j'ai essayé de me débrouiller autant que je pouvais. J'ai pas travaillé continuellement. Je me débrouillais pour aider à mes parents. Je restais en chambre en ville. Pendant que je ne travaillais pas, j'avais un peu d'argent pour me faire vivre que j'avais ramassé. En entrant dans l'armée j'avais assigné $20. par mois à mes parents. Pendant que j'étais absent sans permission je leur donnais $15. par semaine.

-o-o-o-o-o-o-o-

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon avocat.

L'AVOCAT DE L'ACCUSE S'ADRESSE A LA COUR

M. le Président,

Si on examine la vie de l'accusé - je me suis chargé de faire une enquête personnelle - je crois que ce type là n'aurait jamais du être dans l'armée, parce que sa vie indique qu'il a toujours suivi le chemin de sa propre volonté et n'a jamais pu, par son caractère, se conformer aux ordres qui lui étaient donnés. Dans la période de 10 ans qu'il a travaillé, il a changé de places deux à trois fois par année. Si on prend la période qu'il a été à l'école, on voit que sur huit ans, il a fréquenté neuf à dix écoles, ce qui indique un esprit très inconstant. Prenant cette preuve à sa considération, je demanderais à la Cour d'être clémente envers l'accusé.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

J. C. G. Cubbon, major
President SCM

F

DAILY ORDERS PART II

No. 48

BY

LIEUT-COLONEL S.F.H. LANE, R.C.A.

Place Petawawa Mil Camp, Ont.

Commanding

Date 2 Nov 42

22 FIELD REGIMENT, R.C.A. (A.F.)

(Last Order issued No. 47 of 31 Oct 42

SECTION "B"

OTHER RANKS
ACTIVE & MHD

RECEIVED
OCT 1 1945
CHIEF ADMINISTRATIVE OFFICER
DEPARTMENT

2. ABSENTEES (first notice)

a) Absent without leave from 2200 hrs. 1 NOV 42.
D-504841 Gnr. (MHD) BERGERON, R. 3 Bty.

(Signed) M.L.A. Chabot
for (M.L.A. Chabot) Capt., R.C.A.
Adjutant 22 Field Regiment, R.C.A.

CERTIFIED TRUE EXTRACT
SIGNED M.L.A. Chabot
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE SEP 26 1945

Prepared by: JCH
and
Checked by:

J. C. G. Chilean major
Printed 5cm

"G"

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, as published in Routine Order 1877, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W.POULIOTTE,O.C. Composite Provost Companies,M.D. 4
(Number) (Rank) (Name) (Unit)

hereby certify that D-504841 Gunner HERCERON,Joseph Raymond
(Number) (Rank) (Name in full)

of the 22 Cdn.Fd.Regt.RCA.CA.Petawawa,Ont.,
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~(surrendered)~~ D-136834 Corporal
(Number) (Rank)

TREMBLAY, M.J.W. Composite Provost Companies, M.D.4
(Name) (Unit or appointment)

at Montreal,Que., at 1820
(Place) (Hour)

on the 31st. day of August 1945

Strike out words not applicable } as a ~~deserter or~~ absentee without leave), and that at the time of his arrest he was ~~wearing military clothing~~ (dressed in civilian clothes).

Dated at Montreal,Que., this 1st. day of September 1945

MB.

(R.W.POULIOTTE)Major
(Signature, Number, Rank, Unit or appointment)

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
100M—11-42 (6909)
H.Q. 1772-39-1936

An "R" Recruit called under N.R.M.A.

J. C. G. Walker major
President SCM

M.F.B. 356
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-504841	Gnr.	J.R.BERGERON	22nd Cdn. Field Regt., R.C.A., C.A., att'd to No. 4 D.D. C.A.

1. The following is a fair and true summary of the entries in the ~~Regimental and Battalion, Battery, Conduct sheets or Company~~ Field ~~Service and General~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
~~For~~	~~times~~	~~times~~
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.
NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by a court-martial or a civil court, of summary awards under~~ Section 47 of the Army Act ~~and dispensations~~ with trial under A.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement ~~awaiting trial on the present charges, for~~ nil days in civil custody, and 40 days in military custody, making a total of 40 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is attested on paper~~ enrolment 27 years, 1 month. (21st July, 1918)

6. The date of his ~~commission specified in his record of service is attested on~~ enrolment 21st Feb., 1942.

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward military.~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Air Force Unit Regiment

Name..... of .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

L.R.Hamelin, Lieutenant,
C.I.C., C.A., att'd to
No. 4 District Depot, C.A.,
Ass't Officer i/c Records,
No. 4 District Depot, C.A.

Signed this 11th Oct. 1945 day of

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... and signed by the president, and annexed to the proceedings.

Date of Birth

Reg. No. D-504841 Name Bergeron, J.B. Corps 22nd Cdn. Fld Regt. R.C.A. Date of enlistment or enrolment

Sheet No. 1 of *1, 2, 3, 4, 5

Signature O.C. Company, etc.

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Nil					
				CERTIFIED TRUE COPY L. Hamelin L.R.Hamelin, Lieutenant, C.I.C., C.A., att'd to No. 4 District Depot, C.A., Ass't Officer i/c Records, No. 4 District Depot, C.A.					

(P.T.O.)

MFM 8-50M-5-44 (5388)
H.Q. 1772-49-1500

H.Q.C.55-B-2075 (JAG/D-4)
Your M. 1-B-19494 (J)

20 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D.504841 Gnr. Joseph Raymond Bergeron,
R.C.A., C.A., att. No. 4 District Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused was 40 days in custody awaiting trial. May an explanation of this delay be forwarded, please.

(Signed) Brigadier
Judge Advocate General

JOGR/MM

OR

8M-7-45(M-188)

THIS COPY F... H.Q.C. 55-B-2075
M.D. M.1-B-19494

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-504841 Name Joseph Raymond BERGERON

Rank Gnr. Unit R.C.A. Att No. 4 D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 1-11-42

Date of Arrest 31-8-45 Charge Signed 2-10-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 11-10-45

Sentence Detention 18 mos.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40483

Date 19-10-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 4

Absent
2 yrs, 10 mos.

R.C.A. Att No. 4 D.D. C.A.

Sentence
Det, 18 mos.

for Judge Advocate-General

10M-8-45(M-189)

IN REPLY PLEASE QUOTE No. M. 1-B-19494 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que.,
17 Oct 45

CONFIDENTIAL

C.55-B-2075

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

STANDING COURT-MARTIAL
D-504841 Gnr. J.R. BERGERON,
R.C.A., C.A., attached to No.
4 District Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report dated 11 Oct 45.

2. Submitted for your information, consideration and approval, please.

J.A.G. Dubeau

(J.A.G. DUBEAU) Major
Headquarters, Military District No. 4
President, Standing Court-Martial

Encl.

40483

NAT. DEF. B. 660
250M 4-44 (121)
H.Q. 1772-39-167

CONFIDENTIAL

H.Q.C. 55-B-2076

CONFIDENTIAL

H.Q.C. 55-B-2076

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BELLEMARE, JEAN LOUIS D-650743 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
OCT 23 1945		cancelled		JAG	NEW FILE	CR	18-10-45
		cancelled		DAA	With Papers C.R. NOV 8 1945		
NOV 1 0 1945	12	PA		Cdr	To note file		10-11-45
NOV 1 2 1945				Adm	With Papers C.R. DEC 21 1945		21/12/45
DEC 2 4 1945	24 Dec 45	PA		CMBR	to note		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being consolidated and kept in order, and also gives other officers an opportunity to use it.

2. Papers should be attached whenever a file is passed direct to another branch.

3. Papers should be numbered from the top, starting from the beginning.

PASS THIS FILE IN ENVELOPE

M.8-1-20 A(DIS)

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
21st December, 1945.

16739
DEC 22 1945
File 2076
Clgd. 21/12
Referred

The Secretary,
Department of National Defence,
Ottawa, Ontario.

SOLDIERS UNDER SENTENCE

Attached hereto, forms for remission in respect to the undermentioned soldiers:-

D-655499 BELL, J.
D-650743 BELLEMARE, J.L.
D-504991 BRUNET, J.P.
D-649942 CECYRE, A.
D-652076 CHABOT, J.
E-628099 COTE, H.
D-655757 CUERRIER, G.
D-615871 DAOUST, J.
D-647202 DAUDELIN, F.
D-615087 DAVID, J.R.
D-656369 DEMERS, P.E.
D-650081 DEMERS, R.
G-422624 DUGUAY, L.
D-527112 DUPLANTIE, L.
D-638314 DUROCHER, G.
D-700108 GARCEAU, R.
D-649994 GRENIER, R.
D-658308 HEBERT, M.
D-655113 LAFORTUNE, B.
D-650637 LANDREVILLE, L.
D-136679 LANGEVIN, R.
D-650451 LANGUEDOC, R.
D-645223 LAVERDURE, H.
D-143752 LEGER, R.
D-643628 LEVASSEUR, P.E.
D-146006 MARTIN, J.P.
C- 33944 MEILLEUR, A.
D-647659 MEILLEUR, E.
D-655077 MELFI, J.
D-610667 MELILLO, A.
D-506333 MESSIER, G.
D-700313 PAILLE, M.
D-472519 REID, R.
D-653586 ROZON, R.
D-645019 SAVOIE, L.
D-641816 ST. AUBIN, M.
D-601611 TOMLINSON, G.

p. (E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCL.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5- 5-2076
District File No. M.1- 5-18761

PART I

No. D-650743 Rank RTE Name BELLEMARE, J.L.
Unit No. 4 District Depot, C.A.

PART II

Date of Trial 11th October 1945
Charge (s). ABSENT WITHOUT LEAVE
Sentence. one hundred and sixty days detention
Date of sentence 11th October 1945
Confirmation -- (a) Authority: D.O.C.
(b) Date : 11 Oct 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention wef 18th December, 1945.

Signed at Montreal this 18th DEC day of 1945.

(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~xxxxxxxxxxxxxxxxxxxxxx~~) promulgated and extracts taken at Montreal South Que. this 18th day of December 1945 (1)

Ass- Officer i/c Documents (L.R. HAMELIN) Lieut.
C.I.C., C.A., att'd to
No. 4 District Depot C.A.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No D-650743 Rank Rte Name BELLEMARE J.L. Standing
The sentence of one hundred and sixty days det. awarded by ~~xxxxxxx~~ Court Martial on the 11th October 1945 has been remitted on the 18th December 1945 by D.O.C. Military District No. 4 Montreal Que.

Certified true Extract of Daily Orders Part II of N.4 District Depot C.A.
No. 103 Place Jacques Cartier Barracks Date 18th December, 1945
Montreal South

Adjutant

(J.M.N. CHARLESOIS) Capt-Adj.
General List. C.A., att'd to
No. 4 District Depot C.A.

* Strike out and initial words not applicable

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
19th December, 1945.

16558
DEC 21 1945
C.55-B-2076
Chgd. to
Referred to Admin

The Secretary,
Department of National Defence,
Ottawa, Ontario.

REVIEW OF SENTENCES CMI CARO 5913

Reference HQC 9039-1, Adm 3(b)3 dated 8th September, 1945.

2. Attached hereto, NFsM 288 duly completed with respect to the undermentioned soldiers, submitted to NDHQ in accordance with instructions contained in Para 4 of the above mentioned letter:

	FILE NOS.	REGT'L NOS.	RANK	NAME
A.DIS)	M.1-B-18761	D-650743	PTE	BELLEMARE, J.L.
"	M.1-B- 6533	D-480625	PTE	BOILEAU, P.
"	M.1-C- 3373	D-620001	PTE	COTE, H.
"	M.1-D-16771	E-628113	PTE	DESHARNAIS, B.
"	M.1-G- 7360	D-139063	PTE	GRENIER, J.M.
"	M.1-L- 4722	D-136679	PTE	LANGEVIN, R.
"	M.1-L-10585	D-643628	PTE	LEVASSEUR, P.E.
"	M.1-M-15470	D-655077	GPTMN	MELFI, J.
"	M.1-M-15618	E-630529	PTE	MICHAUD, L.
"	M.1-P- 2710	D-700313	PTE	PAILLE, M.
"	M.1-P- 9919	D-148057	PTE	POIRIER, C.
"	M.1-R- 2969	D-472519	PTE	REID, R.
"	M.1-R- 8067	D-146142	PTE	RODRIGUE, C.

noted
[illegible]

p. (E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCL.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-650743 (Number) Private (Rank) BELLEMARE, Jean Louis (Name in full)

H.Q., M.D.5,C.A.,attached to No.4 District Depot,C.A. (Unit) (Attachment (if any))

Sentenced to 160 dys detention

on 11th October, 1945. at Montreal South,Que.

being served at No.65 Military Detention Bks.,Longueuil,Que. (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 19years and 6 months- 23Nov 1943

Medical grade or category PULHEMS 1111111

FIRST TRIAL—PART II

To Adjutant General, National Defence Headquarters, Ottawa (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be ~~xxx~~ committed to undergo his sentence, which I recommend should (~~xxxxx~~ be ~~xxxxxxxx~~ (put into execution) (~~xxxxxxxx~~ date) for reasons given in paragraph X.

Place MONTREAL, P.Q.

Date 5 November 1945.

(E.J. RENAUD) Major General, D.O.C., M.D. No. 4. (Confirming Authority)

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to) (of which I remit) (be suspended) (be put into execution) (and) be reviewed on

Place

Date

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To Superior Military Authority

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on and sentenced to and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place

Date

Confirming Authority

M.P.M. 285
(Army Form A.3104)
43M—9-43 (1860)
H.Q. 1775-28-3015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be pasted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
19 Nov 45	No suspension No remission AF at present so Ands	D Bilton capt for DOCM D 4	
4 DEC 45	Sentence remitted wef 18 DEC 45	(E.J. RENAUD) Major-General, D.O.C., M.D. 4.	
18 Dec 45	"RELEASED" wef 18 DEC 45	(C. Potter) Major Commandant #65 Mil Det Bks	Marks earned 582

Part VII—First Trial

	Charge or Charges giving Particulars	Date of Offence	Date of Trial
1st CHARGE Sec.15(1) Army Act.	ABSENTING HIMSELF WITHOUT LEAVE, in that he, at Quebec, Que., at 0800 hrs on the 18th Feb 1945, absented himself without leave from his unit, H.Q.M.F.No.5, C.A., until he surrendered himself to Military Authorities at Montreal, Que., at 1525 hrs on the 11 Sep 1945.	18Feb 45	11Oct 45

Signature of Officer making entry

(E.I.AUERBACK) Capt.,
General List, C.A., att'd
to No.4 District Depot, C.A.

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
29Oct 45	I do not recommend any remission of sentence in this soldier's case.	(S. SCHENBERG) Colonel, Commanding No.4 District Depot C.A.

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
5 Nov 45	Sentence is considered fair and reasonable. 1st review on 26 Nov 45	(E.J. RENAUD) Major General, D.O.C. M.D. No.4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2076 (JAG/D-6)

10 Nov 45

District Officer Commanding,
Military District No. 4,
Montreal, PQ

Standing
D.650743 Pte J.L. BELLEMARE
HQ MD 5, CA att No. 4 DD CA
.....Court-Martial

M.1-B-18761 (J)

7th November 5

Receipt is acknowledged of your Standing dated 194 , under cover of which you returned to this office for custody the proceedings of the matter finally noted Court-Martial.

Yours explanation of the delay in this case has been noted.

E.L.M

for (R.J. Orde) Brigadier,

Judge Advocate-General.

ELM/fdf

IN REPLY PLEASE QUOTE No. M.1-B-18761(J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

Montreal, P.Q.,
7th November, 1945.

CANADA SURV. ARMY
CO. FILES
7754
NOV 8 1945
File C55-B-2076
Chgd. to
Referred to JAG

The Secretary,
Department of National Defence,
OTTAWA, Ontario.

STANDING COURT MARTIAL
D-650743 Pte. J.L. BELLEMARE,
HQ.MD 5, C.A., attached to
No. 4 D.D.,CA.

Reference your HQC.55-B-2076 (JAG/D-4) dated 22 Oct 45.

2. Hereunder, for your information, an explanation as to why the accused spent 30 days in custody awaiting trial:

11 Sep 45	Surrendered
12 Sep 45	Wired for status and docs.
18 Sep 45	Tracer for docs.
22 Sep 45	Documents received.
25 Sep 45	Kit inspection
26 Sep 45	Remanded for S.C.M.
10 Oct 45	Proceedings completed.
10 Oct 45	Application for S.C.M. received at this H.Q. and trial of the accused scheduled to take place on 11 Oct 45.
11 Oct 45	Trial of the accused.

3. Returned herewith, for custody, proceedings of the marginally-noted Standing Court-Martial.

Jean Renaud Capt.
(E.J.Renaud), Major-General,
for District Officer Commanding,
Military District No. 4.

Enc.

NAT. DEF. 8 44
230CM-4-44 (3221)
H.Q. 1770-99-267

MEDICAL OFFICER'S REPORT

I certify that No. D-650743 Private Jean Louis BELLEMARE
of MIL. DIST. No. 5 C.A., att'd 4DD.,C.A., is in a good state of health,
and fit to undergo Trial by Court martial.

J.G.BRUNET Capt. Medical Officer
R.C.A.M.C. C.A. ATT'D TO
No. 4 District Depot, C.A.,

Station Jacques Cartier Barracks,

Date 11th October, 1945.

J. G. G. Dubeau major
President SCM

M. F. B. 246
50M—5-43 (254)
H.Q. 1772-30-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à u Dépot du District No. 4, C.A.

le 11e jour de octobre, 1945 à 1930 heures,

pour le procès de D-650743 Pte. Jean Louis BELLEMARE,
Matricule Grade Nom et prénoms

H.Q., M.D. No. 5, CA., attaché au Dépot du District No. 4, C.A.
Unité Détachement, le cas échéant

PRÉSIDENT: Major J.A.G. DUBEAU, ED, Quartiers-Généraux, District Militaire 4

PROCUREUR: Capitaine F.J.E. ROUSQUET,
Grade Nom et prénoms

Quartiers-Généraux, District Militaire 4
Unité Détachement, le cas échéant

OFFICIER DÉFENSEUR: Lieutenant P. GIRARD,
~~OU AVOCAT~~ Grade Nom et prénoms

JCAU

Fus. Mont-Royal, CA., attaché au Dépot du District No. 4, C.A.
Unité Détachement, le cas échéant

VERDICT: La Cour déclare l'accusé, D-650743, Pte. Jean Louis BELLEMARE, H.Q., M.D. No. 5, C.A., attaché au Dépot du District No. 4, C.A., coupable à l'égard du chef d'accusation.

SENTENCE: La Cour condamne l'accusé, D-650743, Pte. Jean Louis BELLEMARE, H.Q., M.D. No. 5, C.A., attaché au Dépot du District No. 4, C.A., à la détention pendant cent-soixante (160) jours.

Signé à Montréal-Sud, Qué. ce 11e jour de octobre, 1945.

(J.A.G. DUBEAU) Major Président de la cour martiale permanente.

M.F.R. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 4048 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of Oct 1945

B

Question à l'accusé. Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé. ~~Vous opposez-vous à comme interprète ?~~

Réponse:

Question à l'accusé. Vous opposez-vous à D-136118 CSM (WO II) DeKONINCK, P., CMSC, CA. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant) sont~~ est dûment assermentés.

Question au procureur. L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur ~~chacun des~~ le chef~~s~~ mentionné~~s~~ dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé. Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé. Etes-vous coupable ou non du ~~premier~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Coupable, monsieur.

Question à l'accusé. ~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé. Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J. C. G. Kulbeau major
President SCM

"B" 2-5

CHARGE SHEET

The accused, D-650743, Private Jean Louis Bellemare, H.Q., M.D. No. 5, C.A., attached to No. 4 District Depot, C.A., an N.R.M.A. soldier of the Canadian Army placed on Active Service, is charged with:-

CHARGE
SEC. 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Quebec, Quebec, at 0800 hours on the 18th of February 1945, absented himself without leave from his unit, H.Q. M.D. No. 5, C.A., until he surrendered himself to Military Authorities at Montreal, Quebec, at 1525 hours on the 11th of September, 1945.

Signed at
Montreal, Quebec,
9th October, 1945.

Jacques Bourgault
Prosecutor, H.Q., M.D. No. 4

CC

Procédure sur un aveu de culpabilité

L'accusé s'étant avoué coupable au ..... g.c.q.l.
chef d'accusation, il est déclaré coupable de ladite accusation.

(On demandera au procureur s'il a une déclaration à faire touchant toutes les circonstances relatives à l'infraction.)

Question à l'accusé. Avez-vous quelque déclaration à faire relativement à l'accusation dont vous vous êtes avoué coupable ?

Réponse: Non, monsieur.

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous faire quelque déclaration par voie d'atténuation de peine ?

Réponse: Oui, monsieur.

(Voir page CC-3)

(La déclaration de l'accusé doit être consignée sur une feuille séparée.)

Question à l'accusé. Désirez-vous rendre témoignage vous-même quant à votre réputation ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous appeler des témoins quant à votre réputation ?

Réponse: Non, monsieur.

Règle de procédure 37 *(d)*. *Si, d'après la déclaration de l'accusé ou d'après le sommaire ou l'abrégé de la preuve, ou autrement, la cour en vient à la conclusion que l'accusé n'a pas compris les conséquences de son "aveu de culpabilité", la cour devra modifier le dossier et enregistrer une "dénégation de culpabilité" et instruire le procès en conséquence.*

Pour les variantes, voir page 747 du M.D.M.

DECLARATION DE L'ACCUSE EN ATTENUATION DE PEINE

M. le Président,

J'étais à la Citadelle à Québec et ils ne voulaient pas me soigner pour mes poumons. J'ai fait la garde à la Citadelle et ils ne voulaient pas me faire examiner, les docteurs la-bas. Ici, ils m'ont donné un papier pour aller à l'institut Bruchésai pour passer un Rayon-X.

A l'appui de ma déclaration, je produis un rapport "X Ray Inspection of Chest" daté le 29 sept 43.

Le document précité est lu, marqué page CC-5, signé par le Président et versé au dossier.

Je suis dans l'armée depuis le 23 novembre 1943. J'ai 21 ans. Avant d'entrer dans l'armée je travaillais au CNR comme journallier. Je ne suis pas marié. Je suis passé par les camps de Sorel, Valcartier et ici. J'ai été onze mois à la Citadelle à Québec, je faisais la garde là. Je me suis présenté souvent à la Citadelle à Québec pour avoir des traitements médicaux. Je demandais à être soigné pour les poumons. Je faisais seulement que tousser. Ils m'ont donné du "stuff" pour me mettre dans le nez et plusieurs autres affaires. J'ai passé un rayon X à l'hopital à Québec, mais je n'ai jamais eu le résultat.

Durant mon absence sans permission j'ai demeuré à Verdun chez-nous. Je n'ai rien fait; chez-nous me faisaient vivre.

Mon père travaille au CNR.

J'ai été voir le docteur Thibault à Verdun deux fois pour mes poumons. Il m'a donné des remèdes pour m'arrêter de tousser.

Je me suis rapporté parce que j'étais "tanné" d'être sur le "lousse".

-o-o-o-o-o-o-o-

CCA5

J. C. T. Dubois major
Quebec SCm

DEPARTMENT OF NATIONAL DEFENCE

M.F.M. 30
700M—4-42 (8078)
H.Q. 1773-99-1679

CC-

X RAY INSPECTION OF CHEST

SECTION 1

A radiograph of the chest of

Film No. 209595

Rank ..... Name BELLEMARE, J. Louis.

Reg. No. E-287642 Unit J.C.C.

Civilian Address as per Registration Card

..... Age 19 Height ..... Weight .....

Signature of Recruit .....

is reported as follows:—

(a) Radiological examination does not disclose evidence of tuberculous disease of the lungs of such a nature as to indicate rejection for service in the Canadian Armed Forces except as stated below.

(b) The transverse diameter of the heart is 10½ cms. as compared with a transverse diameter of the chest of 28 cms.

(c) Pathological conditions or congenital abnormalities of importance seen in the film are as under-noted. (In each instance an opinion should be expressed as to whether such was present prior to enlistment.)

Disease suspected at left base.

(SGD) J.C. LANTHIER. M.D.

Place MONTREAL, 29-9-43

Date .....

J.C. LANTHIER. M.D.
Radiologist

If a pathological condition or congenital abnormality is not observed by this method of examination, record "negative" after *(c)*.

(OVER)

SECTION 2

Remarks of the Internist, Surgeon or Specialist in Tuberculosis. (State whether in your opinion the lesion present antedated enlistment.) Montreal, October 1st, 1943.

He complains of only an occasional cough.

He is tall, moderately well nourished, color good.

The chest shows slight increase in the antero-posterior diameter.
Moderate expansion.
No areas of dullness.
Breath sounds throughout are vesicular.
There are no rales to be heard in chest today.

TO RETURN IN A MONTH FOR CLINICAL EXAMINATION & X'RAY.

C.A. PETERS, M.D.
/JD

November 24th, 1943.

This man states that he always has a cough.

He is tall, thin and pale.

The chest is of thin flat type, moderate expansion.
No areas of dullness.
Breath sounds throughout are vesicular.
There are no rales to be heard in chest today.

UNFIT

SECTION 3

Opinion of Consultant Physician and Radiologist as may be indicated by Section 2.

I THINK HE SHOULD SEE DR. HUTCHISON:

C.A. PETERS, M.D.
/JD

26-11-43

Conclusion

X'Ray today shows " Stereo views of the chest today show complete clearing of infiltration at the left base since 29-9-43.
The lungs at this time are considered to be free of disease ".
(SGD) J.C. LAMENTER. M.D.

Clinical examination today is also negative.

Please note Dr.Hutchison's report of 24-11-43(attached).

Place.....

C.A. PETERS, M.D.
/JD

Date.....

Sig.....Sig.....

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé.- Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par mon officier défenseur.

L'OFFICIER DEFENSEUR S'ADRESSE A LA COUR AU NOM DE L'ACCUSE

M. le Président,

Je voudrais souligner le fait que la Cour a pris connaissance d'un document produit par l'accusé au sujet de sa maladie et que lors de son absence sans permission il s'est fait soigner par le docteur Thibault de Verdun. Je demanderais la clémence de la cour pour l'accusé.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

"F"

J.A.G. & Cabeen major
President SCM

HEADQUARTERS MILITARY DISTRICT NO 5

DAILY ORDERS PART II

No. 27

BY

BRIGADIER Edmond BLAIS, C.B.E., M.C.

Place Quebec, P.Q.

Commanding

MILITARY DISTRICT NO 5

Date 12 Mar 45

(Last Order Issued No. 26 of 9 Mar 45

HOME WAR ESTABLISHMENT

"B" OTHER RANKS

RECEIVED
SEP 22 1945
CENTRAL REGISTRY
NO. 5 DISTRICT DEPOT

9. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0800 hrs. 18 Feb 45. Still absent
0800 hrs. 11 Mar 45. (22nd day)

D-650743 Pte. BELLEMARRE, J.L.

(Signature Illegible) Major
for (E.J. GIGNAC) Lt-Colonel
A.A. & Q.M.G. MD NO 5

CERTIFIED TRUE EXTRACT
SIGNED
Officer having custody of Regimental PART II ORDERS kept by the Officer i/c. Records N.D.H.Q.
DATE SEP 19 1945

Prepared by: JCH
and
Checked by:

J. C. G. Duclos maj
Provost SCM

"G" 17

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, R.W. Pouliotte (Number) Major (Rank) O.C. Composite Provost Coys M.D.4 (Name) (Unit),

hereby certify that D-650743 (Number) Pte (Rank) BELLEMARRE Jean Louis (Name in full)

of the Camp Commandant DHQ MD N 5 La Citadelle Que. (Unit and attachment, if any)

Strike out words not applicable } ~~XXXXXXXXXXXXXX~~ (surrendered to) D-77623 (Number) L/cpl (Rank)

MELANCON .G. (Name) Composite Provost Coys M.D.4 (Unit or appointment)

at Montreal Que (Place) at 1525 (Hour)

on the 11th day of SEPTEMBER 1945

Strike out words not applicable } as ~~XXXXXXXXXX~~ (absentee without leave), and that at the time of his surrendered ~~XXXX~~ he was wearing military (~~XXXX~~) uniform (~~XXXXXXXXXXXXXX~~)

Dated at Montreal Que this 12th day of September 1945

(R.W. Pouliotte) Major
(Signature, Number, Rank, Unit or appointment)
O.C. Composite Provost Coys M.D.4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (3730)
H.Q. 1772-39-1936

An R recruit called under NRMA

J. C. G. Nielsen maj
President

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-650743,	Private	Jean-Louis Bellemare,	H. Q. M. D., No. 5 C. A., attached to No. 4 District Depot, C. A.

1. The following is a fair and true summary of the entries in the Field ~~Service and General Regimental and Squadron~~ Battery ~~Conduct Sheets or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	~~times~~	Refusing to obey an order--1 ~~times~~
For	Conduct to the prejudice--1 ~~times~~	conduct to the Prejudice 1 time ~~times~~
For	~~times~~	~~times~~
For	~~times~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~by~~ ~~Previous convictions of the accused by a court martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule~~ ~~Air Force Act~~ ~~A.F.A. 73~~ ~~annexed to this statement~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence~~ ~~by~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement ~~awaiting trial on the present charges~~, for nil days in civil custody, and 30 days in military custody, making a total of 30 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~enrolment~~ ~~attestation paper~~ is 21 years 4 months (26th of May 1924)

6. The date of his ~~commission~~ ~~enrolment~~ ~~attestation~~ specified in his ~~record of service is~~ ~~enrolment~~ ~~attestation paper~~ 23rd of November 1943.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration ~~or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ ~~Air Force~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps) the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— .....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Air Force Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11th Oct. 1945 day of

L. R. Hamelin, Lieut.
Attached to No. 4 D.D.
Ass't Officer i/c Records
No. 4 District Depot, C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked..... signed by the prisoner, and annexed to the proceedings.

J.C.G. Dickson maj
Pres

Reg. No. D-650743 Name Jean Louis BELLEMARE Corps H. Q. M. D., No. 5, C. A. Date of enlistment or enrolment 23rd of November 1943. Date of Birth 26th of May 1[illegible]

Signature O.C. Company, etc. Gauthier, Lieut.

Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Sorel, Quebec, 11th of February 1944----------.....? Captain.									
Quebec	15-6-44			A. A. Sec. 9: Refusing to obey an order given by his superior officer.	Sgt. Reason L/Cpl Robin L/Cpl Paquet A.	8 hours of extra drill	15-6-44	Capt. IEVERS	
Quebec	26-1-45			Broke a folding chair by raising chair and smashing same on floor	Sgt Tweeddell L/Cpl Robitaille	Admonished	27-1-45	Major Cote	$2.19 to make good the cost of damage.

(P.T.O.)

M.F.M. 6—500M—8.44 (5386)
H.Q. 1772-30-1052

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Certified True Copy, L. F. Hamelin, Lieutenant, C. I. C., C. A., attached to No. 4 District Depot, C. A., Ass't Officer i/c Records, No. 4 District Depot, C. A.					

H.Q.C.55-B-2076 (JAG/D-4)
Your M. 1-B-18761 (J)

22 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 650743 Pte. Jean Louis Bellemare,
HQ.M.D.#5, C.A.,att. No. 4 District
Depot, C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

3. It is noted that the accused spent 30 days in custody awaiting trial. May an explanation of this delay be furnished,please.

Bellard
(R.J. Ordal) Brigadier
Judge Advocate-General.

JOGR/MM

SM-7-45(M-186)

THIS COPY FOR

H.Q.C. 55-B-2076
M.D.M. 1-B-18761

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-650743 Name Jean Louis BELLEMARE

Rank Pte. Unit 116 No. 5 M.D. C.A. Att No. 4 D.D. C.A.

Charge AA 15 (1) AWL

Date of Crime 18-2-45

Date of Arrest 11-9-45 Charge Signed 9-10-45

Orders for D.C.M.

Place and Date of Trial No. 4 D.D. C.A. 11-10-45

Sentence Detention 160 days.

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40484

Date 19-10-45

MEMO

M.D. 4
Absent
7 mos

No. 5 M.D. Att No. 4 D.D. C.A.
Sentence
Det. 160 days.

10M-3-45(M-183)

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. M. 1-B-18761 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que.,
17 Oct 45

CONFIDENTIAL

C.55-B-2076

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

STANDING COURT-MARTIAL
D-650743 Pte. J.L. BELLEMARE,
H.Q., M.D. No. 5, C.A. att'd.
to No. 4 Dist. Depot, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report dated 11 Oct 45.

2. Submitted for your information, consideration and approval, please.

J.A.G. Dubeau

(J.A.G. DUBEAU) Major
Headquarters, Military District No. 4
President, Standing Court-Martial

Encl.

NAT. DEF. R. 445
2000M-4-44 (4321)
H.Q. 1772-34-767

H.Q.C. 55-B-2077

CONFIDENTIAL

H.F.B. 2078
25M—7-45 (8095)
H.Q. 261-1-38

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BERGERON, PAUL BERNARD D-605887 PTE.

CONFIDENTIAL
H.Q.C. 55-B-2077

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					If purpose for which referred cannot be expressed on one line, add minute to file and enter here with Minute No.		
					JAG NEW FILE		CR 18-10-45
OCT 23 1945							
	29/10/45				With Papers C.R. OCT 29 1945		
NOV 20 1945					PER B.F. NOV 21 1945		
NOV 24 1945	23/11/45				With Papers C.R. NOV 22 1945		
	8 Jan 46				With Papers C.R. DEC 18 1945		
DEC 13 1945	20 Dec 45				to note pls		19 Dec 45
DEC 29 1945	26/12/45				For Requisition C.R. DEC 22 1945		
JAN 14 1946	14 Jan 46				PER B.F. JAN 18 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to see same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All correspondence should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-2077.
(JAG/D-6)

OTTAWA, 27 December, 5

District Officer Commanding
Military District No 4
MONTREAL, Que

D-605887, Pte BERGERON, Paul

Receipt is acknowledged of your M. 1-B-6501 dated 17 Dec 45, under cover of which you forwarded to this headquarters for custody MFM 288 in respect of the m/n soldier.

(R J Orde) Brigadier
Judge Advocate General

/jm

DEPARTMENT OF NATIONAL DEFENCE
/ ARMY /

Montreal, Que.,
19th December, 1945.

CENTRAL REGISTRY, ARMY
16444
DEC 20 1945
Referred to

The Secretary,
Department of National Defence,
Ottawa, Ontario.

FORMS FOR REMISSION

Attached hereto, Forms for Remission with respect to the undermentioned soldiers:

NDHQ FILE NOS	MD FILE NOS A(DIS)	REGT'L NOS	RANK	NAME
HQC 55-A-455	M.1-A- 1955	D-163125	PTE	AUBIN, J.A.G.R.
HQC 55-B-2155	M.1-B-18419	D-605070	PTE	BARELL, A.
HQC 55-B-2127	M.1-B- 9132	D-636044	PTE	BEAUVAIS, E.
HQC 55-B-2202	M.1-B-18235	D-651518	PTE	BELISLE, J.
HQC 55-B-759	M.1-B- 7765	D-449094	PTE	BERGERON, M.R.
HQC 55-B-2077	M.1-B-6501	D-605887	PTE	BERGERON, P.
HQC 55-B-1969	M.1-B-14577	D-648022	PTE	BIGRAS, E.
HQC 55-B-2102	M.1-B-18247	D-654963	PTE	BOISVERT, M.
HQC 55-C-1556	M.1-C-17070	D-653352	PTE	CARDINAL, P.E.
	M.1-C-14140	D-657573	PTE	CHAMPAGNE, J.
HQC 55-C-1481	M.1-C-11678	D-488824	PTE	CLERMONT, J.J.
	M.1-C-12992	D-139348	PTE	CLERMONT, L.
HQC 55-C-1555	M.1-C-11630	D-648846	PTE	COUTU, J.
	M.1-D- 1183	D- 63094	PTE	DAVIS, H.J.
	M.1-D-16771	D-628113	PTE	DESHARNAIS, B.
	M.1-F- 4703	D-625794	PTE	FAVREAU, J.
	M.1-G-10860	D-652160	PTE	GIGUERE, N.
HQC 55-G-1196	M.1-G- 8841	D-156714	PTE	GINGRAS, J.B.
	M.1-H-4515	D-456243	PTE	HEBERT, L.
HQC 55-H-984	M.1-H-5100	D-648658	PTE	HUOT, P.
HQC 55-L-1534	M.1-L-5142	D-135547	PTE	LAMY, R.
HQC 55-L-1572	M.1-L-13060	D-647782	PTE	LECLERC, H.P.
HQC 55-L-1635	M.1-L-16250	D-654036	PTE	LEGROS, P.A.
HQC 55-L-1625	M.1-L-17199	D-656047	PTE	LEMIRE, K.
HQC 55-M-2011	M.1-M-6976	D-127222	PTE	MEUNIER, L.
HQC 55-R-947	M.1-R-4060	D-647460	PTE	ROY, B.
HQC 55-S-1679	M.1-S-9230	D-156395	PTE	SANCOUCY, M.
HQC 55-S-1689	M.1-S-7524	D-647240	PTE	SEVIGNY, L.
HQC 55-S-1709	M.1-S-5344	D-638928	PTE	ST. DENIS, R.
HQC 55-S-1708	M.1-S-8299	D-649721	PTE	STEPANOVITCH, M.
HQC 55-T-734	M.1-T-5883	D-146496	PTE	TARDIF, S.
HQC 55-T-702	M.1-T-3163	D-639674	PTE	THEBERGE, C.A.
HQC 55-T-737	M.1-T-6093	D-650669	PTE	THEORET, R.
	M.1-V-2628	D-652815	PTE	VALLEE, Y.

(E.J. RENAUD) Major-General,
District Officer Commanding,
Military District No. 4.

ENCL.

FORM FOR REMISSION, COMMUTATION OR MITIGATION OF SENTENCE

BY COURT-MARTIAL

N.D.H.Q. File No. HQC 5 5- 8-2077
District File No. M.1- 8.6501

PART I

No. D-605887 Rank Pte. Name BERGERON, B.
Unit No. 4 District Depot

PART II

Date of Trial 10th October 1945
Charge (s) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE
Sentence Six (6) months detention
Date of sentence 10th October 1945
Confirmation -- (a) Authority: Dec. 4
(b) Date : 10 Oct. 45

PART III

REMISSION

I, the undersigned, being the competent military authority under Section 57 (2) of the Army Act, do hereby remit the balance of the term of detention

17th., Dec. 45.

Signed at Montreal this 17th Dec. day of 1945

(Appointment) (E.J. RENAUD) MajorGeneral.
D.O.C. M.D. 4.

To be signed by the Remitting Authority personally.

PART IV
PROMULGATION

Remission (~~xxxxxxxxxxxxxxxxxxxxxx~~)N promulgated and extracts taken at C.I.T.C. A-12 CA this 18th day of December 1945.

(1)

(J.R.A. Cloutier) Lt.
Officer i/c Documents.

(1) Unit, attachment and appointment to be stated.

PART V

CERTIFIED TRUE EXTRACT OF DAILY ORDERS PART II

No. D-605887 Rank Pte. Name BERGERON, P.B.
The sentence of Six (6) Months detention awarded by District Court Martial on the 10th October 1945 has been Remitted on the 17th December 1945 by R.K. Puttee, Capt
UNIT C.I.T.C. A-12 C.A.
Adjt
Certified true Extract of Daily Orders Part II of
No. 305 Place Farnham, Que. Date 17th Dec. 45

Adjutant (R.K. Puttee) Capt. Adjt.

N Strike out and initial words not applicable.

DEPARTMENT OF NATIONAL DEFENCE

A R M Y

File.M-1-B-6501
MONTREAL QUE

CENTRAL REGISTRY Army
DEC 18 1945
File 55-B.2077
Chgd. to
Reference admin

Secretary,
Department National Defence,
OTTAWA, Ontario.

15948

REVIEW OF SENTENCES CM CARO 5913.

D-605887 BERGERON, Paul.

Reference HQC 9039-1, Adm 3 (b), 3, dated 8 Sep 45, pertaining to th m/n soldier.

2. Attached hereto NPM 288 duly completed in respect to the m/n soldier, submitted to NDHQ, in accordance with instructions contained in Para 4 of the above mentioned letter.

(R.J. Renaud) Major-General,
DOC MD No. 4.

Encl.

REVIEW OF SENTENCES AWARDED BY COURTS-MARTIAL

PART I

Case of D-605887 (Number) Pte. Paul Bernard BERGERON (Rank) (Name in full)

General List, NRMA No.4, Clearing Depot, att'd A-12 C.I.T.C.Farnham, (Unit) (Attachment (if any))

Sentenced to Six(6)Months detention & stopp.of pay of $5.75

on 10th October 1945. at C.I.T.C. A-12, C.A.

being served at A12 Guard Room pending Medical Result (Name of Military Detention Barracks or Civil Prison)

Age on, and date of, enlistment 20 years 10 months 28 Oct.1941

Medical grade or category 20-4r111111

FIRST TRIAL—PART II

To ADJUTANT GENERAL NDHQ (Superior Military Authority)

For details of offences see Part VII.

I have directed that the above-named be (~~not~~) committed to undergo his sentence, which I recommend should (~~not~~) be (~~suspended~~) (put into execution) (reviewed on ..... date) for reasons given in paragraph X.

Place MONTREAL QUE.

Date 11 Nov 45

(E.J.RENAUD) Major General (Confirming Authority)
DOC MD 4

PART III

For C.O.'s remarks, see Part IX.

I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (be suspended) (be put into execution) (and) be reviewed on .....

Place .....

Date .....

Superior Military Authority

(For action on review, see Part VI)

SECOND TRIAL—PART IV

To ..... (Superior Military Authority)

For details of offence, see para. VIII. For C.O.'s remarks, see para. XII.

This man was again convicted on ..... and sentenced to ....., and I have directed that he shall (not) be committed to undergo his sentence, which I recommend should (not) be (suspended) (put into execution) and run (concurrently) (consecutively) with the previous sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority

M.F.M. 288
(Army Form A-3104)
15M—6-43 (441)
H.Q. 1772-30-2015

Part V

I direct that the sentence (which I hereby commute to.....)

(of which I remit.....) (be suspended) (be put into execution)

and that it run (concurrently) (consecutively) with the previous sentence of.....

.....(and) be reviewed on.....

Place.....

.....
Superior Military Authority

Date.....

Part VI

ACTION ON REVIEW

All recommendations, etc., considered upon review, should be posted here.

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks
26 Nov 45	No suspension No remission BT at 1/2 sent 10 Jan 46	D. Bretton capt for D.O.C. M.D.	
14 Dec. 45.	Sentence remitted wef 17 Dec. 45	(E.J. RENAUD), Major-General, D.O.C. M.D.	

Part VII—First Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial
WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE. from 2359 hrs. 4 Jan.42 till 0200 hrs. 16-Sep 45. A.A.Sec.12(1)(a)	4-1-42	16-9-45.

Signature of Officer making entry

Part VIII—Second Trial

Charge or Charges giving Particulars	Date of Offence	Date of Trial

Signature of Officer making entry

Part IX

C.O.'s REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
6 Nov.45	To undergo detention as awarded, as soon as he is found FIT to under go his detention.	

Part X

CONFIRMING OFFICER'S REMARKS AND RECOMMENDATIONS ON FIRST TRIAL

Date	—	Signature
11 Nov 45	Sentence is considered fair and reasonable 1st review 25 Nov 45.	(E.J.Renaud) Major General DOC MD 4

Part XI

SPACE FOR FURTHER REVIEW

Date	Directions	Signature and appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of Governor of Civil Prison or O.C. Military Detention Barracks

HQC 55-B-2077 (JAG/D-6)

23 November, 1945

District Officer Commanding
Military District No 4
MONTREAL, PQ

Standing
General Court-Martial.
D-805887, Pte Paul Bernard BERGERON
attached A-12 CITC, CA

M.1-B-8501 (J)

20th November, 5

Receipt is acknowledged of your Standing
dated 194 , under cover of which you
returned to this office for custody the proceedings
of the marginally noted Court-Martial.

EKM

/jm

(R J Orde) Brigadier

Judge Advocate-General.

BM-5-45(M-96)

IN REPLY PLEASE QUOTE No. M. 1-B-6501 (J)

2-9

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, P.Q.,
November 20th, 1945.

REGISTERED

The Secretary
Department of National Defence
O T T A W A, Ontario.

DEPUTY JAG
10547
NOV 21 1945
File CJS-B-2077
Chgd. to
Referred to JAG

STANDING COURT MARTIAL
D-605887, Pte. Paul Bernard BERGERON,
General List, C.A., attached to
C. I. T. C. A 12, C.A.

Reference your H.Q.C. 55-D-2077 (JAG/D-4), dated 22nd October, 1945.

2. The proceedings of the marginally-noted Standing Court-Martial are returned, herewith, for custody, as requested in paragraph 2 of your above-mentioned letter.

Justin Renaud Capt

(E.J. Renaud), Major-General,
District Officer Commanding,
Military District No. 4.

enc.

NAT. DEF. 8-Ad.
250M-4-44-(32)
H.Q. 1772-29-262

MEDICAL OFFICER'S REPORT

I certify that No. D-605887 Pte. Bergeron P.B.

of Att. A-12 C.I.T.C. is in a GOOD state of health,

and FIT to undergo Trial by Court martial.

H.E. Castle Capt
Medical Officer
(H.E. CASTLE) CAPT. R CAM C
CMO

Station FARNHAM, QUE.

Date 10-10-45.

M. F. B. 246
50M—12-43 (3222)
H.Q. 1773-39-480

A

Formule de procès verbal de cour martiale permanente

Procès verbal d'une cour martiale permanente tenue à C.I.T.C. A-12, C.A., Farnham, Qué.

le 10e jour de octobre, 1945 à 1515 heures,

pour le procès de D-605887 Pte. Paul Bernard BERGERON,
Matricule Grade Nom et prénoms

General List, N.R.M.A. No. 4 Clearing Depot, attaché à CITC A-12, CA.
Unité Détachement, le cas échéant

PRÉSIDENT: Major L.J.E. BELLEAU, Quartiers-Généraux, District Militaire 4

PROCUREUR: Capitaine H. PRIMEAU,
Grade Nom et prénoms

Quartiers-Généraux, District Militaire 4
Unité Détachement, le cas échéant

~~CONSEIL DÉFENSEUR~~ OU AVOCAT Me Germain Bock, Membre du Barreau
Grade Nom et prénoms

Unité Détachement, le cas échéant

VERDICT: La Cour déclare l'accusé, D-605887, Pte. Paul Bernard BERGERON, General List, N.R.M.A., No. 4 Clearing Depot, attaché à C.I.T.C. A-12, CA, coupable à l'égard du chef d'accusation.

SENTENCE: La Cour condamne l'accusé, D-605887, Pte. Paul Bernard BERGERON, General List, N.R.M.A., No. 4 Clearing Depot, attaché à C.I.T.C. A-12, C.A., à la détention pendant six (6) mois, et jusqu'à ce qu'il ait remboursé la somme de $5.75, coût du transport et retour à son unité.

Signé à Farnham, Qué. ce 10e jour de octobre, 1945.

H.E. Belleau
(L.J.E. BELLEAU) Major Président de la cour martiale permanente.

M.F.B. 1486A
10M-1-45 (6449)
H.Q. 1772-39-2296
K.P. 26109

Extracts entered as No. 40485 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 19 day of Oct 1945

B

Question à l'accusé.

Vous opposez-vous à être jugé par moi, en qualité de président de la cour ?

Réponse: Non, monsieur.

(N.B. L'objection, le cas échéant, doit être consignée, avec la décision de la cour, sur une feuille séparée, marquée "B B" et attachée immédiatement sous la page B.)

Question à l'accusé.

~~Vous opposez-vous à comme interprète ?~~

Réponse: ~~Non.~~

Question à l'accusé.

Vous opposez-vous à D-136118 CSM (WO II) DeKONINCK,P., CMSC, CA. comme sténographe ?

Réponse: Non, monsieur.

Le sténographe ~~et l'interprète (le cas échéant)~~ ~~sont~~ est dûment assermentés.

Question au procureur.

L'accusé a-t-il opté pour un procès devant une cour martiale permanente ou une autre cour martiale ?

Réponse: Non, monsieur.

L'accusé est mis en accusation sur ~~chacun des~~ chefs mentionnés dans l'acte d'accusation marqué B-2 et versé au dossier après avoir été signé par le président.

Question à l'accusé.

Sont-ce là votre matricule, votre grade, votre nom et votre unité ?

Réponse: Oui, monsieur.

Question à l'accusé.

Etes-vous coupable ou non du ~~(premier)~~ chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse: Non coupable, monsieur.

Question à l'accusé.

~~Etes-vous coupable ou non du deuxième chef d'accusation porté contre~~ vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé.

Etes-vous coupable ou non du troisième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

Question à l'accusé.

Etes-vous coupable ou non du quatrième chef d'accusation porté contre vous et dont vous venez d'entendre lecture ?

Réponse:

(L'accusé s'étant avoué coupable sur le ..... chef d'accusation, les prescriptions de la Règle de procédure 35 (B) sont observées.

J.E. Bellman Major, Pres. C.M.

B2

CHARGE SHEET

The accused D-605887 Private Paul Bernard BERGERON, General List, N.R.M.A. No.4, Clearing Depot, attached to C.I.T.C. A-12, C.A., a N.R.M.A. soldier of the Canadian Army placed on Active Service is charged with:

Charge
Sec.12(1)(a)
Army Act.

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

in that he

At C.I.T.C. A-12, C.A. Farnham, Que., absented himself without leave from C.I.T.C. A-12, C.A., from 2359 hours on 4th January 1942, until apprehended by the Military Authorities at St.Ignace de Loyala, Que., at 0200 hours on 16th September 1945, dressed in civilian clothes. Cost of transportation and return to Unit $5.75

Dated at
Farnham, Que.
27th Sep.1945.

(M. Archambault) Lieut-Colonel
A/Commanding Officer
C.I.T.C. A-12, C.A.

C

Procédure sur une dénégation de culpabilité

Question à l'accusé.

Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense ?

Réponse: Non, monsieur.

(Si l'accusé demande un ajournement, voir les instructions à la page 747 du M.D.M.)

Le procureur procède à l'appel des témoins.

Premier témoin à charge.

étant dûment assermenté, est interrogé par le procureur.

Question.

PAR LE PROCUREUR

En vertu de l'ordre en conseil 8563, je produis, à l'appui de l'offense, les documents suivants, dans le cas de l'accusé, D-605887, Pte. P.B. Bergeron:

Un extrait dûment certifié des ordres partie II de A-12 CTTC, CA, Farnham, Qué., daté le 6 janvier, 1942.

Un MFB 375, Record de déclaration d'une Cour d'enquête tenue à Farnham, Qué, le 31 janvier, 1942.

Un MFM 216, certificat d'arrestation par les autorités militaire, daté le 17 septembre, 1945.

Un MFB 1481, Certificat des dépenses encourues pour le retour à l'unité, daté le 17 septembre, 1945.

Un MFB 1481, Certificat des dépenses encourues pour le retour à l'unité, daté le 18 septembre, 1945.

Les documents précités sont lus, marqués pièces "F", "G", "H", "I" et "J" respectivement, signés par le Président et versés au dossier.

Le procureur n'a plus de témoins à appeler.
La poursuite est close.

Motion de non-lieu

Il est loisible à l'accusé, à son avocat ou à l'officier défenseur, après l'audition de la preuve de la poursuite, d'alléguer que celle-ci n'a pas réussi à établir une présomption légale contre l'accusé et que ce dernier ne devrait pas, par conséquent, être contraint de présenter sa défense. Dans le cas d'une telle motion, le procès verbal sera consigné sur des feuilles séparées qui seront insérées immédiatement avant la présente page D. Si la cour estime que cette allégation est bien fondée, elle doit acquitter l'accusé et consigner son verdict à la page A.

Défense

Le président s'adresse à l'accusé en ces termes:

"Il est de mon devoir en cette circonstance de vous aviser de vos droits touchant la conduite générale de votre défense. La procédure à suivre dépend entièrement des réponses que vous ferez aux questions de forme que nous allons vous poser. Il importe donc que vous compreniez et saisissiez l'effet de vos réponses. Vous n'aurez pas à témoigner sous serment à moins que vous ne le vouliez. Mais, si vous faites des dépositions assermentées, vous serez sujet à l'interrogatoire contradictoire par les soins du procureur et à l'interrogatoire par les soins de la cour."

"Si vous ne faites pas de déposition sous serment, vous avez le droit de faire une déclaration où vous donnerez votre version de l'affaire. Vous ne serez pas assermenté et vous ne serez pas interrogé sur ce que vous dites, par la cour ou par quelque autre personne. Je dois cependant vous prévenir qu'une déposition faite sous serment aura plus de poids aux yeux de la cour qu'une simple déclaration non assermentée."

S'il n'y a pas d'officier défenseur, le président explique alors à l'accusé l'effet que ses réponses aux questions de forme de la page D du procès verbal auront sur l'ordre des dernières plaidoiries, prévu dans les Règles de procédure 40 et 41.

Question à l'accusé. Désirez-vous comparaître, vous-même, comme témoin, ou bien désirez-vous faire une déclaration non assermentée.

Réponse: Je désire comparaître moi-même comme témoin.

(Voir page D-3, et seq)

Question à l'accusé. Avez-vous l'intention de citer des témoins pour votre défense ?

Réponse: Non, monsieur.

Question à l'accusé. Est-ce uniquement un témoin à l'appui de votre réputation ?

Réponse:

TEMOIN POUR LA DEFENSE

L'accusé, D-605887, Pte. P.B. BERGERON, General List, NRMA No. 4 Clearing Depot, attaché à CITC A-12, CA., étant dûment assermenté est interrogé par son avocat:

Q. Bergeron, où demeurez-vous?

R. A l'Ile St-Ignace.

Q. Quelle était votre occupation?

R. Cultivateur, monsieur.

Q. Quand avez-vous été appelé pour faire votre service?

R. Au mois d'août, 1941.

Q. Combien de temps avez-vous été dans le service?

R. Quatre mois.

Q. Est-ce que durant ces quatre mois que vous avez été en service il vous est arrivé d'avoir une passe pour aller chez-vous?

R. Oui, monsieur.

Q. Qui alliez-vous visiter chez-vous?

R. Ma mère.

Q. Est-ce que votre père vit encore?

R. Non, monsieur.

Q. Depuis combien de temps est-il mort?

R. 17 ans, monsieur.

Q. Votre mère est vivante?

R. Oui, monsieur.

Q. Est-ce que votre mère ... que fait-elle?

R. Elle est sur une terre.

Q. Quand vous vous êtes désigné comme "cultivateur", voulez-vous dire que vous travaillez pour votre mère ou à votre compte personnel?

R. Pour ma mère.

Q. Etiez-vous en charge de la ferme quand vous avez été appelé?

R. Oui, monsieur.

Q. En charge de la ferme?

R. Oui, monsieur.

Q. Il vous est arrivé, par conséquent, depuis le jour de votre appel, lorsque vous étiez en service militaire, d'aller visiter votre mère?

R. Oui, monsieur.

TEMOIN POUR LA DEFENSE (Suite)

Q. Qu'avez-vous constaté lors de votre visite chez votre mère?

R. Ma mère était seule pour prendre soin de la terre. Elle pleurait. Elle était seule et voulait que je reste pour cultiver la terre qui s'en allait en désordre.

Q. Vous dites que vous avez des frères; voulez-vous nous les nommer?

R. Le plus vieux, Gérard, travaille sur la navigation; il ne travaille pas sur la terre.

Q. Quel âge a-t-il?

R. 29 à 30 ans.

Q. Le deuxième?

R. C'est moi.

Q. Par conséquent, vous êtes le plus vieux qui reste à la maison?

R. Oui, monsieur.

Q. Quel est le troisième?

R. Aurèle.

Q. Que fait-il?

R. Il a 22 ans. Il n'est pas capable de travailler, il est malade.

Q. Voulez-vous prendre connaissance d'un certificat médical et nous dire s'il est bien au sujet de votre frère?

R. Oui, monsieur. (Le témoin examine le certificat). C'est bien au sujet de mon frère Aurèle.

Q. Voulez-vous le produire à la Cour?

R. Oui, monsieur. (Le témoin produite le certificat à la Cour).

Un certificat signé par le Dr. Wilfrid Gendron, M.D., au sujet de Jean Aurèle Bergeron, daté le 6 oct 1945, est lu, marqué pièce "K", signé par le président et versé au dossier.

Q. Par conséquent, votre frère Aurèle ne travaille pas?

R. Non, monsieur.

Q. A-t-il déjà travaillé à de gros travaux de ferme?

R. Oui, il a travaillé chez-nous et s'est ouvert l'estomac et il n'est plus capable de travailler.

Q. Qui est le dernier?

R. Fernand, il a 18 ans.

Q. Que fait-il?

R. Il se trouve des places d'un bord et de l'autre.

Q. Travaille-t-il sur la ferme?

R. Non, monsieur.

Q. Pourquoi?

R. Parce qu'il n'aime pas la terre; ça ne paye pas assez.

Q. Combien de temps avez-vous été dans l'armée?

R. Quatre mois.

TEMOIN POUR LA DEFENSE (Suite)

Q. Qu'est-il arrivé au bout de quatre mois?

R. J'ai eu une passe pour aller chez-nous.

Q. Quand ça?

R. En janvier 1942.

Q. Qu'est-il arrivé?

R. Ma mère était seule; elle pleurait et faisait des crises. Elle m'a prié de rester à la maison.

Q. Vous avez-eu une passe, et sur les plaintes de votre mère vous n'êtespas revenu.

Q. Etes-vous revenu depuis Janvier, 1942?

R. Non, monsieur.

Q. Qu'avez-vous fait?

R. J'ai travaillé sur la terre. En hiver je travaillais chez M. Piché.

Q. Que fait-il?

R. Un marchand de bois.

Q. Que faisiez-vous de l'argent?

R. Je la donnais à ma mère.

Q. En avait-elle de besoin?

R. Oui, monsieur.

Q. En janvier 1942, pourquoi n'êtes-vous pas revenu et pourquoi n'avez-vous pas fait une demande de congé de cultivateur?

R. Le gouvernement n'en donnait pas dans ce temps là.

Q. Vous dites que depuis janvier 1942 jusqu'à date de votre appréhension vous avez toujours travaillé pour votre mère et en temps non saisonable vous avez travaillé chez un marchand de bois?

R. Oui, monsieur.

Q. Est-ce que votre mère est riche?

R. Non, elle n'a pas d'argent.

Q. Quand vous n'y étiez pas, qui voyait aux travaux de la ferme?

R. Ma mère est obligée de payer un homme et elle n'a pas assez d'argent et ça ne marche pas beaucoup, ça.

Q. Est-ce que vous seriez retourné en janvier 1942 s'il y avait eu quelqu'un qui vous aurait conseillé de retourner ... quelqu'un bien au courant des règlements militaires?

R. Oui, monsieur.

Q. Est-ce que quelqu'un vous a déjà conseillé?

R. Des civils aux alentours m'ont dit de laisser faire et travailler sur la terre pour faire vivre ma mère.

TEMOIN POUR LA DEFENSE (Suite)

Q. En janvier 1942, lorsque vous étiez en psse, est-ce que vous personnellement aviez l'intention de ne jamais revenir?

R. J'avais l'idée de revenir après les travaux.

Q. Pourquoi n'êtes-vous pas revenu?

R. J'avais vu quelqu'un pour obtenir des conseils et ils m'ont dit de ne pas le faire. Si j'avais eu les conseils d'un militaire qui connaissait ça, je serais revenu.

Q. Vous avez rencontré des gens à qui vous avez demandé conseil?

R. Oui, monsieur.

Q. Et ils vous ont dit d'attendre?

R. Oui, monsieur.

CONTRE INTERROGE PAR LE PROCUREUR

Q. Au cours de décembre, 1941, à quelle unité étiez-vous stationné?

R. Ici à Farnham.

Q. Est-ce de Farnham que vous avez obtenu votre passe?

R. Oui, monsieur.

Q. A quelle date se terminait votre passe?

R. Le 4 janvier.

Q. Etiez-vous au camp le 4 janvier?

R. Non, monsieur.

Q. A quelle date avez-vous été arrêté?

R. Le 16 septembre au matin.

Q. Par qui?

R. Par quatre Provosts.

Q. A quelle heure?

R. A deux heures.

Q. Etiez-vous couché?

R. Non, monsieur.

Q. Comment étiez-vous vêtu?

R. J'étais en civil.

Q. A quelle place?

R. A St-Ignace.

Q. Etiez-vous chez votre mère?

R. Oui, monsieur.

Q. Au cours de votre absence, où avez-vous demeuré?

R. Chez-nous. De temps en temps je logeais dans le bois.

TEMOIN POUR LA DEFENSE (Suite)

Q. Pourquoi à certains temps logiez-vous dans le bois.

R. Par escousses ... ça dépendait quand on allait bûcher.

Q. A quelle saison?

R. En hiver.

Q. En été?

R. Chez-nous sur la terre.

Q. Si vous auriez rencontré un militaire qui vous aurait conseillé, vous vous seriez rapporté dans ce cas là?

R. Oui, monsieur.

Q. En avez-vous cherché des militaires?

R. J'en ai pas vu.

Q. A qui avez-vous demandé conseil?

R. A des civils?

R. Ils étaient d'avis que vous ne deviez pas vous rapporter?

R. Oui, monsieur.

Q. Vous trouviez que ça avait du bon sens?

R. Oui, monsieur.

Q. A quelle date votre mère avait-elle cessé d'avoir besoin de vous sur la ferme?

R. L'hiver elle avait besoin de mon argent.

Q. Et en été elle avait besoin de votre travail?

R. Oui, monsieur.

Q. Est-ce que les besoins de votre mère sont toujours les mêmes?

R. Ma mère a toujours besoin de moi.

LE TEMOIN REPREND SON SIEGE

LE PROCUREUR PRONONCE UN REQUISITOIRE

M. le Président,

Malgré toute la sympathie que je puis avoir pour l'accusé, je crois qu'il a bien été porté a preuve que c'est un cas de désertion pur et simple.

En premier lieu, nous avons la longueur de l'absence, trois ans et quelques mois. Ensuite l'arrestation par les autorités militaires. Troisièmement, quand il a été arrêté, en habits civils. L'accusé l'a dit lui même qu'il ne se rapportait pas parce que sa mère avait besoin de lui et la situation de sa mère n'a pas changé. S'il aurait voulu revenir, il a eu tout le temps voulu pour le faire, mais

LE PROCUREUR PRONONCE UN REQUISITOIRE
(Suite)

il n'est pas revenu.

Alors je soumets respectueusement qu'il devrait être trouvé coupable de désertion, tel que porté.

-o-o-o-o-o-o-o-o-o-

L'AVOCAT DE L'ACCUSE PRONONCE UNE PLAIDOIRIE DE CLOTURE

M. le Président,

Je vais soulever une question de droit.

Dans tous les documents que la poursuite a bien voulu produire et qui doivent servir à motiver l'accusation telle que portée, il n'en est pas un, si j'ai bien compris, qui mentionne l'accusation de désertion. Tous, du premier au dernier, mentionnent l'absence sans permission. Le seul fait que ces documents seulement servent de preuve, et de seule preuve pour amener une condamnation de désertion, aucun d'entre eux parle de charge de désertion.

Deuxièmement, pour qu'il y ait désertion. J'attire l'attention de la cour au manuel du droit militaire, en page 19, article 17:

"Ce qui distingue la désertion de l'absence sans permission, c'est l'intention".

Nous avons bien lapreuve qu'il n'avait pas l'intention de la part de l'accusé de déserter.

Si l'on réfère à l'Army Act 12, dans les notes au deuxième paragraphe au bas de la page:

"Pour prouver qu'il y a eu désertion, il faut établir des faits qui permettent de déduire que l'accusé n'avait pas l'intentinn de reprendre son service militaire dans aucun corps, ou qu'il voulait se dérober à l'exécution d'un important service en particulier"

L'accusé a dit lui-même, et il n'est pas contredit, que si ce n'eût été des insistances de sa mère et s'il avait reçu des bons conseils de militaires, il serait revenu. Mais malheureusement, les circonstances l'ont obligé à rester hors de la loi.

On voit encore à la note au bas de la page de l'army act 12:

"Si l'accusation repose sur l'intention du militaire d'éviter un embarquement ou tout autre devoir ou service particulier, on allège ce fait dans l'acte d'accusation".

Ce qui n'a pas été fait dans le cas de l'accusé.

Je soumets qu'on a été loin de prouver qu'il y a eu désertion dans le cas de Bergeron.

L'AVOCAT DE L'ACCUSE PRONONCE UNE PLAIDOIRIE DE CLOTURE
(Suite)

Maintenant, voici que l'accusé est le second fils d'une famille de quatre enfants dont un qui ne compte pas, Aurèle, qui est encore sous les soins d'un médecin. Le plus vieux est navigateur. La navigation dure quatre saisons dans certains cas, alors il ne peut donner beaucoup d'aide sur la terre. Le plus jeune n'aime pas la ferme et ne reste pas chez-lui par conséquent il ne reste que l'accusé pour prendre soin de la ferme. Il a toujours été responsable et c'est lui qui avait la charge de la ferme, de tous ses travaux, bien avant que l'armée ne requiert ses services en 1941. Il aurait fait application pour demeurer chez-lui, mais on ne donnait pas ces congés dans ce temps là.

L'accusé est allé travailler dans le bois. Comme dans toutes les familles de cultivateurs, dailleurs, c'est la coutume l'hiver d'aller couper du bois quand les travaux de la ferme sont minimes. Plus loin, l'accusé nous dit: "Ma mère est pauvre". Ses seuls revenus sont la vente des produits de la ferme.

Je crois et je soumets respectueusement à la cour qu'on n'a pas prouvé qu'il y a eu désertion et que si même il y en avait eu, elle était motivée. Tout ce que nous pouvons l'accuser, c'est d'absence sans permission.

-o-o-o-o-o-o-o-o-

E

Procédure sur déclaration de culpabilité précédant la sentence

Quand la cour en est arrivée à une décision relativement à tous les chefs d'accusation contre l'accusé et que ladite décision a été annoncée à ce dernier, le procureur remet au président le modèle M.F.B. 355 et, si possible, un modèle M.F.M. 6.

Ces documents sont lus à la cour par le président, marqués "Y" et "Z", signés par le président et versés au dossier.

Question à l'accusé. Avez-vous quelque déclaration à faire relativement aux documents dont on vient de vous donner lecture ?

Réponse: Non, monsieur.

Question à l'accusé. Désirez-vous adresser la parole à la cour ?

Réponse: Oui, monsieur, par l'entremise de mon avocat.

L'AVOCAT DE L'ACCUSE S'ADRESSE A LA COUR

M. le Président,

Je crois qu'il a été résumé dans le témoignage de l'accusé tous les motifs de son absence en mitigation de peine. En plus, je voudrais produire à la cour une requête signée par le curé, le Secrétaire-trésorier, le maire et certains voisins de Mde. Veuve Bergeron.

Le document produit par l'avocat de l'accusé est lu, marqué pièce "L", signé par le Président et versé au dossier.

La mère de l'accusé n'est pas riche et l'accusé est encore requis à diriger les travaux de la ferme. Pendant son absence elle doit employer des hommes pour conduire ces travaux, et cette femme n'a pas les moyens de le faire.

La sentence est alors consignée à la page "A" du procès verbal et elle est annoncée à l'accusé en plein tribunal.

Le président établit alors et signe le mandat d'incarcération, le cas échéant, et celui-ci est immédiatement transmis au commandant de l'accusé. Dans chaque cas, il établit aussi et signe le certificat de procès devant une cour martiale permanente et le transmet en conformité des règlements. Le procès verbal ainsi que tous les documents seront transmis au juge-avocat général.

J.E. Sullivan Major
Pro. C.M.

F

Each issue of orders will be numbered consecutively, commencing on the 1st January each year, and each item will be given a sub-number.

UNIT A-12 C.I.T.C.
Farnham, Que.

PART II ORDERS

BY

Lieut.-Colonel A.T.HOWARD, V.D.,
Commanding A-12 Advanced Infantry (Rifle) Training Centre

N.B.—(1) All casualties affecting an officer's pay and allowances to be shown in Part II Orders.
(2) Every circumstance which affects a soldier's pay, service or documents must be published immediately after its occurrence.

No. B-4

STATION A-12 C.I.T.C.

DATE 6 Jan. 1942

"Last Order Issued No. B-3 dated 5 Jan. 42

SUB. No.	SUBJECT	REGTL. No.	RANK AND NAME	SQDN., COY., ETC.	CASUALTY & REMARKS	DATE
		(B - RESERVE ARMY PERSONNEL (N.R.M.A. 1940)				
Para 3. Sheet No 1.						
	ABSENT WITHOUT LEAVE					
		D-605887	Pte. BERGERON, P.		AWL from 2359 Hrs.- 4 Jan.42	
		Signed by (S.Lerner) Lieut.-Adjt., for Lieut.-Colonel A.T.Howard, V.D., Commanding A-12, A.I.(R) Training Centre.				

CERTIFIED TRUE EXTRACT

J.E. Major Lieut.

(J.E.Major) Lieut.
Asst. Adjt. I/C Records
A-12, C.I.T.C. Farnham, Que.

N.B.—Copies of Part II Orders when required to be issued will be sent to the District Paymaster concerned and to the Officer in charge of Records (Para. 1494, K. R. & O., 1939), who will retain them for reference.

M. F. D. 875A
7,000,000-10-42 (6780)
H.Q. 1712-39-364

Officer Commanding or Adjutant

G

J.E. Belleau, Major
Pres. Com

RECORD of the Declaration of a Court of Inquiry assembled at **Farnham, Que.**

on the **31st** day of **January** 19 **42**, for the purpose of investigating

and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition,

Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-605887 Pte BERGERON, P.B.

N.R.M.A. "R" Recruit

DECLARATION

The Court declare that No. D-605887 (Regt'l No.) Pte (Rank)

BERGERON, P.B. N.R.M.A. att'd A-12, C.I.T.C. Farnham, Que. (Full Name) (Unit)

illegally absented himself without leave From C.I.T.C. A-12.

at Farnham, Que. (Place) at 2359 hours on the 4th day of January 1942,

that he is still so absent, and that on the 27th January 1942 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Anklets web prs	1	6 77	Drawers cotton sht. prs 2@46		92
Battle dress serge blouses	1	6 18	" woollen prs 2@1.17		2 34
Battle dress serge trousers	1	6 24	Gloves win khaki prs	1	59
Bags, kit MK II	1	74	Helmets, sun	1	86
Belts, wst lthr brown	1	32	Holdalls	1	17
Blacking tins	1	4 04	Jackets khaki drill	1	3 05
Boots ankle prs	1	81	Jackets, sweater	1	1 71
Boots laces prs	1	02	Jackets pullover lthr prs	1	64
Braces prs	1	29	Mitts prs	1	89
Brushes boot blacking	1	15	Puttees prs	1	4 10
Brushes boot polishing	1	12	Shirts flannel khaki 2@2.05		1 98
Brushes button	1	15	Shirts kh. ctn s/s 2@99		1 98
Brushes cloth	1	24	" woollen 2@1.14		1 11
Brushes hair	1	24	Socks prs 3@.14		42
Brushes shaving	1	30	Towels hand 2@.21		2 64
Brushes tooth	1	08	Trsrs khaki drl sht. 2@1.32	1	26
Caps comforter	1	32	Slips. pillow		
Caps, F.S.	1	1 26			
Caps, winter melton cloth	1	17 22	TOTAL		64.23
Greatcoat drab '39 Patt	1	04			
Combs hair					

F.Halle Capt. Reg. de ST.Hyac President
(Name) (Rank) (Unit)
L.Chapdelaine Lieut. R. de St.Hya Member
(Name) (Rank) (Unit)
A.Angers Lieut. Reg. de Mais. Member
(Name) (Rank) (Unit)
Pres. & Members att'd A-12, C.I.T.C.

Signed at Farnham, Que.

this 31st day of January 19 42

Signature of Commanding Officer A.T.Howard Lt-Colonel O.C. A-12 C.I.T.C.
(Name) (Rank) (Unit)

Certified true copy J.E. Major Lieut.
(J.E.Major) Lieut. (Signature of Officer having custody of original record)
Asst. Adjt. I/C Records
A-12 C.I.T.C. Farnham, Que.

M.F.B. 375
A.F.B. 119
200M—1-44 (3376)
H.Q. 1773-49-247

R.E. Belleau Major.
Pres. Com.

CERTIFICATE in accordance with Order in Council P.C. 2797 dated April 10th, 1942, and in General Order No. 127, 1942.

(APPREHENSION BY OR SURRENDER TO SERVICE AUTHORITIES)

I, Major R.W.POULIOTTE, O.C. Composite Provost Companies,M.D.4
(Number) (Rank) (Name) (Unit)

hereby certify that D-605887 Private BERGERON, Paul B.
(Number) (Rank) (Name in full)

of the A-12 C.I.T.C. Farnham,Que.,
(Unit and attachment, if any)

Strike out words not applicable } was apprehended by ~~surrender~~ D-125364 Sergeant
(Number) (Rank)

CAMPBELL, D.W. Composite Provost Companies,M.D.4
(Name) (Unit or appointment)

at St-Ignace de Loyala,Que., at 0200
(Place) (Hour)

on the 16thh day of September 1945

Strike out words not applicable } as a ~~deserter~~ absentee without leave), and that at the time of his arrest he was ~~wearing military clothing~~ (dressed in civilian clothes).

Dated at Montreal,Que., this 17th. day of September 19 45.

MB. (R.W.POULIOTTE)Major
(Signature, Number, Rank, Unit or appointment)

O.C.Composite Provost Companies,M.D.4

NOTE—Where the soldier, on surrender or apprehension, has been taken into the custody of a unit or formation, this certificate must be signed by the officer commanding such unit or formation, and not by an officer "for" him.

Where the soldier, on surrender or apprehension has been taken into the custody of a detachment of the Canadian Provost Corps, C.A., this certificate must be signed by the officer, warrant officer, or non-commissioned officer in charge of such detachment.

M.F.M. 216
150M—2-44 (1730)
H.Q. 1772-39-1936

An "R" Recruit called under N.R.M.A.

H. Pellow Major
Ass. Cmd.

I

M.F.B. 1451
11-10-43 (2206)
H 72-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015 DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Major (Rank) R.W. Pouliotte (Name) O.C. Composite Provost Companies (Unit) M.D. 4

Strike out word not applicable — hereby certify that I (~~XXXXX~~ authorized) the hereinafter itemized transportation for escort

Complete — to proceed from Montreal, Que (Place) to St Ignace de Loyola, Que (Place)

and return to Montreal, Que (Place) for the purpose of escorting

Full description of soldier being escorted — D-605887 (Number) Pte (Rank) BERGERON P.B. (Name in full)

A-12 C.I.T.C. (Unit) Farnham, Que. (Attachment, if any)

Strike out phrase not applicable — alleged to be a ~~XXXXXXX~~ an absentee without leave, the facts, date and particulars of ~~XXX~~ ~~XXXXXXXXXXXXXXXXXX~~ (the transportation required) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
16-9-45	Montreal, Que to St Ignace de Loyola, Que and return.	
	Total mileage covered by DND Vehicle No. 86-977 was 85 miles.	
	85 miles @ 0.06 per mile.	5.10
	Total mileage incurred by a Provost Patrol to apprehend the a/m absentee.	
	TOTAL	$ 5.10

Dated at Montreal, Que this 17th day of September A.D. 19 45

(R.W. Pouliotte) Major R.W. Pouliotte Maj.

Signature, rank, unit, attachment ~~XXXX~~ and appointment of officer ~~XXXXXXXXXXXXXXXXXX~~ (authorizing transportation)

Strike out description not applicable

O.C. Composite Provost Companies M.D. 4

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.

Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the officer who authorized or issued the transportation and not by an Officer "for" him.

J

If Billeted Mapor
Pris. C.M.

M.F.B. 1481
125M-[illegible]43 (7206)
H.Q. [illegible]-39-1851

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH ORDER-IN-COUNCIL P.C. 58/4015
DATED JUNE 5TH, 1941, AS PUBLISHED IN CANADIAN ARMY
ROUTINE ORDER 1877, 1942

(TRANSPORTATION ONLY)

Fill in complete description — I, Lieut C.A. Lafrance, C.S. & T.O. A-12 C.I.T.C. Farnham, Que
(Rank) (Name) (Unit)

Strike out word not applicable — hereby certify that I (issued) (~~[illegible]~~) the hereinafter itemized transportation for escort

Complete — to proceed from Farnham, Que (Place) to Montreal, Que (Place)
and return to Farnham, Que (Place) for the purpose of escorting

Full description of soldier being escorted — D-605887 Pte BERGERON, P.B.
(Number) (Rank) (Name in full)
A-12 C.I.T.C. Farnham, Que
(Unit) (Attachment, if any)

Strike out phrase not applicable — alleged to be a deserter or an absentee without leave, the facts, date and particulars of (the transport warrants issued) (~~[illegible]~~) and the cost thereof for said soldier and escort being as follows:

DATE	PARTICULARS (No. of Warrant or Itemized Particulars of Journey)	COST
18 Sep 45	Prisoner: T.W. D-24278 Montreal, Que to Farnham, Que 39 miles at 1 2/3¢ per mile No charge for escorts. No tax.	0.65
	TOTAL	$0.65

Dated at Farnham, Que this 18th day of September A.D. 19 45

(C.A. Lafrance) Lieut C.S. & T.O. A-12 C.I.T.C. Farnham, Que.
Signature, rank, unit, attachment (if any) and appointment of officer
(issuing transport warrants) (~~[illegible]~~)
Strike out description not applicable

Certificate to be completed by officer who issued or authorized the transport warrants or transportation for the return to his corps, unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier. *Transportation only.*

Dates of warrants or transportation issued must be set out.
Cost of meals and incidental expenses must be on M.F.B. 1482.

This form must be signed by the Officer who authorizes or issues the transportation and *not* by an Officer "for" him.

"K" 37.

Le Bellan major.
S.P. 29 Pres. Ens.

TEL. 81

Dr Wilfrid Gendron m.d.

145 MONTCALM. BERTHIERVILLE.

6 octobre 1944

Je soussigné docteur Jean Jean André Bergeron souffre de distolation d'estomac et que il doit être au repos pour quelques semaines pour se rétablir

Bien à vous

W. Gendron m.d.

J. E. Bellemare Maior
Pres. C.B.M.

PAUL-BERNARD BERGERON,
St. Ignace-de-Loyola.

L3

Nous les soussignés prient respectueusement le Tribunal de manifester la plus grande clémence dans l'imposition d'une sentence dans le cas de Paul Bernard Bergeron, de l'île St.Ignace-de-Loyola, en raison des faits ci-dessous exprimés:

1. M. Bergeron est âgé de 25 ans, il est fils de cultivateur et a toujours travaillé sur la ferme;

2. Il a été appelé sous les armes, dès le début de la loi de mobilisation et il n'a jamais pu présenter une demande ce congé à la Commission des Services Nationaux de Guerre;

3. Lorsqu'il a quitté l'armée, il a toujours travaillé sur la ferme et lorsque la saison le permettait, il a travaillé comme bûcheron pour le compte de M. Elzéar Gournoyer, commerçant de bois, de St.Joseph de Sorel;

4. Il est fils de veuve et madame Bergeron a absolument besoin des services de son fils pour l'exploitation de sa terre et

6. Au moment de son arrestation, les travaux de la terre lui permettaient de travailler pour M. Elzéar Clurnoyer, comme bûcheron et nous sommes informés que celui-ci est prêt à le reprendre à n'importe quel temps, vu la rareté de la main-d'oeuvre dans ce domaine;

7. En conséquence, les soussignés vous prient respectueusement de bien vouloir considérer ce cas avec sympathie et tenir compte de la situation pénible dans laquelle se trouve la mère de l'accusé.

Et nous avons signé:-

J. Picard ptre Curé
Camille Tourchette Secrétaire trésorier
Louis Valois maire
Georges Gladu voisin
Joseph Ethier voisin

H.E. Bullman. Major
Pres. CM.

M.F.B. 355
TIM—5-43 (145)
H.Q. 1772-39-620
A.F.B. 296

Y

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-605887	Private	Paul Bernard BERGERON, N.R.M.A.	att'd A-12 C.I.T.C. Farnham, Que.

1. The following is a fair and true summary of the entries in the Field Conduct sheet ~~or Company conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, or summary awards under Section 47 of the Army Act and dispensations with trial under A.A. IX are set out in the Schedule annexed to this minute.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 24 days in military custody, making a total of 24 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ Enrolment is 25 years 1 month

6. The date of his ~~commission~~ enrolment specified in his ~~record of service~~ enrolment is 28 Aug. 41

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service in the purpose of determining his pension as~~

9. The accused is in possession of or entitled to no military decoration, or military reward (or military possession of or entitled to) State any military decoration or reward.

10. ~~If the accused is a warrant officer the accused is not under a warrant of an key hold the regimental rank of~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit .....dated....., and in his regiment (or corps) the rank of .....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank..... Unit Name.....of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of Oct.45. (J.E. Major) Lieut. Asst. Adjt. J.E. Major Lieut.
I/C Records Gen List Stf'd A-12 C.I.P.C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

Reg. No. D-605887 Name BERGERON, P.E. Corps N.R.M.A. Date of enlistment or enrolment 28-8-41 Date of Birth 6 Aug. 1920

Signature O.C. Company, etc. R. Paquin Capt.

M.F.M. 6

*Place check mark against number of sheets in use. Sheet No. one of *1, 2, 3, 4, 5

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				S.O.S. 29/10/41 T.C. 42					

CERTIFIED TRUE COPY

J. E. Major Lieut

(J.E.Major) Lieut.
Asst. Adjt. I/C Records
A-12, C.I.T.C. Farnham, Que.

M.F.M. 6—500M—8-44 (5186)
H.Q. 1772-39-1652

IN REPLY PLEASE QUOTE No. T-20-B-20665(AJAG)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Military District No. 2,
159 Bay Street, Toronto, Ontario,
27th October, 1945.

CONFIDENTIAL

CENTRAL REGISTRY Army
CONFIDENTIAL
5628
OCT 28 1945
File 6-55-D-2077
Dest. to
Referred to

The District Officer Commanding,
Military District No. 4,
MONTREAL, P.Q.

Standing Court-Martial
B-605887, Pte. Paul Bernard BERGERON,
Gen. List. C.A. att. A-12 CI TC C.A.

Reference H.Q.C. 55-D-2077 (Jag/D-4) dated 22nd October, 1945.

2. Herewith proceedings of the Standing Court-Martial with respect to the marginally-noted soldier which were forwarded to this Headquarters in error.

(A.E. Potts)
Major-General
D.O.C. M.D. No.2.

COPY to : The Secretary, (FOR INFORMATION)
Department of National Defence,
OTTAWA, Ontario.

NAT. DEF. B. 440
250M-4-44 (4325)
H.Q. 1772-26-787

H.Q.C.55-D-2077 (JAG/D-4)
Your M. 1-B-6501 (J)

22 Oct 45

The District Officer Commanding,
Military District No. 4, Montreal, Que.

STANDING COURT-MARTIAL

D. 605887 Pte. Paul Bernard Bergeron,
Gen.List.,C.A.,att.A-12 C.I.T.C.,C.A.

1. Receipt is acknowledged of the proceedings of the marginally noted Standing Court-Martial which were forwarded by the President named therein.

2. The proceedings are legally regular, the finding is properly made and the sentence is according to law. Pursuant to C.A.R.O. 4565 paragraph 12, the said proceedings are herewith forwarded to you. After they have served your purpose, will you please return the proceedings to this office for custody.

(R.J.Orde) Brigadier
Judge Advocate-General.

JOGR/MM

8M-7-45(M-186)

THIS COPY FOR: H.Q. C. 55-B-2077
M.D. M. 1-B-6501

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-605887 Name Paul Bernard BERGERON

Rank Pte. Unit Gen. List. Att A-12 C.I.T.C. C.A.

Charge AA 12 (1) (a) WOAS Desertion....

Date of Crime 4-1-42

Date of Arrest 16-9-45 Charge Signed 27-9-45

Orders for D.C.M.

Place and Date of Trial A-12 C.I.T.C. C.A. 10-10-45

Sentence Detention 6 mos. Stoppages $5.75

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40485

Date 19-10-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 4

Absent 3 yrs. 8 1/3 mos.

Gen. List. Att A-12 C.I.T.C. C.A.

Sentence Det. 6 mos.

for Judge Advocate-General

10M-8-45(M-182)

IN REPLY PLEASE QUOTE No. M. 1-B-6501 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Montreal, Que.,
15 Oct 45

CONFIDENTIAL

C.55-B-2077

Judge-Advocate General,
National Defence Headquarters,
OTTAWA, Ont.

STANDING COURT-MARTIAL
D-605887 Pte. P.B. BERGERON,
Gen. List, NRMA No. 4 Clearing Depot,
attached to C.I.T.C. A-12, C.A.

With reference to the marginally-noted Standing Court-Martial, herewith the following documents:

a) Proceedings of the Court.

b) Medical Officer's Report dated 10 Oct 45.

2. Submitted for your information, consideration and approval, please.

J.E. Belleau

(L.J.E. BELLEAU) Major
Headquarters, Military District No. 4
President, Standing Court-Martial

Encl.

H0465

NAT. DEF. R. 440
(500M-4-44-4321)
H.Q. 1772-38-767

THIS COPY FOR

H.Q. C. 55-B-2077
M.D. M. 1-B-6501

NRMA

MEMORANDUM - ~~DISTRICT~~ STANDING COURT-MARTIAL

No. D-605887 Name Paul Bernard BERGERON

Rank Pte. Unit Gen. List. Att A-12 C.I.T.C. C.A.

Charge AA 12 (1) (a) WOAS Desertion....

Date of Crime 4-1-42

Date of Arrest 16-9-45 Charge Signed 27-9-45

Orders for D.C.M.

Place and Date of Trial A-12 C.I.T.C. C.A. 10-10-45

Sentence Detention 6 mos. Stoppages $5.75

Date of Confirmation

Date of Promulgation

Entered in Records of J.A.G. as No. 40485

Date 19-10-45

MEMO Balance of sentence remitted by Conf. Auth.

M.D. 4

Absent 3 yrs. 8 1/3 mos.

Gen. List. Att A-12 C.I.T.C. C.A.

Sentence Det. 6 mos.

for Judge Advocate-General

10M-8-45(M-189)

1- word stopping not included in the sentence — [illegible]

Passed
20.10.45
[illegible]

H.Q.C. 55-B-2378

CONFIDENTIAL

N.F.B. 3078
15M—3-45 (56697)
H.Q. 55-1-68

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

STANDING COURT-MARTIAL

BERTHIAUME, MAURICE D-654947 PTE.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
	cancelled	cancelled		JAG	NEW FILE	CR	18-10-45
NOV 6 - 1945	5-11-45	PA		Jag	With Papers C.R. NOV 8 1945		
JAN 4 1946	4.1.46	P.A	mrs	Dmo	For Requisition C.R. DEC 27 1945		
JAN 16 1946	17 Jan 46	PA	QMA	CMBR	For Requisition C.R. JAN 11 1946		
				J.A.G.	With Papers C.R. JAN 30 1946	OK.	
JAN 31 1946				CMBR	To note Plse	KB	31/1/46
FEB 1 - 1946	4.2.46			adm 3	To note pls	[illegible]	1 Feb 46
MAY 27 1946	MAY 27	PA	was	DRB	For Requisition C.R. MAY 3 1946		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Alice Walder of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making

COUNTER NUMBER 79625
HOUR 14:20
OPERATOR'S INITIALS AW
RELIEVING OPERATOR

PRODUCTION DATA	DATE	HOUR
STARTED		
FINISHED		
TOTAL NO. OF HOURS		9 11/12
TOTAL NO. OF IMAGES		6124

JOB NO. 44 REEL NO. B-17
BOOK NO. 26
44-B-17A INDEXING DATA 44-B-17B

BEGINS WITH	C.55-B-1924	C.55-B-1997
1.	C.55-B-1938	C.55-B-2020
2.	C.55-B-1954	C.55-B-2042
3.	C.55-B-1975	C.55-B-2056
ENDS WITH	C.55-B-1996	C.55-B-2077

J.O'G.

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Alice Walder of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

A NOTARY PUBLIC

Appendice "A" to the affidavit

dated

March 5th 19 51

CAMERA OPERATOR'S REPORT

PRODUCTION DATA	DATE	HOUR
STARTED		
FINISHED		
TOTAL NO. OF HOURS		9 11/12
TOTAL NO. OF IMAGES		6124

JOB NO. 44 REEL NO. B-17

BOOK NO. 26

INDEXING DATA 44-B-17A 44-B-17B

BEGINS WITH	C.55-B-1924	C.55-B-1997
1.	C.55-B-1938	C.55-B-2020
2.	C.55-B-1954	C.55-B-2042
3.	C.55-B-1975	C.55-B-2056
ENDS WITH	C.55-B-1996	C.55-B-2077

COUNTER NUMBER 79625

HOUR 14:20

OPERATOR'S INITIALS HV

RELIEVING OPERATOR

THE NUMBERED PAGES WHICH ARE OTHERWISE BLANK IN

THE FILES ON THIS FILM HAVE NOT BEEN PHOTOGRAPHED.

CENTRAL REGISTRY MICROFILMING UNIT.

END

SECOND

SIDE

44.B.17B